



City of Gardner, Massachusetts
Office of the City Council

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CALENDAR FOR THE MEETING

of

MONDAY, JULY 1, 2024  
CITY COUNCIL CHAMBER  
7:30 P.M.

**ORDER OF BUSINESS**

**\*AMENDED**

**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**

**11323** – A Vote to Authorize the Mayor to Enter into a Host Community Agreement between the City of Gardner and Bay State Racing, LLC

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

**11317** – A Vote to determine if a track of land located at 827 Green Street, be approved as the location of a running horse racing track where race meetings laid out and conducted by licensees under M.G.L c. 128A will be held or conducted (*Public Hearing Required*)

**11324** – An Open Meeting Law Complaint Filed by Paul DeMeo Regarding Open Meeting Law Discussion with the City Council.

**\*11325** –A Communication Regarding the Legal Opinion of the Law Department’s Representation of City Departments.

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

### **FINANCE COMMITTEE**

**11289** – An Ordinance to Amend the Code of the City of Gardner, Part 1, thereof entitled “Administrative Legislation.” *(In the City Council Referred to Finance Committee, 5/20/2024, More Time 6/3/2024, 6/17/2024)*

**11314** – An Ordinance to Amend the Code of the City of Gardner, Section 90 of Chapter 553, Thereof Entitled, “Sewer Rates” *(In the City Council and Ordered to 1st Printing 6/17/2024, Printed 6/21/2024)*

### **APPOINTMENTS COMMITTEE**

**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)*

**11255** - A Measure Confirming the Mayor’s Appointment of Vincent Pusateri, to the position of Assistant City Solicitor, for term expiring January 1, 2025. *(In the City Council and Referred to the Appointments Committee 4/16/2024)*

**11315** – A Measure Confirming the Mayor’s Appointment of Melory Cornett, to the position of Zoning Board Member, for term expiring June 12, 2026. *(In the City Council and Referred to the Appointments Committee 6/17/2024)*

**11316** – A Measure Confirming the Mayor’s Appointment of Laurie Wiita, to the position of Zoning Board Member, for term expiring June 12, 2027 *(In the City Council and Referred to the Appointments Committee 6/17/2024)*

### **SAFETY COMMITTEE**

**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, 3/4/2024, 3/18/2024, 4/1/2024,4/16/2024, 5/6/2024, 5/20/2024, 6/3/2024, 6/17/2024)*



**11204** – 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” – Edgell Street, from Elm Street to Lawrence Street. *(More Time 3/18/2024, 4/1/2024,4/16/2024, 5/6/2024, 5/20/2024, 06/3/2024, 6/17/2024)*

**11318** – An Application by GameStop, Inc. #3725 for a License to deal in Second-hand Articles at 376 Timpany Blvd *(In the City Council & Referred to Safety Committee 6/17/2024)*

**11319** – An Application by Gardner Coins & Cards, Inc., for a License to deal in Second-hand Articles at 18 Parker Street *(In the City Council & Referred to Safety Committee 6/17/2024)*

**11320** – An Application by The Salvation Army – Family Store & Donation Center, for a License to deal in Second-hand Articles at 8 Union Street *(In the City Council & Referred to Safety Committee 6/17/2024)*

**11321** – An Application by House of Peace and Education, Inc., d/b/a HOPEful Boutique, for a License to Deal in Second Hand Articles at 29 Pleasant Street *(In the City Council & Referred to Safety Committee 6/17/2024)*

**WELFARE COMMITTEE**

**11211** – An Ordinance to Amend the Code of the City of Gardner, to add a new Chapter 15 to be entitled “Agricultural Commission.” *(In the City Council and Referred to Welfare Committee 3/18/2024; More Time 4/1/2024, 4/16/2024, 5/6/2024, 5/20/2024, 6/3/2024, 6/17/2024)*

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

**XII. NEW BUSINESS**

**XIII. COUNCIL COMMENTS AND REMARKS**

**XIV. CLOSING PRAYER**

**XV. ADJOURNMENT**

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

**\*Amended, item #11325 - A Communication Regarding the Legal Opinion of the Law Department’s Representation of City Departments.**

**Elizabeth Doiron**

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**From:** Elizabeth Kazinskas  
**Sent:** Wednesday, June 26, 2024 1:05 PM  
**To:** Elizabeth Doiron  
**Subject:** RE: Request - Bay State Racing Contact Information

Good afternoon Liz,

The website address that Bay State Racing provided to Atty. Pusateri in the previous email was incorrect. The corrected contact information that Bay State Racing has since provided to Atty. Pusateri is as follows:

www.BayStateRacingLLC.com  
Email: marykate@baystateracingllc.com  
Call or Text: (978) 277-3382

Please forward this email to the City Council, and include this email and all subsequent emails related to it within this chain, in the July 1, 2024 regular meeting packet with items #11323 and #11317.

Thank you again, for your assistance.

Best,  
Lizzy

Elizabeth Kazinskas  
City Council President  
Finance Committee Chair  
Councillor at-Large  
City of Gardner  
(978) 337-1533  
[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)

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**From:** Elizabeth Doiron <edoiron@gardner-ma.gov>  
**Sent:** Wednesday, June 26, 2024 11:43 AM  
**To:** CityCouncil <CityCouncil@gardner-ma.gov>  
**Subject:** FW: [EXTERNAL] RE: Request - Bay State Racing Contact Information

President Kazinskas and Councillors,

Please see email below.

Regards,

Elizabeth Doiron

**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.

I have received the following contact information from Baystate. Please let me know if you need anything else.

They advise that , people with questions should visit Baystate’s website or contact Mary Kate Feeney at:

[www.BayRacingllc.com](http://www.BayRacingllc.com)

Email: [marykate@baystateracingllc.com](mailto:marykate@baystateracingllc.com)

Call or Text: (978) 277-3382

They will take additional steps to inform the public of this information.

Thank you.



Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | [vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)

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**From:** Elizabeth Kazinskas <[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)>

**Sent:** Wednesday, June 26, 2024 7:50 AM

**To:** Vincent Pusateri II <[vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)>

**Subject:** Request - Bay State Racing Contact Information

Good morning Attorney Pusateri,

I am writing to request for you to please contact Bay State Racing and ask that they provide at least one name, email address, and telephone number of a contact person for their proposal. The contact information that they provide will be made available to the City Council and general public, and included in the City Council packet to be published this Thursday, June 27th. The purpose of them providing this contact is for City Councillors and the general public to have a resource directly at Baystate Racing for answers to questions and requests for additional information regarding their proposal.

Thank you for your assistance.

Best,  
Lizzy

Elizabeth Kazinskas



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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June 13, 2024

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

RE: A Vote to Authorize the Mayor to Enter into a Host Community Agreement between the City of Gardner and Bay State Racing, LLC

Dear Madam President and Councilors,

On May 6, 2024, the Administration received a request from Bay State Racing, LLC to enter into a host community agreement (HCA) for the siting of a race track at 827 Green Street (commonly referred to as the Carl Dahl House, Andrews Park, LeBlanc Farm, Evergreen Grove, etc.).

This matter relates to Item #11317, currently on the City Council Agenda, and the final product can only be entered into if Item #11317 is adopted.

Upon receiving the May 6, 2024 request, I forwarded this matter to our Assistant City Solicitor, Atty Vincient Pusateri, who has overseen the process since then and assisted in the negotiations between my office and the applicant.

This document shows the current standing of where the City and Bay State Racing have gotten to in the negotiation process.

I respectfully request that the City Council vote to authorize the Mayor to enter into the Host Community Agreement on behalf of the City. However, I also wish to note that since the document has not been entered into yet, any suggestions on what could be added to the agreement are welcome for consideration as well.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

## ORDERED – THAT

WHEREAS, Baystate Racing, LLC (“Baystate”) proposes to locate and operate an Equine Center consistent with Massachusetts General Laws Chapters, 128, 128A, and 128C, as such licenses, permits and approvals may be issued by the Commonwealth of Massachusetts; and

WHEREAS, Baystate anticipates that as a result of the Equine Center’s operation, the local economy will create additional business for local farms, restaurants and local businesses; and

WHEREAS, the City and Baystate want to ensure any and all impacts to the City are compensated by way of a Host Community Agreement; and

WHEREFORE, in consideration of the foregoing, the Company and the City wish to enter into a Host Community Agreement.

NOW THEREFORE IT IS ORDERED that the Honorable Mayor Michael J. Nicholson be hereby authorized for and on behalf of said City to execute and deliver any and all documents and take any and all acts necessary, convenient, and helpful to facilitate and execute the Agreement as attached or in form substantially similar thereto.

## HOST COMMUNITY AGREEMENT

FOR THE SITING OF A RACETRACK IN THE CITY OF GARDNER

**By and Between the City of Gardner, Massachusetts  
and  
Baystate Racing, LLC**

This Host Community Agreement (“Agreement”) is made and entered into as of July \_\_, 2024 (the “Effective Date”), by and between the City of Gardner, Massachusetts, acting by and through its Mayor, in reliance upon all of the representations made herein, a Massachusetts municipal corporation with a principal address of City Hall, 95 Pleasant Street, Gardner, MA 01440, (the “City” or “Gardner”), and Baystate Racing, LLC, a Massachusetts limited liability company, with a business address at Post Office Box 2311, Framingham, MA 01703 (“Baystate” and, collectively with the City, the “Parties”).

### RECITALS

WHEREAS, Baystate wishes to locate and operate an Equine Center providing for the breeding, housing, riding, showing, studying, treatment, training, retirement, and racing of horses and other equestrian- and agricultural-related uses, which also includes wagering on live and simulcast horse racing as authorized by Massachusetts General Laws 128A and 128C the Commonwealth of Massachusetts (the “Equine Center”) at the former 117-acre Andrews Park (827 Green Street in Gardner) (the “Site”) in accordance with and pursuant to Massachusetts General Laws Chapters, 128, 128A, and 128C, as such licenses, permits and approvals may be issued by the Commonwealth of Massachusetts (the “Commonwealth”) in accordance with its laws and regulations and by the City in accordance with its Zoning Bylaws and other applicable local statutes, bylaws and regulations; and

WHEREAS, Baystate anticipates that as a result of the Equine Center’s operation, the local economy will create additional business for local farms, restaurants and local businesses; and

WHEREAS, the City and Baystate want to ensure ongoing collaboration and communication amongst the parties, Baystate will establish an Oversight Committee and agrees to report to the Mayor and Council before June 1 of each year on the operation of the Equine Center the year before and plans for operations for the year ahead, including the number of race days, non-racing operations, parking, marketing, and hiring of vendors and employees.

WHEREAS, the City recognizes the development of the Equine Center at the Site will benefit the City and its citizens through increased economic development, additional employment opportunities for residents, bringing in an estimated \$460,000 per year in new revenue and benefits when fully operational, and further that the Equine Center operation will enhance and protect the agricultural designation of the site, accordingly the City desires to support Baystate in the development of the Equine Center at the Site; and

WHEREAS, Baystate recognizes that 3,093 residents of the City, according to the most recent U.S. Census reports, live at or below the poverty line and will work to employ and assist these individual and families as permitted by law to reduce the number of individuals and families below the poverty level in City; and

WHEREAS, Baystate anticipates that as a result of the Equine Center's operation, the City will incur additional expenses and impacts on the City's roads and other infrastructure systems, law enforcement, fire protection services, inspectional services, permitting and consulting services, as well as unforeseen impacts, both quantifiable and unquantifiable on the City; and provided further that Baystate is committed to paying the cost of such expenses and impacts; and

WHEREAS, Baystate intends to provide certain benefits to the City in the event that (a) the City issues applicable licenses, permits and approvals for the operation of the Equine Center, (b) Baystate or its affiliates receives all necessary licenses, permits and approvals from the Massachusetts Gaming Commission to operate the live and simulcast horse racing with wagering; and (c) Baystate or its affiliates receives all other necessary licenses, permits and approvals from the Commonwealth and the City to construct and operate the Equine Center; and

WHEREAS, Baystate commits to never seek or apply for so-called casino or Class III gaming in the City of Gardner; and

WHEREAS, Baystate stipulates that the Site is located in a zoning district that prohibits operating under a licensed issued pursuant to the Massachusetts Sports Wagering Act. G.L. c. 23N and 23K.

WHEREAS, a majority of the registered voters of Worcester County voting on the question described in Massachusetts General Laws, Chapter 128A, Section 14 regarding horse racing meetings, voted in the November general election in 1974 in the affirmative when said question was last submitted to them, and therefore Worcester County has authorized the licensing of horse racing therein at which the pari-mutuel system of betting shall be permitted; and

WHEREAS, the City Council, after a public hearing held after seven days' notice had been given by posting on the City website and publishing in Gardner News, has approved the location of a racetrack at the Site such that the Massachusetts Gaming Commission may issue a license for racing meetings at the Equine Center pursuant to Massachusetts General Laws, Chapter 128A, Section 13A.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

**1. Recitals**

The above Recitals are true and accurate and are incorporated herein and made a part of this Agreement.

**2. Payments to the City, Support of the City**

In the event that Baystate or its affiliates obtains the requisite licenses and/or approvals as may be required for the operation of the Equine Center from the Massachusetts Gaming Commission, and receives any and all other licenses, permits and approvals necessary for the construction and operation of the Equine Center from the Commonwealth and the City, and at the expiration of any final appeal period related thereto, such licenses, permits and approvals allow Baystate and its affiliates to locate, occupy and operate the Equine Center in the City, then Baystate agrees to provide the following "Annual Payments" each municipal fiscal year that it conducts live racing and so licensed to fully operate to the City (expected to commence July 1, 2025):

A. Annual Community Impact Fee

Baystate anticipates that the City will incur additional expenses and impacts on the City's road and other infrastructure systems, law enforcement, fire protection



services, inspectional services, and permitting and consulting services, as well as unforeseen impacts, both quantifiable and unquantifiable, on the City. Accordingly, in order to mitigate the financial impact on the City and use of City resources, Baystate agrees to pay an “Annual Community Impact Fee” to the City, in the amount and under the terms as follows:

1. Baystate shall make monthly payments to the Commonwealth in the amount of one and one-half percent (1.5%) of simulcast revenue as provided for in Massachusetts General Laws Chapter 128C, Section 4. Said amount to be collected by the Commonwealth and paid to the City along with its local aid disbursements. It is estimated that said fee, when fully operational, will be approximately \$240,000 per year.
2. The City shall use the Annual Community Impact Fee as it deems appropriate in its sole discretion.

B. Additional Costs, Payments and Reimbursements

1. Initial Community Benefit Payment: Within thirty (30) days after receipt of all licenses and permits necessary to operate the Equine Center but in any event before undertaking any horse racing wagering operations, Baystate shall pay to the City an initial community benefit payment in the amount of Fifty thousand dollars (\$50,000).
2. Permit and Connection Fees: Baystate hereby acknowledges and accepts, and waives all rights to challenge, contest or appeal, the City’s building permit application fees and all other local charges and fees generally applicable to other commercial developments in the City and the PILOT payment except as provided for herein.
3. Equine Center Consulting Fees and Costs: In addition to the Annual Community Impact Fee, Baystate shall reimburse the City for any and all reasonable consulting costs and fees related to any land use applications concerning the Equine Center, negotiation of this Agreement and any other related agreements, and any reviews concerning the Equine Center, including planning, engineering, legal and/or environmental professional consultants and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Equine Center not otherwise covered by this agreement.
4. Other Costs: Baystate shall reimburse the City for the actual costs incurred by the City in connection with holding public meetings and forums substantially devoted to discussing the Equine Center and/or reviewing the Equine Center and for any and all reasonable consulting costs and fees related to the monitoring and enforcement of the terms of this Agreement, including, but not limited to independent financial auditors and legal fees.
5. Meals Tax Revenues: Baystate shall be responsible to collect and remit to the Commonwealth on behalf of the City any local meals taxes with respect to the Equine Center in accordance with applicable law. It is estimated that said tax will be approximately \$10,000 per year from increased sales in local restaurants, food trucks and concessions.

6. Motor Vehicle Excise Taxes: Baystate shall principally garage all vehicles owned by it or its affiliates and used in connection with the Equine Center in the City, so that excise taxes shall be paid to the City consistent with applicable law.
7. Late Payment Penalty: Baystate acknowledges that time is of the essence with respect to its timely payment of all funds required under Section 2 of this Agreement. In the event that any such payments are not fully made with thirty (30) days of the date they are due, Baystate shall be required to pay the City a late payment penalty equal to five percent (5%) of such required payment. Baystate shall pay an additional penalty equal to five percent (5%) of the required payment to be made directly to City for each thirty days that accrues without full payment.
8. Real & Personal Property Taxes: Baystate understands and accepts that its property will be assessed and taxed in accordance with state law and will pay all such tax bills in a timely fashion. Provided, however, that in lieu of said payment, Baystate shall, as a Payment In Lieu Of Taxes, be at least \$230,000 per municipal fiscal year.  
 This amount shall increase, after the first five years, each year thereafter by the percent increase to the real estate tax levy, not including new growth, up to two and one half (2.5%) percent per year.  
 Every five (5) years the City may appraise the value of the property. After the appraisal the PILOT fee will be adjusted to the higher of either, 1) the new appraised amount multiplied by the then tax rate per \$1,000.00 or 2) the amount as provided for herein. Should the product of the new appraisal multiplied by the tax rate per thousand be greater than the PILOT amount calculated pursuant to the terms of this agreement and if the applicant disagrees with the City's appraisal, then Baystate shall obtain its own appraisal for the property. Thereafter, if the parties are unable to agree on the amount of the PILOT the appraiser for the City and the appraiser for the Baystate shall select a third appraiser, by mutual agreement, who shall resolve the dispute.

#### C. Public Amenities

The Baystate shall complete, as components of its project, a series of infrastructure and public improvements in connection with the project, including, without limitation:

1. Community Events: Baystate shall work with the community to host at least one event per year at the Equine Center for the benefit of the community, such as fundraisers for local charities, athletic teams, and schools, and for celebration of community.
2. Local Preference: Baystate shall develop a program for preferential access to at Festivals conducted at the Equine Center for Gardner residents.
3. Education & Mentoring Program: Baystate shall work with local schools to develop an "Ag in the Classroom" program for students and a mentoring program to provide jobs for local graduates of agricultural schools.
4. North Central Pathway: Baystate shall provide easy access from the trail to the Equine Center.

5. Tree Replacement Program: Baystate shall cause 500 trees to be planted throughout Gardner consistent with a program approved by the Mayor.
6. Infrastructure: Baystate shall be solely responsible for any necessary cost incurred in connection with improvements to the public works infrastructure of the public ways, water supply and city sewer system which are incurred in connection with developing the Equine Center and the operation of the equine Center on race days

D. Annual Charitable/Non-Profit Contributions

In addition to any funds specified herein, Baystate shall annually contribute to public local charities/non-profit organizations in the City, or a regional non-profit organization that directly benefits residents of the City, in an amount no less than twenty thousand dollars (\$20,000), said charities/non-profit organizations to be determined by Baystate upon recommendation of the City in its reasonable discretion. The charitable/non-profit contribution shall be made annually beginning

on the first anniversary following the Commencement of Operations at the Equine Center, and shall continue for the term of this Agreement. This amount shall increase after the first five years by an amount equal to one (1%) percent of the previous year's payment each year thereafter.

E. Commencement of Baystate Payments to City

Not including one-time payments to the City, annual payments to the City shall commence in the fiscal year in which Baystate first conducts live racing in accordance with M.G.L. c. 128A at the Equine Center. For example, this is expected to occur on October of 2025, so annual payments to the City would commence in fiscal year commencing on July 1, 2025.

3. Vehicular Access To and From the Project

A. Traffic Plan & Improvements

Baystate, as part of its project review by the Planning Board, at its sole expense shall study the local traffic impacts of the proposed project and present a plan to mitigate any such impacts to the City. Baystate shall fund and cause the permitting, design, and construction, in coordination with federal, state and municipal regulations, of any said improvements to the project as outlined in the foregoing plan.

B. Transportation, Marketing & Parking Management Plans

Baystate shall develop, in coordination with state and municipal officials, a transportation and parking management plan for all Race days at the Equine Center to ensure that impacts from said events are properly managed. Said plan will be formulated with the input of the police chief, fire chief, and planning board chair, and then presented to the Mayor for his approval at least thirty (30) days in advance of the first Race day and will be updated on an annual basis to both reaffirm the original plan and improve operations, as identified, and needed.

C. Traffic Peer Reviewer

If asked, Baystate will reimburse the City for the cost incurred in connection with hiring an independent traffic/transportation engineering consultant to review Baystate's proposed transportation and parking plan, and provide commentary, recommendations, and general advice to the City during the review of the Traffic and Parking Plan.

D. Setup, Removal & Cleanup

Baystate shall, at its sole expense, pay for the setup, removal and cleanup of the site and surrounding area after each racing day. In addition, Baystate shall pay for all necessary police and fire details, DPW personnel, or other related municipal cost associated with the operations of the race day. Baystate shall commence setup of the site no sooner than seven days before the start of a race, shall cleanup the site and surrounding area within one day of the conclusion of a race, and shall remove all temporary facilities within seven days of the close of each race.

4. Local Permit Review

Baystate acknowledges that, in accordance with the City's Zoning Bylaws, the operation of the Equine Center is subject to the issuance of a permit and or decision(s) by city agencies. Nothing in this Agreement is intended to or shall have the effect of binding or otherwise

limiting the discretion of the local officials to conduct such reviews and impose such conditions as it deems appropriate in connection with its review of Baystate's application for a permit and or a decision(s). Any permit, decision(s) or license required for the Equine Center and issued by any City board, committee, commission or official, including any amendments or changes to said City permits, decision(s) or licenses approved by any such board, committee, commission or official, shall be enforceable by the City consistent with any regulatory or administrative enforcement remedies that may be available to the City.

Notwithstanding the Zoning Ordinance, the Applicant agrees to submit to the Planning Board for a site plan review including but not limited to the traffic plan.

## 5. **Operational Issues**

### A. Limitation on Race Days

Baystate agrees that no more than twenty (20) Race days shall be held at the Equine Center per calendar year. Further, Baystate agrees, prior to filing its annual application for a Racing Meeting License, to review the number of live race days it will request with the City. The parties recognize that the number of race days are subject to approval by the Massachusetts Gaming Commission.

Subject to the approval of the Massachusetts Gaming Commission, over the next five years, Baystate shall seek approval to race only on the following number of weekends (days) each year:

- 2025: One Weekend (three days)
- 2026: Two Weekends (six days)
- 2027: Two Weekends (six days)
- 2028: Three Weekends (nine days)
- 2029: Three Weekends (nine days)

Baystate shall work with the City to select dates that minimize conflicts with other local events, subject to the approval of the Massachusetts Gaming Commission.

## 6. **Treatment of Horses**

Baystate has emphasized the importance of the care and treatment of horses in connection with the Equine Center. To this end, Baystate shall establish and implement best in trade management practices to ensure the highest possible level of care, treatment and protection of horses kept, trained and/or raced at the Equine Center. Baystate shall establish a Racing Oversight Board, which shall be charged with establishing and ensuring compliance with these best in trade management practices. Baystate shall at least annually report to the City on the steps it has taken to ensure compliance with this provision. Baystate shall include one individual appointed by the Mayor of the City of Gardner on Baystate's Racing Oversight Board. Upon request, the Racing Oversight Board or its chair shall attend a meeting of the Council to review and discuss Baystate's compliance with this section.

Baystate shall forthwith advise the City of the initiation of any investigation by the Massachusetts Gaming Commission (MGC) or any other state or federal regulatory body into the poor treatment of horses by Baystate or at the Equine Center and, upon completion of such investigation, shall forthwith advise the City of the results thereof.

Baystate shall collect all horse manure, store it in a covered container or facility, and dispose of it off site. In addition, Baystate shall strictly follow all related regulations.

7. **Responsible Gaming in Gardner**

Baystate recognizes that, while gaming is an enjoyable leisure and entertaining activity for most, there is a percentage of the population that cannot game responsibly. Therefore, Baystate will implement a “Responsible Gaming Plan” at the Equine Center on Race days, the goal of which shall be to ensure that those people who cannot game responsibly get the help they need.

Baystate will accomplish the Responsible Gaming Plan goals by: (1) educating its employees and providing information to patrons about the odds of betting and how to make responsible gaming decisions; (2) promoting responsible gaming at Race day operations; (3) supporting public awareness of responsible gaming; and (4) prominently displaying and providing educational materials at the Equine Center on Race days to educate customers regarding the risk of problem gambling and available services to obtain treatment.

8. **Local Vendors and Employment**

Prior to the Commencement of Operations at the Site, Baystate shall organize and conduct two separate information sessions and job fairs for veterans and City residents, and shall publicize both events through local City website and newspapers, social media and by posting notice of the same at various locations in the City. Baystate shall also use good faith efforts to offer job skills assessments and provide guidance for interested persons to receive training to qualify for certain positions at the Equine Center.

To the extent such practice and its implementation are consistent with federal, state, and local statutes, bylaws and regulations, Baystate will make every effort, in a legal and non-discriminatory manner, to give priority to local businesses, suppliers, contractors, builders and vendors in the provision of goods and services for the “non-initial” construction, maintenance and continued operation of the Equine Center when such contractors and suppliers are properly qualified and price competitive and shall use best faith efforts to hire City residents and utilize women-owned, minority-owned, and veteran-owned vendors within the City. Baystate also shall use best faith efforts to offer job skills assessments and provide guidance for interested persons to receive training to qualify for certain positions at the Equine Center.

In addition to the information sessions and job fairs mentioned above, Baystate’s efforts shall include actively soliciting bids from vendors through local advertisements and direct contact, advertising any job expansion or hiring of new permanent full-time employees first to City residents a minimum of two (2) weeks before advertising through all typical regional employment advertising outlet coordination with the local Chamber of Commerce and such other reasonable measures as the City may from time to time request.

Baystate’s annual report to the Mayor and City Council in accordance with Section 14 of this Agreement shall include information concerning the number of City residents employed at the Equine Center.

In coordination with Gardner businesses, Baystate shall actively promote Gardner farms, restaurants, businesses and other attractions, both on its website and in prominent locations within the Equine Center.

**9. Local Taxes**

At all times during the term of this Agreement, property, both real and personal, owned, leased or operated by Baystate or its affiliates shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by Baystate or its affiliates and Baystate shall not object or otherwise challenge the taxability of such property with respect to such taxes.

**10. Security and Safety**

To the extent requested by the City's Police Department, and subject to the requirements of state and local authorities, Baystate shall work with the City's Police Department in reviewing and approving security plans prior to the Commencement of Operations, including determining the placement of security cameras. Unless prohibited by the Massachusetts Gaming Commission or Massachusetts State Police, the City's Police Department shall be given access to video feeds from all security cameras.

Baystate agrees to cooperate with the City's Police Department, including but not limited to periodic meetings to review operational concerns, security, cooperation in investigations, and communications with the City's Police Department of any suspicious activities at or in the immediate vicinity of the Equine Center.

Baystate shall pay for police and fire details to staff Race days as deemed appropriate by the Fire Chief and Police Chief. The Equine Center shall be open to the Police Department for inspection at any time, with or without notice.

Baystate agrees and acknowledges that annual inspections of the Equine Center by the City's Police Department, Fire Department, Building Department and Board of Health shall be a condition of continued operation in City and agrees to cooperate with the City's Police Department, Fire Department, Building Department and Board of Health in providing access for scheduled inspections of the Equine Center.

**11. Nature of Baystate's Obligations**

The obligations of Baystate set forth in this Agreement are specifically contingent upon (a) Baystate or its affiliates receiving all necessary licenses, permits and approvals from the Massachusetts Gaming Commission to operate the live and simulcast horse racing with wagering aspects of the Equine Center; and (b) Baystate or its affiliates receiving all other necessary licenses, permits and approvals from the Commonwealth and the City to construct and operate the Equine Center. If, for any reason, Baystate and its affiliates have not received all such local and state licenses, permits and approvals necessary to construct and operate said Equine Center within 48 months after the date of this Agreement, not including months with an intervening force majeure event, then either party may, in its sole discretion, upon notice to the other, terminate this Agreement, whereupon neither the City nor Baystate shall have any further obligations or liabilities hereunder, provided, however, that Baystate shall be required to pay any consulting or other costs incurred by the City prior to such notice in connection with the Equine Center. If Baystate does so terminate this Agreement, then the City shall not be responsible for the return of any funds provided to it by Baystate.

This Agreement does not affect, limit, or control the authority of City boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue,

or deny, applicable licenses, permits and other approvals under the statutes and regulations of the Commonwealth, the General Bylaws and Zoning Bylaws of the City, or applicable regulations of those boards, commissions, and departments or to enforce said statutes, bylaws and regulations. The City, by entering into this Agreement, is not hereby required or obligated to issue such licenses, permits and approvals as may be necessary for the Equine Center to operate in the City, or to refrain from enforcement action against Baystate and/or the Equine Center for violation of the terms of said licenses, permits and approvals or said statutes, bylaws, and regulations.

**12. Support**

The City agrees to support the adoption of the requisite licenses, permits and approvals for the operation of the Equine Center. The City further agrees to submit to the Massachusetts Gaming Commission, or such other state licensing, registering or monitoring authority, as the case may be, the required certifications relating to Baystate's (or its affiliate's) application for a license or certificate of registration to operate the Equine Center where such compliance has been properly met, but makes no representation or promise that it will act on any other license, permit or approval request, including, but not limited to any zoning application submitted for the Equine Center, in any particular way other than by the City's normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

**13. Term**

Except as expressly provided herein, this Agreement shall take effect on the date set forth above, and shall be applicable for as long as Baystate, its affiliates, their successors or their assigns operates the Equine Center at the Site and is licensed by the Massachusetts Gaming Commission to operate the live and simulcast horse racing with wagering aspects of the Equine Center.

**14. Annual Reporting**

Baystate shall file an annual written report with the City Council each year, on or before June 1, for the purpose of reporting on compliance with each of the terms of this Agreement during the preceding calendar year and shall, at the request of the City Council, appear at a regularly or specially scheduled meeting to discuss such annual report.

**15. Successors/Assigns**

This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives. Baystate shall not transfer or assign its rights or obligations under this Agreement without prior written authorization of the City, which will not unreasonably be withheld, delayed or conditioned. Baystate shall provide the City with information relating to any such successor in advance of any such transaction, including any information required by the Massachusetts Gaming Commission. Any assignee of or successor in interest to Baystate shall be bound by the terms of this Agreement to the fullest extent allowed by law. The provisions of this paragraph shall also apply to any transfer, sale or conveyance of Baystate of a controlling interest therein. The City may consider a prospective owner's documented violations by regulators owing to its failing to protect the health and wellbeing of horses and financial condition when considering to give its approval.



**16. Notices**

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or by other reputable delivery service, and shall be deemed given when so delivered.

To City: Mayor, City of Gardner  
City Hall  
95 Pleasant Street  
Gardner, MA 01440

Copy to:

To Baystate: Brian Falk  
Mirick, O'Connell, DeMallie & Lougee, LLP  
1800 West Park Drive, Suite 400  
Westborough, MA 01581-3926

Copy to:

John Stefanini  
Baystate Racing, llc  
Post Office Box 2311  
Framingham, MA 01703

**17. Severability**

If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless the City or Baystate would be substantially or materially prejudiced. Further, Baystate agrees that it will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement; and to the extent the validity of this Agreement is challenged by Baystate in a court of competent jurisdiction, Baystate shall pay for all reasonable fees and costs incurred by the City in enforcing this Agreement.

**18. Governing Law**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Parties submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

19. **Indemnification**

Excluding any Claims (as herein defined) caused by the gross negligence or intentional misconduct of the City, Baystate shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, liabilities, actions, causes of actions, defenses, proceedings, subpoenas, document requests and/or costs and expenses, including attorney's fees (collectively, the "Claims"), brought against or initiated as to the City, its agents, departments, officials, employees, insurers and/or successors, by any party, including any private or public entity, arising from or relating to the Equine Center. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and consultants of the City's choosing incurred in defending or responding to such Claims. Baystate agrees, within thirty (30) days of written notice by the City, to reimburse the City for any and all costs and fees incurred in defending itself from or responding to such Claims. To the extent that any of the City's insurance policies provide coverage for any Claim to which indemnity is being sought hereunder alleging negligence or intentional misconduct of the City, the City shall first submit the Claim to its insurance carrier before seeking indemnity from Baystate, and Baystate shall only be required to indemnify the City to the extent there is no coverage or insufficient coverage.

20. **Entire Agreement**

This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between Baystate and the City with respect to the matters described herein. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto.

21. **Amendments/Waiver**

The failure of any party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by any party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

22. **Headings**

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words.

23. **Counterparts**

This Agreement may be signed in any number of counterparts all of which taken together, shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.

24. **Signatures**

Each party hereto, and their respective successors and assigns agree that the execution of this Agreement by electronic means (including by use of DocuSign (or similar) and/or by use of digital signatures) and/or the delivery of an executed copy of this Agreement by e-

mail shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

**25. No Joint Venture**

The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the City and Baystate, or the City and any other successor, affiliate or corporate entity as joint ventures or partners.

**26. Nullity**

This Agreement shall be null and void in the event that Baystate does not construct the Equine Center in the City or relocates the Equine Center out of the City. Further, in the case of any relocation out of the City, Baystate agrees that an adjustment of annual Payments due to the City hereunder shall be calculated based upon the period of occupation of the Equine Center within the City, but in no event shall the City be responsible for the return of any funds provided to it by Baystate.

**27. Third-Parties**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Baystate.

**28. Representation of Authority**

Each person signing this Agreement hereby represents and warrants that he or she has the full authority and is duly authorized and empowered to execute this Agreement on behalf of the party for which he or she signs.

**29. Force Majeure**

Baystate shall not be considered to be in default in the performance of its obligations under this Agreement to the extent that performance of any such obligation is prevented or delayed by a "Force Majeure Event" (as defined below). If Baystate is prevented or delayed in the performance of any such obligation by a Force Majeure Event, it shall provide reasonable notice to the City of the circumstances preventing or delaying performance and the expected duration thereof, if known. For the purposes of this Agreement, a "Force Majeure Event" is any circumstance not within the reasonable control, directly or indirectly, of the Party affected and includes, but is not limited to, the following: strikes or other significant labor disputes; significant supply shortages; pandemics, adverse weather conditions and other acts of nature; acts of God, fire, other substantial property damage or any condition that prevents or significantly interferes with the operations of the Equine Center; significant subsurface conditions; riot or civil unrest; the forced closure of all gaming establishments by the Commonwealth of Massachusetts or the Massachusetts Gaming Commission; and actions or failures to act of any governmental authority or agency. A Force Majeure Event may justify delay of performance of one or more payment obligations hereunder but shall not justify excusal of performance.

**30. Enforcement.**

It is expressly understood and agreed, by and between Baystate and City, that if Baystate shall neglect, fail or refuse to substantially comply with any nonpayment term herein, then Baystate does hereby agree, as a part of consideration for the City's execution of this Agreement, after 30 days written notice from the City Council specifying in detail said lack of substantial compliance and the resolution sought by City, and if after another 30 days written notice outlining reasons for the continued lack of substantial compliance and a public hearing by the City Council, then to pay to the City one thousand dollars (\$1,000) per day per violation, not as a penalty but as liquidated damages for such breach of contract, for each and every calendar day that Baystate shall be in default after receipt of the initial notice of such default from the City. The said amount is fixed and agreed upon by and between Baystate and the City because of the impracticability of fixing and ascertaining the actual damages the City would in such event sustain, and said amount is agreed to be the amount of damages which the City would sustain and said amount shall be deducted by the City from periodic payments. Nothing herein shall limit the City's ability to pursue injunctive relief, specific performance or any other remedy available at law or in equity.

{ INTENTIONALLY BLANK }

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under seal on the day and year first written above.

CITY OF GARDNER

BAYSTATE RACING LLC

\_\_\_\_\_  
By: Michael J. Nicholson  
Title: Mayor

\_\_\_\_\_  
By: Sagi Genger  
Title: Manager

True Copy attested by

\_\_\_\_\_  
By: Titi Siriphan  
Title: City Clerk

**From:** [John Stefanini](#)  
**To:** [Elizabeth Doiron](#); [Elizabeth Doiron](#)  
**Cc:** [Mayor](#); [Vincent Pusateri II](#)  
**Subject:** [EXTERNAL] FW: Material for next City Council meeting  
**Date:** Thursday, June 27, 2024 11:52:40 AM  
**Attachments:** [BSR 827 Green Street Traffic Study.pdf](#)  
[BSR 827 Green Street Wetlands Memo.pdf](#)  
[BSR City Council 27 June 24.pdf](#)

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**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.

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**From:** John Stefanini <stefanini143@gmail.com>  
**Date:** Thursday, June 27, 2024 at 11:47 AM  
**To:** tsiriphan@gardner-ma.gov <tsiriphan@gardner-ma.gov>  
**Cc:** Mayor <mayor@gardner-ma.gov>, Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Subject:** Material for next City Council meeting

Good morning.

On behalf of Baystate Racing llc, please accept the attached correspondence for the next City Council meeting. As always, please contact me with any questions or comments.

Thank you.

John



DELIVERY VIA EMAIL

June 27, 2024

Council President Elizabeth Kazinskas  
City of Gardner  
City Hall, 95 Pleasant Street, Room 121  
Gardner, Massachusetts 01440

Dear Madam President and Honorable Councilors:

On behalf of Baystate Racing, LLC., thank you for receiving our application at the last City Council meeting. We are very excited to become part of the Gardner community. The hundreds of horse owners, breeders, and farmers from around Massachusetts are hopeful for a new place where they can bring their passion and love of horses in furtherance of the Commonwealth's policy to rejuvenate and grow the equine industry.

In response to the Council request for additional information, please see the attached for background information on traffic and attendance, and wetlands; we are currently finalizing the purchase of sale agreement and will submit an executed copy to you before our meeting. We respectfully request an opportunity to present to the Council in an informal session to answer any additional questions.

We are only at the beginning of the process. It is important to note that the Conservation Commission will play a role in approving this project. Our project will improve the storm water management, and environmental protections on the site. Only after the Council's approves the use will we be able to meet with them and continue our review. Also, we will go to the Planning Board to conduct and review a comprehensive traffic study for the site. The initial analysis is that Route 140 is capable for handling our peak traffic flow. Baystate will pay the City's cost for peer review. And annually, the Massachusetts Gaming Commission will convene a hearing in Gardner for the project. The Council's approval is necessary for us to take the next steps. This is a highly reviewed and regulated project by numerous state and local boards and commissions, including input from the City.

Our proposal continues what has occurred on the site for the last 150 years. We understand people are focused on the racetrack part of the proposal. Races will occur no more than 20 days in a year. Wagering only takes place on festival race days, and no other wagering, including sports betting, will occur on the site. We will not make money on the few festival race days, but the racing is critical for the horse owners as the state releases purse money to support the farms and horse care. We, along with the City of Gardner, will make money on the simulcasting of races around the country that people in Massachusetts watch and wager on their cellphones all over the Commonwealth.

Currently, there aren't enough horses to race, which is why the other parts of the park are critical. The breeding, training and retirement activities are the majority of what will occur on this site. Each plays a key role in supporting the horse farms throughout the Commonwealth.

Family farms are disappearing at a fast pace. Massachusetts is focused on preserving agriculture. Baystate Park will allow horse owners to breed Massachusetts-bred horses instead of having to go to another state. It will encourage the growth of more local hay, instead of going to Canada. Jobs and internships for local students will bring in a new generation of horse enthusiasts and farmers. The retirement program gives thoroughbred horses a chance at a "second career" in therapeutic riding, and other activities.

This is a way of life – in many cases for generations – for many hardworking people, and Gardner provides them with a lifeline.

What you see today from Route 140 is what you will see as Bay State Park. We will renovate the existing barns and house, and construct a gazabo and pads for food trucks will be added to the site. The grandstands for the track will be built into a hill, as a natural seating.

Bay State Park's focus is on the horses. We have the support of the New England Horsemen's Benevolent Association and the Massachusetts Breeders Association. Horse racing is highly regulated in Massachusetts and around the country. The Massachusetts Gaming Commission and its Horse Racing Committee will inspect the park every year and can inspect it at any time. Horseracing Integrity and Safety Authority was established in July 2022 by the federal government to bring uniform regulations for the safety and wellbeing of the horses. We will have the highest level of care for horses from birth to second career and retirement.

If the site was taxed at its current assessment, it would generate \$15,231.34. In our Host Community Agreement, we will pay \$230,000 just in property taxes alone. Bay State Park will generate new economic activity for Gardner. Visitors to the city will stay in local accommodations, eat at local restaurants and shop in stores. Additionally, we will bring in local restaurants to cater and provide food and beverages during festivals. This will be a game changer to many local small businesses.

As for our proposed partnership with GAAHMA, we are very supportive of their nationally recognized work and the importance of mental health programs for those with substance use disorder. Our horses and programs will be there for their clients to work at the facility. We are there to support them. We also pledge to donate \$20,000 yearly to local charities to support their work in Gardner and the region.

We will be good neighbors for Gardner. We want to hear from you and your neighbors on how we can make Bay State Park work for Gardner. For example, if there is a concern about parking on a local street, then we put measures in place ensuring only neighbors can get down their street. There is a lot of creative ideas we can do to address concerns.

We look forward to working with you, your colleagues, and partners in government in the months ahead.

Sincerely,

John A. Stefanini

Attachments

CC: Mayor Michael J. Nicholson  
City Clerk Titi Siriphan  
Assitant City Solicitor Vincent Pusateri, II





To: Mr. John Stefanini

Date: May 9, 2024

Memorandum

Project #: 16012.00

From: Robert Nagi, PE  
 Director Transportation Planning and  
 Operations

Re: Preliminary Gardner Equestrian Traffic Assessment

VHB has prepared this technical memorandum to outline transportation elements of the proposed equestrian facility located along Route 140 in Gardner, Massachusetts. The purpose of this memorandum is to both review the current traffic volumes in the vicinity of the Project site and to conceptually outline how the project will function during both the normal 'day-to-day' operations as well as during their Special Event days.

## Current Traffic Operations

The site is currently serviced via an existing driveway along Route 140. Along the entire frontage of the site, Route 140 is under the jurisdiction of the City of Gardner. Immediately to the southeast, Route 140 is under the jurisdiction of MassDOT (including its intersection with Green Street approximately 300 feet south of the site's current driveway).

According to MassDOT, Route 140 just south of the Project site carries approximately 11,200 vehicles per day with about 1,000 vehicles during the peak commuter hours. Weekend traffic is slightly lighter with about 10,000 daily trips, but the peaks are not as significant.

Similarly, Green Street south of the site carries approximately 5,100 vehicles per day with about 400-500+/- vehicles/hour during the commuter peak periods.

The intersection of Green Street at Route 140 operates well during the commuter peak periods with some delays for side street turning traffic. According to MassDOT, there are no notable safety issues within the vicinity of the Project site.

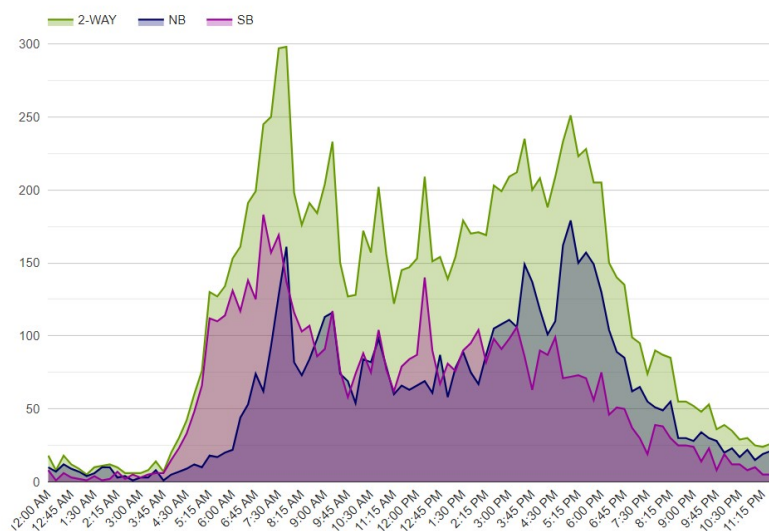


Figure 1 - Route 140 Weekday Daily Traffic Volume 15-minute increments  
 (Source: MassDOT TCDS portal)

## Daily Facility Operations

During normal operations, the facility will provide typical equestrian activities (maintenance, training) of which many of those activities would take place during off-peak periods (mostly on weekends and during the middle of the day on weekdays) with only limited full time staff arriving and departing from the site during typical commuter peak hours. As currently envisioned, access to and from the site would be provided via the existing driveway along Route 140 which will be reviewed during the site plan development to assure it is designed to accommodate a safe and efficient operation.

## Traffic Impacts

As noted above, the general day to day operations of the equestrian operations do not generate any significant volume of peak hour traffic – with ranges of about 20-40 employees arriving and departing during these time periods. Over the course of the day, the site would typically see anywhere from 250-350 daily trips arriving/departing the site spread out over the typical daylight hours. These are made up of employees arriving and departing from the facility, deliveries, and visitors to the facility. This would equate to about 2-3 percent additional traffic being added to the Route 140 corridor.

## Special Event Operations

Assuming that the project will host some number of special event days throughout the year (of which the frequency and number of visitors will be determined through discussions with the City), VHB considered that the majority of visitors arriving to the site would likely do so to the Gardner area via Route 2, with some smaller volume of traffic arriving from the north via Route 140.

As is typical with these types of special events, guests will arrive at the site over the course of several hours depending on the schedule of events to take place at the facility. In most cases, there is a surge of visitors who depart the site within the hour of the conclusion of the schedule of events.

For example, a special event that hosts between 3,000 and 5,000 visitors would typically see about 1,000 to 1,600 vehicles arrive over a two- to four-hour window and depart within an hour of the event conclusion. Arriving traffic during the busiest period would represent about 50 percent of the arriving vehicles (~500-800 cars/hour). As noted, the peak hour of the Route 140 corridor sees about 1,000 vehicles per hour with limited congestion near the project site observed – so the volumes are consistent with what the corridor currently carries during the weekday.

In order to address the impact of these surges in traffic associated with the special events, VHB typically works with the City, MassDOT, police (local and state), and other stakeholders to develop a detailed traffic management plan that is developed cooperatively based on the collective experiences of the stakeholders and VHB. This plan is then presented to the City in advance of the event for discussion and implementation. Following the first events, VHB and stakeholders would review what worked well with the TMP and where adjustments could be made to improve the overall experience (which would be integrated into the next TMP for future events).

Elements of the plan will include, but are not limited to, the following:

- Pre- and post-event staging (deliveries, set up, and break down),
- Event timing (to coincide with off-peak commuter traffic),
- Parking management (guests, VIPs, and participants),
- Shuttle bus routes (to remote parking areas),
- Signage and wayfinding,
- Temporary intersection control (police details and signage),
- Media and digital content outreach, and
- Identification of police/medical emergency access/egress

June 24, 2024

Re: Wetland Permitting Process  
827 Green Street (Map/Parcel: R42-21-1)  
Gardner, Massachusetts, 01440

To Whom it May Concern,

On behalf of Baystate Racing LLC (the Applicant), Goddard Consulting, LLC (Goddard) is pleased to provide this informational narrative surrounding the proposed project involving the construction of a horse racing track located at 827 Green Street in Gardner, MA (the Project Site). This narrative is intended to provide additional details pertaining to the wetlands permitting process, the work performed to date, and the level of review and project minimization required to meet the performance standards for work adjacent to wetland resource areas.

The proposed project site is located at 827 Green Street in Gardner, MA (Map/Parcel: R42-21-1). The site has been in a similar agricultural use to the present for over 100 years. The site is currently known for the Carl E. Dahl House, a therapeutic farming community that tends to the existing livestock. The goal of the newly proposed project is to remain in line with the historic uses of the site, keeping the area as an agricultural community. Outside of race weekends, the census of horses on-site is anticipated to be similar to the present day. Although in early, design level phases, the project is anticipated to consist of a one-mile looped racing track, associated stadium seating, pedestrian walking paths, pastures, and limited on-site parking. As race weekends are scheduled only a few weekends out of the year, the majority of event parking will be utilized off-site in order to remediate traffic concerns on-site. The remainder of structures used on race weekends (paddocks, tents, barns, offices) will be temporary in nature, intended to be set up and broken down following scheduled race weekends.

## **1.0 THE WETLANDS PERMITTING PROCESS**

### **1.1 GENERAL OVERVIEW**

The wetlands permitting process is an iterative and detailed process, reviewed by the Massachusetts Department of Environmental Protection, and the City of Gardner Conservation Commission. The wetlands permitting process begins following a review of the intended project through the city council. When the project, at a large scale, receives an authorization to proceed with the design, proposals, and permitting processes, the wetlands permitting phase begins swiftly, as the strict land use performance standards for proposed work adjacent to wetland resource areas are frequently the most limiting factors on project design and layout.

The wetlands permitting process begins with a wetland delineation conducted for the site by a qualified wetland scientist to define the resource areas within the property. The wetland scientist delineates all wetland resource areas within the project limits, guiding the landowners and applicants through the performance standards associated with each. Goddard Consulting LLC, the wetland scientist team for the proposed project at 827 Green Street, conducted a full wetland delineation of the site, culminating at the end of May 2024. The wetland delineation is included in a full site survey, currently underway in June of 2024, that will produce the final proposed site plan used for all site permits. All concept plans shown to date have been utilizing approximate wetland data from the site delineation and are an excellent representation of the resource areas that will affect the project for planning purposes.

After the proposed project at 827 Green Street in Gardner, MA receives an authorization to proceed from city council, the wetland delineation and site survey will be utilized to lay out a final proposed design that meets all regulatory

compliance under the Massachusetts Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance, at the assistance of the project wetland scientists, engineers, and architects. Once a design of the proposed project is finalized, a Notice of Intent will be filed with the Gardner Conservation Commission and the Massachusetts Department of Environmental Protection. Under the Notice of Intent procedure, the project team will be required to evaluate all alternatives for the site to determine the least impactful alternative for the project. The project will be analyzed under both the Massachusetts Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance for compliance with all performance standards set at the state and local level. The Massachusetts Wetlands Protection Act (310 CMR 10.00) serves at the state level to define the various wetland resource areas and outline applicable performance standards for each. The City of Gardner Wetlands Protection Ordinance [Chapter 650] further expands upon the provisions of the Wetlands Protection Act by defining and maintaining additional performance standards not set at the state level. These may include, but are not limited to, the jurisdiction over additional types of resource areas, and the permissible setbacks for limits of work and structures from wetland resource areas.

Under a submitted Notice of Intent, all aspects of the proposed project will be reviewed for compliance with the aforementioned state and local regulations. The Massachusetts Department of Environmental Protection does not issue the project a file number until the project meets all criteria outlined at the state level. Once a final number is issued by the state, the review at the local level will continue until the Gardner Conservation Commission deems that the project has met all additional performance standards outlined under the local bylaw. As a full wetland delineation has been completed for the site, the applicant team is in the process of mapping out the locations of all wetland resource areas on the property. The project will be bound to review standards for Bordering Vegetated Wetlands, Intermittent Streams, Perennial Streams, and Bordering Land Subject to Flooding (BLSF). All aspects of the project will be reviewed for compliance, including but not limited to, the limits of work from said resource areas, total areas of clearing required, the design of any stream crossings, and the site's stormwater management design. In addition, the site is mapped within an Outstanding Resource Waters (ORW) Area, meaning that the area is an important recharge area for a public water supply. The project will be required to adhere to strict stormwater management standards to ensure the protection of surface water quality. Such a designation presents opportunities for site improvement. For example, the site is currently in agricultural use, with a similar census of horses at present day compared to the proposed conditions. A new project set forth on-site will present the opportunity to improve manure management, stormwater runoff, and water treatment than current conditions allow. Both the Massachusetts Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance require minimization and avoidance, where all alternatives for the site will be reviewed, ensuring the project as proposed reflects the least impactful and most beneficial alternative to the site.

As the project wetland scientist, Goddard has performed the entirety of the site's wetland delineation and will provide assistance in the design of a final project layout. Based on the preliminary findings of the wetland delineation, it is the opinion of Goddard that the available land area presents the ability to achieve the project's goal through minimization practices, while providing net benefits to the property as a whole.

Please do not hesitate to reach out to us with questions.

Sincerely,

**Goddard Consulting, LLC**

***Andrew Thibault***

**Andrew Thibault, WPIT, WSA**

*Environmental Scientist*

**Elizabeth Doiron**

---

**From:** Elizabeth Kazinskas  
**Sent:** Wednesday, June 26, 2024 1:05 PM  
**To:** Elizabeth Doiron  
**Subject:** RE: Request - Bay State Racing Contact Information

Good afternoon Liz,

The website address that Bay State Racing provided to Atty. Pusateri in the previous email was incorrect. The corrected contact information that Bay State Racing has since provided to Atty. Pusateri is as follows:

[www.BayStateRacingLLC.com](http://www.BayStateRacingLLC.com)  
Email: [marykate@baystateracingllc.com](mailto:marykate@baystateracingllc.com)  
Call or Text: (978) 277-3382

Please forward this email to the City Council, and include this email and all subsequent emails related to it within this chain, in the July 1, 2024 regular meeting packet with items #11323 and #11317.

Thank you again, for your assistance.

Best,  
Lizzy

Elizabeth Kazinskas  
City Council President  
Finance Committee Chair  
Councillor at-Large  
City of Gardner  
(978) 337-1533  
[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)

---

**From:** Elizabeth Doiron <[edoiron@gardner-ma.gov](mailto:edoiron@gardner-ma.gov)>  
**Sent:** Wednesday, June 26, 2024 11:43 AM  
**To:** CityCouncil <[CityCouncil@gardner-ma.gov](mailto:CityCouncil@gardner-ma.gov)>  
**Subject:** FW: [EXTERNAL] RE: Request - Bay State Racing Contact Information

President Kazinskas and Councillors,

Please see email below.

Regards,

*Elizabeth Doiron*

**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.

I have received the following contact information from Baystate. Please let me know if you need anything else.

They advise that , people with questions should visit Baystate’s website or contact Mary Kate Feeney at:

[www.BayRacingllc.com](http://www.BayRacingllc.com)

Email: [marykate@baystateracingllc.com](mailto:marykate@baystateracingllc.com)

Call or Text: (978) 277-3382

They will take additional steps to inform the public of this information.

Thank you.



Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | [vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)

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---

**From:** Elizabeth Kazinskas <[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)>

**Sent:** Wednesday, June 26, 2024 7:50 AM

**To:** Vincent Pusateri II <[vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)>

**Subject:** Request - Bay State Racing Contact Information

Good morning Attorney Pusateri,

I am writing to request for you to please contact Bay State Racing and ask that they provide at least one name, email address, and telephone number of a contact person for their proposal. The contact information that they provide will be made available to the City Council and general public, and included in the City Council packet to be published this Thursday, June 27th. The purpose of them providing this contact is for City Councillors and the general public to have a resource directly at Baystate Racing for answers to questions and requests for additional information regarding their proposal.

Thank you for your assistance.

Best,  
Lizzy

Elizabeth Kazinskas



**From:** [David Thibault-Muñoz](#)  
**To:** [Elizabeth Doiron](#)  
**Subject:** Fwd:  
**Date:** Wednesday, June 26, 2024 9:18:37 PM  
**Attachments:** [Route 140 - Gardner RSA Report.pdf](#)

---

Hello, Liz.

Here is the first of three documents that I would like to add to this week's packet.

Please let me know if you have any questions.

Respectfully,

David

(508) 404-4365

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---

**From:** David Thibault-Muñoz <dthibault-munoz@gardner-ma.gov>

**Sent:** Wednesday, June 26, 2024 1:48:10 PM

**To:** David Thibault-Muñoz <dthibault-munoz@gardner-ma.gov>

**Subject:**

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# Lane Departure Road Safety Audit for Route 140 in Gardner, Massachusetts



Prepared by  
**Montachusett Regional Planning Commission**  
 and  
**University of Massachusetts Traffic Safety Research Program**



Prepared for

**Massachusetts Highway Department**



**Federal Highway Administration**





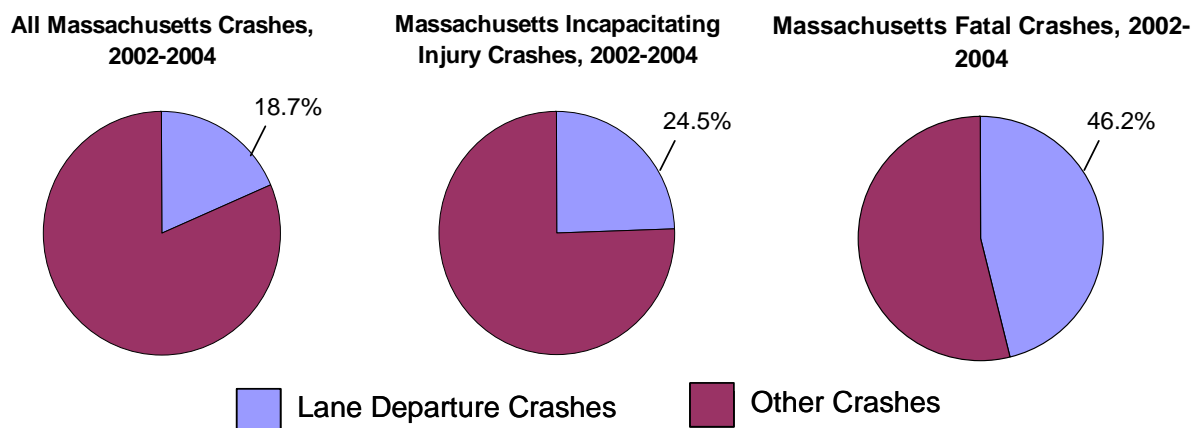
## 1.0 Introduction to Road Safety Audits & Lane Departure Crashes in Massachusetts

The Federal Highway Administration defines a Road Safety Audit (RSA) as *the formal safety examination* of an existing or future road or intersection by an *independent, multidisciplinary team*. The purpose of an RSA is to *identify potential safety issues and possible opportunities for safety improvements* considering all roadway users. Specific objectives of an RSA include, but are not limited to the following:

- Minimizing the risk and severity of road crashes that may be affected by the existing or future roadway at a specific location or nearby network;
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The RSA program in Massachusetts is being implemented in accordance with the Commonwealth's role as a lead state in preventing run-off the road (lane departure) crashes and in conjunction with the Strategic Highway Safety Plan (SHSP). Lane departure crashes are a notable problem area for Massachusetts, especially for crashes with high injury severities. Between 2002 and 2004, lane departure crashes accounted for nearly 20 percent of all crashes in Massachusetts and approximately one-quarter of crashes involving an incapacitating injury. Almost one-half of fatal crashes between 2002 and 2004 were lane departure crashes. As the crash severity increases, so too does the percent of lane departure crashes as shown in Figure 1.



**Figure 1. Relationship Between Lane Departure Crashes and Injury Severity**

In an effort to combat the lane departure problem, a strategy was developed for the SHSP to identify hot spot lane departure locations, perform road safety audits and implement low-cost comprehensive countermeasures. The following report summarizes the findings of a RSA focused on lane departure crashes (LD) along Route 140 in Gardner, Massachusetts.

## 2.0 Background Material for Route 140 in Gardner

Gardner is a Massachusetts municipality with approximately 20,770 residents (2000 census) and is located within Worcester County some 30 miles northwest of Worcester, MA. Along the eastern portion of Gardner, Route 140 connects to the communities of Westminster to the south and Winchendon along the north. Through Gardner, Route 140 is an undivided arterial roadway, which transitions between 2, 3, and 4 lanes with larger than average travel lanes (>12 ft) and shoulders (>8 ft in some places). The total length of Route 140 through Gardner is 6.36 miles which is owned and operated by the State of Massachusetts and the City of Gardner for distances of 4.93 miles (southern) and 1.43 miles (northern), respectively. A typical cross-section for Route 140 is pictured in Figure 2, and some of the major characteristics, including crash clusters, for Route 140 are summarized in Figure 3 below.



**Figure 2. Typical Cross-Section for Route 140**

The LD-RSA for Route 140 was held on May 29, 2007 in the City of Gardner. In total, 19 team members participated in the road safety audit, and as indicated in Table 1, representatives were present from Federal, State, Regional and Local agencies and included a cross-section of engineering/planning, education, and enforcement expertise.

**Table 1 Participating Audit Team Members**

| <b>Audit Team Members<sup>a</sup></b> | <b>Agency/Affiliation</b>                              |
|---------------------------------------|--------------------------------------------------------|
| Bonnie Polin                          | Massachusetts Highway Department – Safety Section      |
| Maliha Akhtar                         | Massachusetts Highway Department – Highway Design      |
| Neil Boudreau                         | Massachusetts Highway Department – Traffic Engineering |
| Brian Doherty                         | Montachusett Regional Planning Commission              |
| George Snow                           | Montachusett Regional Planning Commission              |
| Michael Ellis                         | Greater Gardner Chamber of Commerce                    |
| Robert Babb                           | Massachusetts Highway Department – District 3          |
| Tim White                             | Federal Highway Administration                         |
| Robert McCarthy                       | Federal Highway Administration                         |
| Michael Gerry                         | Greater Gardner Chamber of Commerce                    |
| Alan Agnelli                          | Representative Bob Rice’s Office                       |
| Dan Keeney                            | Gardner DCDP                                           |
| Mark Johnson                          | Massachusetts Highway Department – District 3          |
| Paul M. Capps                         | Massachusetts State Police                             |
| Rock Barrieau                         | Gardner Police Department                              |
| Bob Hankinson                         | Gardner City Engineer                                  |
| Matthew Stanley                       | City of Gardner, Intern                                |
| Mary Delaney                          | City of Gardner                                        |
| Michael Knodler                       | University of Massachusetts - Amherst                  |

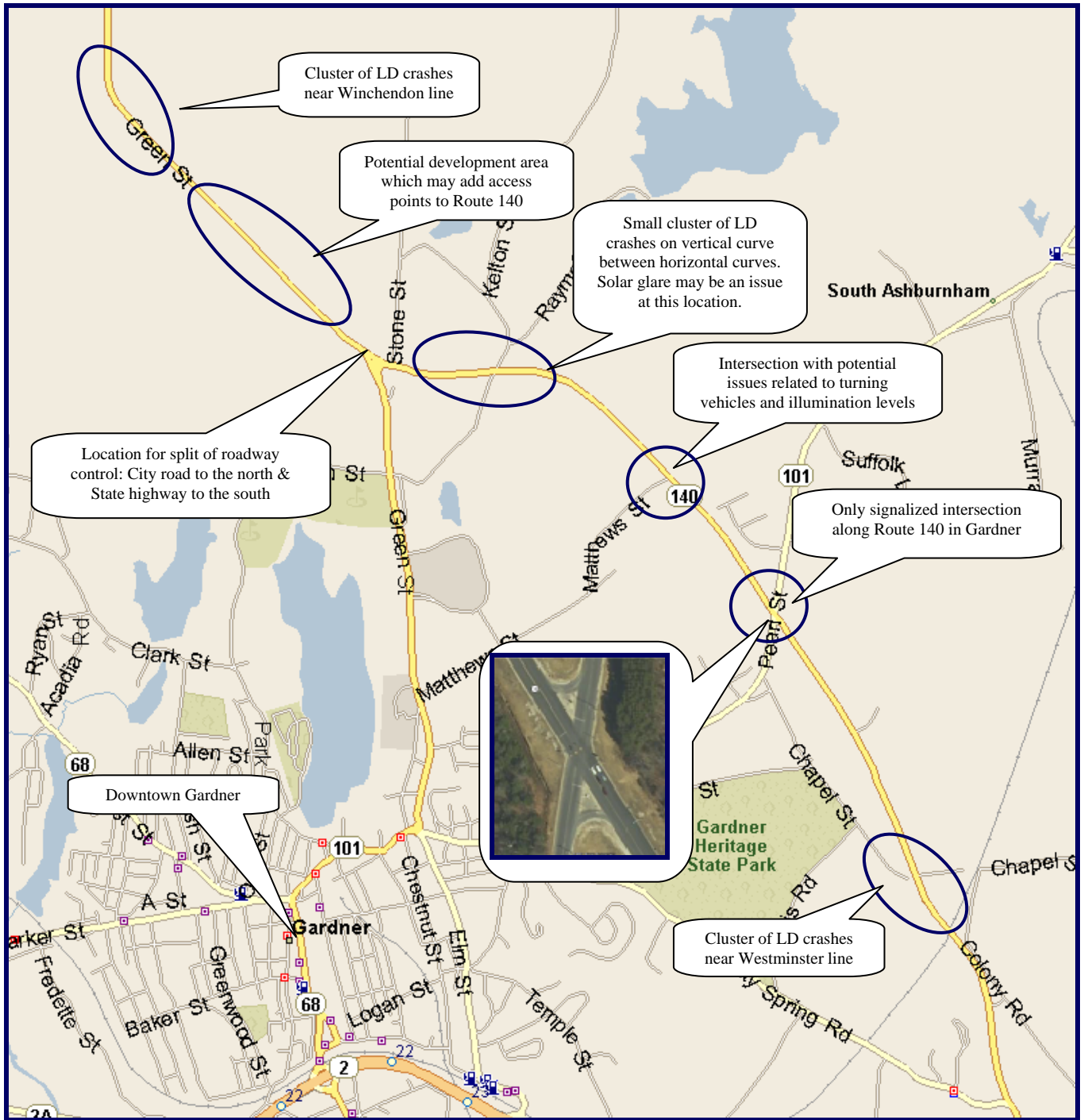


Figure 3. Characterization of Roadway Features for Route 140

Given the length of Route 140 through Gardner, audit team members were asked to visit the site in advance of the meeting to familiarize themselves with the roadway attributes and characteristics. A copy of the meeting agenda and instructions as well as a packet of pertinent information was distributed to meeting invitees prior to the meeting (this information is included in Appendix A of this report). Specifically, the additional information provided was pertinent to the LD-RSA safety initiative and included traffic volumes along Route 140 as well as a description of relevant crashes as summarized below:

- Figure 4 presents hourly and directional distributions of traffic volumes along Route 140 at locations north and south of Matthews Street for an average weekday. From the compiled data collection efforts the maximum average daily traffic (ADT) was 11,842 vpd at the south location and 9,198 vpd at the north location.
- Similar to many roadways, the posted speeds vary along Route 140 in Gardner. Route 140 has segments posted at both 40 and 50 mph. The official speed regulations for Route 140 in Gardner are summarized below in Table 2.
- Between 2/12/03 and 3/20/05 there were 25 reported crashes (2 were later deemed as not occurring on Route 140) consistent with the lane departure initiative of which 19 were geolocated and presented in Figure 5. A complete summary of the 23 identified crashes over the 2-year period is included in Appendix A and was provided to participants prior to the audit meeting. Please note that this does not reflect all crashes along Route 140, but those deemed relevant to this initiative.

**Table 2 Summary of Speed Regulations for Route 140 in Gardner**

| Northbound |                                   |           | Southbound      |                                  |                      |
|------------|-----------------------------------|-----------|-----------------|----------------------------------|----------------------|
|            | Beginning at the Westminster line |           | City Controlled | Beginning at the Winchendon line |                      |
| State      | 1.63 miles                        | at 50 mph |                 | 1.43 miles                       | At 50 mph            |
| Controlled | 0.36 miles                        | at 40 mph |                 | 0.33 miles                       | At 40 mph            |
|            | 1.44 miles                        | at 50 mph |                 | 1.44 miles                       | At 50 mph            |
|            | 0.33 miles                        | at 40 mph |                 | State                            | 0.36 miles At 40 mph |
| City       | 1.43 miles                        | at 50 mph | Controlled      | 1.63 miles                       | At 50 mph            |
| Controlled | Ending at the Winchendon line     |           |                 | Ending at the Westminster line   |                      |

Additional resources made available to the team during the audit meeting included field videos from several drives along Route 140 which were used in aiding discussion of specific roadway elements. Also available were alternative resources including the AASHTO Strategic Highway Safety Plan and the related National Cooperative Highway Research Program (NCHRP) 500 series reports.

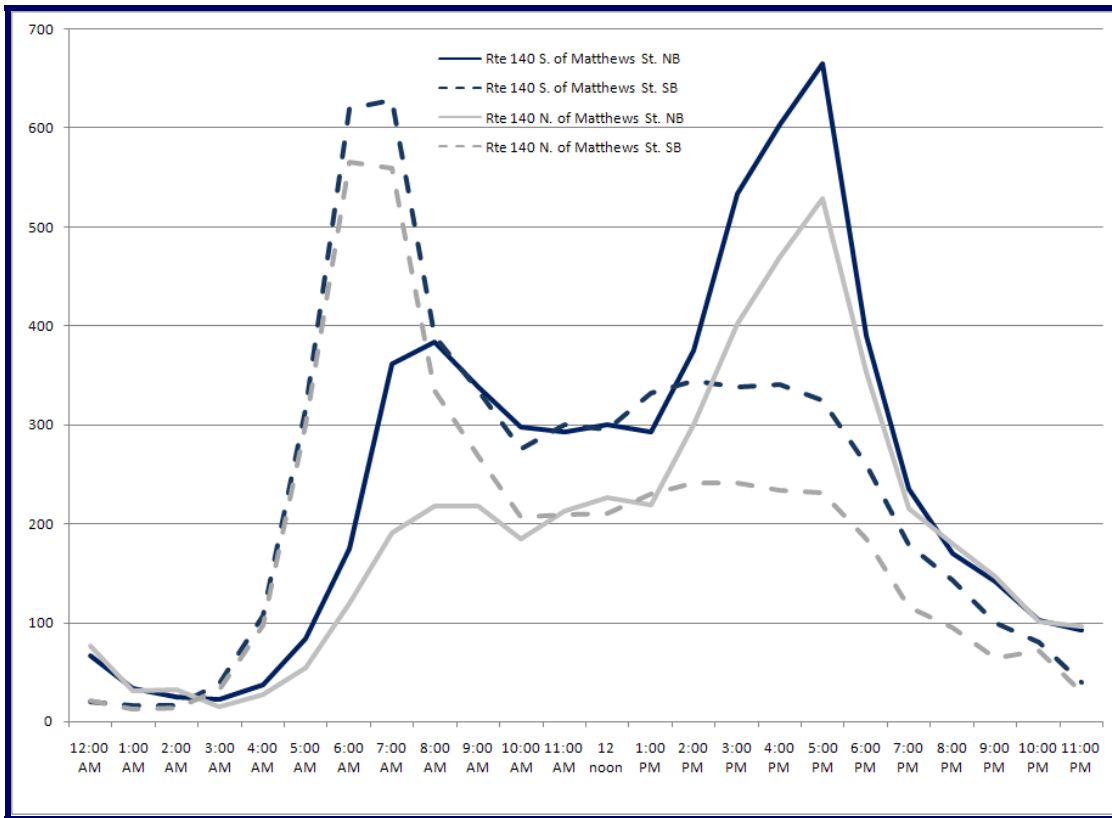


Figure 4. Hourly and Directional Distributions of Volumes for Route 140

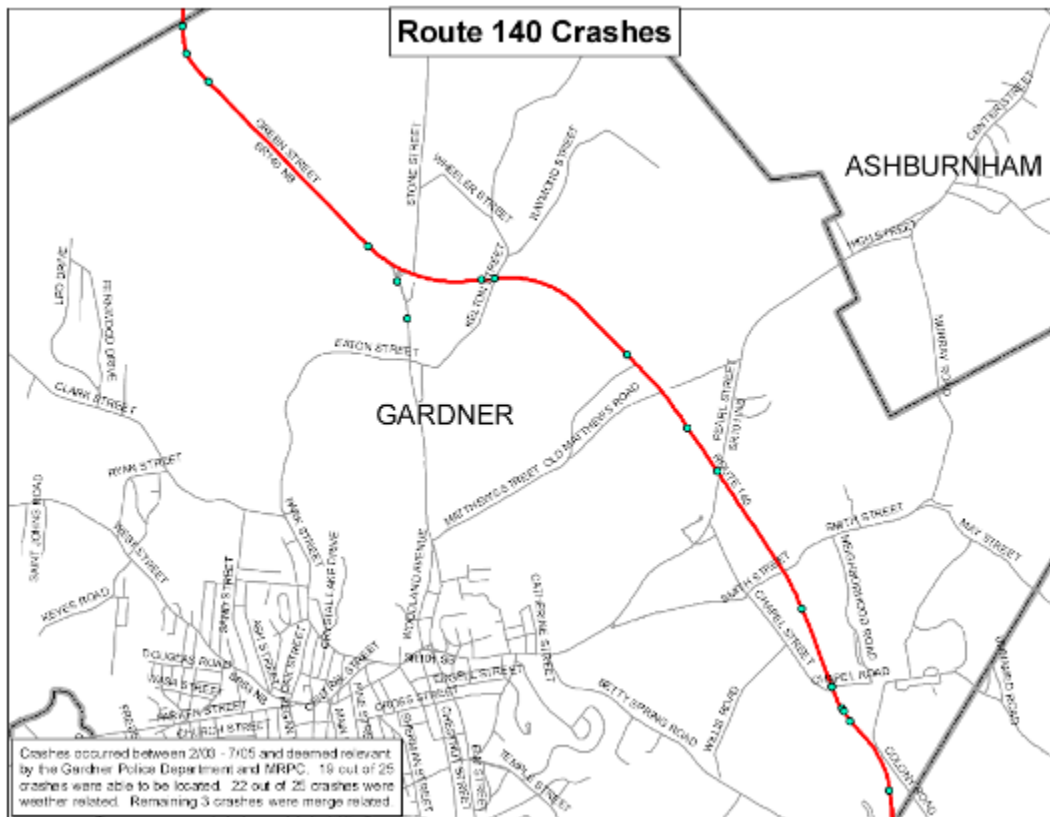


Figure 5. 2-Year Summary of Route 140 Lane Departure-Related Crashes

### 3.0 Characterization of Major Traffic Safety Challenges

Following a brief introduction to the RSA process in general, the meeting participants were asked to summarize and characterize potential safety considerations along Route 140. The initial characterization of the major safety considerations resulting in lane departure crashes focused on two key elements as follows:

- Speed was immediately identified as a primary factor in the operational elements of the roadway and in turn a significant factor in roadway crashes. Speeding was determined to be a result, in part, of large lane widths and shoulders as well as the lack of development (i.e. curb cuts). Additionally, it should be noted that many of the motorists travelling along Route 140 have just exited Route 2 (a major east- west access controlled highway through this section of Massachusetts). The Gardner police discussed challenges with enforcing the particular roadway, but noted that enforcement efforts are in place.
- A second major characterization of the crashes along Route 140 involved the weather. Of the reported crashes being considered during this RSA, 88 percent of all crashes were deemed weather-related. Twenty-one of the crashes occurred during the months of December through March. Also, 13 of the weather-related crashes occurred in the vicinity of a curve along the roadway.
- Other significant factors mentioned at the outset of the meeting that are discussed in further detail later in this report also included the following:
  - The skewed signalized intersection at Route 140 and Route 101;
  - The intersection of Route 140 and Matthews Street, including the impact of limited turning lanes;
  - Future development of subdivision with access via Route 140.

### 4.0 Summary of Short Term Recommendations for Route 140

The formal review of potential safety concerns along Route 140 was completed by the entire audit team. Following identification of a potential safety issue the dialogue subsequently focused on possible countermeasures with some preliminary discussion regarding the feasibility of implementation (timeframe and cost) as well as the potential payoff of safety benefits. Given the potential for an immediate impact there was an added focus on short term (less than 1 year) and low cost (less than \$10,000) improvements that could be done almost instantaneously resulting in a positive safety impact. Resulting recommendations for immediate actions along Route 140 include the following:

- Given the reported prevalence of speed among the lane departure crashes, it is recommended that Route 140 continue to remain a high speed enforcement area, especially during winter months. It is also recommended that speed data collection be completed by the City of Gardner to track current operating speeds throughout the year; this may also prove useful in the establishment of enforcement thresholds. Similarly, it is recommended that the speed regulations described in Table 2 are consistent with the current operating practice. It is also recommended that additional speed signage be provided along the roadway in an effort to further reinforce the limits for motorists.



- Given the reported prevalence of weather related crashes, 3 specific recommendations include the each of the following:
  - Add warning signs along the corridor which alert motorists about the impact of weather along the roadway. It is also recommended that variable message signs (VMS) be used periodically during the winter months to remind motorists about weather issues, and to be cognizant in the selection of their speeds. Candidate locations would include Route 140 near both bordering town lines, and at selected locations in the middle for traffic exiting downtown Gardner. Please note, it is not recommended that the VMS be used to suggest roadway speeds as variable speed limits are not as of yet permissible in Massachusetts.
  - Assess the exact condition of the pavement from a skid resistance perspective. Specifically, ensure pavement provides sufficient skid resistance.
  - Similarly, it is recommended that existing drainage characteristics be evaluated. Elements for consideration would be the presence of adequate and functional drainage features, roadway pavement conditions, and superelevation at known ice spots.
  - In the vicinity of the Winchendon line, it is recommended that the presence of trees which may be obscuring the roadway, resulting in black ice conditions with some regularity, be identified and potentially trimmed/removed.

Assure visible “Curve Ahead” warning signs for each direction of all horizontal curves. Signs should be placed in advance of the curve to allow adequate response time from motorists. To further enhance the delineation, chevrons and/or possibly roadside reflectors should be considered as budget permits. For example, at the first horizontal curve heading SB from the Winchendon town line has a curve ahead sign, but added delineation in the curve would provide an added benefit.

- With respect to signage along the corridor some short term recommendations include the following:
  - As noted above, it is recommended that additional speed limit signs and weather-related warning signs be added.
  - Additionally, it is recommended that unnecessary signage (i.e., extra speed limit sign) near the signal ahead warning sign (see inset, top) be removed to make it more visible; the sign clutter may cause some motorists to miss the warning sign.
  - Another recommendation is that the informational sign depicting the Gardner District Court be moved to a higher location (possibly a separate posting) as the current location is easily obscured by leading vehicles and possibly by snow during the winter months.
  - Continue general sign maintenance. Although it is common for signs to be knocked over, it is important to repair efficiently.
  - Assess the existing condition of current signs to identify faded signs which, in turn, should be replaced with an added emphasis on regulatory and warning signs.











**Figure 6. Typical Roadside Signage**








## 5.0 Summary of Additional Route 140 Countermeasures



Although an emphasis was placed upon short term and low cost improvements that could be carried out immediately, the focus of the team was not limited to solely those countermeasures. The following section details countermeasures discussed by the team, which are reflective of all costs and timeframes and includes both general (entire corridor) and specific safety opportunities. Please note that with respect to the timeframe there are some unknown variables that must be further explored. Additionally, some of the potential treatments discussed were experimental in nature resulting in an unknown level of safety benefits. Several definitions exist for low, mid, and high cost as well as for short, mid and long term implementation timeframes. For purposes of this report, low cost improvements will be under \$10,000, mid costs will be under \$50,000, and high costs will be above \$50,000. From a timeframe perspective short term will refer to less than 1 year while mid and long term will refer to countermeasures that will take 1 to 3, and greater than 3 years, respectively.



| Potential Safety Issue                               | Possible Countermeasures                                                                                                                                                          | Implementation Timeframe & Cost | Potential Safety Payoff | Photos                                                                                |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------|---------------------------------------------------------------------------------------|
| Speed-related issues along entire Route 140 corridor | Continue and expand upon a concentrated enforcement and educational (i.e. speed feedback, community meetings, etc) program.                                                       | Short Term & Low/Mid Cost       | Mid                     |    |
|                                                      | Consider possible low-cost speed-related strategies, including restriping narrower lanes, installing optical speed bars, and adding more speed limit signs.                       | Short Term & Low Cost           | Low                     |    |
| Distracted or drowsy drivers                         | Route 140 already has rumble strips in many locations. Consider rumble strips and/or centerline rumble stripes in areas along the roadway that do not already have rumble strips. | Mid Term & Mid Cost             | Mid                     |    |
| Pavement Markings                                    | Upgrade pavement markings to enhance delineation through increased reflectivity.                                                                                                  | Short Term & Mid/High Cost      | Mid                     |   |
| Horizontal curve delineation                         | Install curve ahead warning signs, chevrons and possibly roadside reflectors for horizontal curves.                                                                               | Short Term & Low/Mid Cost       | Mid                     |  |

| Potential Safety Issue                               | Possible Countermeasures                                                                                                                                       | Implementation Timeframe & Cost | Potential Safety Payoff | Photos                                                                               |
|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------|--------------------------------------------------------------------------------------|
| Edge drop-off at roadside                            | Maintain and fill roadside as needed to prevent edge drop-off. Current locations may exist north of Route 101.                                                 | Short Term & Low Cost           | Low                     |   |
| Current operation of existing auxiliary lanes        | Add warning signs at locations where drivers should be watching for turning vehicles.                                                                          | Short Term & Low Cost           | Low                     |   |
|                                                      | For auxiliary lanes for turning purposes, add lane usage information including both roadway symbols and signage.                                               | Short Term & Low Cost           | Low                     |                                                                                      |
| Weather-related crashes along the Route 140 corridor | Add warning signs alerting motorists of possible weather impacts. Employ a VMS periodically during the winter months to remind motorists about weather issues. | Short Term & Low Cost           | Mid                     |  |
|                                                      | Assess pavement condition from a skid resistance perspective.                                                                                                  | Short Term & Low Cost           | N/A                     |                                                                                      |
|                                                      | Near Winchendon line, identify trees obscuring the roadway and contributing to black ice conditions, and potentially trim/remove.                              | Short Term & Low Cost           | Low                     |                                                                                      |

| Potential Safety Issue                                                        | Possible Countermeasures                                                                                                                           | Implementation Timeframe & Cost | Potential Safety Payoff | Photos                                                                                                                                                                    |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sign efficiency                                                               | Either relocate signal ahead warning sign or signs around it. Current cluster of signs may force driver to miss the warning sign.                  | Short Term & Low Cost           | Low                     |                                                                                        |
|                                                                               | Change location or elevate the Gardner District Court sign as it is easily obscured by leading vehicles and possibly by snow during winter months. | Short Term & Low/Mid Cost       | N/A                     |                                                                                        |
|                                                                               | Update worn and faded signs (emphasis on regulatory and warning), and continually perform sign maintenance.                                        | Short Term & Low Cost           | Low                     |     |
| Guard rail upgrades                                                           | In areas with guard rail, upgrade the existing end treatments to crash cushion model (some sections already equipped, see figure, right).          | Mid Term & Mid/High Cost        | Low                     |   |
| Dark stretches of Roadway in the vicinity of Green Street and Matthews Street | Consider exploration of or improvement of roadway lighting.                                                                                        | Long Term & Mid/High Cost       | Low                     |                                                                                      |
|                                                                               | Ensure retroreflective signage at these intersections to improve conspicuity.                                                                      | Short Term & Low Cost           | Low/Mid                 |                                                                                                                                                                           |

| Potential Safety Issue                       | Possible Countermeasures                                                                                                                                                                                                                                                                                                                                         | Implementation Timeframe & Cost | Potential Safety Payoff | Photos                                                                              |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------|-------------------------------------------------------------------------------------|
| Continued maintenance                        | The pavement condition is in excellent condition from the Westminster town line through the intersection with Route 101 and decreases considerably beyond that. This area should be the focus of continued maintenance such as removal of brush, edge drop-off repairs and overall pavement repairs. Specifically, to assure safety this needs to be maintained. | Short Term & Low Cost           | Low                     |  |
| Drainage                                     | Evaluate existing drainage features to assure adequate drainage. During winter months assure all catch basins remain clear.                                                                                                                                                                                                                                      | Short Term & Low Cost           | Low/Mid                 |  |
| Unsignalized intersection at Matthews Street | Safety recommendations to be considered at this location include dedicated turn lanes for left turns from Route 140 NB and right turns from Route 140 SB (may require reconfiguration of climbing lane).                                                                                                                                                         | Mid Term & Mid/High Cost        | Low/Mid                 |                                                                                     |

## 6.0 Discussion

With respect to the safety improvement opportunities described in the previous section it is important to consider the following: 1) many treatments are both low cost and short term and 2) there is a complimentary nature of many of the safety strategies in that one improvement will aid with multiple safety issues. Please note that although this document provides a series of specific recommendations which warrant short term implementation, the approach towards improved safety is dynamic in nature and warrants revisiting over time.

Several additional topics that were discussed at the audit meeting and warrant consideration include the following:

- Because of the number of weather related crashes, the RSA team determined that drivers familiar with the roadway were not intuitively aware of potential weather issues and were driving at normal operating speeds. It is the belief of the RSA team that if variable speed limits become permissible, or are even experimented within Massachusetts, this would be an ideal candidate location.
- During the RSA meeting one long term high cost strategy discussed was the possibility of making the entire stretch of Route 140 a two-lane divided roadway. Although it is recommended that this be considered, this would need to be studied in much greater detail to identify the operational impacts.
- There was also some discussion during the RSA meeting about the possibility of making Route 140 through Gardner a required daytime headlight use area.
- A proposed housing development is currently planned along Route 140 (near the Winchendon line). The RSA team feels that it is imperative for access issues to be definitively addressed for this and future developments to assure the safety of motorists along Route 140. Specifically, the RSA team strongly preferred that curb cuts be minimized along Route 140.

## 7.0 Appendix A: Distributed RSA Meeting Materials

Materials provided to RSA team members in advance of the meeting included the following:

1. Agenda
2. RSA and Lane Departure Introduction
3. Tabulated Crash Summary
4. Map of Geolocated Crashes
5. MRPC Summary of Volumes
6. LD-RSA Checklist

# Agenda

## Road Safety Audit for Route 140

Meeting Location: 34 Pearly Lane  
Gardner, MA

Tuesday, May 29, 2007  
10:00 AM to 12:00 PM

|                         |                                                                                                                                                                                                                |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Type of meeting:</b> | <b>Lane Departure – Road Safety Audit</b>                                                                                                                                                                      |
| <b>Attendees:</b>       | <b>Invited Participants to Comprise a Multidisciplinary Team</b>                                                                                                                                               |
| <b>Please bring:</b>    | <b>Thoughts and Enthusiasm!!</b>                                                                                                                                                                               |
| <b>10:00 AM</b>         | <b>Welcome and Introductions</b>                                                                                                                                                                               |
| <b>10:15 AM</b>         | <b>Introduction to Road Safety Audits and Lane Departure Crashes</b>                                                                                                                                           |
| <b>10:30 AM</b>         | <b>Review of Site Specific Material</b> <ul style="list-style-type: none"> <li>• Crash &amp; Volume – provided in advance</li> <li>• Existing Geometries and Conditions</li> <li>• Video and Images</li> </ul> |
| <b>11:00 AM</b>         | <b>Completion of RSA</b> <ul style="list-style-type: none"> <li>• Identification of Safety Concerns – using checklists as a guide</li> <li>• Identification of Possible Countermeasures</li> </ul>             |
| <b>12:00 PM</b>         | <b>Adjourn for the Day – but the RSA has not ended</b>                                                                                                                                                         |

### Instructions for Participants:

- Before attending the RSA on May 29<sup>th</sup> participants are encouraged to drive Route 140 within Gardner, MA and complete/consider elements on the RSA advisory checklist with a focus on safety factors affecting roadway departure crashes.
- All participants will be actively involved in the process throughout. Participants are encouraged to come with thoughts and ideas, but are reminded that the synergy that develops and respect for others' opinions are key elements to the success of the overall RSA process.
- After the initial RSA meeting, participants will be asked to comment and respond to the document materials to assure it is reflective of the RSA completed by the multidisciplinary team.

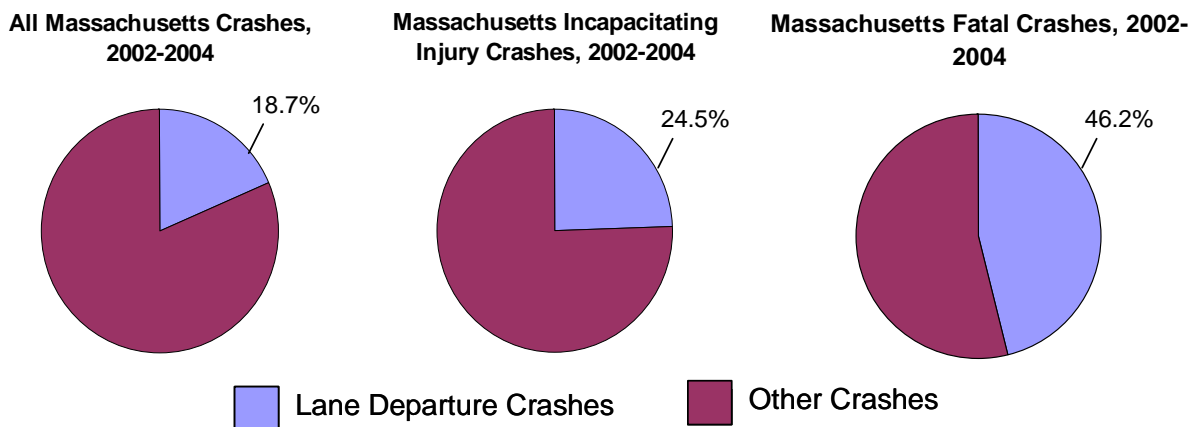
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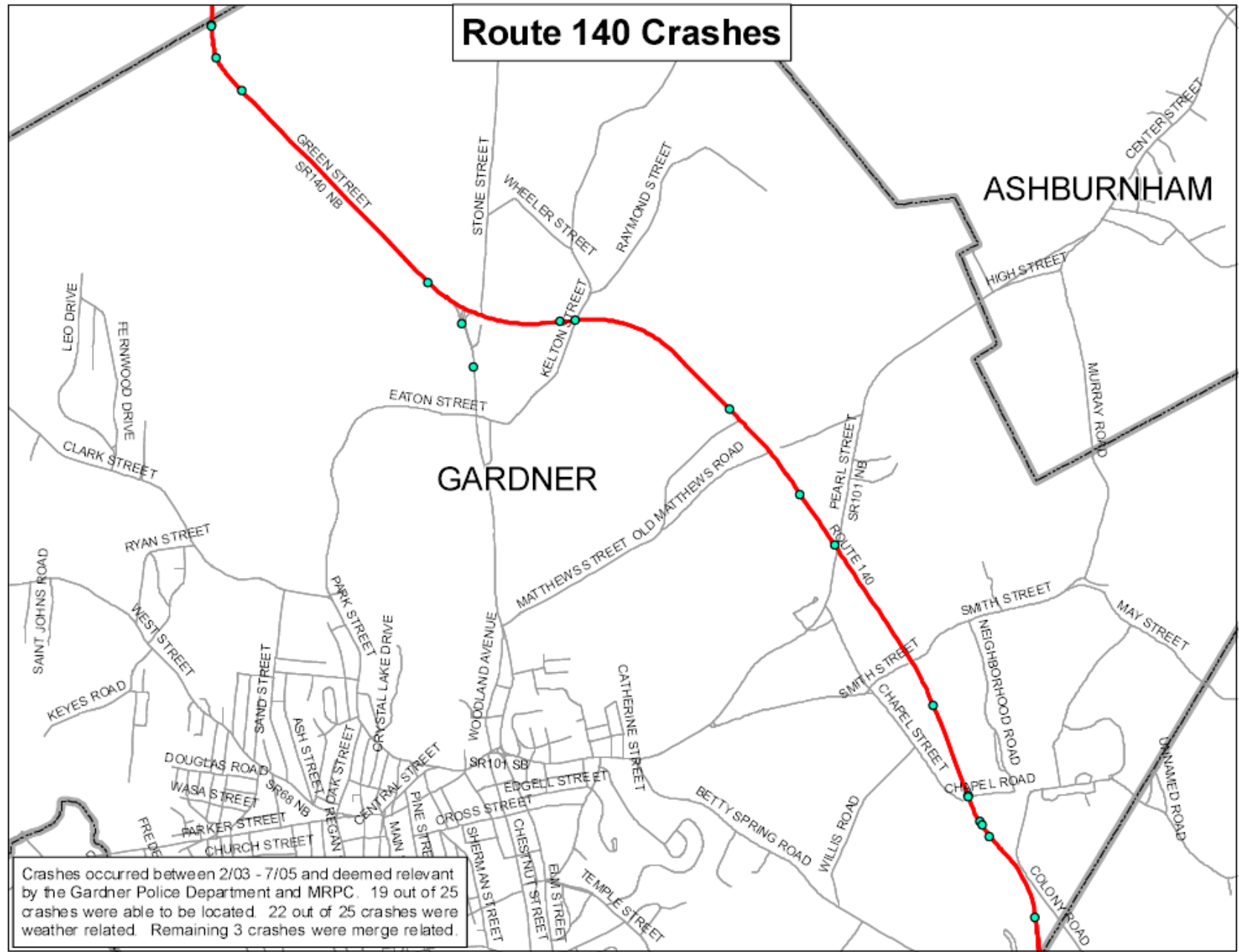


In an effort to combat the lane departure problem, a strategy was developed for the SHSP to identify hot spot lane departure location, perform road safety audits and implement low-cost comprehensive countermeasures.



| Crash | CRASH DATE | MAP (Y/N) | Direction        | Object Struck             | Curve (Y / N) | WEATHER 1                  | WEATHER 2                  | SURFACE TYPE | CRASH LOCATION                                         |
|-------|------------|-----------|------------------|---------------------------|---------------|----------------------------|----------------------------|--------------|--------------------------------------------------------|
| 1     | 2/12/2003  | Y         | N/S              | vehicle                   | Y             | snow                       |                            | snow         | ROUTE 140 (#1490)                                      |
| 2     | 2/17/2003  | Y         | S                | snow bank                 | N             | snow                       |                            | snow         | ROUTE 140/CHAPEL STREET                                |
| 3     | 2/23/2003  | Y         | S                | snow bank                 | Y             | snow                       | sleet, hail, freezing rain | ice          | ROUTE 140 BY KELTON ST. OVERPASS                       |
| 4     | 2/24/2003  |           | N                | snow bank                 | N             | snow                       |                            | snow         | ROUTE 140                                              |
| 5     | 4/4/2003   | Y         | S                | embankment                | N             | cloudy                     | sleet, hail, freezing rain | ice          | ROUTE 140/CHAPEL STREET                                |
| 6     | 4/5/2003   |           | N/S              | vehicle                   | Y             | rain                       | sleet, hail, freezing rain | slush        | ROUTE 140                                              |
| 7     | 12/8/2003  | Y         | N/N              | vehicle                   | N-merge       | cloudy                     | snow                       | snow         | ROUTE 140/COLONY ROAD                                  |
| 8     | 12/12/2003 | Y         | S/S              | vehicle                   | N-merge       | clear                      |                            | dry          | ROUTE 140 (at merge from 2 to 1 lane per direction SB) |
| 9     | 12/15/2003 |           | S/S              | vehicle/snow bank         | Y             | cloudy                     |                            | ice          | ROUTE 140                                              |
| 10    | 1/5/2004   |           | N                | guardrail                 | N             | rain                       |                            | slush        | ROUTE 140                                              |
| 11    | 3/9/2004   | Y         | S                | guardrail                 | N             | cloudy                     |                            | ice          | ROUTE 140 (NORTH OF MATTHEW ST)                        |
| 12    | 8/12/2004  | Y         | N                | embankment                | N             | rain                       |                            | wet          | ROUTE 140/300 FT S OF SMITH STREET                     |
| 13    | 12/6/2004  | Y         | N/S              | vehicle                   | Y             | snow                       | sleet, hail, freezing rain | ice          | GREEN STREET/ROUTE 140 (N of Green)                    |
| 14    | 1/5/2005   | Y         | S                | embankment                | Y             | snow                       | sleet, hail, freezing rain | ice          | ROUTE 140 (by the prison)                              |
| 15    | 1/6/2005   |           | S                | vehicle                   | Y             | snow                       | sleet, hail, freezing rain | snow         | ROUTE 140                                              |
| 16    | 1/12/2005  | Y         | S                | embankment                | Y             | sleet, hail, freezing rain | snow                       | slush        | ROUTE 140 (by Winchendon town line)                    |
| 17    | 1/13/2005  | Y         | N                | guardrail                 | Y             | sleet, hail, freezing rain |                            | ice          | ROUTE 140/500 FT S OF STONE STREET EXT                 |
| 18    | 1/26/2005  | Y         | N/S              | vehicle                   | N             | snow                       |                            | snow         | GREEN STREET/300 FT N OF EATON ST                      |
| 19    | 2/10/2005  | Y         | S                | guardrail                 | Y             | sleet, hail, freezing rain | snow                       | snow         | ROUTE 140/300 FT FROM CHAPEL STREET                    |
| 20    | 2/12/2005  | Y         | N                | utility pole support wire | Y             | cloudy                     | snow                       | wet          | ROUTE 140/500 FT S OF WINCHENDON TL                    |
| 21    | 2/23/2005  | Y         | S                | utility pole support wire | Y             | clear                      |                            | wet          | ROUTE 140 (near Winchendon town line)                  |
| 22    | 3/1/2005   | Y         | W (N in diagram) | guardrail                 | N             | cloudy                     |                            | slush        | ROUTE 140/100 FT N OF RAILROAD BRIDGE                  |
| 23    | 3/1/2005   |           | S                | overturned                | Y             | cloudy                     | snow                       | snow         | ROUTE 140/150 S OF MASS ELEC. POLE 41                  |
| 24    | 3/20/2005  | Y         | S/S/N            | vehicle                   | N-merge       | cloudy                     |                            | dry          | ROUTE 140/1000 FT S OF MATTHEWS ST.                    |
| 25    | 7/21/2005  | Y         | S/S              | vehicle                   | N-merge       | clear                      |                            | dry          | 829 GREEN STREET (not on 140)                          |

| Crash | BRIEF SUMMARY/NARRATIVE                                                                                                                                                                                                                                                    |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | <ul style="list-style-type: none"> <li>• LOST CONTROL IN SNOW &amp; CROSSED OVER CENTER LINE</li> </ul>                                                                                                                                                                    |
| 2     | <ul style="list-style-type: none"> <li>• LOST CONTROL AND WENT INTO SNOW BANK</li> </ul>                                                                                                                                                                                   |
| 3     | <ul style="list-style-type: none"> <li>• LOST CONTROL DUE TO EXCESSIVE ICE ON ROADWAY. SPUN INTO ONCOMING LANE.</li> </ul>                                                                                                                                                 |
| 4     | <ul style="list-style-type: none"> <li>• SLID INTO ONCOMING LANE AND STOPPED IN A SNOW BANK ON OPPOSITE SIDE OF ROAD</li> </ul>                                                                                                                                            |
| 5     | <ul style="list-style-type: none"> <li>• LOST CONTROL DUE TO POOR WEATHER &amp; ROAD CONDITIONS. SLID OFF THE ROAD &amp; INTO EMBANKMENT</li> </ul>                                                                                                                        |
| 6     | <ul style="list-style-type: none"> <li>• LOST CONTROL AND WENT ONCOMING LANE &amp; HIT ANOTHER VEHICLE</li> </ul>                                                                                                                                                          |
| 7     | <ul style="list-style-type: none"> <li>• VEHICLES COLLIDED AS THE LANES THEY WERE DRIVING IN MERGED</li> </ul>                                                                                                                                                             |
| 8     | <ul style="list-style-type: none"> <li>• SPUN OUT OF CONTROL AFTER HITTING ANOTHER VEHICLE IN A FAILED ATTEMPT TO GET AHEAD OF OTHER VEHICLE WHEN THE LANES MERGED</li> </ul>                                                                                              |
| 9     | <ul style="list-style-type: none"> <li>• 2 VEHICLES CRASHED WHEN THEY WERE TRYING TO AVOID A 3RD VEHICLE THAT WAS SPINNING OUT OF CONTROL</li> </ul>                                                                                                                       |
| 10    | <ul style="list-style-type: none"> <li>• OPERATOR LOST CONTROL OF VEHICLE WHICH SPUN OUT OF CONTROL AND CROSSED OVER INTO ONCOMING LANE.</li> </ul>                                                                                                                        |
| 11    | <ul style="list-style-type: none"> <li>• OPERATOR LOST CONTROL OF VEHICLE AND STRUCK GUARDRAIL</li> </ul>                                                                                                                                                                  |
| 12    | <ul style="list-style-type: none"> <li>• HYDROPLANED THROUGH A PUDDLE, CROSSED ACROSS THE ONCOMING LANE AND THEN LANDED IN AN EMBANKMENT</li> </ul>                                                                                                                        |
| 13    | <ul style="list-style-type: none"> <li>• OPERATOR LOST CONTROL OF VEHICLE DUE TO HORRENDOUS ROAD CONDITIONS. VEHICLE CROSSED INTO ONCOMING LANE AND HIT ANOTHER VEHICLE HEAD ON.</li> </ul>                                                                                |
| 14    | <ul style="list-style-type: none"> <li>• VEHICLE FISHTAILED AS A RESULT OF DEPLORABLE ROAD CONDITIONS &amp; WENT OFF THE SIDE OF ROAD</li> </ul>                                                                                                                           |
| 15    | <ul style="list-style-type: none"> <li>• RESULT OF ONE VEHICLE ATTEMPTING TO PASS ANOTHER VEHICLE IN BAD DRIVING CONDITIONS. HIT VEHICLE WENT ACROSS THE MEDIAN AND INTO THE OPPOSITE LANE &amp; EVENTUALLY HIT THE GUARDRAIL ON THAT SIDE</li> </ul>                      |
| 16    | <ul style="list-style-type: none"> <li>• VEHICLE OUT OF CONTROL BECAUSE IT HIT A PATCH OF ICE. VEHICLE WENT OFF THE SHOULDER &amp; HIT A SNOW EMBANKMENT.</li> </ul>                                                                                                       |
| 17    | <ul style="list-style-type: none"> <li>• LOST CONTROL &amp; FISHTAILED DUE TO ICY ROAD. CROSSED CL, STRUCK A GUARDRAIL, THEN RECROSSED THE CL &amp; RAN OFF ROAD DOWN AN EMBANKMENT.</li> </ul>                                                                            |
| 18    | <ul style="list-style-type: none"> <li>• VEHICLE WAS TRYING TO MAKE IT UP A HILL BUT THE CAR KEPT SLIPPING AND HIT ANOTHER VEHICLE</li> </ul>                                                                                                                              |
| 19    | <ul style="list-style-type: none"> <li>• OPERATOR LOST CONTROL OF VEHICLE AND SLID INTO ANOTHER VEHICLE</li> </ul>                                                                                                                                                         |
| 20    | <ul style="list-style-type: none"> <li>• VEHICLE SLID INTO &amp; ACROSS ONCOMING LANE AS A RESULT OF SPEEDING.</li> </ul>                                                                                                                                                  |
| 21    | <ul style="list-style-type: none"> <li>• DRIVER CLAIMED THAT SHE SKID OFF OF ROAD DUE TO WET GROUND. OFFICER BELIEVES THAT SHE WAS INATTENTIVE AND DROVE OFF THE ROAD.</li> </ul>                                                                                          |
| 22    | <ul style="list-style-type: none"> <li>• VEHICLE SLID INTO ONCOMING LANE AND HIT A GUARDRAIL AS A RESULT OF SLIPPERY ROAD CONDITIONS</li> </ul>                                                                                                                            |
| 23    | <ul style="list-style-type: none"> <li>• OPERATOR LOST CONTROL OF VEHICLE DUE TO WEATHER &amp; POSSIBLE ALCOHOL INGESTION. VEHICLE SPUN OUT ON CONTROL, RAN OFF THE ROADWAY RIGHT, AND OVERTURNED.</li> </ul>                                                              |
| 24    | <ul style="list-style-type: none"> <li>• CRASH OCCURRED AS A RESULT OF ONE VEHICLE CUTTING OFF ANOTHER DUE TO LANE MERGE. THE VEHICLE BEING CUT OFF HIT THE BRAKES AND WENT INTO ONCOMING LANES AND HIT ANOTHER VEHICLE. THAT VEHICLE THEN HIT ANOTHER VEHICLE.</li> </ul> |
| 25    | <ul style="list-style-type: none"> <li>• OPERATOR DROVE VEHICLE IN FRONT OF ANOTHER WHEN TRYING TO CHANGE DIRECTION IN ORDER TO PICK UP A TURTLE ON THE ROAD</li> </ul>                                                                                                    |



| Route 140 South of Mathews Street Raw count<br>weekday average May 1, 2007 |                              |      |       |
|----------------------------------------------------------------------------|------------------------------|------|-------|
| Raw count weekday average May 1, 2007                                      |                              |      |       |
| Start Time                                                                 | Rte 140 S. of Mathews<br>St. |      | Total |
|                                                                            | NB                           | SB   |       |
| 12:00 AM                                                                   | 66                           | 20   | 86    |
| 1:00 AM                                                                    | 33                           | 16   | 49    |
| 2:00 AM                                                                    | 25                           | 16   | 41    |
| 3:00 AM                                                                    | 22                           | 38   | 60    |
| 4:00 AM                                                                    | 37                           | 107  | 144   |
| 5:00 AM                                                                    | 83                           | 316  | 399   |
| 6:00 AM                                                                    | 174                          | 619  | 793   |
| 7:00 AM                                                                    | 361                          | 628  | 989   |
| 8:00 AM                                                                    | 383                          | 390  | 773   |
| 9:00 AM                                                                    | 338                          | 334  | 672   |
| 10:00 AM                                                                   | 297                          | 275  | 572   |
| 11:00 AM                                                                   | 292                          | 300  | 592   |
| 12 noon                                                                    | 300                          | 295  | 595   |
| 1:00 PM                                                                    | 292                          | 332  | 624   |
| 2:00 PM                                                                    | 375                          | 344  | 719   |
| 3:00 PM                                                                    | 534                          | 338  | 872   |
| 4:00 PM                                                                    | 604                          | 340  | 944   |
| 5:00 PM                                                                    | 665                          | 325  | 990   |
| 6:00 PM                                                                    | 390                          | 259  | 649   |
| 7:00 PM                                                                    | 235                          | 178  | 413   |
| 8:00 PM                                                                    | 170                          | 143  | 313   |
| 9:00 PM                                                                    | 141                          | 99   | 240   |
| 10:00 PM                                                                   | 102                          | 80   | 182   |
| 11:00 PM                                                                   | 92                           | 39   | 131   |
|                                                                            | 6011                         | 5831 | 11842 |

| Route 140 North of Mathews Street Raw count<br>weekday average May 1, 2007 |                              |      |       |
|----------------------------------------------------------------------------|------------------------------|------|-------|
| Raw count weekday average May 1, 2007                                      |                              |      |       |
| Start Time                                                                 | Rte 140 N. of Mathews<br>St. |      | Total |
|                                                                            | NB                           | SB   |       |
| 12:00 AM                                                                   | 76                           | 21   | 97    |
| 1:00 AM                                                                    | 31                           | 13   | 44    |
| 2:00 AM                                                                    | 32                           | 14   | 46    |
| 3:00 AM                                                                    | 15                           | 33   | 48    |
| 4:00 AM                                                                    | 27                           | 98   | 125   |
| 5:00 AM                                                                    | 54                           | 301  | 355   |
| 6:00 AM                                                                    | 120                          | 566  | 686   |
| 7:00 AM                                                                    | 191                          | 560  | 751   |
| 8:00 AM                                                                    | 218                          | 335  | 553   |
| 9:00 AM                                                                    | 218                          | 269  | 487   |
| 10:00 AM                                                                   | 185                          | 207  | 392   |
| 11:00 AM                                                                   | 213                          | 210  | 423   |
| 12 noon                                                                    | 226                          | 211  | 437   |
| 1:00 PM                                                                    | 219                          | 230  | 449   |
| 2:00 PM                                                                    | 300                          | 241  | 541   |
| 3:00 PM                                                                    | 402                          | 242  | 644   |
| 4:00 PM                                                                    | 470                          | 234  | 704   |
| 5:00 PM                                                                    | 529                          | 232  | 761   |
| 6:00 PM                                                                    | 353                          | 185  | 538   |
| 7:00 PM                                                                    | 216                          | 116  | 332   |
| 8:00 PM                                                                    | 180                          | 95   | 275   |
| 9:00 PM                                                                    | 147                          | 64   | 211   |
| 10:00 PM                                                                   | 101                          | 72   | 173   |
| 11:00 PM                                                                   | 96                           | 30   | 126   |
|                                                                            | 4619                         | 4579 | 9198  |

| <b>GEOMETRIC DESIGN</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Issue</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Comment</b> |
| <b>A. Speed – (Design Speed; Speed Limit &amp; Zoning; Sight Distance; Overtaking)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |
| <p>Are there speed-related issues along the corridor?<br/>Please consider the following elements:</p> <ul style="list-style-type: none"> <li>• Horizontal and vertical alignment;</li> <li>• Posted and advisory speeds</li> <li>• Driver compliance with speed limits</li> <li>• Approximate sight distance</li> <li>• Safety passing opportunities</li> </ul>                                                                                                                                                                                                                        |                |
| <b>B. Road alignment and cross section</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                |
| <p>With respect to the roadway alignment and cross-section please consider the appropriateness of the following elements:</p> <ul style="list-style-type: none"> <li>• Functional class (Urban Principal Arterial)</li> <li>• Delineation of alignment;</li> <li>• Widths (lanes, shoulders, medians);</li> <li>• Sight distance for access points;</li> <li>• Cross-slopes</li> <li>• Curbs and gutters</li> </ul> <p>Drainage features</p>                                                                                                                                           |                |
| <b>C. Intersections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                |
| <p>For intersections along the corridor please consider all potential safety issues. Some specific considerations should include the following:</p> <ul style="list-style-type: none"> <li>• Intersections fit alignment (i.e. curvature)</li> <li>• Traffic control devices’ alert motorists as necessary</li> <li>• Sight distance and sight lines seem appropriate</li> <li>• Vehicles can safely slow/stop for turns</li> <li>• Conflict point management</li> <li>• Adequate spacing for various vehicle types</li> </ul> <p>Capacity problems that result in safety problems</p> |                |
| <b>D. Auxiliary lanes</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |
| <ul style="list-style-type: none"> <li>• Do auxiliary lanes appear to be adequate?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |
| <ul style="list-style-type: none"> <li>• Could the taper locations and alignments be causing safety deficiencies?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                |
| <ul style="list-style-type: none"> <li>• Are shoulder widths at merges causing safety deficiencies?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>E. Clear zones and crash barriers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |
| For the roadside the major considerations are clear zone issues and crash barriers. Consider the following:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |
| <ul style="list-style-type: none"> <li>• Do there appear to be clear zones issues? <ul style="list-style-type: none"> <li>— Are hazards located too close the road?</li> <li>— Are side slopes acceptable?</li> </ul> </li> <li>• Are suitable crash barriers (i.e, guard rails, curbs, etc.) appropriate for minimizing crash severity?</li> <li>• Barrier features: end treatments, visibility, etc.</li> </ul>                                                                                                                                                                                                                     |  |
| <b>F. Bridges and culverts – (if necessary)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
| Are there specific issues related to bridges and culverts that may result in safety concerns?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
| <b>G. Pavement – (Defects, Skid Resistance, and Flooding)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
| <ul style="list-style-type: none"> <li>• Is the pavement free of defects including excessive roughness or rutting, potholes, loose material, edge drop-offs, etc.) that could result in safety problems (for example, loss of steering control)?</li> <li>• Does the pavement appear to have adequate skid resistance, particularly on curves, step grades and approaches to intersections?</li> <li>• Is the pavement free of areas where flooding or sheet flow of water could contribute to safety problems?</li> <li>• In general, is the pavement quality sufficient for safe travel of heavy and oversized vehicles?</li> </ul> |  |
| <b>H. Lighting (Lighting and Glare)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
| It is important to consider to the impacts of lighting. Some specifics include the following:<br>Is lighting required and, if so, has it been adequately provided?<br>Are there glare issues resulting from headlights during night time operations or from sunlight?                                                                                                                                                                                                                                                                                                                                                                 |  |

| <b>TRAFFIC CONTROL DEVICES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Issue</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Comment</b> |
| <b>I. Signs</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                |
| <p>Signage is a critical element in providing a safe roadway environment. Please consider the following:</p> <ul style="list-style-type: none"> <li>• Are all current signs visible (consider both night and day)? Are they conspicuous and clear? Are the correct signs used for each situation?</li> </ul>                                                                                                                                                                                                      |                |
| <ul style="list-style-type: none"> <li>• Does the retroreflectivity or illumination appear satisfactory?</li> <li>• Are there any concerns regarding sign supports?</li> </ul>                                                                                                                                                                                                                                                                                                                                    |                |
| <b>J. Traffic signals</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                |
| <p>Although the focus of this RSA are lane departures, this does present an opportunity for us to consider any traffic signals. Specifically:</p> <ul style="list-style-type: none"> <li>• If present, do the traffic signals appear to be designed, installed, and operating correctly?</li> <li>• Is the controller located in a safe position? (where it is unlikely to be hit, but maintenance access is safe)</li> <li>• Is there adequate sight distance to the ends of possible vehicle queues?</li> </ul> |                |
| <b>K. Marking and delineation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |
| <ul style="list-style-type: none"> <li>• Is the line marking and delineation: <ul style="list-style-type: none"> <li>— appropriate for the function of the road?</li> <li>— consistent along the route?</li> <li>— likely to be effective under all expected conditions? (day, night, wet, dry, fog, rising and setting sun, oncoming headlights, etc.)</li> </ul> </li> <li>• Are centerlines, edgelines, and lane lines provided? If not, do drivers have adequate guidance?</li> </ul>                         |                |

| <b>ROADWAY ACTIVITY</b>                                                                                                                                                                                                                                                                                                                 |                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Issue</b>                                                                                                                                                                                                                                                                                                                            | <b>Comment</b> |
| <p>With respect to roadway activity please consider safety elements related to the following:</p> <ul style="list-style-type: none"> <li>• Pedestrians</li> <li>• Bicycles</li> <li>• Public transportation vehicles and riders</li> <li>• Emergency vehicles</li> <li>• Commercial vehicles</li> <li>• Slow moving vehicles</li> </ul> |                |

| <b>ENVIRONMENTAL CONSIDERATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Issue</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Comment</b> |
| <b>Weather &amp; Animals</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |
| <p>From an environmental perspective it is important to consider any potential impacts. Most notably is likely to be the impacts of weather or animals, including:</p> <ul style="list-style-type: none"> <li>• Possible effects of rain, fog, snow, ice, wind on design features.</li> <li>• Has snow fall accumulation been considered in the design (storage, sight distance around snowbanks, etc.)?</li> <li>• Are there any known animal travel/migration routes in surrounding areas which could affect design?</li> </ul> |                |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                |





**CITY OF GARDNER  
CONSERVATION COMMISSION**

Gardner City Hall – Manca Annex  
115 Pleasant Street, Room 202

978-630-4014

Gardner, MA 01440

fax 978-632-1905

Re: Proposal for a Horse Racing Facility on 827 Green St by Baystate Racing

June 27<sup>th</sup> 2024

Regarding the proposed siting of a horse racing facility at 827 Green St, given the great degree of complexity of such a project, and with the end of my time in this position as the City of Gardner's Conservation Agent being June 28<sup>th</sup>, I have decided to write a brief memo outlining my outgoing advice to the Conservation Commission, the City Council, or any others involved in the upcoming review process of a potential horseracing facility on 827 Green St.

First, and most importantly I would encourage that the review of any such facility be conducted with the highest regard towards the water resources present on, and surrounding the parcels in question.

Without having any formal submitted plans for the project, I can only use the information that is available and released to the public, as of today's date – June 27<sup>th</sup>, 2024. I would like to note that it is not my intention, nor is it within the authority of the Conservation Commission or the Conservation Agent to unfairly obstruct any project submitted to the Conservation Commission, and a compliant project that meets performance standards under the Wetlands Protection Act regulations and local bylaws is permissible by the Conservation Commission without regard to controversy and opinion, with such decisions instead being based off of findings of factual information. That being said, it is the duty of the Conservation Commission to protect and preserve the water and wetland resource areas in the City of Gardner as per the Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance.

For the proposed project, there are substantial wetlands present on the lots in question, and the City of Gardner Wetlands Protection Ordinance stipulates a 30ft "no-disturb" buffer, and

a 60ft "no-build" buffer. The Conservation Commission has been consistent in implementing these standards fairly to applicants. It is at the discretion of the Conservation Commission to apply these standards as needed to prevent any net loss of wetlands. In addition to wetlands present, Perley Brook intersecting the property would necessitate additional considerations in order to meet performance standards for riverfront projects. The design of any project should take this into account.

It is my evaluation that any claims made regarding agricultural exemptions for any such project require further clarification and justification. Under the Wetlands Protection Act, there are certain exemptions provided to agriculture, with the aim being to preserve the productive agricultural usage on certain parcels of land. As per 310 CMR 10.00 the Wetlands Protection Act regulations, "land in agricultural use" is defined as

"...land in agricultural use means land within resource areas or the Buffer Zone presently and primarily used in a manner related to, and customarily and necessarily used in, producing or raising such commodities, including but not limited to: existing access roads and livestock crossings; windbreaks; hedgerows; field edges; bee yards; sand pits; landings for forest products; fence lines; water management projects such as reservoirs, farm ponds, irrigation".

The specification of "presently and primarily" is important to be mindful of when evaluating any claim of agricultural exemption.

With the above in mind, and given the large scale that any such proposed project on 827 Green St would encompass, I recommend to the Gardner Conservation Commission to retain a third party consultant to perform a review of any submitted Notice of Intent for the project.

Thank you,



Douglas E. Dillon Jr.  
Conservation Agent,  
City of Gardner



Accidents By Street Name

| <u>Street / Location Names</u> | <u>JAN</u> | <u>FEB</u> | <u>MAR</u> | <u>APR</u> | <u>MAY</u> | <u>JUN</u> | <u>JUL</u> | <u>AUG</u> | <u>SEP</u> | <u>OCT</u> | <u>NOV</u> | <u>DEC</u> | <u>TOTALS</u> |
|--------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|---------------|
| 140                            | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 2          | 0          | 2             |
| 200 MAIN ST                    | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| 365 ELM ST                     | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| A ST                           | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| ABBOTT ST                      | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| ALLEN ST                       | 1          | 0          | 0          | 0          | 1          | 1          | 0          | 0          | 1          | 0          | 0          | 0          | 4             |
| ARMISTICE WAY                  | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 1             |
| ASH ST                         | 0          | 0          | 1          | 1          | 0          | 1          | 0          | 1          | 1          | 0          | 0          | 1          | 6             |
| BAKER ST                       | 1          | 3          | 2          | 1          | 0          | 4          | 0          | 3          | 3          | 1          | 2          | 3          | 23            |
| BANCROFT ST                    | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 1             |
| BARTHEL AVE                    | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| BEAR HILL RD                   | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| BETTY SPRING RD                | 13         | 2          | 1          | 1          | 1          | 2          | 3          | 0          | 2          | 1          | 5          | 6          | 37            |
| BICKFORD HILL RD               | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 2             |
| BLANCHARD ST                   | 0          | 0          | 0          | 0          | 1          | 0          | 1          | 0          | 0          | 0          | 0          | 1          | 3             |
| BOND ST                        | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| BOULDER DR                     | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 1          | 0          | 2             |
| BRIDGE ST                      | 1          | 1          | 1          | 1          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 5             |
| CATHERINE ST                   | 1          | 0          | 2          | 0          | 0          | 3          | 0          | 0          | 0          | 0          | 0          | 1          | 7             |
| CEDAR ST                       | 1          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 3             |
| CENTRAL ST                     | 7          | 4          | 9          | 5          | 8          | 14         | 8          | 5          | 7          | 4          | 11         | 7          | 89            |
| CENTURY WAY                    | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| CHAPEL ST                      | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| CHAPMAN PARK                   | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| CHARBONNEAU ST                 | 0          | 0          | 0          | 0          | 1          | 0          | 1          | 1          | 0          | 0          | 0          | 0          | 3             |
| CHARLES ST                     | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| CHESTNUT ST                    | 1          | 4          | 5          | 3          | 0          | 3          | 7          | 2          | 1          | 4          | 4          | 0          | 34            |
| CHURCH ST                      | 1          | 0          | 0          | 0          | 1          | 3          | 1          | 0          | 1          | 1          | 1          | 1          | 10            |
| CITY HALL AVE                  | 0          | 0          | 1          | 1          | 2          | 1          | 1          | 0          | 1          | 2          | 0          | 0          | 9             |
| CLAIRMONT ST                   | 1          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 2             |
| CLARK ST                       | 5          | 3          | 2          | 2          | 2          | 7          | 3          | 1          | 2          | 2          | 6          | 8          | 43            |
| CLEVELAND ST                   | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 2             |
| COLEMAN ST                     | 0          | 0          | 0          | 0          | 1          | 0          | 1          | 0          | 2          | 1          | 0          | 0          | 5             |
| COLONY RD                      | 0          | 0          | 1          | 1          | 1          | 0          | 1          | 0          | 1          | 0          | 1          | 0          | 6             |
| COMEE ST                       | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 1             |
| CONANT ST                      | 2          | 1          | 0          | 2          | 4          | 2          | 1          | 1          | 2          | 0          | 0          | 5          | 20            |
| CONNANT ST                     | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 1             |
| CONNORS ST                     | 1          | 3          | 1          | 1          | 1          | 1          | 1          | 0          | 1          | 1          | 0          | 0          | 11            |
| CONNORS ST PARKING LOT         | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 1             |
| COTTAGE ST                     | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 1          | 0          | 0          | 1          | 3             |
| CRAWFORD ST                    | 3          | 1          | 1          | 1          | 0          | 2          | 1          | 2          | 2          | 2          | 0          | 0          | 15            |
| CRESTWOOD DR                   | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 1          | 3             |
| CROSS ST                       | 1          | 1          | 1          | 3          | 0          | 3          | 1          | 0          | 3          | 2          | 2          | 1          | 18            |
| CRYSTAL LAKE DR                | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 1          | 1          | 3             |
| DERBY DR                       | 0          | 1          | 0          | 0          | 0          | 1          | 0          | 0          | 1          | 0          | 0          | 1          | 4             |
| DINAN DR                       | 0          | 0          | 1          | 1          | 0          | 0          | 1          | 0          | 0          | 1          | 0          | 0          | 4             |
| DONLAN ST                      | 0          | 1          | 1          | 0          | 1          | 2          | 3          | 0          | 2          | 1          | 0          | 0          | 11            |
| DUBLIN ST                      | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| DYER ST                        | 0          | 0          | 0          | 0          | 1          | 1          | 0          | 0          | 0          | 1          | 0          | 2          | 5             |
| E BROAD WAY                    | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| E BROADWAY                     | 0          | 1          | 1          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 3             |
| EAST BROADWAY                  | 4          | 5          | 1          | 0          | 1          | 3          | 3          | 6          | 2          | 2          | 4          | 7          | 38            |
| EASTWOOD CIR                   | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 1          | 2          | 0          | 0          | 0          | 4             |
| EATON ST                       | 1          | 1          | 2          | 1          | 0          | 1          | 0          | 0          | 2          | 2          | 1          | 1          | 12            |
| EDGE L ST                      | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 1             |
| ELM ST                         | 12         | 6          | 6          | 7          | 7          | 8          | 6          | 9          | 3          | 4          | 5          | 11         | 84            |
| EMERALD ST                     | 1          | 0          | 1          | 0          | 0          | 1          | 1          | 0          | 1          | 3          | 0          | 1          | 9             |
| EUCLID ST                      | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 2          | 3             |
| EXIT 22 WEST OFF RAMP          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 1             |
| FAIRLAWN                       | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| FERNWOOD DR                    | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| FOSS RD                        | 0          | 1          | 0          | 1          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 3             |
| FRANKLIN CT                    | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1             |
| FREDETTE ST                    | 0          | 1          | 1          | 0          | 0          | 0          | 1          | 0          | 1          | 0          | 1          | 0          | 5             |
| GLAZIER ST                     | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 1             |

Gardner Police Department  
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|                    |    |    |    |    |    |    |    |    |    |    |    |    |     |
|--------------------|----|----|----|----|----|----|----|----|----|----|----|----|-----|
| GRACE ST           | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| GRAHAM ST          | 2  | 0  | 2  | 0  | 0  | 0  | 1  | 1  | 0  | 2  | 3  | 1  | 12  |
| GRANT ST           | 0  | 1  | 0  | 0  | 0  | 0  | 2  | 0  | 1  | 0  | 0  | 0  | 4   |
| GREEN              | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| GREEN ST           | 15 | 6  | 6  | 6  | 11 | 14 | 6  | 5  | 6  | 10 | 9  | 14 | 108 |
| GREEN ST/RT 140 SB | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| GREENWOOD PL       | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 2   |
| GREENWOOD ST       | 0  | 1  | 1  | 0  | 0  | 4  | 1  | 3  | 0  | 2  | 0  | 2  | 14  |
| HARVARD ST         | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 2   |
| HEMLOCK DR         | 1  | 1  | 1  | 0  | 1  | 1  | 1  | 3  | 0  | 0  | 2  | 0  | 11  |
| HEYWOOD ST         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1   |
| HIGH ST            | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 2  | 0  | 3   |
| HILL ST            | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| HOLLY DR           | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1   |
| HOSLEY RD          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| HOSPITAL HILL RD   | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1  | 0  | 2   |
| HOWARD ST          | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| HOWE ST            | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| JACKSON HILL RD    | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| JAMES ST           | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| JAY ST             | 1  | 1  | 1  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 2  | 1  | 7   |
| JEAN ST            | 0  | 0  | 1  | 1  | 0  | 0  | 0  | 1  | 2  | 0  | 0  | 0  | 5   |
| JOHN ST            | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| KELTON ST          | 0  | 0  | 0  | 1  | 0  | 0  | 1  | 1  | 1  | 0  | 0  | 0  | 4   |
| KENDALL POND WEST  | 0  | 1  | 0  | 2  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 4   |
| KENDALL ST         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| KEYES RD           | 1  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 2   |
| KILEYS WAY         | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| KNOWLTON ST        | 0  | 2  | 1  | 2  | 0  | 0  | 1  | 1  | 0  | 1  | 0  | 1  | 9   |
| LAITINEN DR        | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| LAKE ST            | 0  | 0  | 0  | 0  | 2  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 4   |
| LAKWOOD TER        | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 2   |
| LAWRENCE ST        | 1  | 1  | 0  | 0  | 0  | 0  | 2  | 1  | 0  | 0  | 0  | 3  | 8   |
| LEAMY ST           | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1  | 3   |
| LENNON ST          | 0  | 0  | 1  | 1  | 1  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 4   |
| LEO DR             | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 2   |
| LIMERICK ST        | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 0  | 2   |
| LINCOLN ST         | 0  | 0  | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 2   |
| LOGAN ST           | 0  | 1  | 0  | 1  | 1  | 0  | 0  | 0  | 1  | 0  | 0  | 3  | 7   |
| LOVEWELL ST        | 1  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 0  | 0  | 0  | 3   |
| LYNDE ST           | 0  | 0  | 1  | 0  | 0  | 2  | 0  | 0  | 2  | 1  | 1  | 1  | 8   |
| MAIN               | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1  | 2   |
| MAIN ST            | 21 | 15 | 15 | 23 | 16 | 26 | 22 | 11 | 17 | 24 | 20 | 27 | 237 |
| MANCA DR           | 3  | 0  | 3  | 2  | 2  | 1  | 0  | 0  | 0  | 1  | 2  | 0  | 14  |
| MAPLE ST           | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| MARQUETTE ST       | 0  | 0  | 1  | 0  | 2  | 1  | 0  | 0  | 0  | 0  | 1  | 2  | 7   |
| MATTHEWS ST        | 1  | 2  | 4  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 3  | 1  | 12  |
| MEADOWBROOK LN     | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1   |
| MECHANIC ST        | 0  | 1  | 0  | 0  | 0  | 1  | 1  | 0  | 0  | 1  | 0  | 0  | 4   |
| MILL ST            | 1  | 0  | 1  | 1  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 4   |
| MINOTT ST          | 0  | 0  | 2  | 0  | 0  | 0  | 1  | 0  | 1  | 1  | 1  | 1  | 7   |
| MONADNOCK ST       | 1  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1  | 0  | 0  | 1  | 4   |
| MORAN ST           | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1   |
| MURRAY RD          | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| NICHOLS ST         | 2  | 1  | 6  | 2  | 2  | 2  | 1  | 5  | 2  | 2  | 1  | 3  | 29  |
| NORMAN ST          | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| OAK ST             | 5  | 6  | 3  | 4  | 2  | 3  | 5  | 2  | 4  | 2  | 4  | 6  | 46  |
| OLD MATTHEWS ST    | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| OLDE COLONIAL DR   | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| OLNEY ST           | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| ORIOLE ST          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| OSGOOD ST          | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 2   |
| OTTER RIVER RD     | 1  | 0  | 0  | 1  | 0  | 1  | 0  | 0  | 1  | 1  | 0  | 2  | 7   |
| PARK ST            | 4  | 6  | 2  | 1  | 3  | 6  | 3  | 3  | 5  | 3  | 4  | 4  | 44  |
| PARKER             | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1   |
| PARKER HILL RD     | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| PARKER ST          | 8  | 7  | 5  | 5  | 5  | 4  | 5  | 12 | 12 | 5  | 11 | 11 | 90  |
| PEABODY ST         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 0  | 0  | 2   |
| PEARL              | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| PEARL ST           | 6  | 7  | 7  | 6  | 6  | 6  | 1  | 3  | 4  | 7  | 8  | 10 | 71  |
| PEARSON BLVD       | 13 | 10 | 15 | 10 | 17 | 21 | 16 | 23 | 11 | 15 | 15 | 14 | 180 |

|                     |    |    |    |    |    |    |    |    |    |    |    |    |     |
|---------------------|----|----|----|----|----|----|----|----|----|----|----|----|-----|
| PEARSON ROTARY      | 1  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 2   |
| PINE ST             | 5  | 5  | 3  | 2  | 2  | 4  | 2  | 0  | 5  | 3  | 2  | 2  | 35  |
| PLEASANT            | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| PLEASANT ST         | 2  | 4  | 2  | 4  | 3  | 5  | 6  | 2  | 3  | 8  | 4  | 3  | 46  |
| PLYMOUTH ST         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| POND ST             | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| PROSPECT ST         | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| RACETTE AVE         | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 2  | 0  | 0  | 3   |
| RAYMOND ST          | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1  | 0  | 2   |
| REGAN ST            | 0  | 0  | 1  | 0  | 0  | 0  | 1  | 1  | 1  | 1  | 0  | 0  | 5   |
| RICH ST             | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| RICHMOND ST         | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| RIDGEWOOD LN        | 2  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 1  | 0  | 0  | 4  | 9   |
| RISLEY ST           | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1  | 0  | 2   |
| ROBILLARD ST        | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1  | 0  | 2   |
| ROSEWOOD DR         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| ROUTE 140           | 1  | 0  | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 3   |
| ROUTE 140 NB        | 5  | 3  | 1  | 5  | 2  | 6  | 4  | 1  | 6  | 7  | 5  | 6  | 51  |
| ROUTE 140 S         | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| ROUTE 140 SB        | 3  | 1  | 0  | 1  | 1  | 7  | 1  | 1  | 2  | 2  | 4  | 5  | 28  |
| ROUTE 2 EB          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| ROUTE 2 WB          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| ROUTE 2 WB OFF RAMP | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| RT 140              | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 1   |
| RT. 140 S           | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| RTE 140             | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| RYAN ST             | 2  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 5   |
| S MAIN              | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| SANBORN ST          | 0  | 0  | 1  | 1  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 3   |
| SAND ST             | 1  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 2   |
| SAUNDERS ST         | 0  | 1  | 0  | 1  | 0  | 1  | 0  | 0  | 2  | 0  | 0  | 2  | 7   |
| SAWYER ST           | 1  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 2   |
| SCHOOL ST           | 0  | 1  | 1  | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 4   |
| SHAWN AVE           | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| SHERMAN ST          | 1  | 1  | 2  | 0  | 0  | 2  | 1  | 1  | 1  | 3  | 0  | 2  | 14  |
| SMITH ST            | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| SOUTH MAIN ST       | 0  | 2  | 2  | 1  | 0  | 1  | 0  | 1  | 1  | 0  | 0  | 0  | 8   |
| SOUTH ST            | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 1   |
| STEPHANIE DR        | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| STONE ST            | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 2   |
| STUART ST           | 1  | 0  | 0  | 0  | 0  | 0  | 2  | 0  | 1  | 0  | 0  | 0  | 4   |
| SUFFOLK LN          | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| SUMMER ST           | 1  | 0  | 0  | 1  | 1  | 1  | 0  | 0  | 0  | 0  | 1  | 1  | 6   |
| SUMMIT AVE          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| SUNRISE LN          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1   |
| TEMPLE ST           | 3  | 2  | 6  | 0  | 0  | 3  | 3  | 2  | 0  | 2  | 0  | 2  | 23  |
| TIMPANY BLVD        | 33 | 36 | 31 | 22 | 32 | 28 | 32 | 30 | 27 | 34 | 47 | 48 | 400 |
| TIMPANY ROTARY      | 1  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 3   |
| TIMPANY VLVD        | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| UNION SQ            | 1  | 2  | 1  | 2  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 3  | 13  |
| UNION ST            | 0  | 1  | 1  | 1  | 1  | 0  | 2  | 0  | 3  | 1  | 2  | 5  | 17  |
| VERNON ST           | 1  | 1  | 0  | 0  | 1  | 0  | 2  | 0  | 0  | 0  | 1  | 0  | 6   |
| VETERANS DR         | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| VICTORIA ST         | 0  | 3  | 0  | 0  | 0  | 1  | 0  | 2  | 0  | 0  | 0  | 0  | 6   |
| W BROADWAY          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 1  | 0  | 3   |
| W LYNDE             | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| WALNUT ST           | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 1   |
| WARWICK RD          | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 1   |
| WASA ST             | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 2  | 0  | 1  | 0  | 0  | 3   |
| WASHINGTON ST       | 2  | 1  | 2  | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 7   |
| WATERFORD ST        | 2  | 0  | 2  | 1  | 1  | 3  | 1  | 0  | 2  | 0  | 1  | 1  | 14  |
| WAY ST              | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| WEST BROADWAY       | 7  | 9  | 4  | 2  | 7  | 8  | 6  | 13 | 3  | 12 | 7  | 12 | 90  |
| WEST LYNDE ST       | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1  | 0  | 1  | 0  | 0  | 4   |
| WEST ST             | 13 | 4  | 9  | 3  | 10 | 9  | 9  | 7  | 8  | 7  | 9  | 9  | 97  |
| WHEELER ST          | 0  | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1   |
| WHITNEY ST          | 0  | 1  | 1  | 0  | 0  | 0  | 1  | 1  | 0  | 0  | 1  | 1  | 6   |
| WILKINS RD          | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 0  | 1  | 0  | 0  | 0  | 2   |
| WILKINS ST          | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 1   |
| WILLIS RD           | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 1  | 0  | 1   |
| WILLOW ST           | 0  | 2  | 2  | 0  | 3  | 0  | 0  | 2  | 0  | 1  | 1  | 1  | 12  |

|              |            |            |            |            |            |            |            |            |            |            |            |            |             |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|
| WINSLOW ST   | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 1           |
| WOODLAND AVE | 2          | 0          | 0          | 0          | 3          | 0          | 0          | 1          | 0          | 0          | 1          | 1          | 8           |
| WRIGHT ST    | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 2          | 0          | 0          | 0          | 0          | 3           |
| YALE ST      | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1           |
| ZUB LN       | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1           |
| TOTALS       | <u>256</u> | <u>196</u> | <u>203</u> | <u>163</u> | <u>189</u> | <u>254</u> | <u>203</u> | <u>190</u> | <u>198</u> | <u>217</u> | <u>239</u> | <u>290</u> | <u>2598</u> |

**VOTE**

Shall a track of land located within the limits of the City of Gardner, now owned by the GAAMHA, Inc., located at 827 Green Street, comprising approximately 114 acres also identified as assessors lot number R42/21/1// and more particularly described in Worcester Registry of Deeds Book 63792 and Page 211 and situated on the easterly side of Route 140, otherwise called Green Street, be approved as the location of a running horse racing track where race meetings laid out and conducted by licensees under M.G.L c. 128A will be held or conducted?

# *Exhibit 1*



***Exhibit 1(a)***



April 30, 2024

Council President Elizabeth Kazinskas  
 City of Gardner  
 City Hall, 95 Pleasant Street, Room 121  
 Gardner, Massachusetts 01440

Dear Madam President and Honorable Councilors:

On behalf of Baystate Racing llc, I write to express our interest in what we believe to be an exciting project for Gardner.

Gardner is known as the Chair City. But nearly 150 years ago, Gardner started to emerge as the premier destination for horse breeding, training, and racing in the state. Local physician Dr. Robert Foster Andrews created what was then called Andrews Park on the site currently managed by GAAHMA, Inc. on Route 140. The first horse race was on September 26, 1875 with more than 600 attendees. Over the course of the next several decades, the site also became the location of the Mid-State Fair, and the Agricultural Fair sponsored by the Gardner Agricultural Society and the Gardner Chamber of Commerce. In later years, Leonard LeBlanc, one of the top trainers in New England, bought the farm to raise and train his horses.

More recently, under the guidance of GAAMHA, the location has become a place for those with substance user disorder and mental health needs find therapy and recovery while taking care of the farm and its animals.

Bay State Park is a natural continuation of Gardner's agricultural legacy. Our proposal is developed by horse and agricultural enthusiasts. It is strongly supported by the Massachusetts Thoroughbred Breeders Association and the New England Horsemen's Benevolent and Protective Association. Bay State Park will be the location for thoroughbred breeding and off-track retirement programs, training, and racing facilities, while preserving open space for future generations. Additionally, we are collaborating with GAAMHA on equestrian training for clients and providing retired horses for therapeutic programs and partnering with Mount Wachusett Community College Pathway for Jobs around agricultural and veterinarian tech training.

We respectfully request that you schedule a public hearing with seven days notice in the Gardner News in accordance with MGL c. 128A, s. 13A to consider Andrews Park as a location for a Race Meet License.

We will submit a draft Host Community Agreement (HCA) to Mayor Michael J. Nicholson. The HCA is our contract with the City of Gardner. Highlights of our proposal include an annual review of operations with the Mayor and Council, estimated new revenue of \$500,000 a year, cover any costs related to police, fire, and EMS details on festival days, create local jobs, and \$10,000 upfront for the cost of any reviews during the approval process.

We look forward to working with you, your colleagues, and partners in government in the months ahead on this project and be part of Gardner's great agricultural legacy.

Sincerely,

John A. Stefanini

CC: Mayor Michael J. Nicholson

***Exhibit 1(b)***



**BAY STATE PARK**  
— Gardner, Massachusetts —

A place for breeding, training, and  
racing of horses since 1875

JUNE 17, 2024

# Gardner: A Destination for Horse Racing in the Region

Gardner's legacy of horses and racing dates back to the 1870s. Local physician Dr. Robert Foster Andrews created what was then called Andrews Park on the current site of GAAHMA on Route 140. The first horse race was held on Saturday, September 26, 1875 with more than 600 attendees. Andrews Park was the site of the Mid-State Fair held every year through the 1920s.

After the Mid-State Fair, the Gardner Agricultural Society and the Gardner Chamber of Commerce started the Agricultural Fair over Columbus Day Weekend, featuring livestock shows featuring cattle, horses and poultry, agricultural and horticultural exhibits, horse pulls, track and field events, and horse racings.

Gardner Raceways held an eight race matinee with 1,000 attendees in 1953. One hundred years after the creation of Andrews Park, Leonard LeBlanc began housing horses that he trained and raced at the track. He was one of the top trainers in New England at the time.

Gardner Equestrian Center brings the legacy of this location full circle by providing thoroughbred horses a place to breed, train, race and retire.



## FIRST CATTLE SHOW AND FAIR IS BIG SUCCESS

Over 12,000 Attend Gardner Event; Horse Show Attracts Many—Races Provide Thrilling Finishes

Ground in Fine Condition—Automobile, Fruit and Flower Displays Are Features—Food Vendors Sold Out Before Mid-Afternoon—Boy and Girl Scouts Give Exhibition

GARDNER, Oct. 12.—The first annual cattle show and fair under the auspices of the Gardner Agricultural Society was held at Andrews' Driving Park today with ideal weather conditions and the largest crowd attending a fair in Worcester county this year. The unexpectedly large attendance was one of the features of the day, and was estimated by fair officials that over 12,000 people passed through the gates. Ticket officials were overwhelmed with the number of food and novelties were completely sold out before mid-afternoon. The fine autumn weather with its crisp tang of the season was ideal.

Shen and state troops under Corporal Richard Toppin of the Pastrham barracks. Thirty-five boy scouts from the local troops also assisted in handling traffic and assisting people. Vaudeville Entertainment During the afternoon a high class program of vaudeville was presented. Vocal selections, band music, rope stunts and other attractions were presented. Tomorrow the entire program will be repeated with an excellent program of entries in the horse show. Three fast races in the trot or pace feature are anticipated. Among the more conspicuous win-

**HORSE SHOW**  
**MAY 25 ONE O'CLOCK**  
ANDREWS TROTTING PARK  
GARDNER, MASS.  
RAIN DATE JUNE

## MID-STATE FAIR AT GARDNER DRAWS 4000

Horse Races, Vaudeville Show, Dynamometer Pulling Contests, Among First-Day Attractions—Dog Show And Fireworks Display, With Big Bonfire Will Be Features Today and Tonight

GARDNER, Aug. 26.—With perfect weather conditions, today the Gardner Agricultural association conducted the first day of its annual two-day Mid-State fair at the grounds in North Gardner, with an attendance of more than 4000. The gay spirit of carnival was in evidence throughout the day and evening and much keen interest was shown in the horse races.

The Chair City band, under David Stiles, leader, furnished music for the gala vaudeville show, staged in front of the grandstand, both afternoon and evening. The final day features of the seventh annual fair of the association will comprise the first sanctioned dog show in this vicinity, a gigantic fireworks display and a huge bonfire. For the latter a mound of bales of salvaging boxes and inflammable material of all kinds has been erected, tied on top, to the height of more than 50 feet, while the base measures 100 feet square.

1 hen, Buff Rock; 1 hen, 1 cock, E. 1 Red, 2 cock, 1 hen.  
Wells M. Bonney, Shirley; Silver; pointed Wyandotte, 1 cock, 1, 2 and 3 cockered, 1 hen, 1 pullet.  
E. D. Rogers, Holden; S. C. Brown Leghorn; Speckled, 2 hen, 1, 2 and 3 pullet; Leghorn, a. c. white, 2 cockerel, 3 hen.  
J. J. H. Gardner; White Wyandotte, 1, 2 and 3 pullet.  
H. B. Robinson, Clinton; K. 1 Red, 1 cock, 1, 2 pullet, 1 young pen.  
A. J. Bisco, Millers Falls; Blue An-

## Harness Races Held At Gardner

GARDNER — The Gardner Horsemen's Association conducted a 10-race trotters and pacematsinee at the Gardner Raceway yesterday afternoon. About 1000 persons attended.

Winners were:  
1st race—Half & Half, owned Alfred Vorce and Raymond Price, Winchendon, driven by Raymond Price. Time 2 minutes 38 seconds  
race—Cherry Arden, owned by City Stables, driven by R. Mar-

Radio Station WTAG

## RAIN FAILS TO HALT MID-STATE FAIR AT GARDNER

2000 Throng Grounds During Second Day's Program—Hound Show, Dynamometer Contest and Horse Racing Feature Day's Events

## FAIR MAID IS WINNER OF RACE AT GARDNER

GARDNER, July 16.—Fair Maid, driven by Fred Harper, Westminster; Mary Jane Etta, driven by William Larose, Gardner; and Little Boy, driven by W. Edward Reilly, Gardner, were winners in the races conducted



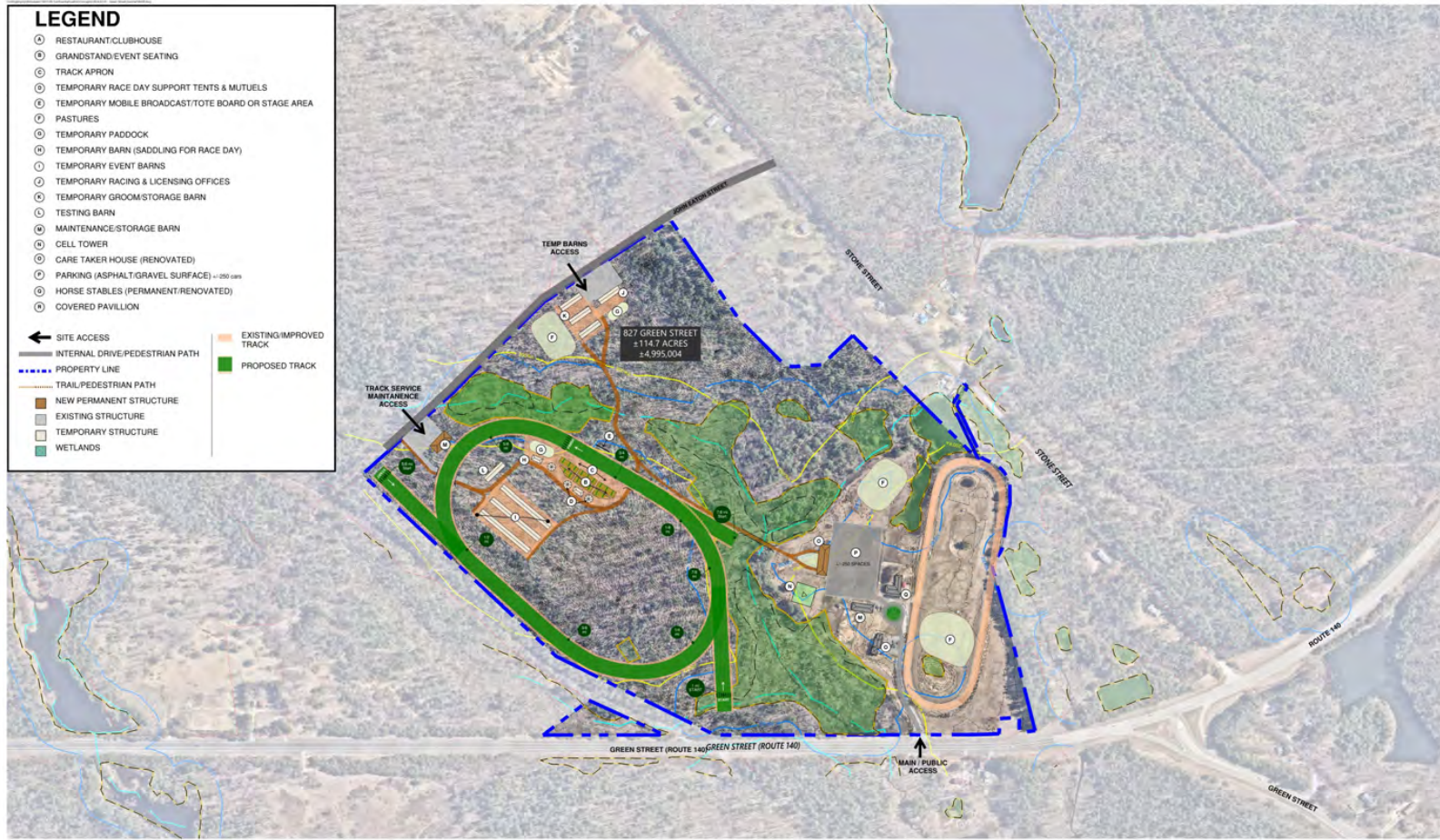


# Our Vision

Continuing the tradition of using this site as a horse farm and racing facility for thoroughbred and standard horses. A year-round equestrian facility for all to learn about and enjoy farming and horses:

- Breeding program
- Training facilities
- Off-track retirement
- Agricultural and equestrian festivals
- Agricultural programs for local students
- Thoroughbred racing
- Therapy programs for individuals in recovery
- Hayfields and vegetable gardens, and livestock such as chickens and pigs

# Initial Site Concept Plan (subject to local & state review)



**CONCEPTUAL SITE PLAN**  
 BAY STATE RACING - GARDNER, MA







# Massachusetts' Challenge

- 8 acres of farmland is lost every day.
- According to the United State Department of Agriculture, Massachusetts ranks 6<sup>th</sup> for disappearing open space.
- Due to the lack of breeding programs in Massachusetts, only one stallion and 20 foals were born over the last five years.
- Bay State Park will help sustain the activities that will occur during the rest of the year, such as breeding, haying and other farm activities. These activities go hand-in-hand.



# Equine Facility

- Our facility will be the premier facility for thoroughbreds to breed, train, race, and retire.
  - Thoroughbred breeding program
  - Therapy programs for individuals
  - Place for off-track thoroughbreds to live in a safe, healthy and nurturing environment
  - Training facilities for thoroughbred owners and trainers



# Breeding Program

- We will have a robust breeding program to increase the thoroughbred horse population.
- The cost associated raising a foal is at a minimum between \$35-50,000.
- Not every thoroughbred horse will participate in racing. Other career options include eventing, dressage, jumping, polo, or on local farms for riding and therapeutic riding.





# Retirement

- Incorporate a retirement facility for retired Massachusetts bred thoroughbred horses to start their second careers.
- Working with the New England HPBA, a percentage of all race purses will be dedicated towards thoroughbred aftercare and rescue.



# Thoroughbred Festival Racing

- Competitive horse racing events supported by thoroughbred owners, breeders and trainers from Massachusetts and the surrounding regions.
- City receives state funding.
- Onsite wagering only at thoroughbred race meets at temporary kiosk. 93% of gaming occurs online off-site.
- Track eligible for state funding through the Race Horse Development Fund.





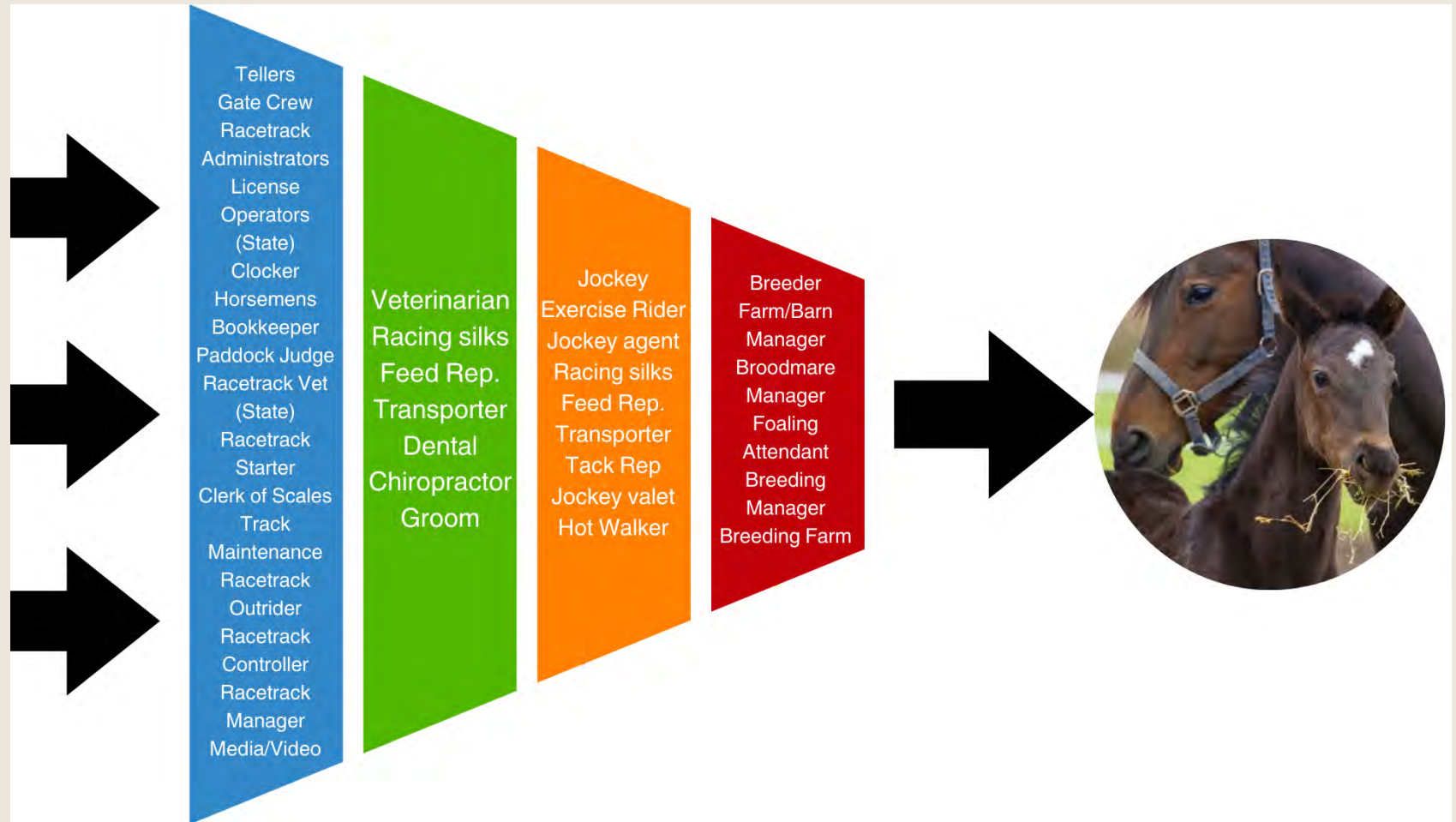


# Supporting Local Agriculture

- Preserve and protect 1,200 horse and hay farms around Massachusetts.
- Collaborate with surrounding farms while supporting local breeders, horse owners, farriers and veterinarians to encourage economic activity and strengthen local agricultural economy.
- Every horse that races preserves a farm and requires a minimum of seven jobs.
- Revenues from racing assist in preserving the land, breeding thoroughbreds, and operating the race meet.
- Brings new local and statewide revenue to Gardner, providing new benefits for the city and agricultural community.

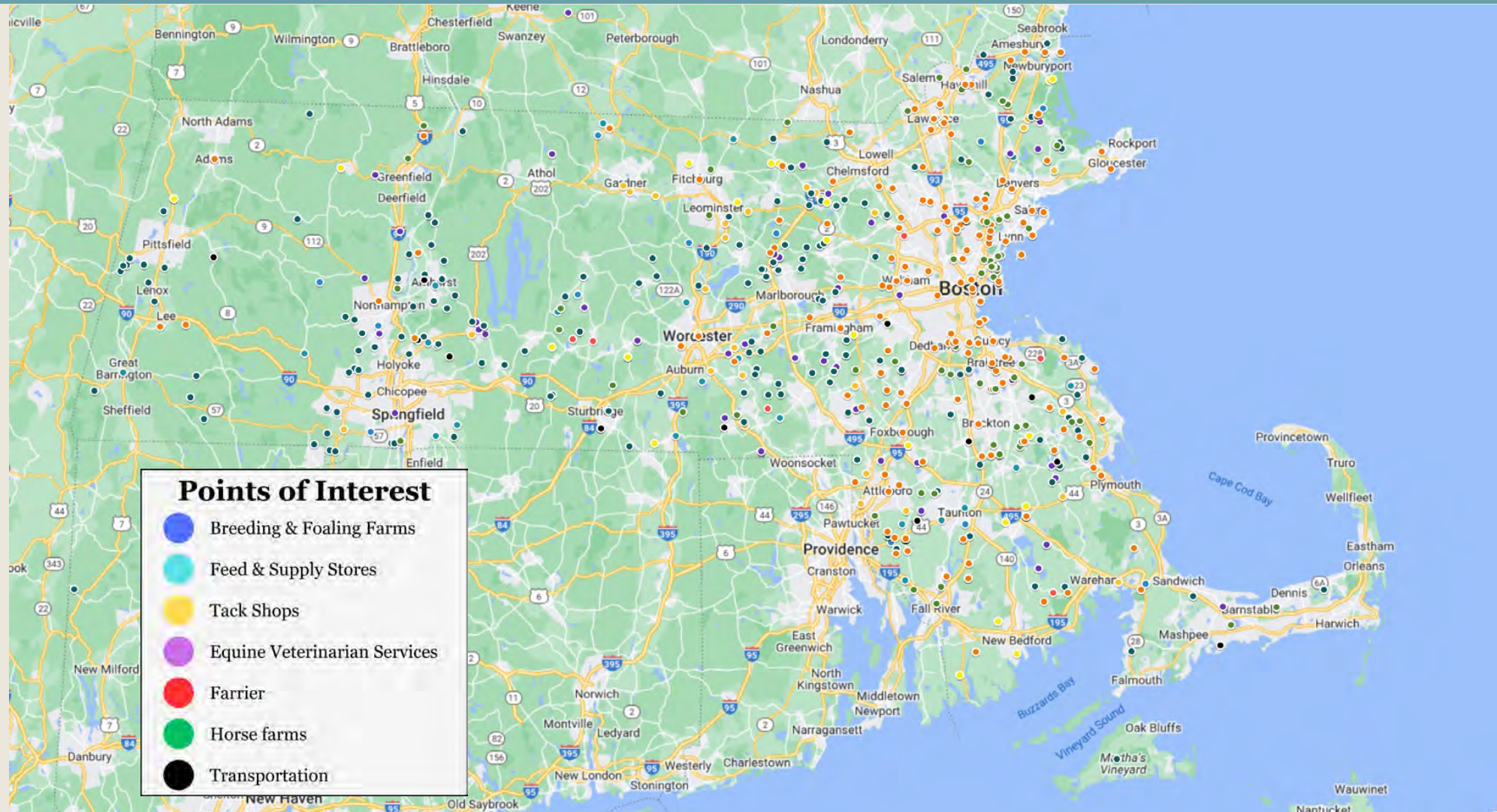
# The Massachusetts Equine Economy

The equine industry and family farming contributes thousands of jobs in Massachusetts for breeding, racing, and sporting events, particularly in our most economically challenged rural communities.





# Current View of the Massachusetts Equine Economy



# The Massachusetts Model

“...the development of a Massachusetts Model horse park represents a significant economic opportunity for the Commonwealth...The annual economic impact is expected to approach \$99 million and lead to the creation of more than 950 jobs throughout Massachusetts.

Economic activity resulting from the facility’s development would also generate an additional \$5 million in state and local tax revenues per year.”

*Dr. John Mullin, Emeritus Professor  
Regional Planning at the  
University of Massachusetts Amherst*





“From 2012 to 2021, according to the Massachusetts Department of Agricultural Resources (MDAR), new foals born in Massachusetts dropped from 34 to just 2 in 2021.

The negative birth rates of thoroughbred foals were entirely borne by Massachusetts thoroughbred breeders and owners and that decline has contributed to the financial peril of Massachusetts breeding farms.

The Massachusetts Thoroughbred Breeder’s Association supports the establishment of thoroughbred racing in Gardner because we understand that connection between racing and breeding and haying farms.”



*Arlene Brown, Secretary*

**MASSACHUSETTS THOROUGHBRED  
BREEDERS ASSOCIATION**  
FOUNDED 1981



“Gardner is about preserving our rural economy, our farms and a way of life that will disappear forever if we don’t protect it and act now. Gardner Equestrian Center helps protect 1,200 horse farms around Massachusetts.

This project has wide support among horse owners, breeders, and enthusiasts as a catalyst to sustain and grow farms and horse operations across the Commonwealth.”



*Anthony Spadea, Jr., President*

**NEW ENGLAND HBPA**  
Horsemen Helping Horsemen

# Protecting the health and safety of our horses

## Massachusetts leads the nation for the health and safety of horses:

- Any owner/trainer who violated anti-doping rules is permanently banned from racing in Massachusetts.
- Working with the NE HBPA, it is our goal that every retired horse finds a second career or an after-care home for after its racing career.
- Any owner or trainer who sells their horse for slaughter is banned for life.



# Protecting the health and safety of our horses

Here are the measures that will further protect the health and safety of these racehorses:

- Before every race, horses will be medically examined by a qualified and independent vet who is under the control of the state. If the vet has any concern about the ability of the horse to run safely or has reason to believe they have received any banned substance, they alone can disqualify that horse;
- If that horse has been disqualified for receiving a banned substance, under our rules that the trainer will be permanently banned from racing at our track (and in Massachusetts);
- We will build a surface to ensure greater safety for the horses as it is well known that turf is safer and gentler for the horse and results in fewer racing injuries.

# Protecting the health and safety of our horses

- Thoroughbred racing in Massachusetts is highly regulated under the Massachusetts Gaming Commission and its Horse Racing Committee;
- We will build into our engineering design a 24/7 video monitoring system that will capture all our barns and stalls to detect any violation of anti-doping rules. This monitoring will also include additional undisclosed security measures;
- We will take proceeds from our race day purses and put it towards the aftercare and wellbeing of our racehorses;
- We will work with HISA (Horseracing Integrity and Safety Authority) which was just established in July of 2022 that is working to set a standard for all tracks to follow.



# Community Partnerships

- Collaborating with GAAMHA on equestrian training for clients and providing retired racehorses for therapeutic programs.
- Partnering with Mount Wachusett Community College Pathway for Jobs, and around agricultural and veterinarian tech training modules.



# Benefits for Gardner

- Helps drive ongoing economic revitalization in the city bringing in new patrons for local restaurants and small businesses.
- Agricultural collaborations and programs with Mount Wachusett Community College and GAAMHA.
- Creates a venue for functions and events.
- \$25 million in new capital investment.
- Creates 15-25 permanent and more than 100 temporary jobs in the community.
- Millions of dollars in new revenue from the sale of property, real estate and gaming taxes, and community benefits to the City of Gardner.
- Preserves open space and connects with the North Central Pathway.







# Community Process

- Community meetings and public input
- Approval of site for thoroughbred racing
- Execution of Host Community Agreement
- Application to Massachusetts Gaming Commission (MGC)
- Hearing by MGC in Gardner on application
- Adjudicatory Hearing & Suitability by MGC
- MGC vote on application
- Gardner permitting process, including the Conservation Commission
- Application for a building permit
- Annual report to Mayor and Council on facility operations



# Thank you

Baystate Racing, LLC

[marykate@baystateracingllc.com](mailto:marykate@baystateracingllc.com)

[www.baystateracingllc.com](http://www.baystateracingllc.com)



***Exhibit 1(c)***



## Bay State Park Frequently Asked Questions

### Why Gardner and this location on Route 140?

Gardner is known as the Chair City. But nearly 150 years ago, Gardner started to emerge as the premier destination for horse breeding, training, and racing in the state. Local physician Dr. Robert Foster Andrews created what was then called Andrews Park on the site currently managed by GAAHMA, Inc. on Route 140. The first horse race was on September 26, 1875 with more than 600 attendees. Over the course of the next several decades, the site also became the location of the Mid-State Fair, and the Agricultural Fair sponsored by the Gardner Agricultural Society and the Gardner Chamber of Commerce. The fairs featured featuring livestock shows featuring cattle, horses and poultry, agricultural and horticultural exhibits, horse pulls, track and field events, and horse racings.

In later years, Leonard LeBlanc, one of the top trainers in New England, bought the farm to raise and train his horses. More recently, under the guidance of GAAMHA, the location has become a place for those with substance user disorder and mental health needs to find therapy and recovery while taking care of the farm and its animals.

Bay State Park brings the legacy of this location full circle by providing thoroughbred horses a place to breed, train, race and retire.

### What activities are planned for Bay State Park?

Our proposal continues the tradition of using this site as a horse farm and racing facility. It will be a year-round equestrian facility for all to learn about and enjoy farming and horses, with activities including:

- Breeding program
- Training facilities
- Off-track retirement
- Agricultural and equestrian festivals
- Agricultural programs for local students
- Thoroughbred racing and wagering
- Therapy programs for individuals in recovery
- Hayfields and vegetable gardens, and livestock such as chickens and pigs

GAAHMA has two pregnant mares currently on their farm. Breeding on this site is not a thing of the past – it is happening today, and we plan on continuing for the future. Not every thoroughbred horse will participate in racing. Other career options include eventing, dressage, jumping, polo, or on local farms for riding and therapeutic riding.

After a racing career, horses start their “second career”, which can be in therapy, riding lessons, for example. Our retirement facility for retired Massachusetts bred thoroughbred horses will train them for this next stage of their lives in a healthy and nurturing environment. Working with the New England HPBA, a percentage of all race purses will be dedicated towards thoroughbred aftercare and rescue.

As the property is a neighbor of the North Central Pathway, we will do our part in preserving and maintaining the open space around the trail.



**Where will the jockeys, trainers and groomers stay during race days?**

Jockeys and trainers will stay at local hotels and inns. Groomers will be staying on project in temporary quarters in close proximity to the horses.

**Will there be housing at the facility?**

We will use the existing house on site for a caretaker home for on-site, round the clock, staff and veterinarian use for the care of stabled horses and grounds. These individuals are the only ones who are living on site to ensure the health and safety of the horses, and the safety of Bay State Park.

**How many days will there be festival racing?**

We will race up to 20 days a year. While the Legislature has set an aspirational goal of 20 days of live racing per year, it recognized the practical challenges in achieving this goal and gave the Massachusetts Gaming Commission clear authority to “waive this requirement as necessary and appropriate to ensure the financial ability of the licensee to develop and operate a race track.”

Further, we commit to include in the Host Community Agreement an annual review of the number of days and specific dates of racing prior to filing our annual application for a Racing Meeting License, including your approval of plans for non-racing operations, parking, marketing, and hiring of workers.



Live wagering will only occur on festival days. However, more than 93% of wagering takes place on people's cell phones. Gardner will benefit through those revenues even without the overwhelming majority of wagers not taking place at Bay State Park.

**I have heard stories about the health and safety of horses. How will you keep them safe?**

Our proposal is developed by horse and agricultural enthusiasts. The proposal is focused on preserving this beautiful open space for future generations and includes thoroughbred breeding and off-track thoroughbred retirement programs, training and racing facilities for thoroughbreds, an agricultural program for local students.

We will work with the Horseracing Integrity and Safety Authority (HISA). HISA was established by the federal government in July 2022 to bring independent oversight and ensuring a consistent level of care for horses across the entire sport.

Our focus is ensuring Bay State Park is an ecosystem of care – from birth to careers to retirement. Working with local veterinarians and animal medical schools, we will keep our horses healthy, safe and fit to run. Members of our team are top experts in the horse industry in Massachusetts and the country. With their guidance and insight on the latest technology and best practices, we will maintain optimal racing and training surface conditions.

Our project has the full backing of the New England Horsemen’s Benevolent and Protective Association (NEBPA) and the Massachusetts Horse Breeders Association (MHBA).



Massachusetts leads the national for the health and safety of horses with strong anti-doping and anti-slaughter rules. At Bay State Park, any owner or trainer who violates anti-doping rules is permanently banned from racing in Massachusetts. Any owner or trainer who sells their horse for slaughter is banned for life.

Working with the NEBPA, it is our goal that every retired horse finds a second career or an after-care home for after its racing career. Proceeds from our race day purses will be put towards the aftercare and wellbeing of our horses.

Thoroughbred racing in Massachusetts is highly regulated under the Massachusetts Gaming Commission and its Horse Racing Committee.

Before every race, horses will be medically examined by a qualified and independent veterinarian, who is under the authority of the state. If the veterinarian has any concern about the ability of the horse to run safely or has reason to believe they have received any banned substance, they alone can disqualify that horse.

We will build into our engineering design a 24/7 video monitoring system that will capture all our barns and stalls to detect any violation of anti-doping rules. This monitoring will also include additional undisclosed security measures.

We want Bay State Park to be the place for horses to breed, train, race, and retire. That is our mission.



### **Is horse racing even viable anymore?**

Thoroughbred racing is at the center of a horse and farming ecosystem that is fast disappearing because our hay and breeding farms are being swallowed up by housing developers.

Even for two or more weekends of festival racing each year, keeps breeding and hay farmers employed and successful and it supports local stores like lumber yards, tack shops, hardware stores, restaurants, and local veterinarians. Bay State Park will help preserve and protect 1,200 horse and hay farms in Massachusetts.

Do you know that from 2007-2017 the USDA reported that land across this country has been consumed by developers at the rate of 25 square miles? Massachusetts ranked 6th for disappearing open space.

That's the equivalent of 2 cities the size of Waltham and we know in the last 5 years it's increased even at a higher rate. Running an equine center on this site will help lower the sale of farms to developers.

Additionally, with the gaming legislation passed by the legislature a few years ago, online wagering is now legal in Massachusetts. More than 93% of wagering will take place on people's cell phones throughout the state.

### **How do we know you won't sell this to someone else?**

We are 100% committed to Bay State Park and the City of Gardner. Our proposal is developed by horse and agricultural enthusiasts. We are focused on providing a place for thoroughbred horses and their owners, and look



forward to the rebirth of thoroughbred breeding, training and racing in the Commonwealth. Furthermore, any sale or transfer would require going through a similar review process that the community and state are now going through.

### **What are the benefits for Gardner?**

Bay State Park is a natural continuation of Gardner's agricultural legacy. This project creates 10-25 permanent and more than 100 temporary jobs in the community, estimated new revenue of approximately \$500,000 a year, and helps drive ongoing economic revitalization in the city bringing in new patrons for local restaurants and small businesses. Additionally, we are collaborating with GAAMHA on equestrian training for clients and providing retired horses for therapeutic programs and partnering with Mount Wachusett Community College Pathway for Jobs around agricultural and veterinarian tech training.

The Center of Economic Development at University of Massachusetts Amherst [wrote a study about the economic benefits of a facility like Bay State Park.](#)

### **Will this strain our city's infrastructure?**

We submitted a Host Community Agreement ("HCA") to the Mayor addressing the safety of horses, residents, patrons, and employees, and key issues like traffic and parking, and public infrastructure.

If we require police, fire, and EMS on site for our festivals, we will 100% cover those costs. We will cover all the costs associated with setting up, operating and cleanup after events (e.g., police and fire details, DPW crew, etc.). We also commit to providing \$10,000 upfront for the cost of any reviews during the approval process.

### **How will you handle animal waste and the removal of deceased horses? Concerns about animal pollution.**

All animal waste will be disposed of in accordance with state and federal rules and regulations. Horse manure will be collected in an enclosed dumpster and removed from the site.

If there are any deceased horses on site, necropsy will be performed and then the horse will be removed from the site for cremation or burial.

Additionally, the concept design included with our presentation is subject to review after full delineation of wetlands and plans by the Conservation Commission.

### **Where will festival attendees stay during the festival?**

Most festival attendees will arrive and leave the same day. Horse owners and trainers with horses often stay with their horses on site for the duration of the festival.

### **Will your site plan show where parking will be placed? What about traffic?**

Route 140 has more than efficient capacity to handle traffic to and from Bay State Park. In fact, our operations will be a fraction of the daily traffic on 140 and mostly will occur in off-peak commuting times. We will not add to the morning or evening rush hour. Festival days will only be held a few days out of the year, and again, most traffic will occur on off-peak times on Route 140.

A full traffic analysis will occur as part of our permitting process with the city. Elements of the plan will include, but are not limited to, the following:

- Pre- and post-event staging (deliveries, set up, and break down),
- Event timing (to coincide with off-peak commuter traffic),
- Parking management (guests, VIPs, and participants),
- Shuttle bus routes (to remote parking areas),



- Signage and wayfinding,
- Temporary intersection control (police details and signage),
- Media and digital content outreach, and
- Identification of police/medical emergency access/egress

The proposed Host Community Agreement (HCA) requires us to have an approved parking plan each year prior to the festival. Our parking plans include on and off-site locations. There will be an annual review of parking and traffic with the city and state. We will pay for peer review by the city.

**What is simulcast betting? How does it work? Does the city benefit? Do people come to the farm to bet?**

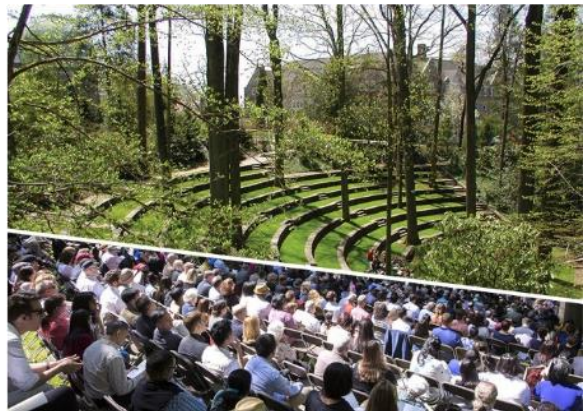
Simulcast betting is a simultaneous live video transmission of a race to other tracks or other outlets for the purpose of wagering, most likely on a mobile device, around the state and the country. More than 93% of all wagering takes place on a person's cell phone and not in person. The city will receive a share of revenue from simulcasting races. According to Spectrum Gaming Group, "Where both retail and digital wagering are allowed, digital wagering is the overwhelming choice for bettors."

There will be wagering on site during only during live race festivals.

**What would be the expected capacity of visitors on Race Days? Grandstand capacity? Standing?**

Crowds at horse races can vary greatly. It depends on the time and day of a race, the weather and who is racing. We would expect crowds of 50-100 at races that occur during the weekdays, to crowds of 2,000-5,000 for big races on weekends.

Grandstands will be built into terraced earth giving the grounds a park-like feel and honoring the nature and beauty of the property.



**Is a casino being built?**

No. We are not, nor we ever, will build a casino in Gardner. The only wagering that will occur on this site will be at a temporary facility on race days – a few days each year.

**What input and controls does Gardner have?**

The Host Community Agreement (HCA) is our contract with the City of Gardner. Baystate will establish an Oversight Committee and agrees to report to the Mayor and Council before June 1 of each year on the operation of the Equine Center the year before and plans for operations for the year ahead, including the number of race days, non-racing operations, parking, marketing, and hiring of vendors and employees.

We will pay for all traffic impacts, including transportation and parking management plans, and peer review of those plans.

Additionally, we will go through the normal permitting process through city boards, including the Conservation Commission.



# *Exhibit 1(d)*



To: Mr. John Stefanini

Date: May 9, 2024

Memorandum

Project #: 16012.00

From: Robert Nagi, PE  
 Director Transportation Planning and  
 Operations

Re: Preliminary Gardner Equestrian Traffic Assessment

VHB has prepared this technical memorandum to outline transportation elements of the proposed equestrian facility located along Route 140 in Gardner, Massachusetts. The purpose of this memorandum is to both review the current traffic volumes in the vicinity of the Project site and to conceptually outline how the project will function during both the normal 'day-to-day' operations as well as during their Special Event days.

### Current Traffic Operations

The site is currently serviced via an existing driveway along Route 140. Along the entire frontage of the site, Route 140 is under the jurisdiction of the City of Gardner. Immediately to the southeast, Route 140 is under the jurisdiction of MassDOT (including its intersection with Green Street approximately 300 feet south of the site's current driveway).

According to MassDOT, Route 140 just south of the Project site carries approximately 11,200 vehicles per day with about 1,000 vehicles during the peak commuter hours. Weekend traffic is slightly lighter with about 10,000 daily trips, but the peaks are not as significant.

Similarly, Green Street south of the site carries approximately 5,100 vehicles per day with about 400-500+/- vehicles/hour during the commuter peak periods.

The intersection of Green Street at Route 140 operates well during the commuter peak periods with some delays for side street turning traffic. According to MassDOT, there are no notable safety issues within the vicinity of the Project site.

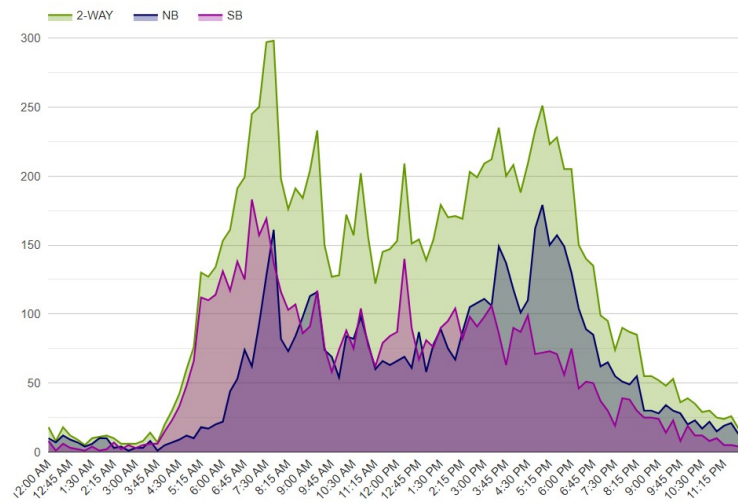


Figure 1 - Route 140 Weekday Daily Traffic Volume 15-minute increments (Source: MassDOT TCDS portal)

### Daily Facility Operations

During normal operations, the facility will provide typical equestrian activities (maintenance, training) of which many of those activities would take place during off-peak periods (mostly on weekends and during the middle of the day on weekdays) with only limited full time staff arriving and departing from the site during typical commuter peak hours. As currently envisioned, access to and from the site would be provided via the existing driveway along Route 140 which will be reviewed during the site plan development to assure it is designed to accommodate a safe and efficient operation.

Engineers | Scientists | Planners | Designers

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### Traffic Impacts

As noted above, the general day to day operations of the equestrian operations do not generate any significant volume of peak hour traffic – with ranges of about 20-40 employees arriving and departing during these time periods. Over the course of the day, the site would typically see anywhere from 250-350 daily trips arriving/departing the site spread out over the typical daylight hours. These are made up of employees arriving and departing from the facility, deliveries, and visitors to the facility. This would equate to about 2-3 percent additional traffic being added to the Route 140 corridor.

### Special Event Operations

Assuming that the project will host some number of special event days throughout the year (of which the frequency and number of visitors will be determined through discussions with the City), VHB considered that the majority of visitors arriving to the site would likely do so to the Gardner area via Route 2, with some smaller volume of traffic arriving from the north via Route 140.

As is typical with these types of special events, guests will arrive at the site over the course of several hours depending on the schedule of events to take place at the facility. In most cases, there is a surge of visitors who depart the site within the hour of the conclusion of the schedule of events.

For example, a special event that hosts between 2,000 and 5,000 visitors would typically see about 1,000 to 1,600 vehicles arrive over a two- to four-hour window and depart within an hour of the event conclusion. Arriving traffic during the busiest period would represent about 50 percent of the arriving vehicles (~500-800 cars/hour). As noted, the peak hour of the Route 140 corridor sees about 1,000 vehicles per hour with limited congestion near the project site observed – so the volumes are consistent with what the corridor currently carries during the weekday.

In order to address the impact of these surges in traffic associated with the special events, VHB typically works with the City, MassDOT, police (local and state), and other stakeholders to develop a detailed traffic management plan that is developed cooperatively based on the collective experiences of the stakeholders and VHB. This plan is then presented to the City in advance of the event for discussion and implementation. Following the first events, VHB and stakeholders would review what worked well with the TMP and where adjustments could be made to improve the overall experience (which would be integrated into the next TMP for future events).

Elements of the plan will include, but are not limited to, the following:

- Pre- and post-event staging (deliveries, set up, and break down),
- Event timing (to coincide with off-peak commuter traffic),
- Parking management (guests, VIPs, and participants),
- Shuttle bus routes (to remote parking areas),
- Signage and wayfinding,
- Temporary intersection control (police details and signage),
- Media and digital content outreach, and
- Identification of police/medical emergency access/egress

# *Exhibit 1(e)*

# Towards the Creation of a Horse Park in the Commonwealth of Massachusetts: A Feasibility Study

## FINAL REPORT

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The Center for Economic Development  
Department of Landscape Architecture and Regional Planning  
University of Massachusetts Amherst  
109 Hills North  
Amherst, Massachusetts 01002

July 7, 2016

**LA&RP** Landscape Architecture  
& Regional Planning

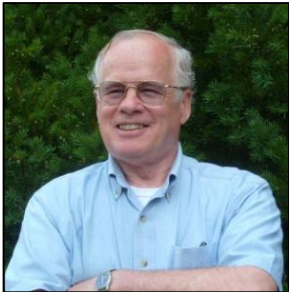
## ABOUT THE AUTHORS

### DR. HENRY RENSKI: DIRECTOR, CENTER FOR ECONOMIC DEVELOPMENT



Dr. Renski is an Associate Professor of Regional Planning at the University of Massachusetts Amherst, Graduate Program Director of the Ph.D. in Regional Planning, and the Associate Director for the Institute for Social Science Research. His research focuses on understanding the technological and social forces driving regional economic competitiveness and transformation, and building upon this knowledge to improve the effectiveness of economic development policy. He has authored or consulted on over two dozen economic impact studies during his career.

### DR. JOHN R. MULLIN, FAICP: ASSOCIATE DIRECTOR, CENTER FOR ECONOMIC DEVELOPMENT



Dr. Mullin is an Emeritus Professor of Regional Planning at the University of Massachusetts Amherst, and former Dean of the Graduate School. His research and professional interests focus upon industrial revitalization, port development and downtown planning. A Senior Fulbright Scholar, Dr. Mullin has written or edited over 100 book chapters, book reviews, technical reports, journal articles, and conference proceedings. He is a retired Brigadier General from the United States Army National Guard.

### JONATHAN G. COOPER: PROJECT ASSOCIATE, CENTER FOR ECONOMIC DEVELOPMENT



Mr. Cooper is an economic and community development planner. He provides research and consulting services to public agencies, nonprofit organizations, and private planning firms across New England. Mr. Cooper assists clients through his affiliation with the CED at UMass Amherst; through his role as Research Director of the Institute for Nuclear Host Communities; and as an independent consultant. He has published and presented research on workforce development, university-community partnerships, and the local impacts of power plant closure.

### ABOUT THE CENTER FOR ECONOMIC DEVELOPMENT

The Center for Economic Development (CED) is a research and community-oriented technical assistance center at the University of Massachusetts Amherst. Housed in the Department of Landscape Architecture and Regional Planning, the CED provides technical assistance, undertakes critical studies, disseminates information, and enhances local and multi-community capacity for strategic planning and development. This approach is designed to relate the concerns and goals of commerce and industry to those of the broader community. The CED works closely with community and business sectors, providing information and assistance needed for growth, management, and public benefit. The CED's clientele reflects that the Center does indeed work well with all sectors: community development corporations, state agencies, municipalities, regional planning agencies, developers, business leaders, chambers of commerce, local officials, public groups, and the managers of firms.

### ACKNOWLEDGEMENTS

CED research assistants Michael Havlin (MRP/MPPA) and Sarah Lang (MRP/MS) assisted Dr. Renski with the economic impacts and case study sections of the report. The Berkshire Design Group provided conceptual renderings and visual materials for use in public presentations.

# EXECUTIVE SUMMARY

## CONCEPT

Numerous social and economic factors have coalesced to present the Commonwealth with an opportunity to create a new model for a multi-use horse park. This model would combine a race track for Thoroughbred horses with a high-end equestrian center and a Thoroughbred horse retirement and retraining farm. This equestrian center, capable of hosting indoor and outdoor dressage, eventing, and hunter/jumper competitions, would be anchored by a large indoor arena with stadium seating and Olympic-sized surfaces. The retirement and retraining farm would enable Thoroughbred horses either to retire comfortably, or to develop new skills for other competitive and non-competitive activities, including hunting/jumping, polo, and therapeutic riding programs for at-risk and higher-needs children. With space for conferences and trade shows, 4-H activities and meets, local community recreation, pleasure riding, agricultural and artisanal markets, and equine health trainings and services, among other uses, the “Massachusetts Model” would create an economic and social hub in the service of the Commonwealth’s equestrian heritage and agricultural economy.

This study finds that the development of a Massachusetts Model horse park represents a significant economic opportunity for the Commonwealth. Capital costs are not expected to exceed \$150 million. The annual economic impact is expected to approach \$99 million and lead to the creation of more than 950 jobs throughout Massachusetts. Economic activity resulting from the facility’s development would also generate an additional \$5 million in state and local tax revenues per year.

## EXISTING ACTIVITY & LOCATION CRITERIA

There are nearly 1,200 equine farms in Massachusetts, making it the most common farm type in the state. A review of commercial equestrian centers and registered Thoroughbred farms found no fewer than 125 facilities hosting various equestrian competitions, providing horse retirement and retraining services, operating riding academies, breeding Thoroughbreds, and a number of other activities. From the Berkshires to the Cape, in towns as geographically and socioeconomically distinct as Orange and Sherborn, these facilities have shown a propensity to cluster in four geographic regions: Essex County; the western suburbs of Boston; southeastern Massachusetts; and the Pioneer Valley. Surprisingly, there are very few equestrian centers west of the Pioneer Valley.

Official dressage and eventing competitions are popular in each region, as are the competitions between the 27 intercollegiate teams and 120 interscholastic teams located in Massachusetts. Since relatively few equestrian centers have the necessary facilities for hosting competitions in the winter, most activity takes place between September and November. The most distinct regional variation is the extensive presence of shows and competitions for non-Thoroughbred horse breeds in the Pioneer Valley, where Arabian and Morgan horses are especially popular.

Based on a review of existing race tracks and equestrian centers across the country, site visits to successful facilities, interviews with industry experts, and an inventory and spatial analysis of the

existing equine activities in Massachusetts, we have identified six criteria for assessing the fitness of any potential location for the proposed horse park, listed on the following page.

- At least 300 to 600 acres of preferably contiguous land, to meet all spatial, social, and logistical needs.
- Slopes of 3 to 8 percent, free from wetlands, streams, and poorly-drained soils. This will provide ease of circulation, ensure appropriate drainage, and prevent erosion.
- Access to an interstate or state route with a high level of service within five miles, to minimize traffic impacts and time lost in transit on event days.
- Open views to appealing landscapes that connect the facility visually, emotionally, and physically to its agricultural milieu.
- One hour's travel time to at least two of New England's largest cities, so that a trip to the facility is not especially burdensome for event participants, spectators, and guests.
- Land use compatibility to underscore the natural partnership between the facility's activities and the character and culture of a potential site's host community.

Although subject to change, there are currently ten sites on the real estate market that meet some or all of the established criteria. These parcels are in Bristol, Essex, Franklin, Hampden, Plymouth, and Worcester counties, in rural and suburban settings of varying density. Nearly all have some equestrian and/or agricultural activity nearby, and many are within 20 minutes of a major road or interstate.

## ECONOMIC IMPACTS

This section used the industry-standard IMPLAN economic modeling program to assess the economic impacts of three of the major components of the horse park: the Thoroughbred race track; the equestrian center; and the Thoroughbred retirement farm. Because these are not the only uses proposed for the site, and the separate modeling of each component does not factor in the cost savings that would likely result from this combination of related uses, what follows is a very conservative estimate.

In 2016 dollars, the proposed facility is expected to bring approximately \$53.7 million per year in new spending to the Massachusetts economy from out-of-state sources. The ripple effects would yield a total annual impact of \$98.9 million across the entire economy, and generate another \$5 million per year in new state and local tax revenues. More than half of this total economic impact will be paid directly to Massachusetts workers as labor income, and is expected to support the creation of 957 full-time equivalent (FTE) year-round jobs in the Commonwealth. Of these, we anticipate more than 300 FTE jobs at the horse park: more than 250 at the track; at least 30 at the equestrian center; and approximately 12 at the retirement farm. In addition, the creation of a new racetrack coupled with recently enacted purse supplements and breeder awards will result in 20 new workers at thoroughbred breeding and training farms across Massachusetts.

### RACE TRACK COMPONENT

Based on our research, we expect the Thoroughbred racing component to yield \$66.3 million in annual output and sales statewide. This level of economic activity would support the creation of nearly 664 FTE jobs, which would add roughly \$38 million of labor income to Massachusetts households. Money spent directly at the track by breeding farms, racing participants and spectators, or spent in-state by the track itself for services and operations, would account for \$36.7 million of the total annual output.

These totals are built on the following assumptions: 75 racing days during a typical season between May and October; 9 races per day; 800 horses in residence throughout the season; an average of 3,000 spectators per race day; and an out-of-state attendance rate of 20 percent. We also assume that the new racetrack, coupled with the purse supplements and breeding awards provided through the Expanded Gaming Act of 2011, will spur the production of 115 new foals per year.

### EQUESTRIAN CENTER COMPONENT

The horse park's other major component is a first-class equestrian center capable of hosting elite national events. Based on our research, we expect the equestrian center to generate \$31.7 million in annual output and sales throughout the Massachusetts economy. This new activity is enough to support the equivalent of 280 full time jobs, and will generate \$14.5 million in new household income across the Commonwealth. Money spent directly at the center by event visitors and participants coming from out-of-state, or by the center itself for its operations, accounts for \$16.7 million. This is slightly more than half of the total output, and the rest is generated downstream.

The analysis assumes that the facility will host 70 equestrian events per year: five major events of a national scale; 40 mid-sized events of a regional/interstate scale; and 25 minor events at state and local levels. In addition, the center will also host 18 non-equestrian events of local interest. Through industry research and consultation, each event type (major, mid-sized, minor, and non-equestrian) was assigned a set of distinguishing characteristics, such as event duration, total attendance, and out-of-state attendance levels. A first-class equestrian center is likely to draw approximately 66 percent of its revenue from out-of-state sources, and we estimate that the proposed facility will result in over 82,500 visits from non-Massachusetts residents per year for all events.

### RETIREMENT FARM COMPONENT

The horse park also includes a retirement/retraining farm for up to 40 Thoroughbred racing horses whose are ready to move on to equestrian careers off the racetrack. A review of existing Thoroughbred retirement facilities indicates that they have the potential to become significant tourist destinations in their own right. The study suggests that such an operation would draw roughly 7,000 out-of-state visitors per year; require annual operational expenditures of approximately \$325,000; provide 11 FTE jobs; and generate a total economic impact of approximately \$800,000 per year.

# I. PROJECT OVERVIEW

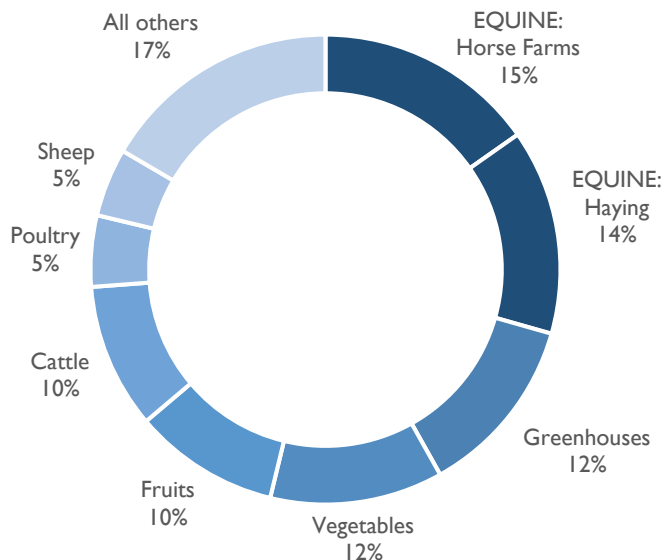
## INTRODUCTION

The Commonwealth of Massachusetts enjoys a deep and varied equestrian presence that can be found in her landscapes, industries, history, and people. Horses have represented the many characteristics of Massachusetts equally well: like the state itself, its relationships with horses are at once agricultural and industrial, urban and rural, sophisticated and functional, and historic and forward-looking.

The turnpikes and Great Roads that proliferated across Massachusetts at the end of the 18<sup>th</sup> century were local successors to the King's Highway and Post Roads of the colonial era. These feats of civil engineering were ideal for the speed and stamina of horses, enabling messengers to speed from Boston to Concord under cover of night, and carriages to ferry mail through the hinterlands of southern New England. The canals that democratized shipping and commerce in the first half of the 19<sup>th</sup> century relied on draft horses to pull barges along miles of towpaths. Later on, after the Industrial Revolution had given rise to the implements that mechanized agriculture along the Great Plains, horses and oxen remained the most sensible choices in Massachusetts. Most suited to the task was the Morgan, bred from a bay stallion named Figure that was born in West Springfield in 1789. The Morgan's compact and powerful build was ideal for the smaller farms and rockier fields that still characterize much of the Commonwealth's agricultural land.

This link between horses and agriculture in Massachusetts is still evident today. The most common farms in Massachusetts are horse farms and haying operations. As Figure 1.1 shows, as of 2012 these categories alone account for over 29 percent of the 7,755 farms in Massachusetts. Furthermore, the combined acreage of these farms accounts for 30 percent of the Commonwealth's agricultural land.

**Figure 1.1: MA Farms by Type, 2012**



*Source: USDA. 2012 Census of Agriculture.*



## PURPOSE & MOTIVATION

The purpose of this report is to present our preliminary findings concerning the feasibility of developing a multi-use Horse Park in the Commonwealth of Massachusetts. This center would be operated as a non-profit entity, dedicated to furthering a wide range of activities that would promote equestrian education, racing events, and Massachusetts agriculture, among other functions. The study, sponsored by the New England Horseman's Benevolent and Protective Society (NEHBPA), is being undertaken by the Center for Economic Development (CED) at the University of Massachusetts Amherst. Research for this project involved site visits to equestrian centers, interviews with equestrian business leaders and academics, and analysis of data related to equestrian activities. The project also included extensive input through a voluntary advisory committee consisting of equestrian experts familiar with equestrian operations throughout the United States.

The motivation for the project is to enhance interest in the sport of horseracing, create a tourist opportunity for the enjoyment of visitors, expand employment opportunities in equestrian activities, develop and maintain agricultural and open spaces, promote the breeding, training, racing and exhibition of Thoroughbred and other horses, and to protect the Thoroughbred racing industry and jobs resulting directly and indirectly from these purposes. The complex is intended to be multi-functional, high end, and to appeal to a wide array of patrons. It will be state of the art and befitting of the image of Massachusetts as a tourist destination. It is further envisioned that the complex will be located in a rural area outside of metropolitan Boston. The property, to be owned by a non-profit corporation, shall be deemed land devoted to agricultural use under MGL Chapter 61A. This corporation will establish relationships with (a) the Massachusetts 4-H and similar organizations to encourage the growth of agricultural products to be used at the facility and (b) Massachusetts schools offering agricultural studies dedicated to creating agricultural career opportunities in the Commonwealth.

Several factors contributed to the current interest in developing a multi-use horse park in Massachusetts. These included the following:

- Consumer preferences for Thoroughbred racing attendance are shifting away from the large urban venues of the early 20<sup>th</sup> century, such as Suffolk Downs.
- Equestrian competition opportunities are increasing across the United States. Massachusetts has very few venues for these events and most are private.
- Recreational interest in equestrian activities is growing across the country and in Massachusetts. It is of considerable interest to Massachusetts 4-H.
- The healthy caring and nurturing of horses is of great interest to those undertaking research on animals including horses. It is an opportunity for the equine studies field.
- There are no state of the art facilities in Massachusetts dedicated to the protection and care of retired and ageing horses.
- Equestrian related conferences, exhibitions, and conventions are growing business opportunities. Relatively few choose Massachusetts as a venue.

- Equestrian activities provide well-paying jobs for vocational school and community college graduates. A center would stimulate the creation of these opportunities.
- A horse park would increase farm production and agricultural land use in Massachusetts.
- A horse park would be a job and tax producer (PILOT) in the region and town where it would be located.
- A horse park would provide the opportunity for Massachusetts retailers to expand their markets.
- A horse park built with a cultural sense of the New England design ethos and complete with a first class hotel, would become a tourist destination.

## VISION

The Horse Park is envisioned to include a wide range of activities that will take place throughout the year. It will be designed to reflect design features common to New England's rural character and be a welcoming place for a wide array of equestrian enthusiasts.

The center will feature a one-mile dirt oval racetrack designed for the safest possible racing of Thoroughbred horses for a 60-90 day season per year. This track could also serve as a venue for Standardbred horse racing if there is interest. Within the oval is a 7/8 mile turf course. Overlooking the track will be a viewing stand capable of seating 4,000 patrons. Within this facility will be restaurants and local wagering areas.

In close proximity to the racing facilities and barns and paddocks will be a series of indoor, outdoor, and covered arenas with rings of varying sizes to meet Olympic-level standards for equestrian training, exercise, and competition. The most substantial of these structures, a large multi-purpose arena, will provide the physical counterpoint to the track and grandstand. Inside the arena, a large natural sand surface of at least 200' x 300' will be designed to house indoor competitions of local and national prominence, surrounded by seating and concessions for upwards of 4,000 spectators. The arena will also include lecture spaces intended for research and educational activities. At other times it would be expected to be used for horse breed shows, 4-H fairs, Future Farmers of America, staff trainings, conferences and exhibitions, commercial expositions, and community college/high school instruction.

As will be noted later, the ability to attract these conferences and exhibitions to Massachusetts will generate extensive new revenues and job opportunities of their own. The racing activities and competition events will be supported by state of the art barns and paddocks that are intended to safely house and protect horses throughout the year. This part of the center will include space that would be available for use by the thousands of Massachusetts horse owners who enjoy equestrian recreational opportunities.

The Equestrian Center might include space for a veterinary facility designed to meet the needs of the horse racing community and equestrian enthusiasts throughout the northeast. It would have a small permanent staff that would expand to meet the needs of the racing season, horse show

season, conference visitors, and those housing their horses on site. Whether in conjunction with one of the veterinary or equine studies programs in Massachusetts, or through a partnership with local large animal veterinarians, it has become clear that such a facility would not only help to maintain the health of a wide range of horses but assist in expanding research opportunities partnering institutions.

The satellite veterinary center would also play an important role in the care and protection of horses, which would be housed in a retirement farm on site. Many local owners have had to ship their ageing horses to retirement homes as far away as Virginia and Kentucky. Not only would such a facility provide great care for the horses, it would create additional jobs for equestrian caregivers in Massachusetts. Furthermore, these equine retirement and retraining programs could be coupled with any number of approaches to equestrian therapy. This arrangement could provide several groups - veterans, urban youth, low-risk offenders, and the physically/developmentally disabled, as examples - with meaningful opportunities for personal and practical skill-building.

All of the above would contribute to creating an expanded market for Massachusetts agriculture. The horse park will operate under local purchasing policies in which the feed for horses would be sourced from local farmers to the greatest possible extent. Furthermore, the Center will provide a space for practical research opportunities intended to improve the health of the horses. Specific opportunities will be offered to the University of Massachusetts Stockbridge School, the Commonwealth's agricultural high schools (i.e.: Essex Agricultural, Norfolk Agricultural, Smith Vocational High School), and nearby community colleges.

Given the increasing interest in recreational equestrian activities, the Center will provide extensive space for community recreational riding. Through trails on-site, it will provide opportunities for riders of a wide range of skills and interests. Moreover, if possible, the Center will be closely linked to nearby state parks and forests, such that riders can experience the unique environments of these special places.

All of the above will be interlaced with retail opportunities. During the racing season, as well as conference, convention and exhibition times, "pop-up" market vendors will be encouraged to participate. In so doing, these local and regional merchants will be able to expand their sales. As the Center matures, there will also be opportunities for lodging. Given that the Center will be located in a rural area, it is expected that local bed and breakfast facilities will expand, and that a four season resort-style hotel will be constructed.

## 2. FACILITY OVERVIEW

This section of the report addresses the presence of existing equestrian centers in Massachusetts; identifies the siting criteria for evaluating potential sites; applies the criteria to currently available sites; and describes a number of best practices to ensure the facility's success in meeting previously articulated goals.

### EXISTING FACILITIES IN MASSACHUSETTS

There are several dozen equestrian centers in Massachusetts, which serve a variety of equestrian activities. For the sake of simplicity, this inventory places the facilities into two categories: those that are hosting at least one sanctioned horse show competition this year, and those that are not. The various regional organizations affiliated with the United States Equestrian Federation (USEF) are responsible for ensuring that competitions take place at equestrian centers with adequate facilities, staffing, experience, and planning. This is not meant to imply that centers not hosting a USEF-sanctioned competition are sub-standard, however; it is merely a useful way to determine which centers function as regional destinations. More information about the facilities described below is available on the following pages, in Figures 2.1 and 2.2, and Table 2.1.

#### USEF-SANCTIONED COMPETITION

In 2016, twenty-five equestrian centers in Massachusetts will host at least one competition sanctioned by regional affiliates of the United States Equestrian Federation. These are some of the most successful equestrian centers in the Commonwealth, and through them the following disciplines are represented at the competitive level: Carriage Pleasure; Dressage (including Para-Equestrian, Seat Medal, and Western dressage); English Pleasure; Eventing; Hunter; Hunter Equitation; Jumping; Roadster; and Saddle Seat Equitation.

These venues are split fairly evenly into four geographic regions: Essex County; the western suburbs of Boston; southeastern Massachusetts; and the Pioneer Valley. Although dressage and eventing competitions are found throughout the state, there appear to be some regional preferences. Most remarkably, competitive jumping is limited to the western suburbs and southeastern Massachusetts. Essex County prefers to host hunter events, and the equestrian centers of the Pioneer Valley are far more likely to host dressage and eventing shows than hunter/jumper competitions. Meanwhile, horse shows for non-Thoroughbred breeds (Arabians, Friesians, Morgans, and American Saddlebreds) and more specialized disciplines do not stretch beyond West Springfield and Northampton.

Figure 2.1: Locations of USEF-Sanctioned Competitions

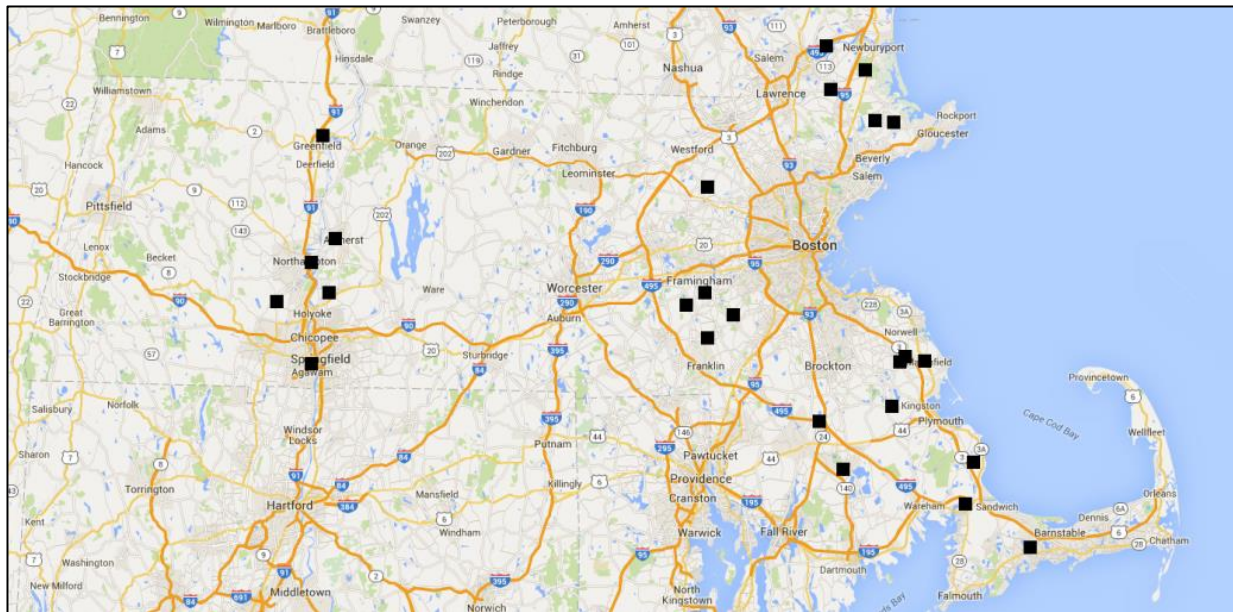
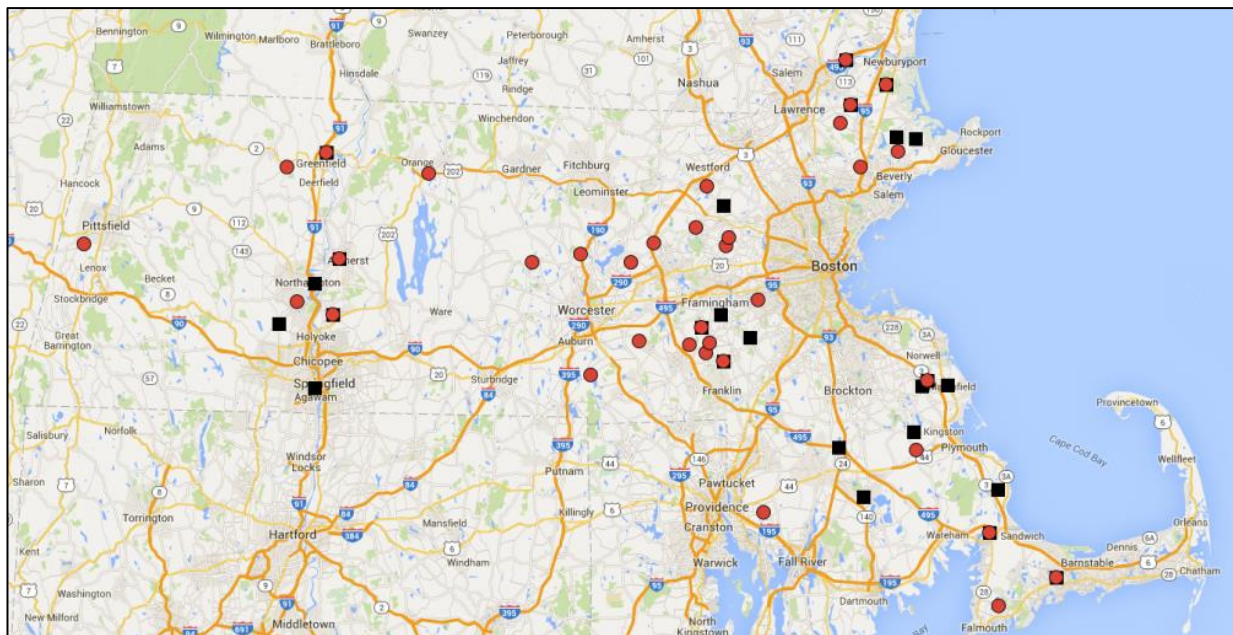


Figure 2.2: Locations of Interscholastic (Red) and USEF-Sanctioned (Black) Competitions





**Table 2.1: Equestrian Center Community Details**

| <b>County</b> | <b>Town</b>   | <b>MA \$/Cap Rank</b> | <b>USEF-Sanctioned</b> | <b>Interscholastic</b> |
|---------------|---------------|-----------------------|------------------------|------------------------|
| Barnstable    | Barnstable    | 160                   | Hunter/Hunt Eq         | Hunt Seat              |
|               | Bourne        | 209                   | Hunter/Hunt Eq/Jump    | Hunt Seat              |
|               | Falmouth      | 110                   |                        | Western                |
| Berkshire     | Richmond      | 34                    |                        | Hunt Seat              |
| Bristol       | Raynham       | 185                   | Hunter/Hunt Eq/Jump    |                        |
|               | Rehoboth      | 139                   |                        | Hunt Seat              |
| Essex         | Boxford       | 11                    |                        | Hunt Seat              |
|               | Danvers       | 128                   |                        | Hunt Seat              |
|               | Georgetown    | 76                    | Dressage               | Hunt Seat              |
|               | Hamilton      | 71                    | Eventing               | Hunt Seat              |
|               | Haverhill     | 284                   | Hunter/Hunter Eq       | Hunt Seat              |
|               | Ipswich       | 80                    | Hunter/Hunter Eq       |                        |
|               | Newbury       | 91                    | Hunter/Hunter Eq       | Hunt Seat              |
| Franklin      | Greenfield    | 313                   | Eventing               | Hunt Seat              |
|               | Orange        | 345                   |                        | Western                |
|               | Shelburne     | 255                   |                        | Hunt Seat              |
| Hampden       | W Springfield | 308                   | Western Dressage       |                        |
| Hampshire     | Easthampton   | 261                   |                        | Hunt Seat              |
|               | Hadley        | 146                   | Dressage/Seat Medal    | Hunt Seat              |
|               | Northampton   | 198                   | Hunter Equitation      |                        |
|               | South Hadley  | 270                   | Dressage               | Hunt Seat              |
|               | Southampton   | 207                   | Eventing               |                        |
| Middlesex     | Concord       | 12                    | Dressage               | Hunt Seat              |
|               | Holliston     | 40                    | Hunter/Hunter Eq       | Hunt Seat              |
|               | Sherborn      | 4                     | Eventing               |                        |
|               | Stow          | 50                    |                        | Hunt Seat              |
|               | Sudbury       | 5                     |                        | Hunt Seat              |
|               | Westford      | 42                    |                        | Hunt Seat              |
| Norfolk       | Medfield      | 18                    | Hunter/Hunt Eq/Jump    |                        |
|               | Medway        | 75                    | Hunter/Hunt Eq/Jump    | Hunt Seat              |
|               | Wellesley     | 6                     |                        | Hunt Seat              |
| Plymouth      | Halifax       | 221                   | Jumper                 |                        |
|               | Lakeville     | 163                   | Dressage               |                        |
|               | Marshfield    | 77                    | Dressage/Seat Medal    |                        |
|               | Pembroke      | 140                   | Hunter/Hunt Eq/Jump    | Hunt Seat              |
|               | Plymouth      | 172                   | Eventing               |                        |
|               | Plympton      | 121                   |                        | Hunt Seat              |
| Worcester     | Berlin        | 72                    |                        | Hunt Seat              |
|               | Bolton        | 27                    |                        | Hunt Seat              |
|               | Grafton       | 106                   |                        | Western & Hunt Seat    |
|               | Holden        | 99                    |                        | Hunt Seat              |
|               | Rutland       | 218                   |                        | Hunt Seat              |
|               | Sutton        | 87                    |                        | Hunt Seat              |

### ADDITIONAL FACILITIES

There are a number of other equestrian facilities in the state as well, which include breeding farms, stables, and riding academies. Although they are too numerous to review in great detail here, there are at least five facilities for Thoroughbred retraining and retirement; four university-based academic and research programs; and nearly three dozen centers for region-wide interscholastic competitions. The academic programs are located between Greater Boston and the Pioneer Valley, with educational options ranging from associate's degrees in equine studies at junior colleges to large-animal surgical concentrations at world-renowned veterinary schools.

In addition to these academic programs, intercollegiate equestrian teams operate at 27 colleges and universities in the Commonwealth. At the primary and secondary school levels, several hundred teams across New England (hailing from country day schools, riding academies, and private stables) participate in interscholastic competitions, with over 120 teams based in Massachusetts alone. As Figure 2.2 shows, the 35 venues hosting interscholastic competitions this year largely follow the four-region location pattern described above (nine equestrian centers are hosting both USEF-sanctioned and interscholastic competitions). In New England, the bulk of these events will take place in October and November; with nine facilities hosting competitions in the winter months of December, January, and February (see Best Practices, below).

### ANALYSIS

First, the relatively low level of equestrian centers west of the Connecticut River Valley suggests that it may be difficult to establish a viable facility in the Berkshires. Despite the outstanding visual resources, exceptional rural character, and extensive park and trail access, the area has not found a natural fit with equestrian activities. Interestingly, much of the same could be said of the area east of the Connecticut River Valley, as well, from the Quabbin Reservoir to as far east as Worcester.

Second, although this is an incomplete list of equestrian centers in Massachusetts, there is a remarkable range of host communities. The 43 municipalities in Table 2.1 include some of the wealthiest towns in the Commonwealth (Sherborn and Sudbury), and some of the poorest (Greenfield and Orange). Although equestrian centers provide services to upscale consumers, more than one-third of the host communities have per capita income levels below the state median.

Finally, it is unclear whether the subtle differences in horse show tendencies of the four in-state regions is merely a coincidence, or points to something more significant. The advisory board may wish to consider ways to ensure a good match between the host region and the types of equestrian competition envisioned for the facility, especially where staffing and event planning experience is concerned.



## CRITERIA FOR FACILITY LOCATION

A horse park incorporating the range of showing, racing, veterinary, adoption, agricultural, and recreational uses described in the vision will require a site with desirable characteristics in six categories, each of which is examined in the following sections. The first three pertain to the site itself, and the latter half pertain to the host community.

- **Substantial acreage:** to meet all spatial, social, and logistical needs.
- **Workable terrain:** to provide ease of circulation, ensure appropriate drainage, and prevent erosion.
- **Streamlined access:** to minimize traffic impacts on event days and time lost in transit.
- **Appealing landscapes:** to connect the facility visually, emotionally, and physically to its agricultural milieu.
- **Useful location:** so a trip to the facility is not especially burdensome for event participants, spectators, and guests, especially when compared to journeys to other facilities.
- **Land use compatibility:** to demonstrate a natural partnership between the facility's activities and the character and culture of a potential site's host community.

### SUBSTANTIAL ACREAGE

At a minimum, a Thoroughbred racing park will need approximately 150 acres to meet its facility requirements, and a number of tracks have upwards of 300 acres at their disposal. However, bigger is not automatically better in the industry, primarily because the oval that is the main attraction is often a fairly consistent size from one track to the next. For equestrian centers, however, site requirements can change significantly based on the anticipated events: shows that gather hundreds of horses require hundreds of stalls and adequate space for trailers, RVs, and other equipment, while more exclusive eventing and endurance competitions bring comparatively fewer horses, but require miles of trail and open space. As an example, the Virginia Horse Park is a 600-acre facility, but approximately half of the total land is for cross country and combined driving courses, while the rest is allocated to barns, arenas, campgrounds, parking, and other structures.

The Massachusetts Horse Park is intended as a high-end equestrian center and race track. Since races and horse shows will not take place on the same days, there is the opportunity for shared facilities to reduce the total overall footprint. The ideal site is approximately 600 acres of contiguous land, with a potential reduction if the site has access to adjacent trails and parkland.

### WORKABLE TERRAIN

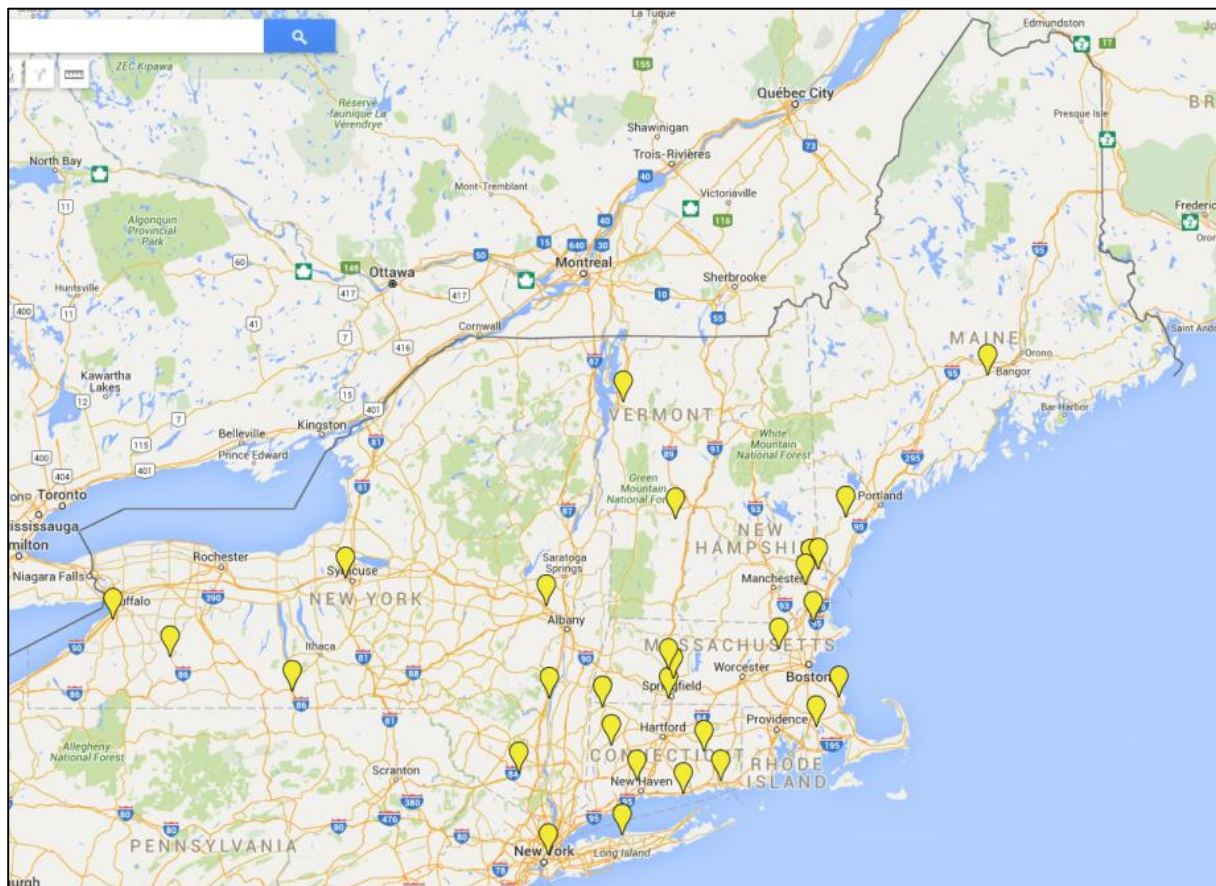
Due to the robust environmental protections in Massachusetts, the ideal site will be free from wetlands, streams, and poorly-drained soils. Slopes of 3 percent to 8 percent allow for adequate site drainage, and low-impact site engineering. Sites free from agricultural protections under Chapter 61 and 61A are preferable, but not essential. Section 3 of Chapter 40A of the Massachusetts General Laws protects commercial agriculture from over-regulation by town zoning bylaws. The law relies on a definition of agriculture found in Chapter 128, which includes both the

raising of horses and the keeping of horses as a commercial enterprise. On parcels five acres or greater, such uses are allowed by-right, meaning that no special permit is needed for such uses.

### STREAMLINED ACCESS

Thoroughbred race tracks are rarely more than three miles from an interstate exit, and show a significantly higher tolerance for urbanized contexts than equestrian centers do. Equestrian centers, meanwhile, are far more tolerant of non-highway driving, but are rarely more than five miles from a state route. Figure 2.3 shows the location of the 29 facilities hosting a US Dressage Federation-recognized competition in Region 8 (New York and New England). Clearly, very few are any appreciable distance from a major transportation route. This same tendency could be observed in Figures 2.1 and 2.2, as well.

**Figure 2.3: Region 8 Equestrian Centers hosting USEF-Sanctioned Dressage Competitions**



### APPEALING LANDSCAPES

The exacting aesthetics of competitive horse shows underscores the importance of appearance and presentation to this key user group. Massachusetts is home to some very well-regarded equestrian centers, and some legendary polo and hunting grounds. The equine community is highly discerning, and national-level event coordinators are accustomed to top-of-the-line facilities and services. This eye for detail extends to the surrounding landscape. The facility must be located in a pastoral context, with a preference for open views to natural and visually appealing landscapes. Satisfying this “country estate” aesthetic is essential for demonstrating that the facility makes a meaningful and thorough contribution to equestrian culture.

### USEFUL LOCATION

Although equestrian activities are by definition mileage-heavy pursuits, the facility is meant to strengthen and promote the connections horses have to the culture, history, and economy of rural Massachusetts. An exceptionally remote location reduces the potential audience for this message, and increases the transportation costs of the in-state suppliers and vendors that would do business at the facility. Therefore, sites within an hour’s drive of New England’s largest cities - Boston, Worcester, Providence, and Springfield - provide riders, spectators, and vendors with increased availability and exposure.

### LAND USE COMPATIBILITY

Because the horse park envisions an unprecedented variety of equestrian uses, the facility is likely to have a noteworthy impact on whichever community hosts it. It is essential, therefore, that the equestrian nature of the facility be congruent with existing local land uses. For example, rural communities with active equestrian activities - stables, horse farms, or agricultural haying, for example - are highly likely to view the proposed horse park as an appropriate use of locally available open space.

## CURRENT SITE OPTIONS

Table 2.2 includes the characteristics of ten sites that most nearly meet the established criteria. It is important to bear in mind that this selection reflects currently-available real estate. As such, it does not identify optimal sites (those not currently for sale, but otherwise meeting all siting criteria), and it is subject to change. Identifying features have been obscured.

**Table 2.2: Potential Sites and Criteria Matches**

|     | Acres                       | Terrain                             | Access     | Landscape                     | Location                | Compatibility                    |
|-----|-----------------------------|-------------------------------------|------------|-------------------------------|-------------------------|----------------------------------|
| 001 | 225-250; near state forest. | Rolling; partially cleared. Stream. | 10-15 min. | Rural, low density.           | 1 under 60; 1 under 90. | No equestrian activity nearby.   |
| 002 | 550-575; trails near.       | Flat; partially cleared.            | 20-30 min. | Strong pastoral scenic.       | 1 under 60; 1 under 90. | Active outdoor and farming.      |
| 003 | 250-300; town land adj.     | Hilltop. Ponds.                     | 20-30 min. | Rural decline.                | 1 under 60; 1 under 90. | No equestrian activity nearby.   |
| 004 | 200-250 ac.                 | Flat; partially cleared. Pond.      | 5-10 min.  | Suburban, mid-density.        | 3 under 90.             | Some equestrian activity nearby. |
| 005 | 475-500 ac.                 | Rolling, forested. Stream. 61A.     | 10-15 min. | Rural, low-density.           | 2 under 60; 2 under 90. | Equestrian and farming nearby.   |
| 006 | 400-415 ac.                 | Rocky, forested. Pond.              | 5-10 min.  | Rural, mid-density            | 1 under 60; 2 under 90. | High equestrian activity nearby. |
| 007 | 200-250 ac; near parks.     | Non-contiguous, forested. Stream.   | 5-10 min.  | Mid-density suburb.           | 3 under 60.             | High equestrian activity nearby. |
| 008 | 175-200 ac; trails, 4H adj. | Rolling; partially cleared. 61A.    | 20-30 min. | Strong pastoral.              | 2 under 60; 2 under 90. | Equestrian and farming nearby.   |
| 009 | 275-300 ac; parks adj.      | Rolling, forested. No restrictions. | 15-20 min. | Forested, low visual element. | 2 under 60; 2 under 90  | Some equestrian nearby.          |
| 010 | 500 ac.                     | Hilly; forested.                    | 5-10 min.  | Strong scenic components.     | 1 under 60.             | Some equestrian activity nearby. |

## BEST PRACTICES

In recent years, researchers and designers have begun to incorporate sustainability indicators and other markers of social and environmental well-being into the best management practices of equestrian facilities. Some principles, such as siting and designing barn and indoor arenas to maximize solar aspect, are natural extensions of existing practices. Others, such as the use of native plantings for grazing, horticultural identity, and invasive species management purposes, address

industry-specific environmental concerns. Meanwhile, the management of manure for haying and other crop-planting purposes addresses the equine-agriculture linkages this project attempts to develop. Two issues - shared services and intra-state partnerships - are described in greater detail here.

#### SHARED SERVICES

The parking lot of Lone Star Park, a racing track outside of Dallas, is approximately 60 acres. By comparison, in Massachusetts the average farm is just 68 acres, with a median value of 23 acres. It is therefore relatively uncommon for more than 300 acres of agricultural land in Massachusetts to come onto the market. Since it may be impractical to wait for the ideal parcel to become available, it is essential that the advisory board work closely with architectural and engineering firms to think creatively about the most efficient use of available land. Whether it be parking, RV hookups, paddocks, exercise tracks, or loading areas, every duplicative function that can be reduced, or site use that can be shared, will provide additional acreage for other programmatic elements.

#### PARTNERSHIPS WITH OTHER FACILITIES

Across the Commonwealth, dozens of facilities host horse shows for numerous equestrian communities. Anticipating how the facility could benefit these entities, rather than compete with them, could help generate industry-wide support. As an example, of the 35 equestrian centers currently hosting interscholastic shows, only nine do so between December and February: Mount Holyoke, Silverstone Stables, Stoneleigh-Burnham School, Saddle Rowe, Rising Star, Volo Farm, Dana Hall School, Willow Brook, and Hillside Meadows. These centers have the facilities necessary to host indoor scholastic events, and three of these (Mount Holyoke, Stoneleigh-Burnham, and Saddle Rowe) currently host USEF-sanctioned events, as well. With the addition of the horse park to the state's equestrian center mix, there is the possibility that these four equestrian centers, and perhaps others, would be able to gain approval for a series of sanctioned wintertime competitions in Massachusetts. As the largest dressage region in the country, there are many families in the northeast that might prefer participating in a competitive series around the holidays that is closer to home than Florida or Texas.

#### COST ESTIMATE

To date, no integrated equestrian facilities have been developed. The truly unique nature of the Massachusetts Model - thoroughbred racing, showing, riding, and retirement - means that there is no "industry standard" for estimating development costs. Accordingly, we have consulted with racetrack developers and equestrian center developers to estimate project costs for the proposed horse park. We estimate that total development costs of a world-class horse park would not exceed \$150 million. Of this, \$90 million is allocated for all land acquisition and infrastructure development, along with the construction of the equestrian center. The remaining \$60 million is the expected cost for the development of the race track's oval, rail, grandstand, stables, and other necessary structures.

The \$150 million estimate is meant to describe the upper bounds of development: it does not factor in any of the anticipated cost savings resulting from shared services, materials, or facilities.

### 3. ECONOMIC IMPACT ANALYSIS

#### CHAPTER SUMMARY

This chapter considers the potential economic impacts of the proposed horse park on the Commonwealth of Massachusetts. Because we are estimating the impacts of a facility that does not yet exist, our estimates were developed by looking at the expenditures and existing facilities in other locations coupled with insights from our advisory board and other industry experts.

We provide preliminary estimates of the economic impact of the three major components of the proposed horse park. These include:

- A Thoroughbred race track with 75 race-days of activity during a full season.
- An equestrian center that will be capable of hosting a variety of equestrian events (e.g. dressage, 3-day eventing, hunting/jumping competitions, etc.) at a national scale. We anticipate 70 equestrian and 18 non-equestrian events per year.
- A horse retirement and retraining farm, capable of the housing, retraining, and care of 40 former Thoroughbred racehorses.

To our knowledge, no other facility in the nation includes all three components together at a single site. The proposed “Massachusetts Model” is truly unique. However, this creates a challenge for estimating the prospective impacts of such a facility, because there is no appropriate template to guide us. Therefore, we model each of the three components independently, and then combine their separate impacts to produce an overall estimate of the overall impact. In other words, we assume that the race track will operate as a distinct entity from the horse center and the retirement facility. Because we are treating each separately, we are not able to account for possible cost-savings in terms of shared facilities, staff, or discounts through bulk purchasing.

**Table 3.1: Combined Economic Impacts: Thoroughbred Racing, Equestrian Center, and Retirement Farm**

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME*    | OUTPUT<br>(SALES)*  |
|---------------------|-------------------|---------------------|---------------------|
| DIRECT EFFECT       | 651.7             | \$34,905,383        | \$53,785,565        |
| INDIRECT EFFECT     | 98.4              | \$6,011,609         | \$13,503,183        |
| INDUCED EFFECT      | 207.0             | \$12,216,334        | \$31,569,240        |
| <b>TOTAL EFFECT</b> | <b>957.0</b>      | <b>\$53,133,324</b> | <b>\$98,857,986</b> |

\*Reported in 2016 dollars

Table 3.1 reports the combined economic impacts from the three major components of the proposed facility. We estimate that a multi-purpose horse park will bring \$53.8 million in direct new spending to Massachusetts from out-of-state sources. These new dollars will have ripple effects throughout the entire economy, resulting in a total annual output impact of nearly \$100 million.



This is enough to support the creation of 957 new full-time equivalent (FTE) year-round jobs in the state. Slightly more than half of the new sales will make its way into the pockets of Massachusetts workers and households in the form of additional income.

The ratio of total to direct effects is known as the multiplier. For these three components combined, our output multiplier is 1.83. That means for each dollar spent at the new facility—whether by visitors, participants, or via facility operations—we predict an additional 83 cents will flow to other area businesses and workers.

**Table 3.2: Combined State and Local Tax Revenue Impacts: Thoroughbred Racing, Equestrian Center, and Retirement Farm**

|                               | STATE AND LOCAL<br>TAX REVENUES* |
|-------------------------------|----------------------------------|
| EMPLOYEE COMPENSATION         | \$78,244                         |
| TAX ON PRODUCTION AND IMPORTS | \$3,125,820                      |
| HOUSEHOLDS                    | \$1,678,505                      |
| CORPORATIONS                  | \$188,253                        |
| <b>TOTAL</b>                  | <b>\$5,070,822</b>               |

\*Reported in 2016 dollars

According to IMPLAN-based estimates, the combination of direct, indirect, and induced impacts will generate roughly \$5 million in new state and local tax revenues per year (Table 3.2). The majority of the increased tax revenues will come from taxes on production and imports (62 percent), namely sales tax revenues. Because we only include impacts from out-of-state visitors and participants, these sales taxes will almost entirely be borne by non-Massachusetts residents. The second largest source of tax revenues is household tax revenue, specifically the portion of personal income taxes paid on the additional earnings of workers directly and indirectly benefiting from the center. Corporate taxes (taxes on profits and dividends) are a distant third source of new tax revenue. Much of the anticipated revenue from increased corporate taxes will be from indirect sources, as we assume that the Horse Center and Retirement Farm portion of the project will operate as a non-profit entity.

## STUDY LIMITATIONS

We believe that these are extremely conservative estimates of the actual impacts for several reasons. For one, we do not model economic impacts related to land acquisition costs or the construction of the facility – only operational costs. While construction impacts only last for a few years, they can often be substantial. However, construction impacts also depend heavily on site-specific features, as well as design and architectural decisions. It is rather premature to estimate these impacts before site is selected, designs for the facility have been drawn up, and there have been some preliminary engineering and architectural estimates.

Second, we only count impacts that are attributable to “new money” flowing into the state. More specifically, we exclude the anticipated spending by in-state patrons of the race track, as well as spending by Massachusetts residents and participants attending equestrian shows and competitions. We have to assume they would have spent this money within the state even if the proposed facility did not exist. This is a standard assumption of most economic impact studies, although a rather conservative one. Clearly, if there were better facilities available within the state, then more Massachusetts riders and tourists would choose to recreate closer to home, rather than spend their money elsewhere.

Third, we do not model the impacts of every aspect of the horse park: only the race track, the equestrian center events, and the retirement farm. The current plans also leave room for an on-site

large-animal veterinary clinic and research center that will be operated by a university-affiliated partner institution. To the extent that this facility serves the needs of racing and event participants, its economic impacts are included. Our cost estimates for racing and event participants cover expenses on veterinary care that we assume will be provided at the on-site veterinary clinic. However, the clinic will have additional impacts that are not counted in this study if it is able to attract other (non-participant) patients of research grants from outside of the Commonwealth.

### WHAT IS ECONOMIC IMPACT ANALYSIS?

**Economic impact analysis** is a technique for measuring the net effects of new spending and investment on a regional economy’s employment, wages and business output (i.e. sales). This is done by estimating the amount of net new spending in the region as a direct result of a project (i.e. the direct effects). In the case of the proposed horse park, the direct economic impacts come from numerous sources. These include additional spending by event participants and horse owners required for the stabling, feeding, care and maintenance of their horses; the spending by out-of-state visitors at area retailers, restaurants, lodging establishments and other services; and the operational expenditures of the facility, of which wages and salaries are usually the largest portion.

Beyond the initial influx of new funds, new direct spending in the region then goes on to have secondary (or indirect) economic impacts. Indirect impacts are generated from the exchange of these additional revenues among area businesses and their workers. For example, a portion of the increased visitor spending on area hotels is used to pay the employees of the hotel, and another portion goes toward the purchase of products and services from other local businesses. These local workers and businesses, in turn, use some of their increased revenues to buy other goods and services from other local businesses. Some of these funds are also spent outside the study region. This is considered “leakage” and does not continue to generate additional economic activity within the region. The direct investment combined with the exchange of money among local vendors and workers make up the total economic impact. The ratio of the direct to total economic impact is referred to as the multiplier effect. The total economic impacts and multipliers were generated using the IMPLAN economic modeling system.

Similarly, the facility also calls for an RV Park. On the one hand, the RV Park is expected to cater to people attending one or more of the Center's many events, in which case they are included under our impacts of visitor spending on lodging. On the other hand, other visitors may also reserve space at the RV Park. The spending impacts from this group of visitors are not included. At this early stage we lack the information to know how widely the facility will be used by non-center related visitors. Lastly, current plans call for an extensive system of recreational trails for the general enjoyment of the public. We assume that these recreational trails will primarily attract users from within Massachusetts. However, the trails may draw visitors from neighboring states as well, depending on its proximity, the quality of the trails, and the availability of other, similar recreational trail facilities. But without knowing more about the specific site and the plans for recreational trails, it is difficult to predict the number of out-of-state visitors.

It is important to bear in mind that economic impact analysis is capable only of estimating impacts that are directly quantifiable in dollars. It is not capable of estimating impacts from less tangible benefits, such as helping to preserve Massachusetts's agricultural heritage and open space; offering a venue for outdoor recreation that improves the wellness of area residents; and helping to ensure the continued vitality of the larger equestrian industry in the state. Local and statewide horse shows and competitions are integral to the long-term growth of the equestrian industry. They fuel the enthusiasm of young and established equestrians, and imbue them with a sense of belonging to a larger community. Sponsoring and showing support for local competitions and shows is also an important prerequisite for attracting national and regional events. Yet these types of events have little impact in this type of study, because they draw almost entirely from within the state. While we adhere to the conservative assumptions of the economic impact framework, we offer several case studies of actual equestrian competition to help illustrate some of these less tangible benefits.

Our final limitation is simply a warning regarding the inherent uncertainty involved when forecasting economic impacts. This is a very early-stage assessment, and as the project develops the magnitude and distribution of the impacts will likely change. Furthermore, while the construction of a world-class facility is necessary for attracting top racing talent and sponsoring national and international caliber horse shows and competitions, it is not sufficient. The horse park must also be well-designed, well-managed, and able to successfully market itself to event organizers if it is to attract the full spectrum of events and attendance described in this report.

The remainder of this chapter provides more detail on the assumptions that are the foundation for our estimates, as well as a breakdown of the impacts by each component (race track, equestrian center and retirement farm) as well as by sub-component (e.g. racing operations, racing participants, and racing spectators).

## THOROUGHBRED HORSE RACING EXPENDITURES & IMPACTS

### SUMMARY & ASSUMPTIONS

The direct effects that determine the total economic impacts can be modeled either by estimating revenues or by estimating spending (i.e. expenditures). We model spending, because it allows us to more clearly identify economic transactions that take place within Massachusetts. A portion of the proceeds from racing never reaches the pockets of Massachusetts businesses or residents: the payouts to bets made over the internet or through off-site simulcast venues.

The direct effects of the Thoroughbred racing facility come from numerous sources. First, there are expenditures associated with race track operations. Much of the funds used to support operations comes from betting revenues (the handle), although portions also come from on-site purchases of spectators, and payments made to the facility by racing participants. The spending of racing participants is the second primary source of direct impact. This includes the spending of Thoroughbred race horse owners who pay for training costs, jockeying fees, veterinary care, feed and bedding, tack and equipment, and the other miscellaneous costs incurred during the racing season. The final source of direct impact is the off-track spending of out-of-state visitors and spectators. This spending has an immediate benefit to area businesses, especially hotels, restaurants, gas stations, and other retail outlets. As previously mentioned, we only consider the spending of visitors that come from out-of-state, and exclude spending by Massachusetts residents under the standard assumption that it would have occurred within the state even if a new race track had never been built.

Modeling the economic impacts of a prospective facility requires making some assumptions regarding the length of the racing season, the number of participants, and the number of out-of-state visitors.

#### Key Assumptions:

- There will be 75 days of racing during a typical season.
- The racing season will last for 150 days (mid-May through mid-October).
- There will be an average of 9 races per race day, or 675 races during a typical season.
- There will be a daily average of 800 horses in residence over the entire season.
- The facility will average 3,000 spectators per race day, which accounts for typical racing events and one marquee special event, such as the MassCap.
- Twenty percent of all spectators will be come from outside of Massachusetts.
- The expansion of thoroughbred racing will spur the increased production of 115 new foals per year by Massachusetts breeders.

We base these assumptions on our discussions with the client regarding their anticipated plans for race track, a review of existing Thoroughbred race tracks around the county, and through interviews with Thoroughbred racing experts.

Based on these assumptions, we expect the new race track to yield \$36.7 million in direct additional economic activity in the state (Table 3.3). These direct effects include the actual money spent in state by the race track, breeding farms, as well as by racing participants and spectators. This “new” money in the Massachusetts economy will change hands among workers and other area businesses, to generate a total of \$66.3 million in annual output and sales, and support the creation of 664 new jobs and put over \$38.2 million in the pockets of Massachusetts households each year. Our output multiplier for the race track component is 1.81. Thus, for every dollar spent directly at the race track, spectators or breeding/training farms, we expect an additional 81 cents to flow to other businesses in the state.

**Table 3.3: Summary Economic Impacts: Race Track Component**

|                 | FTE<br>EMPLOYMENT | LABOR<br>INCOME* | OUTPUT<br>(SALES)* |
|-----------------|-------------------|------------------|--------------------|
| DIRECT EFFECT   | 465.2             | \$26,212,516     | \$36,662,266       |
| INDIRECT EFFECT | 49.8              | \$3,229,778      | \$6,914,236        |
| INDUCED EFFECT  | 149.0             | \$8,792,345      | \$22,720,396       |
| TOTAL EFFECT    | 663.9             | \$38,234,638     | \$66,296,898       |

\*Reported in 2016 dollars

The remainder of this section reports the economic impacts of each of the three racing components (operations, participants and visitors) separately, and discusses the key assumptions the yield our estimates.

#### IMPACTS FROM RACING OPERATIONS

The first component of our analysis of the proposed race track’s impacts is the impact generated from race track operations. We assume that the race track will generate \$13 million per year in operational expenditures. We arrived at our estimates by examining other studies of Thoroughbred racing facilities around the county and consulting with racing industry experts, considering the preliminary design of the facility, and the expected length of the racing season. This amount is slightly less than what we found for other Thoroughbred race tracks. On average, our sample of other race tracks cost roughly \$136 dollars per horse day, or just over \$16 million per year. By contrast, our industry advisors estimate operational expenses in the order of \$12 to \$14 million per year for a racing facility of this size. Given its smaller footprint and more economical use of space, it is not surprising that the horse park will cost less to operate than many existing facilities.

Assuming \$13 million figure as the direct effects, our economic impact model estimates a total economic impact of just over \$23.2 million per year in 2016 dollars (Table 3.4). At this level of output, we expect the facility will produce for roughly 338 jobs full-time equivalent (FTE) in the state economy, and contribute \$14.4 million in income for Massachusetts households. Seventy of these new jobs (indirect + induced) will be created by other businesses in the state.

**Table 3.4: Summary Economic Impacts: Race track Operations**

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME*    | OUTPUT<br>(SALES)*  |
|---------------------|-------------------|---------------------|---------------------|
| DIRECT EFFECT       | 267.8             | \$10,371,093        | \$13,000,000        |
| INDIRECT EFFECT     | 14.0              | \$742,727           | \$1,609,959         |
| INDUCED EFFECT      | 56.3              | \$3,324,200         | \$8,588,390         |
| <b>TOTAL EFFECT</b> | <b>338.1</b>      | <b>\$14,438,020</b> | <b>\$23,198,350</b> |

\*Reported in 2016 dollars

**IMPACTS FROM RACING PARTICIPANTS**

We estimate the direct impacts of race participants based on the average amount spent on each horse per day over the racing season (horse-days). With an estimated average of 800 horses on site per day over a 150-day season, we estimate 120,000 horse-days per year. Based on interviews with industry experts and a review of past studies, we estimate that it costs roughly \$90 per day to train, feed, and provide for the general care of each horse during the racing season.<sup>1</sup> This includes trainer fees and other costs paid direct by the owners, but not payments made by horse owners directly to the racetrack. Direct payments from owners to the racetrack are already included under racetrack operations. In addition, we do not consider the earnings from the horse owners' takeout (or payments from betting revenues) beyond that amount that they spend on the training and care of their horses. This is likely to be negligible, as interviews with racing experts suggest that Thoroughbred racehorse owners often have very thin profit margins, and that many owners live out-of-state.

It is important to note that we only consider the impacts of horse-related expenditures during the racing season. Although some of these will be Massachusetts Thoroughbreds and will reside in-state during the off-season, we assume that Massachusetts horses would still be stabled in the Commonwealth during the off-season (even if there were no Thoroughbred racing facility), and that out-of-state horses would reside elsewhere. Likewise, we assume that both Massachusetts- and out-of-state horses would spend the racing season outside of Massachusetts if there were no racetrack. Therefore, all horse-related expenditures during the season are included as direct effects.

Based on these calculations, we estimate \$10.8 million per year in direct spending pertaining to the care, training and feeding of Thoroughbred racehorses at the horse park (Table 3.5). This direct spending will result in a total of \$19.7 million in additional sales revenues for the state. This level of additional output can support the creation of roughly 138 FTE jobs and provide an additional \$11.3 million in income to Massachusetts households.

<sup>1</sup> The \$90 per horse-day cost estimate is somewhat lower than what is typically reported in other studies of thoroughbred racetracks, which average in the range of \$120 to \$130 per horse-day. However, our industry advisors anticipate that training and related costs will be less in Massachusetts and that our averages are upwardly skewed by the inclusion of premier racetracks in our sample.



**Table 3.5: Summary Economic Impacts: Racing Participants**

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME*    | OUTPUT<br>(SALES)*  |
|---------------------|-------------------|---------------------|---------------------|
| DIRECT EFFECT       | 77.3              | \$7,664,557         | \$10,800,000        |
| INDIRECT EFFECT     | 16.0              | \$1,102,041         | \$2,218,360         |
| INDUCED EFFECT      | 44.3              | \$2,615,851         | \$6,760,334         |
| <b>TOTAL EFFECT</b> | <b>137.5</b>      | <b>\$11,382,448</b> | <b>\$19,778,693</b> |

\*Reported in 2016 dollars

**IMPACTS FROM SPECTATOR SPENDING OFF-SITE**

We estimate that the new facility will attract 225,000 spectators per year. While our review of other studies produced an average daily attendance of 4,500, our advisory board and industry experts felt this number was too high, given the New England market, the relatively smaller grandstand, and industry wide trends of less foot traffic, but more remote forms of wagering. They suggested that a typical racing day will draw somewhere between 2,000 and 3,000 visitors, while special events (such as the MassCap) can draw up to 10,000. We settled on a daily average of 3,000 to account for attendance on both typical race days as well as for a handful of special racing events, across 75 days of racing.

We only count the spending of out-of-state visitors as direct effects, under the assumption that Massachusetts residents would have spent this money in the state anyway, even without the new racetrack. This is a rather conservative assumption, as some Massachusetts racing enthusiasts would travel to out-of-state venues or engage in remote forms of betting. We estimate that 20 percent of all spectators will be from out-of-state. This equates to 45,000 expected out-of-state visitors per year. The percentage of out-of-state spectators is difficult to predict, however. It depends greatly on the specific location of the facility in relation to major out-of-state population centers, highway access, the prestige of the racing events, as well as the availability of other competition venues. This variability is reflected in studies of other racetracks, which estimate the share of out-of-state visitors to be anywhere from 10 percent to 60 percent. We chose the estimate of 20 percent after consulting with advisory board members and other industry experts who understand the Massachusetts racing landscape.

Compiling data from multiple studies, we estimate that each out-of-state visitor spends roughly \$113 per day outside of the racetrack. This figure does not include money spent at the track, including wagers, food and souvenirs, which was already accounted for in our measurement of Center operational expenditures. Nearly 40 percent of all off-track spending is on lodging, with another 22 percent spent on food and drink. The remainder is near evenly split between entertainment, retail and travel expenses.

Given these assumptions, the total spending of out-of-state visitors will be \$5,089,050. We adjust this figure to account for travel-related expenses that may occur outside of Massachusetts. The adjusted direct effect from racing visitors is \$4.1 million per year (Table 3.6). An increase of \$4.1

million in direct spending will produce a total impact of \$7.2 million in additional sales and output per year. This is enough to support the creation of 76.5 new FTE jobs. It is important to note that because we only consider off-site spending, the entirety these 76.5 jobs will be generated by other businesses, and not at the track.

**Table 3.6: Summary Economic Impacts: Racing Spectators (Off-Site Only)**

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME*   | OUTPUT<br>(SALES)* |
|---------------------|-------------------|--------------------|--------------------|
| DIRECT EFFECT       | 57.29             | \$1,943,647        | \$4,079,141        |
| INDIRECT EFFECT     | 6.89              | \$488,773          | \$1,281,831        |
| INDUCED EFFECT      | 12.28             | \$724,947          | \$1,873,815        |
| <b>TOTAL EFFECT</b> | <b>76.46</b>      | <b>\$3,157,368</b> | <b>\$7,234,787</b> |

\*Reported in 2016 dollars

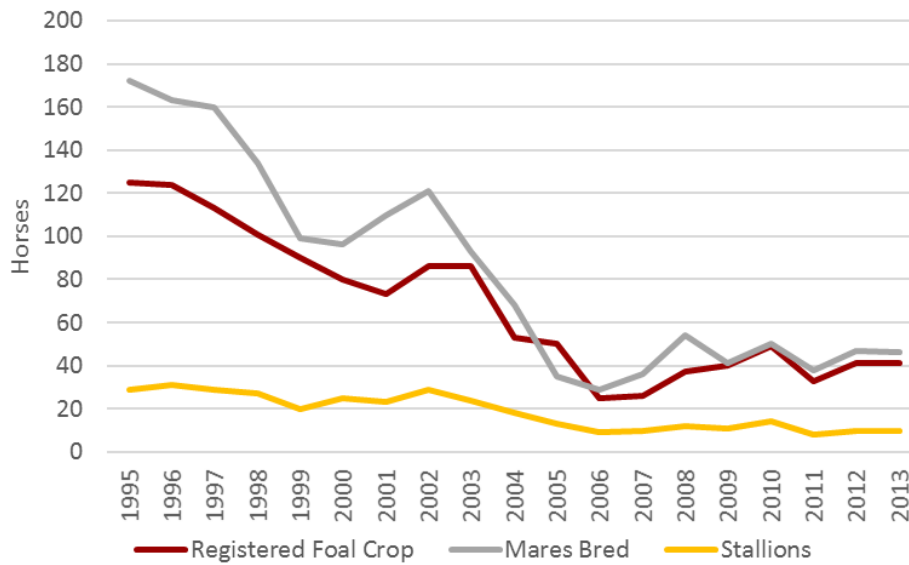
#### IMPACTS FROM THE THOROUGHBRED BREEDING INDUSTRY

Thoroughbred racehorse breeding is an import component of the Massachusetts Equine Industry, whose vitality is directly tied to the availability of racing opportunities within the Commonwealth. A Study of the Thoroughbred Equine Industry by Salem State University reported 62 thoroughbred breeding farms in Massachusetts as of 2013, with 71 additional farms that are somehow affiliated with Thoroughbred racing. According to that study, these farms accounted for \$15,086,483 in direct annual revenue and contributed 356 direct jobs to the state economy.

The Massachusetts breeding industry has fallen on hard times in recent years. Between 1995 and 2013, the Massachusetts foal crop has declined by 67 percent: dropping from 125 registered foals in 1995 to 41 in 2013 (Figure 3.1). We have seen a similar decline in the number of Mares bred by Massachusetts Stallions (down 73 percent) and the number of Massachusetts Stallions (down 67 percent).

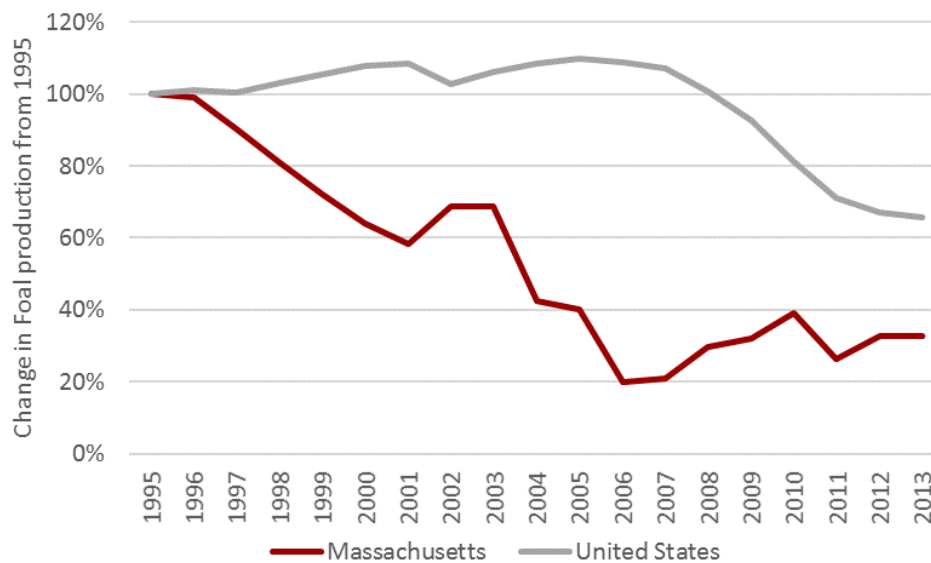
In part, the decline of Massachusetts Thoroughbred breeding reflects a broader, national decline driven by increased competition from expanded casinos and on-line wagering. As the handle to horse racing declines, so do the returns to breeders. However, the decline of the Massachusetts breeding industry far outpaces national trends. Figure 3.2, below, shows the relative decline in foal production since 1995.

**Figure 3.1: Thoroughbred Horse Breeding in Massachusetts, 1995 to 2013**



*Source: The Jockey Club. 2016. Massachusetts Fact Book.*

**Figure 3.2: Foal Production, Massachusetts compared to the US, 1995 to 2013**

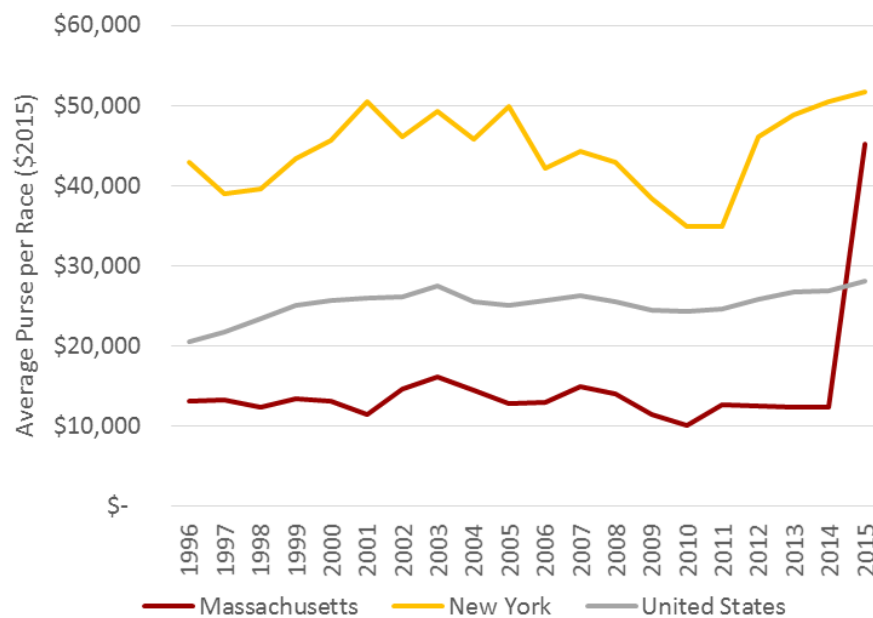


*Sources: The Jockey Club. 2016. Massachusetts and National Fact Books.*

Beyond national trends, the decline of the Massachusetts breeding industry is attributable to two primary factors: (1) low purses relative to other states, and (2) shrinking racing opportunities in the Commonwealth. Low relative purses reduce the potential returns to breeders and attract lower quality horses to racetracks in the state. This, in turn, leads to fewer bettors and smaller wagers,

which erode purses even further. The vicious cycle of falling purses depresses the value of Massachusetts equine breeding farms, which discourages investment in thoroughbred breeding, and threatens the open space the farms preserve. Over the past two decades, Massachusetts purses have typically fallen short of the national average, and have been well below our neighboring state of New York (Figure 3.3). That has changed following the passage of the Expanded Gaming Act of 2011, which dedicates a portion of casino revenues to supplement purses, making them more competitive with tracks in other states. The state's first licensed slots parlor opened in 2015, at Plainridge Park Casino, resulting in the dramatic rise in purses from 2014 to 2015 (Figure 3.3.) The Act also dedicates a portion of casino revenues to breeder awards, which provides additional incentives to Massachusetts-based breeders.<sup>2</sup>

**Figure 3.3: Thoroughbred Purses per Race, Massachusetts vs. New York and the US**



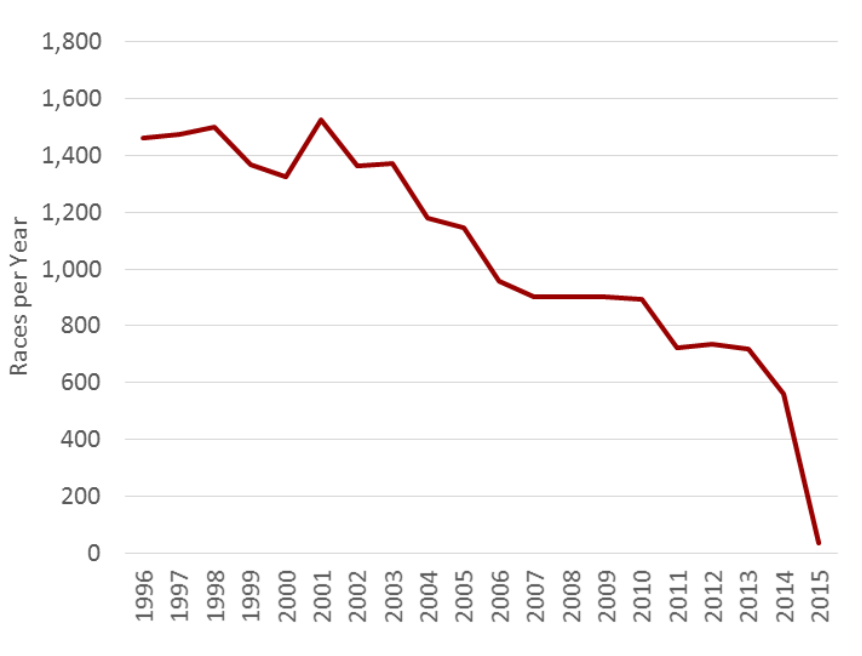
Sources: *The Jockey Club. 2016. Massachusetts, New York, and National Fact Books.*

The second critical component to a healthy thoroughbred breeding industry is access to ample in-state racing opportunities. Even with the competitive purse and breeding award programs codified in the Expanded Gaming Act, Thoroughbred breeding in Massachusetts will likely continue to struggle until there is more racing in Massachusetts. While the current rules permit bonuses paid to MA bred horses that race elsewhere, the major financial rewards are reserved for races taking

<sup>2</sup> It is worth noting that in 2011, New York began allocating a portion of the revenues from Video Lottery Terminals (VLTs) into the purse supports and breeder awards. As a result, the average purse per race rose from \$34,956 in 2011 to \$46,042 in 2012 (reported in 2015 equivalent dollars), according to data from the Jockey Club. These purse supplements and breeder awards had an immediate impact on foal production in New York, which increased by nearly 250 registered foals in a single year.

place within Massachusetts. Simply put, fewer races provide fewer opportunities to earn revenue. There were only 36 Thoroughbred races held in Massachusetts last year at Suffolk Downs (Figure 3.4). Without a racetrack of sufficient quality to attract top-level racing, the future of the Thoroughbred industry in Massachusetts remains uncertain. This uncertainty sends a negative market signal to breeders and owners that discourages long-term investments in horses, capital equipment, land acquisition and other infrastructure. Breeders and owners also have a strong preference to locate near where their horses are racing. This is, in part, due to costs associated with travel and related expenses, but it reflects the fact that owners and breeders simply love to see their horses compete.

**Figure 3.4: The Number of Thoroughbred Races held in Massachusetts, 1996 to 2015**



*Source: The Jockey Club. 2016. Massachusetts Fact Book.*

It is clear from the preceding discussion that the establishment of a new thoroughbred racetrack will have a direct impact on the state's horse breeding industry. We focus on the expenditures associated with a reasonable expansion in the number of foals bred and housed in Massachusetts. We assume that the present purse subsidies and breeding program established under the Expanded Gaming Act of 2011 will continue in their present form. The discontinuation or restructuring of these incentives would certainly have a direct impact on the relative returns to breeding, and thus the possible expansion of the industry or the expected impacts of the program.

It is difficult to predict how many new foals we can reasonably expect following the opening of a new thoroughbred track with 75 days of racing. Our discussions with breeding industry experts suggests that it is reasonable to expect an increase in the Massachusetts foal crop to something

slightly above the 1995 level of production. Therefore, we assume an increase of 115 foals per year over current levels. This is a rather conservative assumption. The ultimate size of the foal crop may well be much larger as additional casinos open and purses and breeding awards continue to rise. Breeders typically raise their foals for two years prior to sale and the start of their training. Therefore, we estimate the number of additional foals residing in Massachusetts at 230: twice the expected number of foals born each year. The mother of the foals (mares) must also be cared for during the nearly year-long gestation period. We assume 115 additional Massachusetts mares will reside in Massachusetts per year (one mare per foal).

Breeding, raising and training thoroughbred racehorses is a rather expensive business. Based upon our discussions with several Massachusetts breeders, we estimate that it costs roughly \$10,000 per year to care for a foal or mare. This estimate corresponds with those from a 2013 study of a racetrack in Saratoga, NY that estimated costs between \$6,000 and \$12,000 per year to care for a mare or foal in New York. At \$10,000 per horse for 345 foals and mares, we estimate the equestrian racing complex will result in just under \$3.5 million per year in total annual new spending by Massachusetts breeders.

Foals typically begin their formal training for racing in their third year. A young racehorse typically spends a year in training before their first start, and continues training throughout their career. According to industry experts, 90 percent of Massachusetts-bred foals will likely train and race in state (assuming the construction of a new racetrack and the current purse and award supplements). The yearly costs of training, stabling, and feeding a thoroughbred racehorse is estimated at \$25,000 per year, for a total annual expenditure bill of nearly \$2.6 million. We assume the remaining 10 percent of foals are sold out-of-state at the national average auction price. Over the past three years, the average sale price from two-year old horses was approximately \$70,000 per horse according to statistics from the U.S. Jockey Club. Thus, we include an addition \$805,000 per year for expanded out-of-state horse sales.

Our estimates of racing participant impacts already include the costs associated with active racehorses during the racing season. There, we estimated that it costs roughly \$13,500 to train and care for each horse during the season. Some of these active horses will remain in Massachusetts off-season, while others will return to their home states or move on to events in other states. For example, a 2012 study of racing at Suffolk Downs reports that over 80 percent of all Suffolk Thoroughbreds are from out-of-state. However, the purse and breeder incentives enacted through the 2011 Expanded Gaming Act greatly improve the expected returns to Massachusetts-bred horses and thus will likely increase the share of Massachusetts horses racing at the new track. We use the conservative estimate that 400 active horses (or half of the assumed 800 horses on-site) will be from Massachusetts. In time, we expect an even larger share of horses racing at the new racetrack will be from in state, although it will take a few years for the Massachusetts-bred horses to work their way into the racing circuit. Given the average care and training costs of \$25,000 per horse and the racing season expenses of \$13,500, we estimate off-season expenditures of \$11,500 per horse, or \$4.6 million in total.



Expenditures for horse breeding, care, and training typically include veterinary fees, farrier (shoeing) care, bedding, feed, and labor costs. Breeding and training farms also make periodic investments in materials, new equipment, and other infrastructure. Most of this spending will go to workers living in Massachusetts or in-state vendors. Assuming that 75 percent of all direct expenditures stay in state, we estimate a combined direct effect of just under \$8.0 million in additional direct purchases to Massachusetts businesses/workers per year. With the \$805,000 in exports from out-of-state horse sales, the total direct effect approaches \$8.8 million per year, and a total economic impact of just over \$16 million per year in 2016 dollars (Table 3.7). This level of additional output is enough to sustain 112 full-time equivalent (FTE) jobs, and contribute over \$9 million in additional income for Massachusetts households.

**Table 3.7: Summary Economic Impacts: Expansion of the MA Breeding Industry**

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME*   | OUTPUT<br>(SALES)*  |
|---------------------|-------------------|--------------------|---------------------|
| DIRECT EFFECT       | 62.9              | \$6,233,219        | \$8,783,125         |
| INDIRECT EFFECT     | 13.0              | \$896,237          | \$1,804,086         |
| INDUCED EFFECT      | 36.0              | \$2,127,347        | \$5,497,857         |
| <b>TOTAL EFFECT</b> | <b>111.9</b>      | <b>\$9,256,802</b> | <b>\$16,085,068</b> |

\*Reported in 2016 dollars

## EQUESTRIAN CENTER HORSE SHOWS & COMPETITIONS

### SUMMARY & ASSUMPTIONS

The economic impact of the equestrian center component of the horse park will also come from three primary sources: (1) center operations; (2) horse-related spending by out-of-state participants; and (3) people-related spending by out-of-state visitors and participants. As before, we are careful not to double count spending across categories, such as event and entry fees, paid by participants, which fund facility operations. We also only consider spending that comes from out-of-state sources.

Our approach is to model a hypothetical “calendar” of equestrian events that could be expected at the facility once it is in full operation and has had sufficient time to establish itself as a premier destination among event organizers and horse enthusiasts. The economic impact of the proposed Equestrian Center relies greatly on the number and prestige of the events held at the facility. Generally, the more events there are, the greater the impact becomes. This is especially true when those events are international and national in scope, as they draw a greater number of visitors from outside of the state.

We assume that the proposed Center will be a first-class facility, with the potential of hosting major national events. Our estimates of the number of events and presumptive attendance figures are

based on a thorough review of existing equestrian centers and horse parks around the nation, with a particular focus on the Virginia Horse Center, in Lexington VA, and the Kentucky Horse Park, in Lexington KY. Both are considered first-class equestrian facilities, and both regularly host national and international grade events.

Using the activity at other centers as a guide, we developed a set of initial assumptions regarding the usage of the facility. We then adjusted these initial estimates based on interviews with industry experts, such as directors of similar Centers in other parts of the country. Given the inherent uncertainty, we tend to err on the side of offering more conservative, yet realistic, attendance and participation estimates.

#### Key Assumptions:

- There will be 70 equestrian events held throughout the year. The calendar will include five major events (national scale such as division championship), 40 mid-sized events (multi-state such as a regional division championship), and 25 minor events (within state, or local).
- The facility will also host 18 non-equestrian events, predominantly catering to a local and regional audience.
- A typical major equestrian event will last for four days. Moderate and minor events will last for 4.5 and 1.5 days, respectively. Non-equine events will last for 2 days, on average.
- The average equine event will attract roughly 2,221 unique visitors. The average non-equine event will attract 1,211 unique visitors per event.
- Eighty percent of the visitors and participants at major events will come from out-of-state. The typical moderate-scale event will draw 45 percent of its visitors from neighboring states. A minor event will only draw 5 percent from out-of-state. Finally, 20 percent of the attendees of non-equine events will be from outside Massachusetts.

The key assumption of 70 equestrian events per year falls within the range of other major equestrian centers, such as in Virginia and Kentucky, which host between 70 and 90 equestrian events per year. Our assumption of 18 non-equestrian events is also in keeping with other centers, which typically host between three to four equine events for every non-equine event.

Based on these assumptions, we expect the new facility to attract \$16.7 million in direct additional economic activity in the state each year (Table 3.8). The largest portion of this comes from event visitors and participants who make purchases at the event and at area businesses. As this \$16.7 million in new money trickles through the Massachusetts economy, it will generate a combined total of \$31.8 million in annual output and sales: enough to support the creation of 280 new FTE jobs and generate \$14.5 million in new household income. The statewide output multiplier for the Equestrian Center component is 1.9. Thus for every dollar spend directly at or by the center, we expect an additional 90 cents to flow to other businesses in the state.

**Table 3.8:** Summary Economic Impacts: Equestrian Center Component

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME     | OUTPUT<br>(SALES)   |
|---------------------|-------------------|---------------------|---------------------|
| DIRECT EFFECT       | 175.0             | \$8,427,085         | \$16,658,893        |
| INDIRECT EFFECT     | 48.1              | \$2,745,964         | \$6,497,418         |
| INDUCED EFFECT      | 56.5              | \$3,333,705         | \$8,615,606         |
| <b>TOTAL EFFECT</b> | <b>279.5</b>      | <b>\$14,506,754</b> | <b>\$31,771,916</b> |

### IMPACTS FROM CENTER OPERATIONS

We estimate that the proposed equestrian center will spend roughly \$5.6 million per year in operations. We developed this estimate by dividing the total annual operational expenditures at other equestrian centers by the number of days those facilities were hosting events (i.e. event-days). The average operational costs for existing centers run close to \$35,600 per event-day. As we expect 157.5 total event days at the proposed Massachusetts facility, the resulting annual operations budget is estimated to be roughly \$5.6 million. This compares well with other existing centers. The Virginia Horse Center's operational budget is closer to \$4 million per year. The Kentucky Horse Park has annual operational expenditures of roughly \$12 million per year, but has extensive facilities, including a horse museum and the offices of national equestrian associations, complemented by numerous revenue streams.

Not all of the operational spending can be counted as direct effects, however. Unlike a race track, which generates a separate revenue stream through the handle, a large share of an equestrian center's operational costs are financed through fees charged to event organizers, participants, spectators, and on-site sales of products and services. Some of these individuals will be from Massachusetts. As before, we can only attribute the portion of the operational expenditures that come from out-of-state sources as direct effects. A 2007 study of the Kentucky Horse Park estimates that roughly 66 percent of all revenues originate from out-of-state.

Assuming a similar percentage, we estimate that Center operations will add \$3.7 million in new spending to the Massachusetts economy per year (Table 3.9). According to IMPLAN, this level of output is enough to sustain 32 FTE employees at the facility. The actual center may actually hire more workers than this, especially at peak season. However, our model only reports the portion of employment that is supported by new outside funds, and does not consider workers that are paid for by in-state proceeds.

We estimate the total economic impact due to operations at \$8.5 million per year. This is equivalent to 70 new FTE jobs and \$2.9 million in additional labor income.

**Table 3.9:** Summary Economic Impacts: Center Operations

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME    | OUTPUT<br>(SALES)  |
|---------------------|-------------------|--------------------|--------------------|
| DIRECT EFFECT       | 31.72             | \$912,007          | \$3,703,346        |
| INDIRECT EFFECT     | 27.43             | \$1,295,161        | \$3,046,032        |
| INDUCED EFFECT      | 11.18             | \$659,908          | \$1,705,022        |
| <b>TOTAL EFFECT</b> | <b>70.32</b>      | <b>\$2,867,076</b> | <b>\$8,454,400</b> |

#### EVENT PARTICIPANT/HORSE-RELATED EXPENDITURES

As with racehorses, participants at equestrian competitions and shows spend a considerable amount of money on the feeding and care of their horses during shows and competitions. They also make purchases of horse-related supplies and equipment at these events. Our hypothetical calendar includes 70 equestrian related events per season, divided into 5 major, 40 moderate, and 25 minor events per season. In this scenario, we model participant spending on a per horse-day basis. Based on an analysis of other studies, we assume that the typical major event hosts 500 horses per day over a four-day event. Moderate events are expected to last for 2.5 days, on average, and host 300 horses. We assume that minor events host 150 horses per day and last for 1.5 days, on average. We also make different assumptions regarding the origin of the participants, based on the scale of the event. There is no solid data on where the horses come from, but there is for the human participants. We assume that major events draw 80 percent of participants from out-of-state, moderate events draw 45 percent, and minor events only 5 percent. This is in keeping with the fact that, by definition, minor events are almost always local events that primarily draw participants from within the state.

Over a typical year of 70 events, we expect there will be just over 40,000 horse-days spent at the facility by out-of-state participants. Based upon data provide by studies of other centers, we estimate an average of \$141 of spending per horse per event day. This includes event fees, feed, bedding, veterinary care, and other direct horse expenditures while at the event. It also includes the purchase of horse-related equipment and supplies, which are typically for sale at shows by specialty retailers. It does not include spending pertaining to the lodging, care, and feeding of the human participants. The next section on visitor impacts covers the impacts of their spending.

The \$141 in daily purchases, made by out-of-state participants across 40,281 horse-days, produces a total direct effect of \$5.7 million per year (Table 3.10). This additional revenue will produce a total impact of over \$10.4 million on the Massachusetts economy, primarily through increases to household income and household spending. Over \$6 million will go to Massachusetts workers, and the additional spending of these workers alone (the induced effect) will generate \$3.6 million in new sales in the Commonwealth.

**Table 3.10:** Summary Economic Impacts: Center Participants

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME    | OUTPUT<br>(SALES)   |
|---------------------|-------------------|--------------------|---------------------|
| DIRECT EFFECT       | 40.76             | \$4,042,180        | \$5,695,769         |
| INDIRECT EFFECT     | 8.41              | \$581,201          | \$1,169,932         |
| INDUCED EFFECT      | 23.37             | \$1,379,563        | \$3,565,305         |
| <b>TOTAL EFFECT</b> | <b>72.53</b>      | <b>\$6,002,944</b> | <b>\$10,431,006</b> |

Note that while we provide these estimates for participants at equestrian events, we do not provide a comparable analysis of spending of participants at other events. The non-equine events held at equestrian facilities vary greatly: dog-shows, tractor-pulls, and agricultural fairs, just to name a few of the possibilities. There are simply far too many options to develop an accurate spending profile for participants at these venues. This means that our figures will be underestimates, but by how much we do not know. The downward bias may end-up being rather small considering that there are relatively few non-equestrian events on the hypothetical calendar. It is also likely that participants of horse shows and competitions spend far more money than other event participants, who do not normally have to cover the cost of feeding and care of a large animal.

#### IMPACTS FROM CENTER VISITOR SPENDING

The final component is the spending on the (human) participants and other event spectators. For the sake of brevity, we will refer to these as visitor impacts. We developed a profile of the typical spending patterns of equestrian center visitors, based on a review of studies of existing centers elsewhere in the county. Overall, the expenditure patterns of horse park visitors look a lot like the non-wager spending of racing spectators. Horse park visitors spend an average of \$109 per day, with lodging, food/restaurants, retail purchases, and travel services being the largest expenditure categories. We were not able to develop separate estimates for non-equestrian event visitors, but assume they follow a similar expenditure profile as those attending equestrian events.

We also used these studies to develop daily attendance rates for both equestrian and non-equestrian events. The average daily attendance for equestrian events was 2,221 visitors (including event participants). The average daily attendance for non-equestrian events held at existing centers was 1,211. Considering the number of hypothetical event days, we estimate the total annual out-of-state attendance at equestrian events (of all types) at 78,287 unique visitors per year. To put this in context, a recent study of the economic impact of the Kentucky Horse Park estimated the number of unique equine event visitors at 93,992. Attendance of roughly 80,000 visitors per year seems reasonable, given that we assuming fewer events at our prospective facility (70 equestrian events for MA, and roughly 90 for Kentucky). We also assume that larger events draw a relatively larger share of its visitors from out-of-state. Based on studies that use both license plate and visitor surveys at other centers, we assume that major events draw 80 percent of participants from out-of-state, moderate events draw 45 percent, and minor events only 5 percent. We assume that 20 percent of the visitors for non-equestrian events are from out-of-state, a number reported in a 2001 study of

the Virginia Horse Center. We estimate that there will be 21,201 attendees at non-equestrian events throughout the year, 4,240 of whom will be from out-of-state.

Multiplying our estimates of daily expenditures with our estimate of 82,527 daily event attendees produces an estimate of just over \$9 million in total visitor expenditures per year. Some of this spending will take place outside of Massachusetts. Using standard local spending averages provided within IMPLAN, we estimate that out-of-state visitors will spend roughly \$7.3 million per year in Massachusetts while attending events at the equestrian center. This additional revenue will produce roughly \$12.9 million in total new spending and 137 new FTE jobs in the Commonwealth each year (Table 3.11).

**Table 3.11:** Summary Economic Impacts: Center Visitor Spending

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME    | OUTPUT<br>(SALES)   |
|---------------------|-------------------|--------------------|---------------------|
| DIRECT EFFECT       | 102.47            | \$3,472,898        | \$7,259,778         |
| INDIRECT EFFECT     | 12.26             | \$869,602          | \$2,281,454         |
| INDUCED EFFECT      | 21.92             | \$1,294,234        | \$3,345,279         |
| <b>TOTAL EFFECT</b> | <b>136.65</b>     | <b>\$5,636,734</b> | <b>\$12,886,510</b> |

### THOROUGHBRED HORSE RETIREMENT FARM

The third and final component of our economic impact model considers impacts from the operations of a retirement and retraining farm for Thoroughbred racehorses. Although there are no formal studies of the economic impact of such farms to use as a guide, we were able consult with the founder and current president of Old Friends Thoroughbred Retirement Farms. We used financial and operational data from Old Friends to estimate the economic impacts of a similar type of facility in Massachusetts.

Old Friends is a 501(c)(3) non-profit organization that operates two Thoroughbred retirement centers: one in Georgetown, KY and a second, smaller, facility in Saratoga, NY. In 2015, Old Friends also acquired a satellite facility along the Kentucky/Tennessee border. Together these facilities are home to roughly 150 rescued and retired Thoroughbreds. Revenues come entirely from donations, grants, sales at its gift shop, and private support. The larger Kentucky facility has also become a popular tourist destination, attracting roughly 20,000 visitors per year.

We assume that the proposed Massachusetts retirement farm will follow a similar revenue model where operational costs come entirely from out-of-state contributions. We further assume that the facility will house 40 Thoroughbreds on site, although the actual number will depend upon site-specific considerations that are yet to be determined. A 40-horse farm is considerably smaller than the Kentucky farm, with roughly 120 horses in residence, but it is larger than that of Saratoga, which has closer to 20. We cannot predict how many of these horses will be from out-of-state, but



it is a fair assumption that without such a facility in the state, these horses would have to be cared for elsewhere.

At this level, we estimate that the Massachusetts facility will spend slightly more than \$325,000 on operations, including all horse-related expenditures (Table 3.12). We also assume that the Massachusetts Farm will draw roughly 7,000 visitors per year, of which 20 percent will be from outside of the state. The spending profile of these out-of-state visitors will mirror that of other types of tourists who spend roughly \$96 per day on lodging, food and other purchases.

**Table 3.12:** Summary Economic Impacts, 40 Horse Retirement Farm

|                     | FTE<br>EMPLOYMENT | LABOR<br>INCOME  | OUTPUT<br>(SALES) |
|---------------------|-------------------|------------------|-------------------|
| DIRECT EFFECT       | 11.53             | \$265,782        | \$464,406         |
| INDIRECT EFFECT     | 0.49              | \$35,867         | \$91,529          |
| INDUCED EFFECT      | 1.53              | \$90,284         | \$233,238         |
| <b>TOTAL EFFECT</b> | <b>13.55</b>      | <b>\$391,932</b> | <b>\$789,172</b>  |

The combined spending of the Center and its out-of-state visitors is expected to generate roughly \$464,000 dollars in additional sales in the Commonwealth per year. This is enough to provide 11 FTE jobs at industry standard salaries. However, as this type of facility relies greatly on volunteer labor, the actual employment count at the farm may be smaller. Accounting for leakage and multiplier effects, the total economic impact of the retirement farm will be just under \$800,000 per year, enough to sustain 13.5 FTE year-round jobs.

## 4. CONCLUSION

Based on our analysis, it is our conclusion that the creation of a multi-use horse park would provide a significant economic opportunity for the Commonwealth. The following factors were critical in forming this conclusion.

- The creation of a horse park will result in the capture of a significant amount of tourist, recreational, educational, exhibition and service activity not presently found in the Commonwealth. The Massachusetts Horse Park would be far more than a race track: it would be an all-season venue attractive to a wide array of visitors across New England. Indeed, there is no such facility in New England.
- Massachusetts residents, despite a lack of local opportunities, have maintained a significant interest in horse wagering. The horse park would help to capture these funds within the Commonwealth.
- The horse park would capture conference and trade show events that, despite our significant interest in equestrian activities, is largely bypassing the Commonwealth and New England.
- The horse park would expand retail sales for a wide array of Massachusetts based merchants who focus on the sale of equestrian goods and services.
- The horse park would expand our academic research and training in equestrian activities through the potential involvement of equine programs at universities, community colleges, and agricultural vocational high schools.
- Through a local purchasing policy, local farmers would have increased opportunities to sell their produce. It would also bring more acreage, now unproductive, in to active use.
- Through involvement with 4-H and other organizations helping to educate our youth, the horse park would have a first rate facility to meet their needs and interests.
- Through the creation of a retirement home, the owners of older horses will be able to find a caring facility close enough for visiting, and retrain their animals for second and third careers in competitive or therapeutic pursuits.
- Through the creation of riding, hiking and cross country skiing trails, the horse park would stimulate a healthy recreational involvement of its citizens and job opportunities in a multi-season venue.
- The local community would capture additional income through a “Payments in Lieu of Taxes” (PILOT) agreement.
- The creation of a year round Farmer’s Market/Artisanal Market venue would provide the potential for the sale of local produce and products.
- Through the use of modern lodging networks, local homes could gain revenue through boarding opportunities for tourists.
- The horse park will employ green energy principles in order to save costs and reduce its carbon footprint. Its open character suggests extensive opportunities for solar power.
- With the creation of a high end hotel, it will become a destination for weddings and banquets far beyond the racing season.
- It will bring job opportunities to an area in need of economic development.

## 5. COMMUNITY IMPACT CASE STUDIES

In this section of the report, we profile three case studies to help illustrate the types of events that could be offered at a Massachusetts Horse Park. The first, the Rolex Kentucky Three Day Event, is a major national scale competition, one of a handful of premier events on the U.S. equestrian calendar. The second, the New England Dressage Association Fall Festival is more typical of a regional-scale event, primarily drawing participants from the Northeastern United States. The third, the Massachusetts 4-H horse-show, is a statewide event. While it may draw few visitors from outside of the Commonwealth, we include it as a case study to help illustrate how these types of events support agricultural education and heritage.

### ROLEX KENTUCKY THREE-DAY EVENT | LEXINGTON, KY

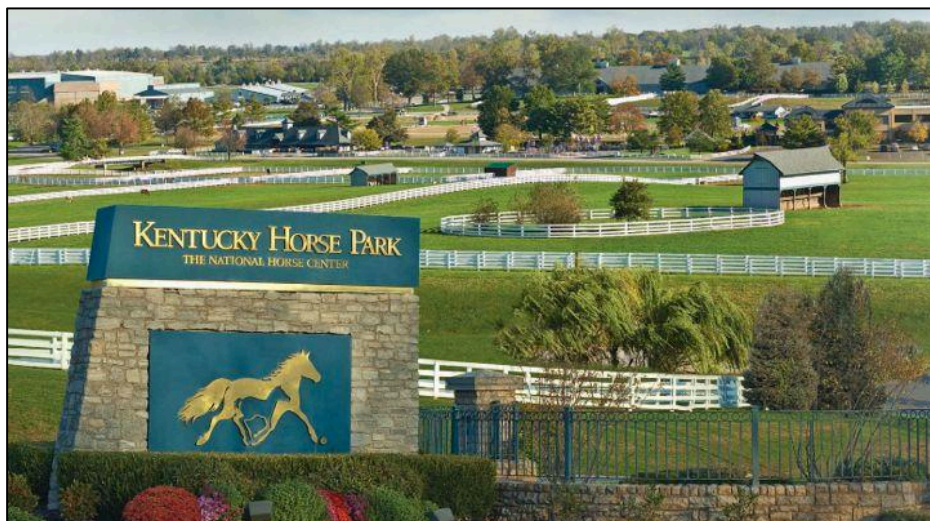
#### HISTORY

The Rolex Kentucky Three-Day Event (RK3DE) is held annually at the Kentucky Horse Park in Lexington, KY (Figure C1, below). The 1,224-acre facility is dedicated to “man’s relationships to horse.” The Kentucky Horse Park opened in 1978; the first World Championships were held there the same year. The event attracted 170,000 spectators, and brought \$4 million to the local economy. It was also broadcast worldwide on



CBS, putting Lexington on the map. The success convinced the American Horse Show Association to ask the event organizers to hold the event annually. In 1979 it was termed the “Kentucky Horse Trials” which was later changed to its current title in 1982, when it was chosen as the initial sponsorship recipient by Rolex Watch U.S.A. The RK3DE held many levels of events in its first decade of operation, including intermediate and preliminary competitions. In the equestrian eventing world, the highest event level rating is CCI\*\*\*\* (the Concours Complet International four-star), as determined by the International Federation for Equestrian Sports (FEI). The RK3DE became the country’s first and the world’s third CCI\*\*\*\* competition in 1998. In 2000, the CCI\*\*\*\* is the event’s only competition, and RK3DE no longer offers any lower level competitions.

**Figure C1:** Kentucky Horse Park (source: kyforward.com)



### EVENTING ACTIVITIES

Although the competition title states “three-day,” the eventing happens over a four-day span. Dressage encompasses the first two days, and focuses on equestrian control, and is considered the most aesthetically pleasing of the disciplines. The cross-country phase is held on the third day, testing equestrian stamina with 30-40 obstacles along an outdoor course, made to simulate the surrounding countryside. The final phase, jumping, tests equestrian fitness on the final day, and is held entirely within an indoor stadium ring (Figure C2). These three events, in combination, extensively test the partnership between the horse and its rider.

**Figure C2:** Stadium Jumping at RK3DE (source: kentuckyworlddequestriangames.com)





## COMMUNITY IMPACT

Lexington is Kentucky's second-largest city, with an estimated population of 310,797 as of 2014, according to the U.S. Census Bureau. Lexington is the center of Kentucky's Bluegrass Region, an area characterized by fertile soil, open pasture land, and active farms. It was the first city in the United States to enact an Urban Growth Boundary, which restricts development and helps to preserve farmlands. Known as the "Horse Capital of the World," it is easy to see that horses and farms are a central part of this community.

Lexington's economy is among the most stable in the country, with a 4.4 percent unemployment rate as of January 2016. Its largest employer is the University of Kentucky, and the city is home to many large corporations, including Xerox, Lexmark International, Lockheed-Martin, IBM, and the J.M. Smucker Company. Unsurprisingly, Lexington is one of the ten well-educated cities in the nation: nearly 40 percent of its residents possess at least a bachelor's degree. The city also hosts many cultural events and fairs, such as the Mayfest Arts Fair, the Festival of the Bluegrass, Festival Latino de Lexington, and "Southern Lights: Spectacular Sights on Holiday Nights" held at the Kentucky Horse Park.

Even a single massive event like the RK3DE can have considerable impact on the community. The RK3DE brings in people from all over the world, who spend a considerable amount of money at area businesses. A 2013 study estimated that the RK3DE's total economic impact on the local economy was \$14.2 million in a four-day span: over \$3.5 million per day. The major impact driver was the money spent by the estimated 35,991 visitors from outside the region, who accounted for 10,600 paid lodging room-nights during the event. Remarkably, approximately 25 percent of visitors enjoyed annual household incomes exceeding \$150,000 per year. Visitors spent an average of \$243.74 per day per person in the local economy. Almost \$4 million of the new money flowing into the region went to area businesses outside of the horse-park, for food transportation, lodging, and equestrian needs.

The Kentucky Horse Park, where RK3DE is held, is about 10 miles outside of Lexington and about 8 miles outside of Georgetown. There were plans in 2010 to put in a hotel on the same I-75 exit as the Kentucky Horse Park, but this has yet to come to fruition. However, the lack of lodging near the horse park has been to the benefit of downtown Lexington, where many RK3DE visitors stay, shop, eat and drink.

**Figure C3:** A view of Lexington in the distance (source: visitlex.com)



Horses are an integral part of Lexington’s social fabric, woven into its, economy, culture, and identity. The RK3DE provides many benefits for people who live within the vicinity, namely the chance to see national and international equestrian celebrities. Tom Elben, a columnist for the *Lexington Herald-Leader*, describes the RK3DE as a bonus of living in Lexington. “It’s a good excuse to get out and walk around on a beautiful day in a beautiful place and see some of the world’s best horses and riders do amazing things” (Elben, 2009). This event is an inspiration for beginner riders who are looking to improve their riding and eventing skills. The possibility to see world-class riders and experience a world class event gives the community an opportunity to display their Kentucky pride and love of all things equestrian. “A major Rolex demographic is little girls who love horses and older girls who are getting good at riding them. They are accompanied by camera-toting fathers, and mothers, many of whom used to be those little girls” (Elben, 2009). The RK3DE is a symbol of the community’s legacy and tradition. It not only brings world-class riders to the community, it also brings the community to the riders.



## FALL FESTIVAL OF DRESSAGE | SAUGERTIES, NY

### HISTORY

The United States Dressage Federation (USDF) was founded in the early 1970s, in order to advance “education, recognition of achievement, and promotion of dressage.” The USDF is divided into nine regions with affiliated local dressage clubs as group member organizations, or GMOs (Figure C4, below). Each region hosts its own annual championship, and the largest of these is in Region 8, which comprises GMOs in New York and New England. Every year, the New England Dressage Association (NEDA) hosts the championship, the Fall Festival of Dressage, at the HITS-on-the-Hudson event center in Saugerties, NY.



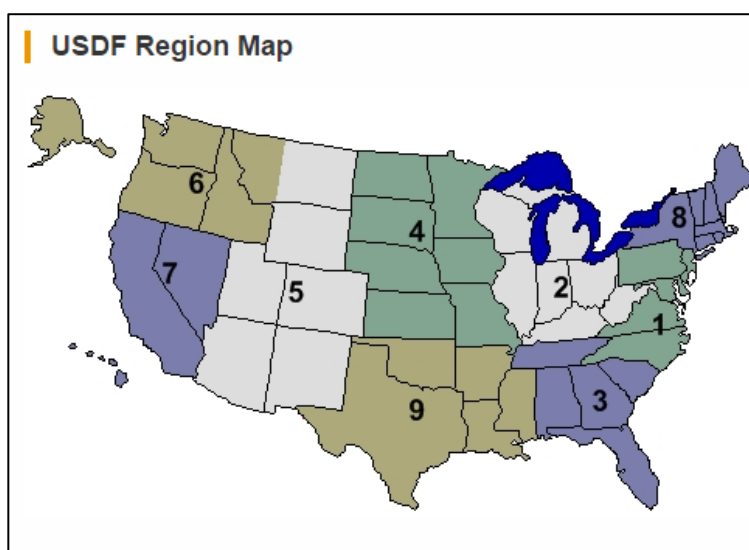
Figure C4: USDF Region Map (Source: www.usdf.org)

### THE EVENT

The Fall Festival is held in late September. It is a four-day event, with multiple competitions in skill classes ranging from the Training Level to the Grand Prix. There are about 700 horses competing for the chance to move on to national competitions. The purse for the Fall Festival is \$49,000, and spectator admission is free.

The Region 8 Championship gives the winning riders the chance to compete at the National Dressage Finals at the Kentucky Horse Park in November. This event also supports a National Competition in which many rider levels compete. The NEDA sponsors the Fall Festival Dressage Sweepstakes, the NEDA Adult Amateur Championships, and the NEDA Juniors/Young Rider Championships. The CDI-W Y/J Saugerties International Competition is also held during the Fall Festival, an event recognized by the International Federation for Equestrian Sport (FEI). During this competition, riders and their horse can earn points towards representing their country at the World Games.

The Fall Festival also hosts a major competition for horse breeders and a major equestrian trade fair. The Sport Horse Breed Show is held on Thursday and Friday and offers the New England Sport Horse Breeder’s Futurity Award (\$5,400) to recognize quality sport horse breeders in the



New England area (Figure C5, below). This competition serves as the regional finals of the USDF Breeders Championship New England Series. Lastly, the Equestrian Trade Fair is held all four days of the Fall Festival, supporting artists, horse suppliers, boutiques, and trailers.

### COMMUNITY IMPACT

Saugerties is located in southeastern New York, sandwiched between the Catskill Mountains and the Hudson River. As of the 2010 U.S. Census, its population was 19,482. Although it is a small town, it boasts a colorful history. The town was originally purchased from the Esopus Sachem Tribe in 1677 for a piece of cloth, a shirt, a loaf of bread, and maize.

**Figure C5:** DonarShaun ggf [sic], winner of the 2015 Futurity

The community is extremely proud of its heritage, evident through the preservation of many historical and cultural landmarks, such as the Saugerties Lighthouse, the 1727 Kiersted House, and the Opus 40 environmental sculpture (Figures C6 and C7, below). Industry still has an important role, but there has been substantial growth in tourism in recent years, attracting people from the New York City area and beyond.



Traditionally, Saugerties is not a horse town but rather a blue-collar community that has suffered under a number of major plant closings in the past decades—such as the 1994 closure of a 1,500 job IBM plant in the nearby city of Kingston. The influx of equestrian visitors has been a welcome change. HITS Inc. developed its \$15 million equestrian center along the Hudson River in 2003. HITS-on-the-Hudson now supports about 3,000 horses and 2,200 riders every year between May and September. This center has had a major impact on the economy of Saugerties and its character. A 2011 article in the *New York Times* quotes an area resident and business owner as stating, “When we first came to town, there were a lot of empty stores...and now it feels really vibrant. It’s like having the Hamptons in your backyard.”

It took some trial and error from the local businesses to figure out how best to capture the money of competitors and spectators at the equestrian center. One of the biggest changes to businesses over the summer is the extension of operating hours, in order to utilize the time after competitions end for the day.

**Figure C6:** Downtown Saugerties, NY (Source: discoversaugerties.com)

The last weekend of the dressage season is dedicated to the NEDA Fall Festival. The competition brings in about 700 horses and their riders along with another two to five individuals, often trainers and family members. The biggest effect the Fall Festival has is through the competitors and their retinue, who utilize the hotels, bed and breakfasts, and restaurants. Most of the spectators and participants come from no fewer than 15 to 20 miles outside Saugerties. Economically, for the town, this is an ideal situation. Money is brought in from outside the community, spent at local businesses, and then the people who brought the money leave after the competition. An owner of a local restaurant stated in the NY Times article, “People will say, ‘ugh, the restaurants are so crowded when they’re here...’ but I say, ‘yes, but we get to have that restaurant all year round.’ And if they weren’t here, I don’t know if we would or not.”

**Figure C7:** Saugerties Lighthouse (Source: www.tripadvisor.com)

It is rare for any single event, even one as well attended as the Fall Festival, to have a transformative impact on a community. Rather, it is the cumulative impact from the entire calendar of events that has helped to revive the Saugerties economy. Just about every week or weekend from May to September, there is something happening at HITS-on-the-Hudson,

drawing new visitors to the community. Beyond its immediate impact on Saugerties, the Fall Festival and regional events like it also play an important role in supporting the New England equestrian community. The Fall Festival supports all levels of dressage, from beginner classes to classes that include competitors who have also competed in the Olympics or World Games. The Fall Festival is a time for the entire NEDA community to come together and support their discipline. For them, boosting the town’s economy is a secondary benefit.



## MASSACHUSETTS STATE 4-H HORSE SHOW | NORTHAMPTON, MA

### HISTORY AND BACKGROUND

4-H is the youth development arm of the federal Cooperative Extension Service of 110 land-grant universities utilizing 611,800 volunteers, 3,500 professionals, and 25 million alumni. Its mission is “engaging youth to reach their fullest potential while advancing the field of youth development,” with over 90,000 clubs across the country empowering over six million young people across the country.

The Massachusetts 4-H chapter was founded in 1908 and incorporated in 1956. This year also marked the birth of the 4-H horse project in Massachusetts. It was different from 4-H’s many other livestock programs because it was the first large-scale approach with a recreational intent rather than an economic one.



**Figure C8:** 4-H fosters love and appreciation for other living beings (Source: manukahoneyusa.com)

The programs offered through the Massachusetts 4-H are animal science, which features the horse program; science, engineering, and technology; communications; community service; leadership; as well as other infrequent and smaller programs and projects. The animal science programs focus on companion animals, livestock, poultry, and heritage breeds; a popular

project animal is the horse.

The 4-H horse program is for horse owners as well as horse lovers who do not own a horse. It’s primarily focus is horse care and education. Members compete in areas such as horse judging, hippology, and public speaking. It does not provide in-depth riding instruction; however, 4-H members will sometimes ride their horse as part of the activities. 4-H also sponsors horse shows around the Commonwealth where members of the horse projects can display their riding skills.

### THE EVENT

The annual Massachusetts 4-H State Horse Show is held on the second weekend in September at the Three County Fairgrounds in Northampton, Massachusetts. This fall will be the 38<sup>th</sup> annual show. The show consists of the Horse Lover Division, Model Horse Show, Drill Team Performance, Hunter/Jumper Classes, Showmanship, and more.



**Figure C9:** 4-H member at horse show  
(Source: extension.usu.edu)

This two-day event allows all Massachusetts 4-H members who participate in the horse project to display the talents and skills they have learned throughout the year. It also fosters the connection between peers who share the same interest in horses. By choosing the divisions or classes they wish to participate in, the members are able to highlight their strongest attributes.

Although this show is only open to 4-H members, 4-H hosts other types of horse shows, some of which are open to non-members. Communities and clubs are also able to put on their own horse shows, using a horse show-planning guide developed by 4-H that covers all the aspects of a horse show, from judges to performance rings to prizes.

### COMMUNITY IMPACT

Due to its focus on local talent, events such as the 4-H State Horse Show tend to draw few out-of-state participants. As a result, from a narrow economic impact perspective, they bring little new money into the Commonwealth. However, they play a critically important role in building the equestrian community, which has spillover benefits on entire equine industry in the Commonwealth. A 2013 study by Christiansen Capital Advisors estimates that the thoroughbred equine industry alone contributes \$107 million in revenue to the Massachusetts economy each year, and is directly and indirectly responsible for nearly 1,500 full-time equivalent jobs. But this industry cannot thrive without a community of horse-lovers to support it, and a new generation of enthusiasts to take the mantle in the years ahead. The state horse show is the culmination of the stewardship of the local horse community.

The Massachusetts 4-H State Horse Show also supports an even more important educational mission. Through the horse project, participants learn responsibility and commitment to the project and horse and learn important life and work skills, such as respect for a schedule, fulfilling the needs of others, selflessness, and accountability. In fact, a recent study conducted by researchers at Tufts University's Institute for Applied Research and Development found that 4-H members were more likely to contribute to their communities, become civically active, and more likely to participate in Science, Engineering and Computer Technology programs<sup>3</sup>.

<sup>3</sup> Lerner, RM at al. "The Positive Development of Youth: Comprehensive Findings from the 4-H Study of Positive Youth Development." National 4-H Council. Chevy Chase, MD: 2013.

# *Exhibit 1(f)*



April 23, 2024

Shawn Hayden, Acting President  
GAAMHA, Inc.  
208 Coleman Street  
Gardner, MA 01440

Re: **Letter of Intent – 827 Green Street, Gardner, Massachusetts**

Dear Shawn:

This letter of intent (this “**Letter**”) sets forth the terms upon which Baystate Racing LLC, a Massachusetts limited liability company (“**Buyer**”), is prepared to purchase the fee simple interest in the property described on **Exhibit A** (the “**Property**”) from GAAMHA, Inc., a Massachusetts non-profit corporation (“**Seller**”).

1. **Legal Fees:** Buyer shall assist in defraying Seller’s legal fees in negotiating this potential transaction by paying Seller the non-refundable amount of \$15,000.00 upon the execution of this Letter of Intent.
2. **Purchase Price and Deposit:** The purchase price (the “**Purchase Price**”) for the Property shall be One Million Six Hundred and Seventy-Five Thousand Dollars (\$1,675,000), payable in immediately available funds as follows:
  - (a) \$81,250 shall be paid to the attorney for the Seller as escrow agent (the “**Deposit**”), upon execution of a mutually acceptable Agreement (as defined below); and
  - (b) The balance of the Purchase Price, subject to adjustment as provided in the Agreement, shall be paid to Seller at the Closing (as defined below).
3. **Assignment and Transfer of Rights:** Buyer has or will enter into a Purchase and Sale Agreement (the “**Suitable Property Agreement**”) for the purchase of property located in Gardner, Massachusetts, on to which Seller shall relocate its operations from the Property (the “**Suitable Property**”). Buyer and Seller shall agree on the identification of the Suitable Property (and the terms of the Suitable Property Agreement) within thirty (30) days of the date of the Agreement. At the closing for Buyer’s purchase of the Suitable Property (the “**Suitable Property Closing**”), Seller, or a nominee designated by Seller, shall acquire title to the Suitable Property. Buyer shall assign the Suitable Property Agreement to Seller so that Seller may benefit from any post-closing obligations benefitting Buyer under the Suitable Property Agreement. The Purchase Price paid by Buyer for the Property shall be applied to the purchase of the Suitable Property. Seller shall pay any excess.
4. **Permitting Expenses:** Buyer shall reimburse Seller for up to \$100,000 for services of

architects, engineers, lawyers, and land use professionals to obtain the permits and approvals required for Seller to use the Suitable Property for Seller's intended use. Said sum will be held in escrow by Seller's counsel and released without undue delay to Seller upon submission of professionals' receipts to Buyer and notice by Buyer to Seller's counsel that the funds may be released.

5. **Purchase and Sale Agreement:** The obligation of Buyer and Seller to proceed is subject to the full execution of a mutually acceptable Purchase and Sale Agreement (the "**Agreement**"). Buyer and Seller agree to negotiate in good faith and to execute the Agreement within twenty-one business (21) days following the execution of this Letter. Buyer shall prepare the initial draft of the Agreement. If the parties do not execute an Agreement within such time, this Letter shall terminate and be of no further force or effect, unless the parties agree to an extension in writing. Buyer may assign Buyer's rights in the Agreement without Seller's consent, so long as such assignee uses the Property in a manner not inimical to Buyer's mission, but the right of Seller to acquire the Suitable Property at the Closing shall not be affected. The Agreement and all other requisite documents will incorporate the terms and conditions of this Letter and such other terms and conditions as the parties agree.

The Agreement shall specifically emphasize the importance of the care and treatment of horses in connection with the Equine Center by Buyer.

6. **Inspection Period:**

- (a) **Election to Proceed.** Buyer shall have a period of thirty (30) days (the "**Inspection Period**") to evaluate the legal, title, financial, and physical condition of the Property. The Inspection Period shall commence upon execution of the Agreement. At any time during the Inspection Period, Buyer may, in its sole and absolute discretion, and for any or no reason, elect to proceed or to not proceed with the purchase of the Property by giving written notice to Seller. If Buyer elects not to proceed, or fails to notify Seller that Buyer elects to proceed, then the Agreement shall terminate and the entire Deposit shall be refunded to Buyer. Both parties shall then be released from all further rights, obligations, and liabilities under the Agreement other than any indemnities which expressly state that they survive the termination of the Agreement.

Seller shall have a period of thirty (30) days (the "**Seller Inspection Period**") to evaluate the legal, title, financial, and physical condition of the Suitable Property. The Seller Inspection Period shall commence upon execution of the Agreement. At any time during the Seller Inspection Period, Seller may, in its sole and absolute discretion, and for any or no reason, elect to proceed or to not proceed with the purchase of the Suitable Property by giving written notice to Buyer. If Seller elects

not to proceed, or fails to notify Buyer that Seller elects to proceed, then the Agreement shall terminate and the entire Deposit shall be refunded to Buyer. Both parties shall then be released from all further rights, obligations, and liabilities under the Agreement other than any indemnities which expressly state that they survive the termination of the Agreement.

- (b) **Investigations.** Buyer shall have the right, at Buyer's sole cost and expense, to (i) perform an environmental site assessment of the Property, which may include testing of soil and groundwater for the presence of hazardous materials, (ii) review the title to and survey of the Property, (iii) perform a property condition assessment, and (iv) perform such other due diligence activities as Buyer deems necessary or advisable.
  - (c) **Due Diligence Materials.** Seller shall deliver or cause to be delivered to Buyer within three (3) business days of the execution of the Agreement all due diligence materials requested in writing by Buyer as set forth in the Agreement.
  - (d) **Right of Entry.** During the Inspection Period, and thereafter until the Closing, Buyer and/or its representatives and agents, shall have the right, in coordination with and upon prior notice to Seller, to enter upon the Property at all times deemed reasonable by Seller to conduct surveys, appraisals, engineering tests, inspections, and for such other purposes as Buyer deems reasonably necessary to evaluate the Property.
  - (e) **Suitable Property Investigations.** To the greatest extent possible, Seller shall be afforded the same rights with respect to the Suitable Property as Buyer has with the Property in connection with items (b), (c), and (d) above.
7. **Closing:** The closing (the "**Closing**") shall occur within 30 days after the later to occur of (i) the date Buyer receives a Race Meet License from the Commonwealth of Massachusetts for the Property, and (ii) Seller receives final approval from the Gardner Planning Board for development of the Suitable Property for Seller's intended use of the Suitable Property (the "**Approvals**"). The Closing shall occur prior to, or simultaneously with, the Suitable Property Closing. Seller shall convey to Buyer at the Closing, good and marketable title to the Property subject to no monetary liens or encumbrances of any kind and subject to such non-monetary exceptions as approved in writing by Buyer during the Inspection Period. Seller shall pay (a) the cost of releasing all liens, judgments and other encumbrances that are to be released and for the recording of such releases, and (b) transfer taxes. Each party shall bear its own attorney's fees and other costs shall be apportioned among the parties in a manner customary in Worcester County.
8. **Permitting of Properties:** Buyer's obligation to close on the sale of the Property is contingent on Buyer obtaining a Race Meet License from the Commonwealth of Massachusetts. Buyer agrees to apply for a Race Meet License within sixty (60) days of execution of the Agreement. Seller's obligation to close on the purchase of the Suitable

Property is contingent on Seller final approval from the Gardner Planning Board. Seller agrees to apply for said approval within sixty (60) days of execution of the Agreement.

9. **Representations and Warranties:** The Agreement shall include commercially standard representations and warranties of Seller and Buyer.
10. **Brokerage:** Seller and Buyer represent to each other that they have not dealt with any real estate brokers in connection this transaction.
11. **No Solicitation:** Between the execution of this Letter, and the earlier of (i) the termination of this Letter, (ii) the termination of the Agreement, or (iii) the date of the Closing, Seller agrees that it shall not, nor shall it authorize or permit any of its agents, to offer or seek to offer or entertain or discuss any offer to sell the Property or deal in such regard with any party other than Buyer. In addition, neither Seller nor its representatives shall enter into any agreement or understanding, whether oral or written, that would prevent the consummation of the transaction contemplated by this Letter.
12. **Lease:** At the Closing, Seller shall lease from Buyer the structures located on the Property for the conduct of Seller's current business (the "**Lease**"). The Lease shall (i) have a term of no less than twelve (12) months from the Closing, (ii) obligate Seller to pay all operating expenses, taxes, utilities and repairs associated with said structures, (iii) provide that Buyer shall have no obligations to repair or maintain any portion of said structures, (iv) provide that Seller shall not be required to pay any rent during the term, and (v) provide that Seller shall not interfere with Buyer's use of the Property to design, permit, and construct an equestrian facility to breed, train, race, and retire thoroughbred horses so long as Buyer's use does not unreasonably interfere with Seller's rights under the Lease.
13. **Expiration of Proposal:** The proposal contained in this Letter will expire at 5:00 p.m. on April 26, 2024. Acceptance by Seller shall be evidenced by the signature of an authorized representative on this Letter and provided to Buyer before such expiration. This Letter may be signed in counterparts, all of which taken together shall constitute one document.


[SIGNATURE PAGE FOLLOWS]

**Exhibit A**

Approximately 115 acres of land and the improvements thereon located off of Green Street in Gardner, Massachusetts and designated as tax parcel R42-21-1. The Property is more particularly described in a Deed recorded with the Worcester District Registry of Deeds in Book 63792, Page 211.

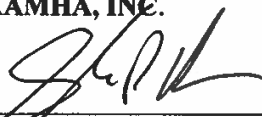
Please indicate Seller's acceptance of the terms and conditions of this Letter by signing in the space provided below.

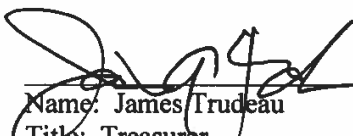
**BAYSTATE RACING, LLC**

BY:   
Name: Sagi A. Genger  
Title: Manager

Agreed to and accepted by:

**GAAMHA, INC.**

  
Name: Shawn P. Hayden  
Title: Acting CEO/President

  
Name: James Trudeau  
Title: Treasurer

Date: April 27, 2024



# *Exhibit 2*

208 Coleman Street  
 Gardner, MA 01440  
 P: 978-632-0934  
 F: 978-630-3337



I/DD Services  
 SUD Services  
 Transit Services  
[www.gaamha.org](http://www.gaamha.org)

May 14, 2024

Elizabeth J. Kazinskas  
 Council President  
 Gardner City Council  
 95 Pleasant St. Room 121  
 Gardner, MA 01440

Dear Madam President,

I am writing to you today in support of the application submitted to the City Council by Bay State Racing, and to provide additional context around GAAMHA's interest in this matter.

As you are likely aware, Bay State Racing's proposal includes their intent to acquire the property owned by GAAMHA located at 827 Green St. This farm property is currently home to The Carl E. Dahl House at Evergreen Grove and R.O.O.T.S. at Evergreen Grove, both of which are programs operated by our agency. Both Dahl House and ROOTS represent incredibly unique and successful programs that are without peers in the world of substance use and mental health due to their innovative approach, and because they are both specifically designed to serve people with financial barriers to the quality of care that we offer. Since the day we opened in November of 2021, not one participant in our care has paid a single penny to take part. GAAMHA's ability to sustain this industry leading care relies heavily on fundraising through donations, grants, and a dedicated team of passionate individuals who are employed within these programs and throughout our agency. Over 50 rescued and endangered livestock animals also call our farm home, and the costs to feed and care for these amazing creatures continue to increase each year.

For the past three years I have been inspired by calls from around the country from clinical professionals looking at our work here in Gardner as a model they wish to replicate in their own regions. At this moment, providers in both Oregon and Ohio are planning to visit our farm in Gardner in 2024 to study and learn from our groundbreaking work. Evergreen Grove has been used as the site for clinical research projects for graduate students from Fitchburg State University and from the University of Pennsylvania School of Veterinary Medicine. We've even played host to Jim Wahlberg and Wahl St. Productions who have captured interviews and footage of families impacted by substance use. Later this month, a team of academic professionals from the University of Denver, University of New Hampshire, Tufts Veterinary School, Green Chimneys School in NY, and The Land at Hillside Farms in PA will be visiting the farm to study our work. In August of this year, we expect to make global news in the equine world with the birth of two Newfoundland Ponies. This critically endangered breed typically only sees an average of 10 births each year worldwide, and our farm is home to the largest herd of Newfoundland Ponies in the United States. To have two births occur on one small farm is virtually unprecedented. As proud as we are of the accolades our work gets, and the attention it brings to the Greater Gardner Community, I am equally concerned as I look to the future.

The demand for our unique approach to care is overwhelming. Wait lists to enroll in our programs continue to expand beyond our grasp, and the prospect of being able to generate enough revenue to expand our facilities and programming is daunting.

GAAMHA is a 501(c)3 Non-Profit Charitable Organization  
 We are proud to be W/NPO (Woman Non-Profit Organization) certified agency.

208 Coleman Street  
 Gardner, MA 01440  
 P: 978-632-0934  
 F: 978-630-3337



I/DD Services  
 SUD Services  
 Transit Services  
[www.gaamha.org](http://www.gaamha.org)

This is where GAAMHA's goals of expansion and sustainability, and Bay State Racing's plan intersect. Bay State and GAAMHA have signed a Letter of Intent that would allow us to move our program just a short distance down Route 140 and build the facility of our dreams. The agreement includes not only the sale of our property to Bay State, but also a multi-million-dollar donation to our organization to facilitate the construction of a larger farm program. Our plan would be to expand the Carl E. Dahl House residential program from 16 to 24 beds and increase capacity by 50%. The new residence would also include a community meeting space where we could host training and other events to share our work with more members of the local community, and welcome visitors from all over to our great city. The ROOTS program, which currently operates out of a tiny modular trailer, would now be housed in a large and permanent facility that would create space to work with our animals in an indoor arena and remove our current barrier to serving more local youth. We currently perform all this work outside, which means for most of the year daylight and weather severely limit the hours available to host sessions with young people starving for a way to address mental health and substance use challenges in a setting that the genuinely enjoy and look forward to attending.

This letter is by no means a wholesale endorsement of horse racing, or the horse racing industry, which has had many challenges in its past. However, I can tell you that Bay State Racing has committed to adhering to the highest standards of animal ethics in their industry. Bay State has made this commitment not only verbally, but in writing as part of our agreement. GAAMHA's Board of Directors has met extensively with representatives from Bay State and insisted that this caveat be a part of our as part of our overarching agreement. To their credit, Bay State did not hesitate to make this commitment.

While Bay State's proposed operation would have obvious financial benefits to Gardner, so too would GAAMHA's expanded programming that would result. Over 50 clinical, support, and agricultural employees would come to Gardner each day to work, eat, and shop. Visitors from around Massachusetts and the entire country would get to enjoy all that Gardner has to offer when they travel to visit family in our programs or collaborate professionally with our teams.

Most importantly, this rare opportunity would increase the scope and quality of impact we have on the people we serve and help sustain our organization for decades to come. It is my sincere hope that you, and the entire City Council, will include these factors as you consider the proposal before you from Bay State Racing. Please feel free to contact me should you have any questions or would like any additional information.

Sincerely,

Shawn P. Hayden, LADC-II  
 President/CEO  
[shayden@gaamha.org](mailto:shayden@gaamha.org)

GAAMHA is a 501(c)3 Non-Profit Charitable Organization  
 We are proud to be W/NPO (Woman Non-Profit Organization) certified agency.

# *Exhibit 3*



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

June 13, 2024

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

RE: Letter of Support and Mayoral Approval – Request by Bay State Racing to Site a Track for the Purposes of Racing at 827 Green Street

Dear Madam President and Councilors,

On April 30<sup>th</sup>, 2024, my office received notification that GAAMHA, Inc. had entered into a letter of intent with Bay State Racing, LLC to sell the land located at 827 Green Street (commonly referred to as the Carl Dahl House, Andrews Park, LeBlanc Farm, Evergreen Grove, etc.). Included in this notification was a request to site a thoroughbred horse racing track at the site.

Under the General Laws of the Commonwealth, in order for this to occur, **both** the City Council and the Mayor must agree and approve of the measure. There are very few items within the General Laws that prohibit the City Council from overriding a mayoral veto of an item (“mayoral disapproval” as listed in Section 30 of the City Charter of the City of Gardner).

In order to determine whether mayoral approval was merited on this matter, I forwarded this item to the Law Department for review, for which Attorney Vincent Pusateri, Assistant City Solicitor, took charge of.

Based on a review of the legal analysis and research performed by Attorney Pusateri (which has been included in the packet of information for the City Council) and the following reasons, I am writing to inform you that I will **not** be issuing a Mayoral Veto/Mayoral Disapproval on this measure if passed by the City Council, and will sign the measure, pursuant to Section 30 of the City Charter of the City of Gardner.

**Referral to the Law Department:**

Attorney Pusateri conducted an extremely thorough analysis into the matter and concluded the following:

Under the General Laws of the Commonwealth the proposed use is exempt from Zoning requirements. As such, the only oversight that the City would have before any work is done at the site is this vote by the City Council- and site plan reviews by the Conservation Commission and the Planning Board. However, the work done by the Planning Board and the Conservation Commission are not items that can “stop” or prohibit the project from happening but only layout approvals based on their respective jurisdictions.

Letter Re: Item #11317

Page 1 of 4

Since the General Laws of the Commonwealth exempt this use from Zoning – negating any requirements for special permits, zoning relief, approval hearings before the Planning Board or Zoning Board of Appeals, etc. – the only real authority that the Executive Branch agencies, departments, or commissions can do is regulate the layout of the facility, but not its existence in the City.

**Continued Oversight:**

While our initial oversight jurisdiction is very limited due to these statutory exemptions, there are still many ways in which this business would be regulated and public input annually obtained to ensure that the business is operating to **best industry standards** in the City.

If this vote is approved by the City Council, following mayoral signature, the application then moves to the Commonwealth’s Gaming Commission. The Gaming Commission is then statutorily required to conduct their own public hearing within the City to determine whether or not to issue final approval for the **annual** gaming license for this business.

Since this is an **annual** license, the Gaming Commission would then be required, by law, to conduct a public hearing within the City each and every year that the track would be in continued operation within the City. This gives the City and its residents a yearly opportunity to address any concerns or questions regarding the track and its operations.

Additionally, while the General Laws prohibit the City from placing any conditions on the approval to race at the site, the Gaming Commission has full authority to issue any conditions, regulations, restrictions, etc. that they chose to, based on the input and evidence received at their public hearing.

As such, it is the opinion of the Administration that this annual public hearing best protects the City moving forward and allows the City to voice any concerns directly to the regulatory agency overseeing this operation.

Furthermore, per the Host Community Agreement (HCA) that would have to be entered into between Bay State Racing and the City, the mayor would also have one (1) appointee to the business’s oversight committee. This is similar to how the Mayor currently has an appointment to members of the Boards of Directors of the Gardner Community Action Committee (CAC), Golden Agers Club, and Gardner Square Two, Inc., based on the bylaws of these various organizations. This provides additional oversight by the City throughout the year, before and after the Gaming Commission hearings take place.

Lastly, the business would also be required to annually submit reports on their operations to the City Council and the Mayor to ensure that the City is fully aware of everything going on with this location.

**Protection and Proper Treatment of Horses:**



Similar to the way the General Laws remove local jurisdiction from the initial approvals for this application, Federal and State Laws also remove jurisdiction of the care of the animals housed on site from the City's Animal Control Officers to a larger series of regulations to protect the animals.

In 2020, President Biden signed the Horseracing Integrity and Safety Act (HISA) into law. This federal law severely regulates the keeping of thoroughbred horses and horse racing tracks under the United States Department of Agriculture and the Federal Trade Commission (FTC).

Additionally, the General Laws of the Commonwealth give the American Society for the Prevention of Cruelty to Animals (ASPCA) the authority to inspect the facility at any moment in order to ensure the proper treatment and care of the animals is being performed on a daily basis.

Lastly, the Gaming Commission has their own set of regulations regarding the treatment and care of the horses on site, that must be proven to be met as a condition of the annual license application that must be submitted by the business, in order to continue operations as a horse track.

Due to all of these reasons, it is the opinion of the Administration that the animals kept on site would be kept to a healthy and safe standard with several layers of severe regulations to ensure that this standard is maintained.

**Financial Benefit:**

The City also has a large financial benefit from this operation if approved as well.

When the City Council voted to adopt the local option meals and hotels taxes in May of 2024, I stated the following:

*"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."*  
(City Council Informal Meeting, May 6, 2024, Items #11232 & 11233)

This is the opinion of the Administration with this item as well. If we do not continue to find ways to grow the City's revenue streams, we simply will be left behind in a place where we just cannot afford to continue to provide the services that our residents require at the quality that they deserve.

This proposal would provide approximately **\$500,000** a year to the city in new revenue. This is an amount almost equivalent to the new meals tax revenue the City is projected to receive.

To further illustrate this, the FY2025 Budget that was adopted by the City Council as their meeting of June 3, 2024, included a full two and one half percent (2.5%) increase in property taxes as allowed under the provisions of Proposition 2 ½. This increase in property taxes to fund the FY2025 budget equated to \$820,677.88.

This proposal would almost bring in new revenue in an amount **almost equal to a full year of new taxes**, thus further alleviating the property tax burden we place on our residents and businesses in the City.

In addition to this anticipated annual revenue, the Host Community Agreement would also require that the business to reimburse the City for all costs associated with Police, Fire, and Emergency Medical Services associated with the site.

**Economic Benefit:**

This proposal also furthers the continued business growth and investment that the City has been seeing over the course of the last four (4) years.

The applicant has informed the City that this project, if approved, would create **twenty-five (25) full-time jobs** and **over one hundred (100+) seasonal** jobs when races are held.

With Gardner's population growing by over ten percent (10%) in recent years, we need jobs that our residents can work and live in our community.

**Notification of Approval:**

As such, due to all of the above and the full legal analysis on the proposal that as done by the Law Department, it is the opinion of the Administration that this proposal is in the best interest of the City.

As such, it is my intention as Mayor to sign and approve the vote, if passed by the City Council, to allow this project to move forward.

Respectfully submitted,



Michael J. Nicholson  
Mayor, City of Gardner

# *Exhibit 4*

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



Writer's Email:  
Vpusateri@pusaterilaw.com

144 Central Street, Suite 20  
Gardner, MA 01440

Telephone (978) 632-7948  
Fax (978) 630-3703

June 13, 2024

**VIA EMAIL: [ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)**

President Elizabeth J. Kazinskas  
City Council  
95 Pleasant Street  
Gardner, MA 01440

**RE: 827 Green Street, Gardner, MA 01440  
Bay State Application for Horse Racetrack**

Dear Council President Kazinskas,

I have been requested to render an opinion as to whether the City Council has jurisdiction to vote on Baystate Racing, LLC's (hereinafter "Baystate") application to site a racetrack for pari-mutuel betting at the property located at 827 Green Street, Gardner, MA 01440. I have also been requested to provide an opinion as to whether the City Council must take a vote on the matter. Finally, I have been requested to evaluate the proposed location and identify what, if any, legal impediments make it impossible to site a racetrack at the location and discuss legal issues with this use. I have concluded that the City Council does have jurisdiction, must hear the application and there are no legal impediments that may make it impossible to site a racetrack.

### **FACTS AND PROCEDURAL HISTORY**

On December 6, 1954, Matter #1001 appeared on the City Council Agenda. Exhibit A. Matter #1001 concerned an application made by Gardner Raceway, Inc., which sought permission to establish a “harness racing track” in accordance with the provisions of M.G.L. c. 128A. This proposed harness racing track was sought to be located at Route 140 (Green Steet) on the site of Andrews Park. At that time, City Council voted to refer this to the City Solicitor and to hold a public meeting if the City Solicitor deemed it “necessary.”

On December 20, 1954, Matter #1001 appeared before the City Council for a public hearing. Exhibit B. At that time the applicant was represented by Attorney J. Philip Howard of 60 Pleasant St. in Gardner Massachusetts. Attorney Howard expressed his understanding of the statute by indicating that the only question before the City Council was approval of the location. *Id.*

At the close of the public hearing, a motion was made to grant the application for the location on Route 140, Green Street, on the site of Andrews Park, for so-called “harness racing.” This measure passed by a rollcall vote with six yeas and five nays. *Id.*

On January 3, 1955, Matter #1001 appeared on the agenda when a correspondence from the Mayor was placed on file. The correspondence provided that the Mayor could neither “approve nor disapprove” of the relative location of the track for harness racing. Exhibit C.

On July 18, 1955, Matter #1290 appeared on the City Council agenda. This matter sought to refer to the City Solicitor an opinion after the City received a request by Gardner Raceway, Inc. Gardner Raceway, Inc. sought to place on the next regular City election ballot, approval of a location on the easterly side of Route 140 on Green Street for a pari-mutuel betting for licensed horse racing. Matter #1290 sought an opinion from the City Solicitor as to the proper procedural process of the same. Exhibit D.

On August 15, 1955, Matter #1290 was before the City Council. There was a motion to have a letter from Gardner Raceway, Inc. be read. That motion did not carry as the vote was tied, 5 to 5, and therefore defeated. After this motion was defeated, a motion was made for the City Solicitor's opinion be accepted. This motion passed 8 to 2. Exhibit E.

The City Solicitor indicated that Section 49 of the City Charter may not be used to propose this measure to the voting public, for various reasons.<sup>1</sup> The City Council voted to reject the opinion of the City Solicitor and then voted 8 to 2, to place the question on the ballot at the next regular City election. *Id.*

On October 3, 1955, Matter #1384 was before the City Council to place the aforementioned question on the ballot for the City election occurring on November 8, 1955. Exhibit F.

On November 8, 1955, the election occurred, and the measure did not pass. There was a total of 10,082 registered voters. 2,185 people voted in favor of the measure and 5,609 people voted against. 587 people did not vote either way. A total of 8,381 people appeared at the election to cast ballots. Exhibit G.

### THE LAW

In Massachusetts, the Court has held that, with respect to racing authorized by G.L. 128A, the legislature in enacting this section intended to take away from cities and towns most of

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<sup>1</sup> SECTION 49. The city council may of its own motion, and shall upon request of the school committee in case of a measure originating with that committee and pertaining to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a regular or special city election any proposed measure, or a proposition for the annulment, repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition. ("such measure or part thereof shall forthwith become null and void unless a majority of the qualified voters voting on the same at such election shall vote in favor thereof." City Charter § 46.)

SECTION 51. The ballots used in voting upon such proposed measure shall state the nature of the measure in terms sufficient to show the substance thereof. No measure shall go into effect unless it receives the affirmative votes of at least a third of the whole number of registered voters.



authority which they formerly had possessed under G.L. c. 271, § 33<sup>2</sup>, *which thereafter was applicable only so far as it provided for approval of location of track. North Shore Corp. v. Selectmen of Topsfield*, 322 Mass. 413, 77 N.E.2d 774, (1948). *Emphasis supplied*. The Court went on to hold that G.L. c. 128 A § 13A<sup>3</sup> “must be construed to mean that when the location of a racetrack has been ‘once approved’ by the local authorities their jurisdiction is exhausted.” *Id.* at 417. Further, the Court held that “[i]t is not reasonable to suppose that the Legislature intended that, once there had been an approval by the local authorities, they were to have the power to revoke their approval and thereby deprive the commission of its jurisdiction.” *Id.* at 417-418.

Neither the 1954 nor the 1955 vote has any legal effect. The Solicitor at the time was correct that the vote of December 20, 1954 was not approved by the Mayor and therefore, the measure did not pass. This is because the statutory criteria requires both approval by the City Council and the Mayor.

The vote of November 8, 1955 has no binding effect on the current Council and Mayor either. The issue is one of jurisdiction. (Subsequent votes were invalid because “once approved”

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<sup>2</sup> G.L. c. 271 § 33 provided and continues to provide, in pertinent part:

“No land within a town shall be laid out or used as a race ground or trotting park without the previous consent of and location by the mayor and city council, the town council in a town having a town council or the selectmen in any other town, who may regulate and alter the terms and conditions under which the same shall be laid out, used or continued in use and may discontinue the same when in their judgment the public good so requires; ...” G.L. c. 271, § 33. Exhibit H.

<sup>3</sup> M.G.L. c. 128A, § 13A provided in 1954, in pertinent part that: “[N]o license shall be granted by the commission for a racing meeting unless the location of the racetrack where such meeting is to be held or conducted has been once approved by the mayor and alderman ... as provided by [G.L. c. 271 §33]. G.L. c. 128A, § 13A Acts 1935, 454, § 8. *Emphasis supplied*. See the attached collection of Acts and Resolves amending predating 1954. G.L. 128 A § 13A. Exhibit H.

G.L. c. 128A § 13A currently provides:

“The provisions of ... sections ... thirty-three...of chapter two hundred and seventy-one...shall not apply to race tracks or racing meetings laid out and conducted by licensees under this chapter or to animals eligible to race at such meetings; except that no license shall be granted by the commission for a racing meeting in any city...unless the location of the race track where such meeting is to be held or conducted has been once approved by the mayor and city council ... as provided by said section thirty-three of said chapter two hundred and seventy-one, after a public hearing, seven days’ notice of the time and place of which hearing shall have been given by posting in a conspicuous public place in such city or town and by publication in a newspaper published in such city or town, if there is any published therein...” G.L. c. 128A, § 13A.

the City would exhaust its jurisdiction. *North Shore Corp. v. Selectmen of Topsfield*, 322 Mass. 413, 416 (1948)). There is no provision that I have located that would support the proposition that once a location was rejected, a parcel could not be presented again for the consideration as to the location of a track.

### **CURRENT PROPOSAL**

On April 30, 2024, Bay State Park submitted a request to the City Council to schedule a public hearing in accordance with M.G.L c. 128A, § 13A to consider 827 Green Street, Gardner MA as the location for a racetrack meet license. Exhibit I.<sup>4</sup>

During my review of this matter, I have been advised that the proposal is to open as an “Equine Center” providing for the breeding, housing, riding, showing, studying, treatment, training, retirement, and racing of horses and other equestrian and agricultural related uses such as wagering on horse races. These races will be broadcasted so that others not on the site may wager on the races occurring at the Equine Center.

The applicant plans to construct a one-mile-long grass track and grandstand in the northwest portion of the property. The proposal includes paddocks and facilities for training and riding. The existing track will not be altered, or in the alternative, will be torn up so that the area it occupies can be put to a different use. The current parking area and any new parking areas will be made of pervious material. There will be residence for a grounds keeper and an assistant grounds keeper. There are currently two barns that have 43 stalls which will be renovated. Other activities will be occurring on the site, including educational programs in partnership with Mount

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<sup>4</sup> PowerPoint enclosed in the letter was not included in Exhibit I as it was revised.

Wachusett Community College, farmers' markets, and fairs. All waste material will be stored in covered containers and removed via trucks from the site.

### **ANALYSIS**

I have found no provision in the law that would directly command that an application made pursuant to M.G.L. c. 128 A § 13A, be required to be placed on the City Council Agenda. For example, § 606-2 of the City Code provides “the City Council shall consider the issuance of the license requested” when setting out the procedure to obtain a Class 3 License. City Code § 606-2. M.G.L. c 128 A § 13A does not contain such a command. However, the request submitted on April 30, 2024, was addressed to the City Council pursuant to a specific statutory grant of jurisdiction. Therefore, the April 30, 2024 letter requesting a hearing by the applicant would present a “question coming before” the Council and thereby giving each Councilor the right to vote on the same. City Charter Section 24.<sup>5</sup>

It is therefore my conclusion that the City Council does have the jurisdiction to hear Baystate’s application as to the location of a track for licensed horse race, and that each Councilor would have the right to vote on 1) whether or not there would be a hearing pursuant to M.G.L c. 128A §13A and if so scheduled; and 2) whether 827 Green Street is an appropriate location for horseracing pursuant to M.G.L. c. 128A.

### **NO KNOWN LEGAL IMPEDIMENT**

I have examined the title of the property and the history of the property. Exhibit J. The property has a documented history of being used as a horse racing track. The property is not owned

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<sup>5</sup> SECTION 24. Except as provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Except as otherwise provided in this act, every member of the council shall have the right to vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

by the applicant, but the applicant has submitted a letter of intent to purchase the property from the owner. There is a Letter of Intent confirming the intention of the parties to enter into a transaction wherein GAAMHA would sell to Baystate the property located at 827 Green Street. I have reviewed a letter by GAAMHA in support of this application. The applicant advises that they are in the process of negotiating a conditional Purchase and Sale Agreement. I am convinced that both parties are committed to this transaction.

The Building Commissioner, the Conservation Agent, and the Commissioner of Public Works have reviewed this proposal. There are no known impediments to the proposed use that cannot be addressed by the applicant.

The Building Commissioner and I have reviewed the agricultural use and determined that the wagging on the site would be permitted, as either an Exempt Agricultural Use, or as a use incidental to an Exempt Agricultural Use.

Title XIX of the Massachusetts General Laws, entitled “Agriculture and Conservation” is set forth in Chapters 128-132B. This is a comprehensive statutory scheme intended to promote agriculture throughout the Commonwealth. The intent of M.G.L. c. 128 is to in part, empower the Department of Agricultural Resource to “promote, develop and encourage ... the breeding of thoroughbred horses in the commonwealth by offering cash prizes ... in the following manner: ... set the percentages for bonuses to be awarded ... of the purse monies won by said thoroughbred horse.” M.G.L. c. 128 § 2(g). According to the Department’s website, the purpose of the Department is to “keep Massachusetts agriculture economically and environmentally sound.”<sup>6</sup>

To this end, the Commonwealth set out to prevent the mischief of cities and towns from interfering with the agricultural economy. In order to do so, the Commonwealth passed an Act

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<sup>6</sup> <https://www.mass.gov/orgs/massachusetts-department-of-agricultural-resources>.

entitled “Protecting Massachusetts Farming Operations” in the Acts and Resolves of 1989 Chapter 590. This amended M.G.L. c. 40 A § 3 to protect these preferred agricultural uses from local zoning control. Currently, M.G.L. c. 40 A § 3 provides:

“nor shall any ... ordinance ... prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of *commercial agriculture*, ... nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of *commercial agriculture*, ... For the purposes of this section, the term “agriculture” shall be as defined in section 1A of chapter 128, ...”

*Id.* Emphasis supplied.

Agriculture is defined in Title XIX to include “the raising of livestock including horses, the keeping of horses as a commercial enterprise.” M.G.L. c. 128, § 1A. The commercial enterprise contemplated by the definition of agriculture includes wagering on horse races as the provision of the commercial activity is specifically addressed in the next succeeding section, M.G.L. c. 128 § 2. The statute empowers the Department of Agriculture to promote, develop, and encourage Massachusetts Thoroughbred Breeding Program through the payment of purses to breeders of horses under certain terms and condition that contemplate wagering. The relevant section of the

statute is set out in the margin.<sup>7</sup> These conditions include the registration of horses in the Jockey Club.<sup>8</sup>

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<sup>7</sup> [p]romote, develop and encourage through the Massachusetts Thoroughbred Breeding Program, the breeding of thoroughbred horses in the commonwealth by offering cash prizes to breeders of such horses in the following manner: the Massachusetts Thoroughbred Breeders Association, Inc. shall from time to time in consultation with the chairman of the racing commission and the program manager for the equine division in the department of agriculture set the percentages for bonuses to be awarded to the breeder of a Massachusetts bred thoroughbred horse, of the purse monies won by said thoroughbred horse in any pari-mutuel running horse race if said horse finishes first, second or third; the percentage for a cash prize to the owner of the stallion, at the time of service to the dam of such purse winner; provided, however, that (i) the stallion stood the breeding season of February through June in the commonwealth, (ii) the horse finishes first, second or third, and (iii) said stallion is registered with the department of food and agriculture; the percentage for a cash prize for the purse monies won by said thoroughbred horse in any unrestricted or restricted pari-mutuel running horse race held within or outside of the commonwealth to the owner of a Massachusetts bred horse if said horse finishes first, second, or third.

The Massachusetts Thoroughbred Breeders Association, Inc. is further authorized to pay cash purses for stakes races to be limited to Massachusetts bred thoroughbred racehorses from the Massachusetts thoroughbred breeding program at licensed pari-mutuel race meetings authorized by the state racing commission. Such races may be betting or non-betting races and may or may not be scheduled races by the licensee conducting the racing meeting. Purse monies paid by the association under this section may be in such amounts as the association shall determine and may be the sole cash purse for such races or may be supplemental to the cash purses established by the licensee; provided, however, that no person, partnership, corporation or group of persons may receive more than five thousand dollars as a cash prize breeder's award from the association for an individual horse race within the commonwealth.

No person shall be eligible for the prizes provided herein unless the following standards are met:

(1) The foal of a thoroughbred mare that drops said foal in the commonwealth and is bred back to the Massachusetts registered stallion shall be Massachusetts bred; or

(2) The foal of a thoroughbred mare who resides in the commonwealth from the fifteenth day of October of the year prior to foaling and continues such residence until foaling and foals in the commonwealth shall be Massachusetts bred.

(3) In either the case of subparagraph (1) or (2) each thoroughbred foal dropped in the commonwealth shall be registered with the Jockey Club and the department of food and agriculture.

(4) Prior to the first day of September of each year, each person standing a thoroughbred stallion in the commonwealth at either private or public service shall file with the department of food and agriculture: (a) a list of all thoroughbred mares bred to such stallion in that year; and (b) a verified statement representing that said stallion stood the entire breeding season in the commonwealth.

The Massachusetts Thoroughbred Breeders Association, Inc. is hereby further authorized to expend up to eight percent of the amount received each fiscal year for said program for advertising, marketing, promotion, and administration of the thoroughbred breeding program in the commonwealth.

The state auditor shall audit the books of the Massachusetts Thoroughbred Breeders Association, Inc., to ensure compliance with this section, in accordance with generally accepted government auditing standards, as often as the state auditor determines is necessary. M.G.L. c. 128 Sec. 2 (g), emphasis added.

<sup>8</sup> The Jockey Club is the breed registry for Thoroughbred horses in the United States and Canada. It is dedicated to the improvement of Thoroughbred breeding and racing and fulfills that mandate by serving many segments of the industry through its subsidiary companies and by supporting numerous industry initiatives. [https://en.wikipedia.org/wiki/Jockey\\_Club\\_\(United\\_States\)](https://en.wikipedia.org/wiki/Jockey_Club_(United_States)).

The Jockey Clubs purpose is to not only to encourage the development of the thoroughbred horse, but to establish racing on such a footing that it may command the interests as well as the confidence and favorable opinion of the public." <https://www.jockeyclub.com/Default.asp?section=About&area=0> The Jockey Club's primary responsibility, then and now, is the maintenance of The American Stud Book in a manner that ensures integrity of the breed in the United States, Canada and Puerto Rico. *Id.*



The Department of Agriculture confirms its partnership with the Gaming Commission on the Thoroughbred Horse Breeding Program's website. "The Division of Animal Health administers the racehorse breeding registration programs in conjunction with the Massachusetts State Gaming Commission and the representative breed organizations." Exhibit K.<sup>9</sup> It is for these reasons that wagering is either an Exempt Agricultural Use or at a minimum, incidental to an Exempt Agricultural Use.

The fact that wagering would be occurring on the site does not classify the site as a Sports Betting Facility. The ordinance defines Sports Betting Facility as "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. This Act deals with licensing and M.G.L. c. 23N, which is titled Massachusetts Sports Wagering Act."<sup>10</sup> The proposal described above only includes a license pursuant to M.G.L. 128A and 128C. Obtaining a license under M.G.L. c 128A would provide Baystate standing to seek a license under M.G.L. c. 128C for simulcast betting.

Therefore, this proposal is permitted by the Gardner Zoning Ordinance as an Exempt Agricultural Use or incidental to that use. The issue of residential use is still under review as of the drafting of this memorandum. If zoning relief is required for this use, the use can be allowed by a special permit. Other potential uses would include operating a restaurant or lounge which would require additional zoning relief. A more complete review has not been made, as a restaurant has not been presented by this proposal.

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<sup>9</sup> <https://www.mass.gov/info-details/thoroughbred-breeding-program>.

<sup>10</sup> SECTION 6 of the Act amends M.G.L c. 128C to require a mandatory minimum of 20 days and the ability of the Commission to waive the same. The Act does not create or amend the licensing scheme.

There is an expired conservation permit issued in connection with an addition to a home and septic system constructed within the buffer zone of the property. The submission is file number 160-0642. See *Energy & Environmental Affairs Data Portal (state.ma.us)*. Exhibit L. It is likely that the Department of Environmental Protection will be unable to act on any new requests that are made until the Order of Conditions is resolved. However, this can be addressed by the current owner or Baystate. Other than this, there are no restrictions in the title that would prevent the use of the land as a racetrack. Conservation is currently being reviewed by the applicant's engineers and wetland delineations have already begun. Baystate has met with the Conservation Agent for the City and advises it plans to meet with the Conservation Commission at their earliest meeting following the City Council's approval of the location of the track.

#### **PROCEDURE**

#### **THE VOTE**

The current draft of the vote is as follows:

“Shall a track of land located within the limits of the City of Gardner, now owned by the GAAMHA, Inc., located at 827 Green Street, comprising approximately 114 acres also identified as assessors lot number R42-21-1 and more particularly described in Worcester Registry of Deeds Book 63792 and Page 211 and situated on the easterly side of Route 140, otherwise called Green Street, be approved as the location of a running horse racing track where race meetings laid out and conducted by licensees under M.G.L c. 128A will be held or conducted?” Exhibit M.

It is important to note that the City may not condition its vote in any way, as this would intrude on the Gaming Commission's jurisdiction. Once approved, the vote cannot be rescinded. A simple majority vote would be required for the measure to pass.<sup>11</sup>

This vote would need to be placed on the agenda and then referred to a public hearing at a time and place determined by the Council. Once a date is set for the hearing, it will be important to place an advertisement in the Gardner News containing the notice of the public hearing no less than seven (7) days in advance of the hearing.<sup>12</sup> M.G.L. c. 128A § 13A. The applicant will be responsible to place the ad and paying all fees. In addition, the Clerk must post the notice on the City's website and conspicuously at City Hall.

#### **ADVERTISEMENT FOR PUBLIC HEARING**

The advertisement for public hearing as described above, would provide as follows:

“Pursuant to G.L. c. 128A, § 13A, the City of Gardner City Council will hold a PUBLIC HEARING on \_\_\_\_\_ at \_\_\_\_\_ PM at Gardner City Hall, 95 Pleasant Street, Gardner, MA 01440 to hear the matter of Baystate Racing, LLC's application for horse racing operation at 827 Green Street and specifically the following Vote. ‘Shall a track of land located within the limits of the City of Gardner, now owned by the GAAMHA, Inc., located at 827 Green Street, comprising approximately 114 acres also identified as assessors lot number R42-21-1 and more particularly described in Worcester Registry of Deeds Book 63792 and Page 211 and situated on the easterly side of Route 140, otherwise called Green Street, be approved as the location of a running horse racing track where race

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<sup>11</sup> A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance. Section 24

<sup>12</sup> For example, if the hearing is on July 1, 2024, then the ad will be placed on Saturday, June 22, 2024 as the Gardner News does not run on Mondays.

meetings laid out and conducted by licensees under M.G.L c. 128A will be held or conducted?’ Anyone wishing to be heard should appear at the time and place designated above. Please refer to Gardner City Council’s Rules for public hearings.”

A copy of the rules will be attached to the advertisement.

### **GAMING COMMISSION**

An application for a license pursuant to M.G.L. c. 128A shall be filed with the Gaming Commission on or before October 1<sup>st</sup>, in order for Baystate to race in 2025. If an application is filed, the Gaming Commission shall act on the application no later than November 15, 2024. M.G.L. 128, § 2.

Baystate advises that should the City approve the location by July 1, 2024, the applicant would file an application with the Gaming Commission by August 1, 2024. The applicant advises that their expectation is to complete the permitting process with the City by the end of the calendar year and complete construction of the Equine Center, in time to race by 2025. The permitting process with the City would primarily focus on the Conservation Commission and Site Plan Review with the Planning Board.

According to this plan, the Gaming Commission will notice a public hearing in the City to determine if they will issue a license. If the foregoing timeline is met, it is anticipated the hearing will happen at the end of September or the beginning of October. This hearing will be an adjudicatory hearing and if held, will proceed with sworn witness and authenticated documentation. The Gaming Commission would then determine whether the license would be issued and if so, what conditions would be placed upon the license.

If a license is issued, Baystate will be required to race at least 20 days per year. This minimum may be lowered if the applicant seeks and obtains a waiver from the Gaming Commission. The Host Community Agreement will require the applicant to seek this waiver over the next 5 years.<sup>13</sup> One should note that the statute permits up to 200 days in any 1 year at all running horse racing meetings combined throughout the Commonwealth, not including Suffolk County.

Hours of operation can be only between the hours of 10:00 A.M. and 12:00 A.M. The Gaming Commission shall grant authorized dates at such times that are consistent with the best interests of racing and the public. M.G.L. 128A § 3.

If the Gaming Commission issues a license, an annual public hearing within the City of Gardner will occur, during which time the community will be able to raise concerns with the Gaming Commission. This will also be an adjudicatory hearing where witnesses are sworn, and documents are authenticated. This will be an opportunity each year to request the Gaming Commission place, alter or amend conditions of the license.

### **HOST COMMUNITY AGREEMENT**

The order to authorize the Mayor to Sign a Host Community Agreement (“HCA”) should be filed contemporaneously with Baystate’s application. There is no specific requirement that an order be obtained, but due to the novel nature of the agreement and use, it is advisable. We have substantially completed the negotiations. The current draft will be filed with the City Council in connection with the order. Additional comments regarding the HCA are welcomed. Currently, the material provisions of the HCA are as follows:

1. Annual payments of approximately \$460,000.00 to \$500,000.00.

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<sup>13</sup> 2025: One Weekend (three days) 2026: Two Weekends (six days) 2027: Two Weekends (six days) 2028: Three Weekends (nine days) 2029: Three Weekends (nine days)

- a. This is broken down as follows: 1.5% of all simulcast fees collected by Baystate. The applicant has estimated this amount to be \$240,000.00. (I am scheduling an appointment with the Gaming Commission personnel to better understand the calculation of the City's funds.);
  - b. There will be a PILOT payment in the amount of \$230,000.00 per year subject to an escalation clause; and
  - c. Baystate will donate \$20,000.00, annually, to a local or regional non-profit/charity that directly benefits Gardner residents.
2. Payment for all police, fire and EMS details on festival days, and any other impacts on the City;
  3. Reimbursement of professional services such a legal and engineering services in connection with siting;
  4. Creates a Racing Oversight Committee to review and make recommendations to the Mayor and Council each year on the operations of Bay State Park; and
  5. Annual review on previous and future operations with the Mayor and Council.

#### **CARE OF THE HORSES**

The issues surrounding the care of horses are controlled by the state and federal government. In 2022, the federal government implemented the Horse Integrity and Safety Act which established the Horseracing Integrity and Safety Authority (HISA). The Horseracing Integrity and Safety Authority is responsible for drafting and enforcing uniform safety and integrity rules. A summary of the law is attached hereto. Exhibit N. Suffice it to say, the law establishes a new regulatory scheme intended to control abuses in the industry and punish those who would violate the standard of care. The bill sets forth other provisions regarding (1) funding,



conflicts of interest, and jurisdiction; (2) registration with the authority; (3) program enforcement; (4) rule violations and civil sanctions; (5) testing laboratories; (6) review of final decisions of the authority by an administrative law judge; (7) unfair or deceptive acts or practices; and (8) agreements with state racing commissions.<sup>14</sup>

Issues and concerns of the care of the horses can also be addressed by the Massachusetts Gaming Commission. The forward to the regulation notes the right to public participation.<sup>15</sup> Massachusetts Society for the Prevention of Cruelty to Animals is authorized by M.G.L. c. 129, § 9 to visit “any stable where horses are kept for hire, or boarded for a fee, for the purpose of preventing violations of any law and of detecting and punishing the same and such agents shall have the power to prosecute any such violation coming to their notice.” M.G.L. c. 129, § 9. The Department of Agriculture and Resources and Baystate Racing’s Oversight Committee will be additional avenues to pursue the protection of horses. In addition, Baystate will be subjected to various inspections. Pursuant to the terms of the HCA Baystate must report the fact of an inspection and the results to the City.

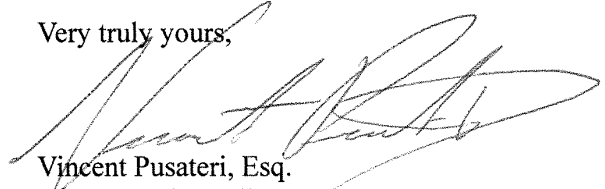
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<sup>14</sup> H.R.1754 - 116th Congress (2019-2020): Horseracing Integrity and Safety Act of 2020 | Congress.gov | Library of Congress; <https://www.congress.gov/bills/116/house-bills/1754/text>.

<sup>15</sup> “Under M.G.L. c. 30A any interested party has the right to attend all hearings conducted by the Commission for the purpose of the adoption or amendment of any rule or regulation. The Commission shall afford any interested person an opportunity to present data, views or arguments in regard to any proposed rule change. Upon written notice to the Commission, a person may request the adoption, amendment or repeal of any regulation with an opportunity to present data, views or arguments in support of such request. If a dispute should arise concerning a ruling by a steward or other racing official, any party affected by such ruling has a right to an appeal to the Commission in accordance with the provisions of 205 CMR 101.02”. 205 CMR 4:01.

This is not an exhaustive review of the proposal. For additional information please see the City Council packet. Thank you for providing me with the opportunity to investigate this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vincent Pusateri", written over a horizontal line.

Vincent Pusateri, Esq.  
Assistant City Solicitor

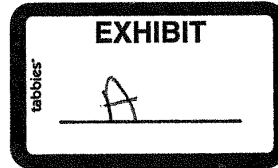
VPP/dam  
cc: Mayor Michael J. Nicholson  
Encl.

# EXHIBIT A

EXHIBIT

63

CITY OF GARDNER  
December 6, 1954  
IN CITY COUNCIL



|                                                                                                                                                                                                                                                                                                 |                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| <p>Monday evening, December 6, 1954. Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p. m. by President Walsh.</p>                                                                                                          | <p>Regular meeting</p>                                                            |
| <p>Roll call taken--All members present.</p>                                                                                                                                                                                                                                                    | <p>Roll call</p>                                                                  |
| <p>The opening prayer was said in unison.</p>                                                                                                                                                                                                                                                   | <p>Opening Prayer</p>                                                             |
| <p>On motion made by Councillor Sauter, seconded by Councillor Reponen, it was voted to dispense with the reading of the regular meeting of November 17, 1954.</p>                                                                                                                              | <p>Dispense with reading of minutes</p>                                           |
| <p>#993<br/>On motion made by Councillor LeBlanc, seconded by Councillor Robicheud, it was voted on roll call vote, 10 yeas and 1 nay, (Councillor Landry) to pass the following order:</p>                                                                                                     | <p>Motion to pass money order</p>                                                 |
| <p>AN ORDER TRANSFERRING A SUM OF MONEY FROM THE SCHOOL DEPARTMENT, OTHER THAN ORDINARY MAINTENANCE, SCHOOL STREET SCHOOL ADDITION ACCOUNT TO THE SCHOOL DEPARTMENT, OTHER THAN ORDINARY MAINTENANCE, NEW CONSOLIDATED SCHOOL ACCOUNT.</p>                                                      | <p>\$15,000.00 to School Dept., O.T.O.W., New Consolidated School Account</p>     |
| <p>ORDERED:</p>                                                                                                                                                                                                                                                                                 |                                                                                   |
| <p>That there be and is hereby transferred the sum of Fifteen thousand dollars (\$15,000.00) from the School Department, Other Than Ordinary Maintenance, School Street School Addition Account to the School Department, Other Than Ordinary Maintenance, New Consolidated School Account.</p> |                                                                                   |
| <p>Presented to Mayor for approval Dec. 7, 1954<br/>Approved December 7, 1954<br/>ULRIC O. FREDETTE, Mayor.</p>                                                                                                                                                                                 | <p>Approved by Mayor</p>                                                          |
| <p>#994<br/>On motion made by Councillor Cilley, seconded by Councillor Sauter, it was voted unanimously on roll call vote to pass the following order:</p>                                                                                                                                     | <p>Motion to pass money order</p>                                                 |
| <p>AN ORDER TRANSFERRING A SUM OF MONEY FROM THE LEVI HEYWOOD MEMORIAL LIBRARY DEPARTMENT, PERSONAL SERVICE ACCOUNT TO THE LEVI HEYWOOD MEMORIAL LIBRARY DEPARTMENT, ORDINARY MAINTENANCE ACCOUNT.</p>                                                                                          | <p>\$500.00 to Levi Heywood Memorial Library Department, Ordinary Maintenance</p> |
| <p>ORDERED:</p>                                                                                                                                                                                                                                                                                 |                                                                                   |
| <p>That there be and is hereby transferred the sum of Five hundred dollars (\$500.00) from the Levi Heywood Memorial Library Department, Personal Service Account to the Levi Heywood Memorial Library Department, Ordinary Maintenance Account.</p>                                            |                                                                                   |
| <p>Presented to Mayor for approval December 7, 1954<br/>Approved December 7, 1954<br/>ULRIC O. FREDETTE, Mayor</p>                                                                                                                                                                              | <p>Approved by Mayor</p>                                                          |

joint pole relocation on School Street, notherly from Cross Street (one present joint pole location to be abandoned) which is necessary to satisfy the regulations. Councillor Sauter reported that some people mean to do things properly and some people like things done with expediency. The public hearing is set according to regulation but the pole has already been installed without the approval of the Public Service Committee or City Council. This is beginning to happen too often. Councillor Sauter was informed by the Supervisor of Planning of the Worcester County Electric Company that through illness instructions were given through error to erect this pole. Councillor Sauter, hearing this petetion was to be presented called the City Clerk's Office every day and it did not arrive until Thursday, December 2, 1954 at 2:30 p.m.

Objection to placing of pole prior to public hearing or permission of City Council

1001  
On motion made by Councillor Cilley, seconded by Councillor Sauter, it was voted to refer item 1001 - Application from Gardner Raceway, Inc., for permission to establish a harness racing track on Route 140 (Green Street) on the site of the Andrews Park, so called in accordance with provisions of Chapter 128A of the General Laws to the City Solicitor so that he may inform the Council as to the proper action to take under Chapter 128 of the General Laws and that he be present at our next Council meeting so that he may answer any questions that might arise at that time.

Refer application to establish harness racing track to City Solicitor

1001  
On motion made by Councillor Sauter, seconded by Councillor Tamulen, it was voted (Councillors Cilley and Landry voting in the negative) that the Council President be given authority to call a public hearing for the next regular meeting if the City Solicitor says it is necessary for the Council to hold a public hearing concerning the application for permission to establish a harness racing track in accordance with the provisions of Chapter 128A of the General Laws.

Permission to hold public hearing on application for harness racing track if City Solicitor recommends it

1002  
Councillor Sauter made a motion, seconded by Councillor Robichaud, that the Council is represented by Councillor Lison at the DPU 11163 hearing at room 166, State House, Boston on Wednesday, December 15, 1954 at 10 a.m. on petition of New England Telephone and Telegraph Company for increase in rates and charges for telephone service. Councillor Lison declined and suggested that the City Solicitor as being the proper person to represent the city in such matters. It was pointed out that the City Solicitor did not need the experience and unless he was advised to oppose or favor the increase it was needless to send him to Boston.

Motion to have Councillor Lison represent the City at DPU public hearing on request of New England Telephone to raise rates

# **EXHIBIT B**



On motion made by Councillor Sullivan, seconded by Councillor Reponen, it was voted to adjourn at 7:45 o'clock p.m.

A true copy, Attest:

*Frank C. Bourgeois*  
City Clerk

CITY OF GARDNER  
December 20, 1954  
IN CITY COUNCIL

Monday evening, December 20, 1954. Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p.m. by President Walsh.

Roll call taken-- All members present.

The opening prayer was said in unison.

On motion made by Councillor Sauter, seconded by Councillor Sullivan, it was voted to dispense with the reading of the regular meeting of December 6, 1954 and Special meeting of December 10, 1954.

1001

President Walsh announced that as the Council Chamber was too small to take care of the crowd the hearing would be adjourned to the City Hall Auditorium so that every one will have ample room and will be heard under more favorable circumstances.

1001

Hearing opened in the City Hall Auditorium at 7:45 o'clock p.m. to consider the application of the Gardner Raceway for approval of the location on Route 140, Green Street on the site of Andrews Park so-called for harness racing. Before anyone spoke on the subject President Walsh read three letters, two in favor and one against approving the location. The Church Council of the First Congregational Church at its regular monthly business meeting last evening voted unanimously to go on record as being opposed to a pari mutuel race track in the City of Gardner. It was also voted that this

Adjourn

Regular meeting

Roll call

Opening Prayer

Dispense with reading of minutes

Public hearing moved to City Hall Auditorium to accommodate large crowd

Public Hearing on Gardner Raceway application for harness racing

Letters read in favor and in opposition



Letters (cont)

opposition be communicated to each member of the City Council. In his communication Elliot S. Ryan, Owner-Manager of the Colonial Hotel, Gardner, Massachusetts wished, before the final vote on the Pari-Mutuel Racetrack to go on record as being very much in favor of this new business. He further stated that when industries were running to full capacity the Colonial Hotel was able to operate without a loss, but with the decline in business, such as the removal of the executive and Sales Office of the Florence Stove Company to Chicago, together with manufacturers running on a small scale, and the increased Motel competition, the business was in the red, but he felt to bring racing into Gardner would create new business activity, not only for the Hotel but for the benefit of the Merchants and others as well, and he asked for favorable consideration.

1001

The Third letter President Walsh read was from L. W. Smith, Executive Vice President of the National Bank of Vernon, Vernon, N. Y. In his opinion during the past two and one half years the assets of the bank increased from \$1,700,000 to \$2,200,000 about 70% of this increase was due to the accounts which the track carries, increase in merchants accounts due to additional business and horsemen who have opened accounts and continued them after the season is closed. In checking with over 90% of the merchants it was found that they were unanimously in stating that their business during the three summer months was comparable to the Christmas Holiday business. Gas Stations, bars, restaurants and motels reported a 100% increase over a comparable period in past years. The two clothing stores in town claim that their high sales occurred, during the racing season rather than the holiday season. The drug store does a heavy volume of business in veterinary supplies. The track purchases large lumber supplies and hardware for improvements and repairs which is purchased locally, The two local feed stores service the track and are very happy with the business. There are 700 to 800 horses on the grounds during the season and the hay and grain sales were very profitable. During the season there is approximately 100 trailers in the park provided by the racing association all of which use bottled gas which it purchases locally. There are approximately 300 tenants in the trailers who buy all their groceries, clothing etc. in town. Approximately 75 owners, trainers, judges, etc. rent rooms from local residents. In addition it is estimated there are 700 people employed as trainers, drivers, grooms, stable hands, maintenance men, guards and waiters. Vernon has a normal population of about 1200 and the increase of 900 to 1100 would tend to double business while they are here. Many of the towns people who were de-

initely opposed to the track two years ago have been employed by them since opening on part-time jobs as ticket sellers, guards and cashiers and they are frank in stating that they had the wrong impression of a harness track and its employees. The directors of the Downs were very cooperative in setting up their police system. They hired a local man who was an ex-trooper to head it and they have done an excellent job. There have been a few traffic violations and several cases on intoxication amongst the stable hands which were handled by the police force on the grounds. To Mr. Smith's knowledge there have been no moral violations, gambling, dice games or slot machines. There has been no increase in juvenile delinquency which could be attributed to the track. They averaged well over 3000 per night attendance last year.

Public hearing (cont)  
on Gardner Raceway  
application for  
harness racing

Speaking in favor

1001  
Atty. J. Philip Howard, with an office at the Post Office Square Building, 60 Pleasant Street, Gardner, Mass., speaking on behalf of the Gardner Raceway, Inc. stated that according to Chapter 128A, Section 14 of the General Laws every four years at the State Election the following question appears on the ballot: "Shall the pari-mutuel system of betting on licensed horse races be permitted in the county?" That question was duly submitted at the last State Election on November 2, 1954 and the results in this county were 102,000 in favor to 87,000 against. In other words, pari-mutuel betting on horse racing was endorsed in Worcester County by a substantial number of voters. The results in this city were 4190 votes in favor and 2071 against. In other words, the voters in this city by a margin of greater than two to one indicated their desire for pari-mutuel betting on horse racing. The vote in every one of the five wards in the city was in favor of it, as follows:

|        |     |             |    |             |
|--------|-----|-------------|----|-------------|
| Ward 1 | yes | 623         | No | 464         |
| Ward 2 | "   | 1006        | "  | 442         |
| Ward 3 | "   | 1003        | "  | 355         |
| Ward 4 | "   | 658         | "  | 341         |
| Ward 5 | "   | 900         | "  | 469         |
|        |     | <u>4190</u> |    | <u>2071</u> |

In other words, in all but one of the five wards the results were at least two to one and even in Ward I the voter was three to two in favor of pari-mutuel betting on licensed horse racing. The will of the voters it seems is very clear. They have indicated not only in Worcester County but in the City of Gardner they desire pari-mutuel betting on horse racing. He further stated that he was a member of the Great and General Court and every one knows that it is the will of the majority of the voters that governs. Section 13A of the same chapter 128 of the General Laws provides,

GARDNER \$20.50

Public hearing (cont)  
on application of  
Gardner Raceway for  
harness racing

Speaking in favor

" No license shall be granted by the Commission (State Racing Commission) for a racing meeting in any city...unless the location of the racetrack where such meeting is to be held or conducted has been once approved by the Mayor and Alderman (Councillors) as provided by Chapter 271, Section 33 of the General Laws, after a public hearing, 7 days notice of the time and place of the hearing shall have been given by posting in a conspicuous public place in the city...and by publication in a newspaper published in such city..."

1001  
Atty. Howard asked this question, "Am I to understand that in view of the language of this statute that the only question before your board is the question of approval of the location?" "If you do or do not wish to hear arguments on the merits of a race track?" President Walsh replied, " I am going to let this public hearing be run as open as possible both for and against. We are to hear all arguments, pro and con, but action will be taken on the location".

1001  
Atty. Howard resumed and stated that Gardner Raceway, Inc. is a Massachusetts corporation which has been in existence for several years, whose officers, directors and stockholders are in every instance residents of this city, people of good reputation, citizens of the City of Gardner, One of the owners is Nathan Gewandter, a man who has lived in this city much of his life, a substantial tax payer in this city, a man everybody knows and respects. In other words, this concern is comprised of Gardner residents, not some one coming in from outside of Gardner but a local enterprise, made up by local people, financed with local money. At the present time Gardner Raceway, Inc. owns the site of what was formerly called Andrews Park. They have a tract of 60 to 100 acres in area, located  $1\frac{1}{2}$  miles from Gardner Center on route 140, with one half mile dirt track, also some barn and stable facilities. Now if this location is approved and if a racing license is secured from the State Racing Commission, Gardner Raceway, Inc. plans to have a track to be entirely rebuilt and relocated. There would be a grand stand of a minimum of 25000 people. There would be barn and stable facilities adequate to take care of 300 horses, an administration building, a building for concessions, a parking lot and a club house. This would entail approximately one half million dollars. It would give additional employment, giving Gardner a new enterprise, and also during the racing meeting which may be limited to perhaps 30 days, more money would be left in Gardner, such as at the restaurants, eating places, hotels, lodging houses, filling stations and markets, and the Gardner people would benefit by it. Some of the people will live in trailers during this time

and their supplies will be purchased in Gardner. He stated that the matter of ascertaining if the track would be near the Gardner water system had been gone into carefully with two engineers and it was found that the proposed location for both the track and barns would be 2500 feet from Perley Brook which is part of the water system and it was found there would be no possibility of pollution from this location.

1001 Cont.

Atty. Howard stated, in conclusion, that the Gardner Raceway, Inc. is a local enterprise, made up of local people, controlled by local people, and financed locally. It comes here seeking to bring to Gardner a legitimate business, which is honestly felt will be of distinct advantage to the City of Gardner, a substantial revenue to the city, which will mean a great increase in Gardner, to Gardner merchants. It would attract people from central and western Massachusetts and southern New Hampshire, who now have to travel to Foxboro, which is 70 or 80 miles from Gardner. It will mean more taxes for the City of Gardner. The Gardner Raceway, Inc. does not want to do anything that is going to harm Gardner or its reputation but want it to be a credit to the city of Gardner and they will keep it that way and he hoped for favorable consideration and presented a group of petitions which has been circulated, bearing a total of 617 signatures, petitioning that approval be given to the application of Gardner Raceway, Inc. for a harness racing track to be established in Gardner.

1001 Cont.

Bennett North, Stone Street an abuttor, stated that he had no objection to the location of the track.

Charles Keresey, Stone Street, an abuttor, stated that he had no objection to the location of the track.

Fred E. Perry, former Mayor, 36 Travers Street, stated he practically agreed with every word Atty. Howard said. Once it has been voted that the location is approved it is out of the hands of the Council. The State Racing Commission will have to approve it. The Commission will have another hearing. He did not believe that the race track would hurt the water. He had previously recommended several times that the brook from "Mam Johns" through the water shed land should be piped but it never was seen fit to do so. The city could have bought this land for \$1900. If it was harmful to the water, why did the city not buy it? He stated he did not see why any of the Councillors would oppose it when the majority of the voters voted for it.

Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Speaking in Favor

Galaxy 820 50

Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Speaking in favor

He suggested that all water shed land be posted, no trespassing. He further stated that there were several septic tanks right on the water shed. He pointed out that there exists presently on the city's watershed property besides the septic tanks, the municipal golf course, the Crystal Lake Cemetery, radio station location, and the building at the old Heywood Farm property which had not endangered the water supply and thought there would be no danger caused by the race track, and stated he was in favor of it. Those opposed <sup>to</sup> the race track were then heard.

Speaking in opposition

1001  
Rev. Ben Bradford, 197 Woodland Avenue, Gardner, Mass., Pastor of the First Congregational Church and representing the Gardner and Vicinity Ministerial Association stated that he was opposed to this on moral grounds, in the very particular grounds, without going into full relationship where there is a danger of pollution. He stated that we have heard a very glowing account of what it does. He stated that we have <sup>not</sup> heard from the little people who are hurt and do not have a chance. There are many more people in the long run who are deeply hurt because of the pari-mutuel betting, Many people, who came to him, said they voted in favor without thinking it would be in Gardner, which was stupid. It would give temporary employment but much more money would go out of the city than stay in Gardner. He stated that they were not in opposition to the race track but in opposition to the pari-mutuel betting, and hoped the Council would be guided by its opening prayer and vote against approving the application.

1001  
Curtis G. Watkins, 141 Chestnut Street, a home owner and President of the Simplex Time Recorder, stated he was interested in the City of Gardner, for a community fit to live in and for the development of that community and gambling is wrong if it hurts people. Gardner needs new industries. With strikes and labor problems there is no extra money floating around, We need new industries but we need money to stay in Gardner. He stated further that he had checked on the population in Vernon, N. Y. and found there were 754 people, with only one bank and two stores. This was after he had read the misleading advertising in the Gardner News in which a favorable and impressive account of the racetrack at Vernon, N. Y. was presented. He stated that the track at Vernon employed only 40 full time workers, half of which were employees of the State of New York who travelled the track circuit during the regular season.



Mr. Watkins read a lengthy transcript of a telephone conversation he had earlier in the day with W. E. Booth of the town of Foxboro, in which he stated that an employee of the bank also worked at the race track and got away with \$3000.00. He left the bank before it was discovered. Since then there were three cases of forgery and there had never been a case before. One of the Tax Assessors worked for the track when it first opened in 1947. You can draw your own conclusion. Later on one of the selectmen left town, a lawyer lost his practice. Two of them have since died an early death, brought on by connections with the track. It was said that the town would get \$40,000 a year in taxes as the track would be assessed for about one million dollars and the Foxboro taxes would go down on account of this. The track was assessed for \$261,000 and the tax is \$16,500. Mr Watkins further stated that if the raceway is permitted to become established here he will do everything in his power with all his resources to dig out scandal and corruption that might be directly attributable to the track.

Councillor Lison speaking as a City Councillor, wished to ask a few questions of Mr. Watkins regarding the papers he had just read. Mr. Watkins refrained from so doing and Councillor Lison said he felt that if a person was not in a position to answer his questions it made his position pretty weak as it was not too clear in Councillor Lison's mind as to some of the suggestions and reflections which were read.

Raymond LeBlanc, 208 Stone Street an abutter representing his wife Irene LeBlanc and two other abutters, Lucien and Rita Duhalme, 240 Stone Street and Oscar and Lydia Maki, 280 Stone Street, stated that they were all opposed to having the race track, which is about five hundred feet away.

Atty. Gould H. Coleman, 93 Prospect Street, President of the Gardner Chamber of Commerce stated that the Council had heard one of the members (Curtis G. Watkins) of the Chamber of Commerce state his personal views. Mr. Watkins, who is one of the most community civic minded in Gardner. A brief and certainly hurried survey of the opinions of the members of the Board of Directors of the Chamber of Commerce. These members are responsible business men here in Gardner and out of 18 members of the Board of Directors are opposed to the erection of a race track here in Gardner. One has expressed his approval of the race track. Two have expressed no opinion either way. The Secretary-Manager, Forrest C. Knight conducted a survey of the Mercantile Division in the square and they certainly do not want a race track here. One word of caution, this being the personal

Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Speaking in opposition

Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Speaking in opposition

opinion of Atty. Coleman, we are going to solve our financial problems with easy money. It would be easy as in Las Vegas or some other place, but that is not the way we want to face our problem here in Gardner. Mr. Watkins has pointed out fully to you all the sordid evils that will come with a race track in Gardner. Let us face our facts honestly, raise our money legitimately. Let us have a good clean community in Gardner now and in the future. Atty. Coleman explained to Councillor Lison that the Board of Directors is the governing Board of the Chamber of Commerce.

Raymond Barker, a representative of the Gardner Gospel Tabernacle stated that he was opposed to having the race track here and wondered why they stopped racing. Evidently it did not pay or it would be going today.

Richard N. Greenwood, 45 Green Street, President of the Heywood-Wakefield Company, stated that while people of Gardner have voted in favor of pari-mutuel horse racing they did not necessarily mean voting to have a track located in Gardner. He stated he was against it and that it was unfortunate from the view of the welfare of the City of Gardner to have a race track located in the City of Gardner.

George A. Keyworth, 42 Cross Street, stated that he had been very much interested in the comments made here tonight, both for and against. He said that he had had previous knowledge of horse racing and dog racing and it is a gambling business. He did not think Gardner was going to be improved in any sense of the word by having a gambling business in pari-mutuel racing. He was concerned more particularly for the welfare of the working people. We are an industrial community, he stated. It is a great temptation to bet on races if you go to a race track. Occasionally you win,

1001

Only a few win. Many families will be deprived of needs if we have pari-mutuel racing here in Gardner. People have just so much money to spend and if it is spent at the race track and not on the families that type of people need the consideration of this Council as to whether or not it is for the welfare of Gardner to have these races.

Howard D. Ferguson, 14 Edgell Street, Chairman of the Mayor's Industrial Committee and President of the Gardner Trust Company and want to get new business here. He stated that he knew about horse racing and dog racing, it was a lot of grief and we want no part of it. During the past several months there has been a slowing up of payments on mortgages and loans, due to strikes, less working hours, etc. If money is lost at the race track other obligations can not be fulfilled. It is a very unpleasant thing to foreclose mortgages at any time.



Rev. Ralph Bailey, 119 Edgell Street, of the First Unitarian Church, stated that the backers of this proposition make it appear very rosy, with the argument of the money that is going to be brought into the community. Those who have experienced this have reason to doubt this. There are the question of where the money comes from, what kind of people, what kind of homes, how many people lose for one who gains. Most of the people who will come in to Gardner will be people coming in not to work, but to see what they can take out of Gardner, not what they put in to it. He wished to be recorded as opposed to it.

Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Speaking in opposition

Rev. Emmett Russell, 53 Elizabeth Street, of Gardner Gospel Tabernacle spoke in opposition to the racing track.

C. Harry Kuniholm, 186 Elm Street, residing on Route 140, pointed out that the location was a very serious automobile hazard in that it would bring heavy traffic through a residential section of the city, with three churches, a high school and a hospital enroute. He stated that in cases of liquor licenses we use discretion where we allow liquor to be sold. He thought the same discretion and consideration should be used for the location of a track and he was opposed to it entirely as being the wrong location. Further in reply to questioning by Councillor Lison, Mr. Kuniholm stated that as before he lives on Route 140 and did not discuss the merits or demerits of racing or betting, but on the location, and wanted neither a saloon nor a race track on Route 140 which runs through one of the better residential parts of our city.

President Walsh allowed fifteen minutes for each side to be heard for rebuttal.

Rebuttals

Atty. Howard was reminded of the story of President Calvin Coolidge who came home from church and when Mrs. Coolidge inquired as to the text of the preacher's sermon replied that it was on sin and that he was "ag'n it. That is the attitude of most of the people on gambling and they are ag'n" it.

It has been pointed out that gambling is immoral and the little man, the average citizen or man in the factory must be protected against it. One particular man who spoke has in his particular factory three bookies right now which is true in a good many of the factories in the city. Any one in the city interested in gambling can do so through bookies operating in Worcester County and who also operate in this city. Over 4000 people in Gardner, a majority of 2 to 1, voted for pari-mutuel racing and he hoped this application would

Gardner 1927

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Public hearing on  
application of  
Gardner Raceway for  
harness racing (cont)

Rebuttals

Motion to grant  
application for  
harness racing

Rev. Ben Bradford stated that there would be more evil, than good and for that reason he was "ag'n" it.

Forrest Knight, 65 Maple Street, Secretary- Manager of the Chamber of Commerce, stated he was the one that made the survey and he corroborated the statements made by Atty. Coleman.  
The Public hearing was closed.

Councillor Robichaud made a motion, seconded by Councillor Lison, that the application of Gardner Raceway for approval of the location on Route 140, Green Street on the site of Andrews Park so-called for harness racing be granted.

Councillor Kraskouskas stated that she knew nothing about race tracks and gambling, had received several telephone calls for and against racing, and that she was interested in juvenile delinquency and could not make up her mind to make a fair vote so she contacted people in Foxboro who had had experience with pari-mutuel racing. She asked Chief of Police Dolan if there had been an increase in crime or juvenile delinquency and the type of persons that participate in races and class of people attending races. Chief Dolan replied that two arrests were made last year for drunkenness. Two police officers and two plain clothes men were on duty at the tracks with all salaries paid by the owners of the track. Firemen having a day off also worked getting additional revenue. Most of the men, participating were from the ages of 55 to 70 and are retired. They come in trailers, which are nicer than some of the homes. The population of Foxboro is 6000, 2000 of which are at the State Hospital. The largest crowd was 12,000. The land where the track is was formerly assessed for \$125.00 being a swamp and woods. Now the town of Foxboro is collecting \$16,500.00. The track is putting up a club house and one other building for a million dollars, which will mean increased revenue for the town. It employs from 75 to 120 from Foxboro when it is in session. The last election the people voted for it 3 to 1. The track has been in existence for 7 years. When she asked Mr. Cornish if he felt that they would like to rid themselves of the track he said he felt that the election returns spoke for themselves. Councillor Kraskouskas further stated that she could not just make a just decision but rather than hold it up would vote in the affirmative with the intention that it would be held up later by the State Racing Commission.

Councillor Reponen, in view of the fact that there seems to be so much controversy for and against the location made a motion, seconded by Councillor Tamulen, to table the motion on the floor to be considered at a special meeting. On roll call vote taken, Councillors Gilley, Kraskouskas, Landry, LeBlanc, Reponen, Sauter and Tamulen (7) voting in the affirmative and Councillors Lison, Robichaud, Sullivan and President Walsh (4) voting in the negative the motion was not carried as it required a two-thirds vote for passage.

Councillor Gilley gave his reasons for opposing and stated that when the races are over those people who have been cleaned out, if they can afford it well and good. If they can not that is where the tragedy comes in.

Councillor Sullivan complimented President Walsh on conducting the hearing and stated that the Council at the present time was only concerned with the approval of the location and not with the moral aspects of pari-mutuel betting. He stated that another public hearing would be held to determine if harness racing will be permitted, and that final approval would have to come from the State Racing Commission.

Councillor Sauter spoke as a Councillor in his capacity as Chairman of the Public Works Commission. He stated that before his committee comes various things as Highway, Sewer and Water system of the city. Many dollars have been spent in the last twenty-five years, some of them questioned but nevertheless spent to protect the water supply. To protect the water shed in that area which is the Perley Brook area \$38,711.00 has been spent. Proponents of the track have stated that they would build their buildings far enough away, 2500 feet from the present brook. They intend to build a wall to keep people from getting near the brook. They propose to have the parking area adjacent to this wall. If they put in hard top surface the water has got to go some place. The only outlet from the horse stables, parking lot and club house, as water seeks its own level, would be to run into Perley Brook which runs down to the dam on Clark Street. We may find we are short of water and have to dam it during the summer season. It would take considerable money to develop the sewage system to take care of the track. If as at Vernon Downs 100 trailers came here there would be approximately 300 people for from one to three months at the track quite a considerable amount of sewage would have to be taken care of. In 1951 a sum of money was spent for a survey for improvements to the water supply. It is gradually approaching the time when we may need

Discussion on  
motion to grant  
Gardner Raceway  
application for  
harness racing (cont)

Motion to table issue  
until special meeting  
did not pass

Discussion on motion  
to grant application  
of Gardner Raceway for  
horse racing (cont)

additional water for the city. A report was made in March of 1953 with various recommendations. This area would eventually have to be used, flooding land from the Perley Brook to the road near Route 140, the entrance to the trotting park. If that was insufficient it would be necessary to take one of the tributaries and dam that up, dam up the Poor Farm Brook and that entire area would become part of the Gardner Water supply. Although the population has not increased much more water is being used with the advent of modern appliances, automobile washers, etc. Councillor Sauter further stated that if we are going to have a racing track a majority of 90% of the people would travel over Route 140 or over Parker Street to the center of Gardner over Green Street or Woodland Avenue. This intersection is in front of the hospital. In the day time people are used to noise but in the evening there would be a great deal more and the traffic and noise would become a problem. He could not favor a racing track on this location.

Councillor Robichaud stated that he would be in favor of the location.

Councillor Lison stated that the Council was merely approving the site and had nothing to do with pari-mutuel betting. The State Racing Commission will rule on that as that commission has the full responsibility to allow horse racing in Gardner.

Councillor Landry stated that he had been in the City Council for the last five years and had consistently opposed any type of construction on or near the city watershed and would vote against this location for racing.

Councillor Reponen stated that in view of the fact that his motion was defeated and he was definitely going to vote against this location for racing.

Councillor LeBlanc stated that he had been a Councillor in Ward 3 for six years before he became Councillor-at-Large. He said that he investigated. He did not go to the banks nor to anybody in the money but he went to the people direct at their homes and found out what was the result of horse racing in Pawtucket and Narragansett. Women told him that their husbands instead of working in the factories were at the race tracks. After the racing radios, televisions and other articles of furniture were taken from their homes. He stated he was going to vote against this location for racing in Gardner.



President Walsh announced that the question on which the Council is to take action is on the application of Gardner Raceway for approval of the location on Route 140, Green Street on the site of Andrews Park so-called for harness racing.

On roll call vote, taken, Councillors Kraskouskas, Lison, Robichaud, Sullivan and Tamulen (5) voting in the affirmative, Councillors Cilley, Landry, LeBlanc, Reponen and Sauter (5) voted in the negative. Before voting President Walsh said that he sympathized with the petitioners and he also sympathized with the objectors but he believed that at the time the question, "Shall the pari-mutuel system of betting on licensed horse races be permitted in this country?" appeared on the ballot at the State Election this Fall that it was the time to make your objections. He further stated that he thought we had sat back and said "there is nothing to worry about, they always voted against it in Worcester County", but this year they voted for it. Now, we are trying to tell the people of the City of Gardner that they did not know what they were doing. I do not feel it is my prerogative to tell the people that what they did when they voted 4090 in favor and 2071 against is not right, as the voters in all wards of the City voted in favor. That fact can not be forgotten. In view of the vote of the people, no matter how many other arguments may be, no matter where their sympathies lay, I will vote in favor, and the result of the roll call vote was six yeas and five nays and the motion was carried to approve the petition.

Motion to grant application of Gardner Raceway for harness racing passed

At 10:40 o'clock p.m. the meeting adjourned to the Council Chamber, City Hall to consider the rest of the regular Council Business.

Meeting adjourned to Council Chambers

1919-1020-1021

Motion made by Councillor Sullivan, seconded by Councillor Cilley, was voted to suspend the Council Rule in regard to appointments.

Vote to suspend Council rules in regards to appointments

1919-102011021

Motion made by Councillor Landry, Seconded by Councillor Robichaud, was voted to confirm the following appointments received from the

Motion to confirm appointments

CHARLES F. SAUNDERS as Airport Commissionner for term expiring November 18, 1957

Charles F. Saunders, Airport Commissionner

JAMES F. CASAVANT as Forest Warden for term expiring December 31, 1955

James F. Casavant Forest Warden

OMER H. LAROCHE as Moth Superintendent for term expiring December 31, 1955

Omer H. Laroche Moth Superintendent

THOMAS H. BINALL as Member, Planning Board for term expiring December 31, 1955.

Thomas H. Binall Member, Planning Board

# EXHIBIT C

City of Gardner

JANUARY 3, 1955  
IN CITY COUNCIL

EXHIBIT

tabbies

C

Monday evening, January 3, 1955, Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p.m. by City Clerk Sarah E. Bourgeois who announced that nominations for the election of a President of the City Council for the year 1955 would be in order immediately after roll call.

Regular meeting

Roll call taken-Ten members present, 1 absent (Councillor Cilley).

Roll Call

Councillor Landry nominated Councillor Martin H. Walsh for president, duly seconded by Councillor LeBlanc.

Nomination for  
President of Council

On motion made by Councillor Reponen, seconded by Councillor Sauter, it was voted to close nominations.

Motion to close  
nominations

On roll call vote taken Councillor Martin H. Walsh was unanimously elected president of the City Council for the year 1955.

Councillor Walsh.  
unanimously elected  
Council President

President Walsh thanked the members of the City Council for electing him President for the year 1955.

Thank you and address  
by President Walsh

He said that the City Council, during the year 1954, has worked hard and sincerely to attain the type of City Government the people wish for the city. We have been hamstrung, he said, at time by indecision and fear on the part of the top echelon, of our City Government, which tends to make our whole structure look weak and indecisive.

The members of the City Council, however, have proven in the past year that their decisions are based on their own judgment according to facts and their individual votes have been accepted within the council, without rancor, by the opposition. There has been an attempt to break up this good democratic process, by trying to inject into our ranks a feeling of indecision and fear by swaying public opinion through high powered and expensive paid advertisement. This type of powerful influence and energy should not be allowed to go to waste in our community. We have a place where this type of influence and ability to organize can be used to great advantage.

Continuing, he said, a year ago the Mayor set up an Industrial Committee in the City for the purpose of bringing new and diversified industry into the community. This committee, he was sorry to say, has not been successful for one reason or another. "I am certain now that we need new industry more than ever." In 1954 another of our industries has left the city. This time one of our oldest and best paying industries, the stove business. Something must be done to replace this loss to the community.

The best men in my opinion, he said to bring industries in to the community are these same men with influence who can band together and get what they go after. With their business minds and connections in industry, I am certain that they could do the community a real service and prevent it from going backward any further, but instead go forward by leaps and bounds.

I therefore, challenge this powerful group of industrialists and members of the Chamber of Commerce to start in 1955 to protect and improve the city, by using their talents to bring new industry to Gardner, in order to keep our position as an industrial community.

We members of the City Council have proven in 1954 that we are officials with a sense of duty to the electorate who put us in office.

Let us look forward to 1955 with the same independent feeling of free men in a free community.



Opening Prayer

The opening prayer was then said in unison.

Motion to delay reading of minutes until next meeting

On motion made by Councillor Sauter, seconded by Councillor Lison, it was voted to delay action on the reading of the minutes of the regular meeting of December 20 until the next regular meeting of the City Council,

Motion to place on file Mayor's comm. relative to Harness Racing in Gardner

1001  
On motion made by Councillor Sauter, seconded by Councillor Reponen, it was voted to place on file the Mayor's communication with attached photostatic copies of a letter from the Department of Public Health signed by Clarence I. Sterling, Jr., Deputy Commissioner, and also a press release given by the Mayor on December 24, stating the reasons why it was impossible for him to either approve or disapprove the vote taken on December 20 relative to the location of a track for harness racing on a tract of land now owned by Gardner Raceway, Inc. on Route 140 and why he returned the vote to the City Council without his signature.

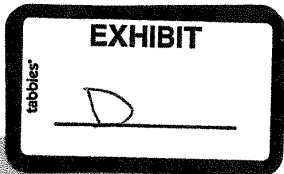
According to City Solicitor because Mayor does not sign application it does not pass

1001  
In answer to Councillor Lison as to what would happen now to the vote taken December 20 the City Solicitor replied that according to the statute both the City Council and the Mayor must approve the site. If either one does not sign, it does not pass.

City Solicitor explained lease between City of Gardner and Comm. of Mass. Div. of Employment Security

1044  
The City Solicitor explained the lease between the City of Gardner and the Commonwealth of Massachusetts Division of Employment Security. He said the lease is one in usual form for a five year term from the first day of May 1955 or from the day the entire area is available and the alterations specified have been completed, with the privilege on the part of the Commonwealth of extending this lease for a further period of five year for approximately 1800 square feet of space in the building known as the Connors Street School, said space consisting of approximately 1400 square feet in two adjacent classrooms on the second floor in the westerly side of the building and approximately 400 square feet of the second floor partitioned lobby with access stairways to the rear exit of the building. This space is to be used by the Division of Employment Security as a Public Employment Office and for other business of the Division of Employment Security. The annual rental will be \$1200.00 a year or \$100.00 a month plus \$4020.00 which is the bid made on repairs for that part of the school that the Division of Employment Security would occupy. \$100.00 would represent the proportionate cost of heat, water, janitor service and nominal repairs to plumbing and electrical service and office maintenance plus \$67.00 which would take care of interest light and that part of the total cost of repairs and alterations agreed to.

# EXHIBIT D



#1280  
On motion made by Councillor Sullivan, seconded by Councillor Gilley, it was voted to hold the regular meetings of the City Council during July and August on the third Monday of each month.

On motion made by Councillor Gilley, seconded by Councillor Sullivan, it was voted to adjourn at 8:45 o'clock p.m. after recitation of the closing prayer.

A true copy, Attest:

CITY OF GARDNER  
July 18, 1955  
IN CITY COUNCIL

*Suzanne Bourgeois* City Clerk

Monday evening, July 18, 1955. Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p.m. by President Walsh.

Roll call taken-- Eight Councillors present. Three Councillors absent. (Councillors LeBlanc, Reponen and Sauter absent.) Councillors LeBlanc and Reponen present at 7:37 p.m.

The opening prayer was then said in unison.

On motion made by Councillor Tamulen, seconded by Councillor Lison, it was voted to dispense with the reading of the minutes of the regular meeting of June 20, 1955.

#1280  
On motion made by Councillor Robichaud, seconded by Councillor Kraskowski, it was voted to confirm the following appointment received from the Mayor:

FRANK K. HIRONS as Special Police Officer  
In and around the City of Gardner, Condition of appointment is that Police Uniform and badge shall not be worn off premises for which appointed. For term expiring January 15, 1956.

Galaxy S20 5G

Questionnaires were mailed out to the sixty home-owners asking them if they were in favor of having the sewage system installed. The following is the result of the Questionnaires sent out: Planning Board report (cont)

60 Questionnaires mailed out  
35 Returned in favor  
5 Returned opposed  
20 Not returned.

The Planning Board recommends that this project be undertaken for the following reasons:

- a. Majority of the people wish this service.
- b. This area is a menace to health, especially Colby Park area where the land is naturally wet.
- c. The Board feels that if sewage was installed it would encourage home building in this area.

The Planning Board further recommends that this project be started in 1956 and extended over a three - year period as follows:

Project #1 (1956)  
Lennon Street and Temple Street

Project #2 (1957)  
Pearl Street

Project #3 (1958)  
Colby Park

Very truly yours,

(signed) Stanley Michniewicz  
Chairman

#1166  
On motion made by Councillor Sullivan, seconded by Councillor Reponen, it was voted that the following report from the Planning Board be placed on file: Motion to put report from Planning Board on file

July 13, 1955

To His Honor, the Mayor and Members of  
the City Council

Gentlemen:

At the regular meeting of the Planning Board it was voted not to accept the portion of Harvard Street at the top on the hill. Planning Board report

No layout plan was submitted and the street does not comply with the Planning Board's regulations.

Very truly yours,

Stanley Michniewicz  
Chairman.

#1289  
President Walsh announced that an informal meeting of the Council had been called by the President for Wednesday evening, July 20, 1955 at 7 o'clock p.m. at the Furniture Mart, Elm Street School for a meeting with the members of the Gardner Furniture Mart. Announcement of Informal Meeting

#1290  
On motion made by Councillor Tammen, seconded by Councillor Kraskouskas, it was voted to refer the request received from the Gardner Raceway, Inc., to place on the ballot for the next regular city election approval of the location on the easterly side of Route 140 on Green Street for the pari-mutuel system of betting on licensed horse races to the City Solicitor for an opinion as to the proper procedure. Refer to City Solicitor request to place on ballot question of pari-mutuel betting to Gardner Raceway

Galaxy S20 5G



to accept the portion of Harvard Street at the top on the hill,  
 No layout plan was submitted and the street does not comply  
 with the Planning Board's regulations.

Very truly yours,  
 Stanley Michniewicz  
 Chairman.

#1289  
 President Welsh announced that an informal meeting of the Council had  
 been called by the President for Wednesday evening, July 20, 1955 at  
 7 o'clock p.m. at the Furniture Mart, Elm Street School for a meeting  
 with the members of the Gardner Furniture Mart.

#1290  
 On motion made by Councillor Tamulen, seconded by Councillor Kraskou-  
 skas, it was voted to refer the request received from the Gardner  
 Raceway, Inc., to place on the ballot for the next regular city  
 election approval of the location on the easterly side of Route 140 on  
 Green Street for the pari-mutuel system of betting on licensed horse

Planning Board  
report

Galaxy S20 5G

Announcement of  
Informal Meeting

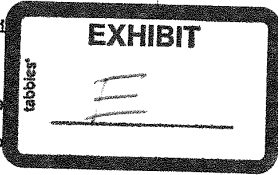
Refer to City Solicitor  
request to place on  
ballot question of  
pari-mutuel betting  
to Gardner Raceway

# EXHIBIT E

206

Refer to Service Comm. drainage on certain streets

#1306  
Councillor Landry also referred to the Public Service Commi drainage in Jean Street area, Monadnock, Oriole and Branch and requested that the Public Works Commission make a survey vise the Council on the size of the pipes going through from Drive to Greenwood Playground.



Request Service Comm. for cost estimate for repairs to Oak Street sidewalk

#1307  
Councillor Landry also requested the Public Service Committee to bring in an estimated cost for renewing the sidewalk on the west side of Oak Street from West Street to Richmond Street and on the east side of Oak Street from Richmond Street to Park Street. Councillor Landry stated that he would not want the cost of these repairs to come out of the sidewalk allotment for new sidewalks in Ward 2. There was an item in the budget for street repair and he suggested that sums be set up for sidewalk repair.

Adjourn

On motion made by Councillor Tamulen, seconded by Councillor Lison, it was voted to adjourn at 9:35 p.m. after recitation of the closing prayer.

A true copy, Attest:

CITY OF GARDNER

August 15, 1955

IN CITY COUNCIL

*Sarah C. Pranger*  
City Clerk

Regular meeting

Monday evening, August 15, 1955. Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p.m. by President Walsh.

Roll call

Roll call taken-- 10 Councillors present, 1 absent (Councillor Sauter). The opening prayer was then said in unison.

Dispense with reading of minutes

On motion made by Councillor Tamulen, seconded by Councillor Robichaud, it was voted to dispense with the reading of the minutes of the regular meeting of July 18, 1955.

Finance Comm. granted more time on land at corner of Temple St. & Hospital Hill Rd.

#1232  
There being no objections the Finance Committee was granted more time to investigate the value of the tract of land at the corner of Temple Street and Hospital Road to ascertain whether or not the City of Gardner would be justified in accepting the bids submitted.

Motion to suspend rule relative to appointments

#1308  
On motion made by Councillor Landry, seconded by Councillor Cilley, it was voted to suspend the Council rule in regard to appointments.

Motion to confirm appointments

#1308  
On motion made by Councillor Reponen, seconded by Councillor Kraskouskas, it was voted to confirm the following appointment received from the Mayor:

Paul T. Driscoll as Deputy Defense Director

Paul T. Driscoll as Deputy Defense Director for term expiring August 1, 1956.



#1295  
The Public Safety Committee and Public Welfare Committee were granted more time to consider a proposed ordinance to forbid people using the pool and any time that lifeguards are not on duty at the Greenwood Memorial Pool.

Accept Safety & Welfare Comm. reports on use of pool when lifeguards are not on duty

#1303  
On motion made by Councillor Robichaud, seconded by Councillor Kras-kouskas, it was voted to accept the Public Welfare Committee's report that the Park Commissioners and Tree Warden were going to meet and devise the best method of planting shade trees at Pulaski Playground, possibly in connection with an Arbor Day program in the Spring.

Accept Welfare Comm. report on trees at Pulaski Playground

#1292  
The Finance Committee was granted more time to consider a bid of \$1.00 received from Fred E. Perry for land located on the west side of Mill Street called Asaph Wood Meadow.

Finance Comm. granted more time on bid for Asaph Wood Meadow.

#1290  
Councillor Lison made a motion, seconded by Councillor Robichaud, that a letter from the Gardner Raceway, Inc., re Track Location be read. Councillor Landry made a substitute motion, seconded by Councillor Cilley, that the City Solicitor's opinion be accepted. On vote taken to consider the substitute motion by a vote of 5 to 5 the motion was not passed and therefore defeated. On vote taken to read the letter it was voted by a show of hands 8 to 2 in favor. The following letter was read.

Motion to read letter from Gardner Raceway, Inc. re: Track Location

#1290  
The following opinion from the City Solicitor was read:

Opinion from City Solicitor read

July 29, 1955

President & Members of the  
City Council  
Gardner, Massachusetts

Gentlemen:

Responding to your request of July 18, 1955 for a legal opinion as to whether the City Council may submit to the registered voters the following question:

Opinion on putting matter of raceway before the voters

"Shall a tract of land located within the limits of the City of Gardner, now owned by the Gardner Raceway, Inc., and comprising approximately 100 acres, situated on the easterly side of Route 140, otherwise called Green Street: and approximately 1 1/4 miles from West Gardner Square: be approved as the location of a tract for the pari-mutuel system of betting on licensed horse races", I submit the following answer:

Section 49 of the City Charter states that "the City Council may of its own motion, submit to a vote of the registered voters of the City for adoption or rejection at a regular or special election, any proposed measure."

Section 50 of said Charter, referring to a measure submitted to the voters states, "...shall take effect"; and

Opinion from City Solicitor relative to putting matter of raceway before the voters (cont)

Section 51 says, "...no measure shall go into effect unless it receives ...votes....of the registered voters,...."

In the above sections I have underlined "any proposed measure", "shall take effect", and "shall go into effect", and I have done so to point out the significant and controlling words as they bear on the question here sought to be resolved.

To arrive at a proper legal conclusion, I am compelled to refer to the Chapter and Section of General Laws of this Commonwealth dealing with the question of "Approval of the location for a racetrack." Chapter 128a, Section 13a of said General Laws states, (and I quote that part applicable here) "No license shall be granted by the (State Racing Commission for a racing meeting in any city, ..unless the location of the racetrack where such meeting is to be held or conducted has been once approved by the Mayor and Aldermen (City Council)..."

You will note from the reading of this Chapter and Section of the General Laws that approval by the Mayor and City Council is required. Neither the Mayor nor the City Council can pass this responsibility to the registered voters.

You will note further, that the references to Sections 49, 50, and 51 of the City Charter made in the early part of this analysis, clearly indicate that any "proposed measure" that is submitted to the voters, "shall take effect" or "shall go into effect" upon affirmative vote of the registered voters. This would indicate that any "proposed measure" to be submitted to the voters would upon passage by the voters, have the force and effect of law, and become law on its passage.

The question here presented requesting submission of approval of location of a certain racetrack, is herein treated as a "proposed measure", and since Chapter 128a, Section 13a of the General Laws requires the Mayor and the City Council only to act on racetrack locations, the question therefore cannot be delegated to the registered voters, since affirmative vote by the registered voters on this question could not cause the measure to "take effect".

I therefore rule that the question here proposed may not be placed on the ballot.

Respectfully submitted,

(signed) Eugene O. Turcotte

City Solicitor.

Motion to accept opinion did not pass

#1290

Councillor Landry made a motion, seconded by Councillor Cilley, to accept the opinion of the City Solicitor. On roll call vote taken, Councillors Cilley and Landry (2) voting in the affirmative. Councillors Kraskouskas, LeBlanc, Lison, Reponen, Robichaud, Sullivan, Tamulen and President Walsh(8) voting in the negative and Councillor Sauter (1) absent the motion was defeated.

Motion to place question on ballot at next regular election

#1290

Councillor Lison made a motion seconded by Councillor Robichaud, to place the following question on the ballot at the next regular city election:

"Shall a tract of land located within the limits of the City of Gardner, now owned by the Gardner Raceway, Inc., and comprising approximately 100 acres, situated on the easterly side of Route 140, otherwise called Green Street; and approximately 1 1/4 miles from West Gardner Square; be approved as the location of a tract for the pari-mutuel system of betting on licensed horse races?"

Motion to place question on ballot did pass

On roll call vote taken, Councillors Kraskouskas, LeBlanc, Lison, Reponen, Robichaud, Sullivan, Tamulen and President Walsh (8) voting in the affirmative, Councillors Cilley and Landry (2) voting in the negative and Councillor Sauter (1) absent it was voted to put the question on the ballot.

215

On motion made by Councillor Cilley, seconded by Councillor Tamulen, it was voted to consider new business. New Business

#1323  
On motion made by Councillor LeBlanc, seconded by Councillor Cilley, it was voted on roll call vote, 9 yeas, 1 nay (Councillor Landry) and 1 absent (Councillor Sauter) to pass the following order: Motion to pass money order

AN ORDER TRANSFERRING A SUM OF MONEY FROM THE AVAILABLE FUNDS TREASURY ACCOUNT TO THE UNCLASSIFIED DEPARTMENT, WEST STREET COMFORT STATION, PERSONAL SERVICE ACCOUNT.

ORDERED:

That there be and is hereby transferred the sum of Four hundred dollars (\$400.00) from the Available Funds Treasury Account to the Unclassified Department, West Street Comfort Station, Personal Service Account.

Presented to the Mayor for approval  
August 16, 1955-Approved  
ULRIC O. FREDETTE, Mayor

\$400.00 to Unclassified Dept., West Street Comfort Station, Personal Service Acct.

Approved by Mayor

#1324  
On motion made by Councillor LeBlanc, seconded by Councillor Lison, it was voted on roll call vote, 9 yeas, 1 nay (Councillor Landry) and 1 absent (Councillor Sauter) to pass the following order:

AN ORDER TRANSFERRING A SUM OF MONEY FROM THE AVAILABLE FUNDS TREASURY ACCOUNT TO THE UNCLASSIFIED DEPARTMENT, WEST STREET COMFORT STATION, ORDINARY MAINTENANCE ACCOUNT.

ORDERED:

That there be and is hereby transferred the sum of Two hundred dollars (\$200.00) from the Available Funds Treasury Account to the Unclassified Department, West Street Comfort Station, Ordinary Maintenance Account.

Presented to Mayor for approval August 16, 1955  
Approved August 16, 1955  
ULRIC O. FREDETTE, Mayor

Motion to pass money order

\$200.00 to Unclassified Dept., West Street Comfort Station, Ordinary Main. Acct.

Approved by Mayor

#1325  
On motion made by Councillor Robichaud, seconded by Councillor Lison, it was voted to accept the Public Safety Committee's favorable report and to grant Hackney Operator Licenses to the following:

Joseph N. Brunell  
Raymond E. Nadeau  
Joseph J. Zub.

Accept Safety Comm. report and grant Hackney Operator

#1326  
On motion made by Councillor Robichaud, seconded by Councillor Tamulen, it was voted to accept the Public Safety Committee's favorable report and to grant the American House to erect a sign 14" x 18" over the sidewalk at 38 Parker Street under the supervision of the Building Inspector and with a liability policy that meets the approval of the City Solicitor. Accept Safety Comm. report and grant overhead sign permit on Parker Street

215

On motion made by Councillor Cilley, seconded by Councillor Tamulen, it was voted to consider new business.

New Business

#1323

On motion made by Councillor LeBlanc, seconded by Councillor Cilley, it was voted on roll call vote, 9 yeas, 1 nay (Councillor Landry) and 1 absent (Councillor Sauter) to pass the following order:

Motion to pass money order

AN ORDER TRANSFERRING A SUM OF MONEY FROM THE AVAILABLE FUNDS TREASURY ACCOUNT TO THE UNCLASSIFIED DEPARTMENT, WEST STREET COMFORT STATION, PERSONAL SERVICE ACCOUNT.

\$400.00 to Unclassified Dept., West Street Comfort Station, Personal Service Acct.

ORDERED:

That there be and is hereby transferred the sum of Four hundred dollars (\$400.00) from the Available Funds Treasury Account to the Unclassified Department, West Street Comfort Station, Personal Service Account.

Presented to the Mayor for approval  
August 16, 1955-Approved  
ULRIC O. FREDETTE, Mayor

Approved by Mayor

#1324

On motion made by Councillor LeBlanc, seconded by Councillor Lison, it was voted on roll call vote, 9 yeas, 1 nay (Councillor Landry) and 1 absent (Councillor Sauter) to pass the following order:

Motion to pass money order

AN ORDER TRANSFERRING A SUM OF MONEY FROM THE AVAILABLE FUNDS TREASURY ACCOUNT TO THE UNCLASSIFIED DEPARTMENT, WEST STREET COMFORT STATION, ORDINARY MAINTENANCE ACCOUNT.

\$200.00 to Unclassified Dept., West Street Comfort Station, Ordinary Main. Acct.

ORDERED:

That there be and is hereby transferred the sum of Two hundred dollars (\$200.00) from the Available Funds Treasury Account to the Unclassified Department, West Street Comfort Station, Ordinary Maintenance Account.

Presented to Mayor for approval August 16, 1955  
Approved August 16, 1955  
ULRIC O. FREDETTE, Mayor

Approved by Mayor

#1325

On motion made by Councillor Robichaud, seconded by Councillor Lison, it was voted to accept the Public Safety Committee's favorable report and to grant Hackney Operator Licenses to the following:

Accept Safety Comm. report and grant Hackney Operator

Joseph N. Brunell  
Raymond E. Nadeau  
Joseph J. Zub.

#1326

On motion made by Councillor Robichaud, seconded by Councillor Tamulen, it was voted to accept the Public Safety Committee's favorable report and to grant the American House to erect a sign 14" x 18" over the sidewalk at 38 Parker Street under the supervision of the Building Inspector and with a liability policy that meets the approval of the City Solicitor.

Accept Safety Comm. report and grant overhead sign permit on Parker Street

# EXHIBIT F

## CITY OF GARDNER

October 3, 1955

## IN CITY COUNCIL

EXHIBIT

tabbies

F

Regular meeting

Monday evening, October 3, 1955. Regular meeting of the City Council held in the Council Chamber, City Hall. Meeting called to order at 7:30 o'clock p.m. by President Walsh.

Roll call

Roll call taken-- 8 Councillors present.  
3 " absent (Cilley, Kraskouskas and Sullivan)

Opening Prayer

The opening prayer was then said in unison.

Dispense with reading of minutes

On motion made by Councillor Robichaud, seconded by Councillor Tamulet, it was voted to dispense with the reading of the minutes of the regular meeting of September 19, 1955.

Consideration of item out of order

There being no objection from the Council Item 1355 was considered as the first item on the calendar, to be followed by the drawing of one juror, as requested.

Public hearing  
Speaking against

#1355  
Public hearing held. Leon Bagdonas, 161 Ryan Street, (not a recorded abutter) objected to the amount of land to be taken from the lawn, with no place for his car and offered to give the city 5 feet of the land and if the post were moved would give another 6 feet of land.

Accept Service Comm. report and approve plan for alteration of Ryan Street

On motion made by Councillor Reponen, seconded by Councillor Robichaud, it was voted to accept the Public Service Committee's favorable report and to approve the plan and layout as submitted for the alteration of Ryan Street for the entire length from West Street to Clark Street, and of a uniform width of 50 feet throughout.

Counc. Landry excused

Councillor Landry was excused at 7:45 o'clock p.m.

Draw Juror

Councillor LeBlanc drew Kazmera Dymek, 3 Chatham Street as a traverser juror for Civil Session of Superior Court to report at Fitchburg, on Monday, November 7, 1955.

Appointments laid on the table

#1336  
The appointments for three election officers, as follows to fill vacancies were laid on the table in accordance with the Council Rule:

John R. Tinker as Inspector, Ward 1, Precinct B  
Origene Dion " Deputy Inspector Ward 2, Prec. A  
James J. Sutherby as " " 5, " A

Galaxy S20 5G



238

Hearing held and accept report of Service Comm., City Engineer and Plann. Board to accept Laitinen Drive

Accept portion of General Laws and place question on ballot

Motion to hold public hearing at next meeting on application for underground storage on Chestnut Street

Grant permit to maintain marquee on Parker Street

#1340

Hearing Held. On motion made by Councillor Reponen, seconded by Councillor Robichaud, it was voted to accept the Public Service Committee's favorable report with the recommendations of the Planning Board and City Engineer that the promoter post a bond or certified check to the amount of \$800.00 to guarantee the completion of the street and to accept Laitinen Drive from the easterly line of Halford Street to the easterly line of proposed Pelley Street and of a uniform width of 50 feet.

#1384

On motion made by Councillor Reponen, seconded by Councillor Lison, it was voted that provisions of General Laws of Chapter 54, Sections 55, 56 and 57 shall be suspended and made inapplicable as to the following question to be placed on the ballot at the City Election, November 8, 1955:

"Shall a track of land located within the limits of the City of Gardner, now owned by the Gardner Raceway, Inc., and comprising approximately 100 acres, situated on the easterly side of Route 140, otherwise called Green Street; and approximately  $1\frac{1}{2}$  miles from West Gardner Square; be approved as the location of a tract for the pari-mutuel system of betting on licensed horse races?"

as passed by the City Council at the meeting held on August 15, 1955.

#1385

On motion made by Councillor Robichaud, seconded by Councillor Sauter, it was voted to hold a public hearing in the Council Chamber, City Hall, on Monday evening, October 17, 1955 at 7:30 o'clock p.m. to consider the application of Raoul A. Vallee and Mae H. Vallee for a license to install 5 underground tanks totalling 11,000 gallons for the storage of gasoline, fuel oil and waste oil on their property at 229 Chestnut Street.

#1386

On motion made by Councillor Robichaud, seconded by Councillor Lison, it was voted to accept the Public Safety Committee's favorable report and to grant Fram-Gard Theatres Corporation a permit to maintain a marquee over the sidewalk at 34 Parker Street under the supervision of the Building Inspector and with a liability policy that is subject to the approval of the City Solicitor.

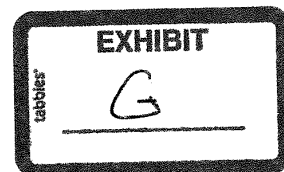






# EXHIBIT G

CITY OF GARDNER  
CITY ELECTION



Tuesday -- November 11, 1955

Polls Open at

10. o'clock a.m.

(Seal)

Polls Close

8 o'clock p.m.

City Clerk's Office, October 28, 1955

In accordance with the vote taken by the City Council September 6, 1955 meetings of the citizens of this city qualified to vote for city officers will be held in the several polling places designated by this Board as follows:

|                 |                                            |
|-----------------|--------------------------------------------|
| Ward 1, Prec. A | School Street School Annex                 |
| Ward 1, Prec. B | School Street School Annex                 |
| Ward 2, Prec. A | Motors of Gardner, Inc., 33 West Street    |
| Ward 2, Prec. A | Coleman Street School                      |
| Ward 3, Prec. A | City Hall Auditorium                       |
| Ward 3, Prec. B | Waterford Street School                    |
| Ward 4, Prec. A | Union Hall, 69 Pine Street                 |
| Ward 4, Prec. B | Parker Bros., Auto Co., 231 Main Street    |
| Ward 5, Prec. A | Gardner Auto Co., Inc. 486 Chestnut Street |
| Ward 5, Prec. B | Prospect Street School                     |

On Tuesday, November 8, 1955 for the purpose of giving in their votes for the election of Mayor for two years, six Councillors-at Large for two years, one Ward One Councillor for two years, one Ward Three Councillor for two years, one Ward Four Councillor for two years, one Ward Five Councillor for two years, and two members of the School Committee for Four years; all terms to begin the first Monday in January, 1956. Also to vote on the approval of a location situated on the easterly side of Route 140, otherwise called Green Street, for the pari-mutuel system of betting on licensed horse races.

It is further ordered that the polls shall be opened at 10 o'clock in the morning and close at 8 o'clock in the evening.

Per order of the City Council  
SARAH E. BOURGEOIS, CITY CLERK

CITY OF GARDNER

Notice

I hereby certify that the following is a list of the candidates to be voted on at the City Election to be held on Tuesday, November 8, 1955 To vote for a person mark a cross (x) in the section at the right of the name.  
SARAH E. BOURGEOIS, City Clerk

Candidates for WARD FIVE COUNCILLOR for TWO Years

Vote for ONE

Edward W. Tamulen, 150 Lovewell Street  
 Wassey S. Szymanski, 19 Glenwood Street

Candidates for SCHOOL COMMITTEE for FOUR Years

Vote for Two

Robert B. Morgan, 152 Oak Street  
 Herve N. Vezina, 131 Graham Street  
 Richard W. Cushing, 24 Jackson Park  
 George C. Lison, 23 West Broadway

To vote on the following question mark a cross (X) at the right of YES or NO

"Shall a tract of land located within the limits of the City of Gardner, now owned by the Gardner Raceway, Inc., and comprising approximately 100 acres, situated on the easterly side of Route 140, otherwise called Green Street: and approximately 1 1/2 miles from West Gardner Square: be approved as the location of a tract for the pari-mutuel system of betting on licensed horse races?"

|     |  |
|-----|--|
| YES |  |
| NO  |  |

Gardner, Mass.  
 October 29, 1955

RETURNS

CITY ELECTION----NOVEMBER 8, 1955

The returns of the City Election were received from the various wards at the City Clerk's Office as follows:

| WARD | TIME             | VOTES       | REGISTRATION | PERCENTAGE  |
|------|------------------|-------------|--------------|-------------|
| 1 A  | Nov. 8, 10.44p.m | 818         | 972          | 84.1        |
| 1 B  | Nov. 8, 10.19p.m | 544         | 670          | 81.1        |
| 2 A  | Nov. 8, 11.08p.m | 972         | 1170         | 83.0        |
| 2 B  | Nov. 8, 12.33a.m | 1082        | 1296         | 83.4        |
| 3 A  | Nov. 8, 1.14a.m  | 1017        | 1218         | 83.4        |
| 3 B  | Nov. 8, 11.48p.m | 858         | 1014         | 84.6        |
| 4 A  | Nov. 8, 11.02p.m | 672         | 816          | 82.3        |
| 4 B  | Nov. 8, 11.07p.m | 644         | 804          | 80.1        |
| 5 A  | Nov. 8, 10.40p.m | 767         | 923          | 83.1        |
| 5 B  | Nov. 8, 10.22p.m | 1007        | 1199         | 83.9        |
|      |                  | <u>8381</u> | <u>10082</u> | <u>82.9</u> |

A true copy, Attest:

*Sarah E. Bourgeois*  
 City Clerk

WARD FIVE COUNCILLOR

|                     |       |       |       |       |     |     |     |     |           |           |       |
|---------------------|-------|-------|-------|-------|-----|-----|-----|-----|-----------|-----------|-------|
|                     | One-A | One-B | Two-A | Two-B | 3-A | 3-B | 4-A | 4-B | 5-A       | 5-B       | Total |
| *Edward W. Tamulen  |       |       |       |       |     |     |     |     | 400       | 766       | 1166  |
| Wassey S. Szymanski |       |       |       |       |     |     |     |     | 323       | 192       | 515   |
| Blanks              |       |       |       |       |     |     |     |     | <u>44</u> | <u>49</u> | 93    |
| Total               |       |       |       |       |     |     |     |     | 767       | 1007      | 1774  |

SCHOOL COMMITTEE

|                    |            |            |            |            |            |            |            |            |            |            |             |
|--------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|
|                    | Total      | 1088       | 1944       | 2164       | 2034       | 1716       | 1344       | 1288       | 1534       | 2014       | 16762       |
| *Robert B. Morgan  | 469        | 316        | 534        | 523        | 541        | 388        | 388        | 388        | 473        | 553        | 4573        |
| Herve N. Vezina    | 178        | 126        | 516        | 489        | 480        | 469        | 246        | 235        | 179        | 240        | 3158        |
| Richard W. Cushing | 456        | 295        | 206        | 292        | 156        | 143        | 241        | 155        | 339        | 513        | 2796        |
| *George C. Lison   | 303        | 210        | 377        | 509        | 530        | 466        | 259        | 297        | 360        | 467        | 3778        |
| Blanks             | <u>230</u> | <u>141</u> | <u>311</u> | <u>351</u> | <u>327</u> | <u>250</u> | <u>210</u> | <u>213</u> | <u>183</u> | <u>241</u> | <u>2457</u> |

RACING QUESTION

|        |           |           |           |           |            |           |           |           |           |           |            |
|--------|-----------|-----------|-----------|-----------|------------|-----------|-----------|-----------|-----------|-----------|------------|
| YES    | 111       | 122       | 238       | 287       | 319        | 247       | 161       | 226       | 205       | 269       | 2185       |
| * No   | 686       | 400       | 654       | 711       | 593        | 542       | 469       | 355       | 514       | 685       | 5609       |
| BLANKS | <u>21</u> | <u>22</u> | <u>80</u> | <u>84</u> | <u>105</u> | <u>69</u> | <u>42</u> | <u>63</u> | <u>48</u> | <u>53</u> | <u>587</u> |
| Total  | 818       | 544       | 972       | 1082      | 1017       | 858       | 672       | 644       | 767       | 1007      | 8381       |

\*Elected

A true copy, Attest:

*Frank D. Ramirez*

City Clerk



# **EXHIBIT H**

Taxation of  
company.

*Section 13.* Every such corporation shall be taxed under the provisions of sections two to seven, inclusive, of chapter sixty-three.

Certain sec-  
tions of law to  
apply.

*Section 14.* The provisions of sections eighty-six to one hundred and ten, both inclusive, of chapter one hundred and forty and the provisions of chapter one hundred and ten A and chapter one hundred and seventy-four shall not apply to such corporations. *Approved July 26, 1935.*

*Chap. 453* AN ACT RELATIVE TO THE TERM OF CERTAIN NOTES TO BE ISSUED BY THE COMMONWEALTH.

*Be it enacted, etc., as follows:*

The term of the notes which the state treasurer is authorized to issue under chapter three hundred and ninety-two of the acts of the current year, authorizing temporary borrowings by the commonwealth in anticipation of receipts from federal grants for emergency public works, shall not exceed nine months, as recommended by the governor in a message to the general court dated July twelfth, nineteen hundred and thirty-five, in pursuance of section three of Article LXII of the amendments to the constitution.

*Approved July 26, 1935.*

*Chap. 454* AN ACT MAKING CERTAIN ADJUSTMENTS IN THE LAWS RELATING TO HORSE AND DOG RACES CONDUCTED UNDER THE PARI-MUTUEL OR CERTIFICATE SYSTEM OF BETTING.

Emergency  
preamble.

*Whereas,* The deferred operation of this act would in part defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

G. L. (Ter.  
Ed.), 128A,  
§ 5, etc.  
amended.

SECTION 1. Section five of chapter one hundred and twenty-eight A of the General Laws, as appearing in section three of chapter three hundred and seventy-four of the acts of nineteen hundred and thirty-four, is hereby amended by striking out the first paragraph and inserting in place thereof the following:—

Pari-mutuel  
system of  
wagering  
authorized.

Before holding or conducting a racing meeting, every licensee shall provide a place or places, equipped as hereinafter provided, on the grounds where such meeting is held or conducted or adjacent thereto, but not elsewhere, at which such licensee shall conduct and supervise the pari-mutuel or certificate system of wagering on the speed or ability of horses or dogs performing in the races held or conducted by such licensee at such meeting, and such pari-mutuel or certificate method of wagering upon such races so conducted shall not under any circumstances be held or construed to be unlawful, other statutes of the commonwealth to the contrary notwithstanding. Such place or places shall be equipped with automatic betting machines

capable of accurate and speedy determination of award or dividend to winning patrons, and all such awards or dividends shall be calculated by a totalisator machine or like machine, except at state or county fairs.

SECTION 2. Section three of said chapter one hundred and twenty-eight A, as amended by chapter two hundred and thirty-nine of the acts of the current year, is hereby further amended by striking out the first paragraph, as appearing in said section three of said chapter three hundred and seventy-four, and inserting in place thereof the following: —

G. L. (Ter. Ed.), 128A, § 3, etc., amended.

If any application for a license, filed as provided by section two, shall be in accordance with the provisions of this chapter, the commission, after reasonable notice and a public hearing in the city or town wherein the license is to be exercised, may issue a license to the applicant to conduct a racing meeting, in accordance with the provisions of this chapter, at the race track specified in such application; provided, that if the commission has already taken action on an application in any calendar year, after such notice and public hearing, no other public hearing need be granted on any other application relating to the same premises filed prior to the expiration of said year, unless such other application is for an extension of more than ten days for the racing meeting or for an additional racing meeting.

License to conduct racing meeting. Application for, contents of.

SECTION 3. Said section three is hereby further amended by striking out, in the second line of paragraph (f), as so appearing, the word "seventy" and inserting in place thereof the word: — ninety, — so that said paragraph will read as follows: — (f) No licenses shall be issued for more than an aggregate of ninety racing days in any one year at all running horse race meetings combined, not including running horse racing meetings at state and county fairs.

G. L. (Ter. Ed.), 128A, § 3, etc., further amended.

Number of racing days limited.

SECTION 4. Said section three is hereby further amended by inserting after the word "track" the second time it occurs in the fifth line of paragraph (h), as so appearing, the words: — within the commonwealth, — and by adding at the end thereof the following: — ; provided, that licenses may be issued to permit such meetings to be held or conducted at the same time at not more than two race tracks if such tracks are seventy-five miles apart, — so that said paragraph will read as follows: —

G. L. (Ter. Ed.), 128A, § 3, etc., further amended.

(h) No licenses shall be issued to permit running horse racing meetings to be held or conducted, except in connection with a state or county fair, at the same time at more than one race track within the commonwealth, nor at any time at a race track located within fifty miles of another race track within the commonwealth, one mile or more in circumference; provided, that licenses may be issued to permit such meetings to be held or conducted at the same time at not more than two race tracks if such tracks are seventy-five miles apart.

Number of licensed race tracks limited.

SECTION 5. Section nine of said chapter one hundred

G. L. (Ter. Ed.), 128A,



§ 9, etc.,  
amended.

Penalty.

G. L. (Ter.  
Ed.), 128A,  
new section  
9A, added.  
Rules and  
regulations  
may control  
fees, etc.

G. L. (Ter.  
Ed.), 128A,  
§ 13, etc.,  
amended.

Penalty for  
unlicensed  
wagering.

G. L. (Ter.  
Ed.), 128A,  
new section  
13A, added.  
Approval of  
local authori-  
ties required.

and twenty-eight A, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following: —

Any person violating any such rule or regulation shall, upon a complaint brought by the commission, be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding one year, or by both.

SECTION 6. Said chapter one hundred and twenty-eight A is hereby amended by inserting after said section nine the following new section: — *Section 9A.* For the purpose of enabling the commission to exercise and maintain a proper control over horse and dog racing conducted under the provisions of this chapter, the rules, regulations and conditions prescribed by the commission under section nine may provide for the licensing and registering at reasonable and uniform fees, of agents, assumed names, colors, partnerships and minor agreements and may provide for the licensing at reasonable and uniform fees of trainers of horses and dogs and of jockeys participating in such racing and also of owners of dogs. Such rules and regulations may also provide for the suspension and revocation of licenses so granted and also for the imposition on persons so licensed of reasonable forfeitures and penalties for the violation of any rule or regulation prescribed by the commission and for the use of the proceeds of such penalties and forfeitures.

SECTION 7. Section thirteen of said chapter one hundred and twenty-eight A, as so appearing, is hereby amended by striking out, in the thirteenth line, the word "shall" and inserting in place thereof the word: — may, — and by inserting after the word "barred" in the same line the words: — or suspended, — so as to read as follows: — *Section 13.* Any person making a handbook, at any race track within the commonwealth, or holding or conducting a gambling pool or managing any other type of wagering or betting on the results of any horse or dog race, or aiding or abetting any of the foregoing types of wagering or betting, except as permitted by this chapter, shall for a first offence be punished by a fine of not more than two thousand dollars and imprisonment for not more than one year, and for a subsequent offence by a fine of not more than ten thousand dollars and imprisonment for not more than two years. Any jockey, trainer or owner of horses participating in horse or dog racing, if found guilty by the commission of unfair riding or crooked tactics, may be barred or suspended from further participation in racing throughout the commonwealth.

SECTION 8. Said chapter one hundred and twenty-eight A, as so appearing, is hereby further amended by inserting after section thirteen the following new section: — *Section 13A.* The provisions of section one hundred and eighty-one of chapter one hundred and forty and of sections thirty-one, thirty-three and thirty-four of chapter two hundred and seventy-one, and of chapter four hundred and ninety-

four of the acts of nineteen hundred and eight, shall not apply to race tracks or racing meetings laid out and conducted by licensees under this chapter; except that no license shall be granted by the commission for a racing meeting unless the location of the race track where such meeting is to be held or conducted has been once approved by the mayor and aldermen or the selectmen as provided by said section thirty-three of said chapter two hundred and seventy-one.

*Approved July 26, 1935.*

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AN ACT AUTHORIZING THE CITY OF BOSTON TO PROVIDE CERTAIN ADDITIONAL FUNDS NECESSARY TO MEET THE COST OF CERTAIN IMPROVEMENTS IN CONNECTION WITH THE CONSTRUCTION OF THE VEHICULAR TUNNEL BETWEEN BOSTON PROPER AND EAST BOSTON.

*Chap. 455*

*Be it enacted, etc., as follows:*

SECTION 1. Chapter two hundred and ninety-seven of the acts of nineteen hundred and twenty-nine is hereby amended by striking out section eight, as amended by section two of chapter two hundred and eighty-seven of the acts of nineteen hundred and thirty-two, and inserting in place thereof the following: — *Section 8.* For the purpose of meeting the cost of the tunnel, which shall include all expenses incurred in laying out and constructing the same and all facilities and appurtenances incidental thereto, including plazas, street approaches, and additional street and traffic improvements, all as described in section one, and all land damages, expenses of the department, such proportion of the salaries of the department as may in its opinion be properly chargeable thereto and all interest accruing prior to the use of the tunnel on debt incurred for the foregoing, the treasurer of the city shall, from time to time, on request of the department, with the approval of the mayor of the city and without any other authority than that contained in this act, issue and sell at public or private sale the bonds of the city, registered or with interest coupons attached, as he may deem best, to an amount not exceeding nineteen million six hundred thousand dollars. Such bonds shall be designated on their face, Traffic Tunnel Bonds, City of Boston, Act of 1929, sixteen million dollars of which shall be for such terms, not exceeding fifty years, and three million dollars of which shall be for such terms, not exceeding thirty years, and six hundred thousand dollars of which shall be for such terms, not exceeding thirty years, as in each case the mayor and the treasurer of the city may determine, and shall bear such interest, payable semi-annually, as the mayor and the treasurer of the city may determine. Such bonds may be called, retired and cancelled by the city on any date upon which interest is payable on said bonds after twenty years from their respective dates, by payment by the city of the amount of

**Chap.158 AN ACT RELATIVE TO MEMBERSHIP IN COUNTY RETIREMENT SYSTEMS.**

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 32, § 21, etc., amended.

SECTION 1. Section twenty-one of chapter thirty-two of the General Laws, as most recently amended by section two of chapter three hundred and thirty-six of the acts of nineteen hundred and thirty-seven, is hereby amended by striking out paragraph (1) (a), as appearing in section one of chapter four hundred of the acts of nineteen hundred and thirty-six, and inserting in place thereof the following paragraph:—

Employees under fifty-five years of age.

(a) Except as otherwise provided in paragraphs (b) and (d) of this subdivision, any person who, while under age fifty-five, enters the service of the county after the date on which the system becomes operative therein may by written application to the retirement board become a member of the system as of the date of the filing of such application; provided, that, if such application is not filed prior to the date of completion of ninety days of such service, he shall become a member of the system as of said last mentioned date.

G. L. (Ter. Ed.), 32, § 21, further amended.

Employees of hospital districts.

SECTION 2. Said section twenty-one is hereby further amended by inserting at the end of subdivision (1), as amended, the following new paragraph:—

(f) A person who, while under age fifty-five, enters the employ of a hospital district shall become a member of the system after completing nine months of service, unless he shall sooner become a member following an application in writing to the retirement board for such membership.

*Approved April 26, 1939.*

**Chap.159 AN ACT REQUIRING THE HOLDING OF A PUBLIC HEARING PRIOR TO APPROVAL BY MUNICIPAL AUTHORITIES OF THE LOCATION OF A RACE TRACK WHERE IT IS PROPOSED TO HOLD A RACING MEETING AT WHICH THE PARI-MUTUEL SYSTEM OF WAGERING SHALL BE PERMITTED.**

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 128A, § 13A, etc., amended.

Approval of local authorities required.  
Hearings.

Chapter one hundred and twenty-eight A of the General Laws is hereby amended by striking out section thirteen A, inserted by section eight of chapter four hundred and fifty-four of the acts of nineteen hundred and thirty-five, and inserting in place thereof the following:— *Section 13A.* The provisions of section one hundred and eighty-one of chapter one hundred and forty and of sections thirty-one, thirty-three and thirty-four of chapter two hundred and seventy-one, and of chapter four hundred and ninety-four of the acts of nineteen hundred and eight, shall not apply to race tracks or racing meetings laid out and conducted by licensees under this chapter; except that no license shall be



granted by the commission for a racing meeting in any city or town unless the location of the race track where such meeting is to be held or conducted has been once approved by the mayor and aldermen or the selectmen as provided by said section thirty-three of said chapter two hundred and seventy-one, after a public hearing, seven days' notice of the time and place of which hearing shall have been given by posting in a conspicuous public place in such city or town and by publication in a newspaper published in such city or town, if there is any published therein, otherwise in a newspaper published in the county wherein such city or town is situated.

*Approved April 26, 1939.*

AN ACT FURTHER REGULATING THE BUSINESS OF FUNERAL DIRECTING. *Chap. 160*

*Be it enacted, etc., as follows:*

SECTION 1. Section eighty-two of chapter one hundred and twelve of the General Laws, as appearing in section three of chapter four hundred and seven of the acts of nineteen hundred and thirty-six, is hereby amended by striking out the definition of "Funeral directing" and inserting in place thereof the following: —

G. L. (Ter. Ed.), 112, § 82, etc., amended.

"Funeral directing", the business, practice or profession, as commonly practiced, of (a) directing or supervising funerals or providing funeral service; (b) handling or encasing, or providing services for handling or encasing, dead human bodies, and preparation of dead human bodies, otherwise than by embalming, for burial or disposal; (c) providing embalming services; (d) providing transportation, interment and disinterment of dead human bodies; (e) maintaining an establishment so located, constructed and equipped as to permit the decent and sanitary handling of dead human bodies, with suitable equipment in such establishment for such handling.

Definition.

SECTION 2. Section eighty-seven of said chapter one hundred and twelve, as amended by chapter thirteen of the acts of nineteen hundred and thirty-seven, is hereby further amended by adding at the end the following: — ; nor shall said sections prohibit a corporation or partnership, if not engaged in any other business, from engaging in the business of funeral directing, if a duly registered and licensed funeral director is in charge of the business of said corporation or partnership.

G. L. (Ter. Ed.), 112, § 87, etc., amended.

Corporations may engage in business.

SECTION 3. The last paragraph of section forty-nine of chapter one hundred and fourteen of the General Laws, as amended by section four of said chapter four hundred and seven, is hereby further amended by striking out, in the first and second lines, the words "may by a special rule or regulation permit" and inserting in place thereof the words: — shall issue a permit for, — so as to read as follows: —

G. L. (Ter. Ed.), 114, § 49, etc., amended.

The board of health of a town shall issue a permit for the continuance therein, under the active supervision of a per-

Permit to continue business



*Section 36D.* With the approval of the board of directors of any such corporation, at the request of the owner of the equity of redemption and upon a certification of the security committee of such corporation that the then balance of the amount due does not exceed eighty per cent of the value of the mortgaged premises, the amount of the fixed monthly payments called for by any such note and mortgage may be changed; provided, that any such change shall not result in the extension of the term of such loan beyond twenty years from the date of such change; and provided, further, that such change shall be evidenced by an instrument setting forth such change, payments and mortgage extension.

Extension  
of term  
of loan.

SECTION 2. Chapter one hundred and ninety-one of the acts of nineteen hundred and thirty-five, as amended by chapter two hundred and three of the acts of nineteen hundred and thirty-six, chapter two hundred and thirty-three of the acts of nineteen hundred and thirty-seven and chapter one hundred and ninety-nine of the acts of nineteen hundred and thirty-eight, is hereby repealed.

Temporary  
act repealed.

*Approved May 20, 1941.*

AN ACT PROVIDING THAT THE SECTION OF THE NEW STATE HIGHWAY FROM THE BILLERICA-CHELMSFORD LINE TO THE NORTH CHELMSFORD LINE BE KNOWN AS THE LOWELL TURNPIKE HIGHWAY.

*Chap. 294*

*Be it enacted, etc., as follows:*

The section of the new state highway lying between the Billerica-Chelmsford boundary line and the so-called North Chelmsford line shall be known as the Lowell turnpike highway.

*Approved May 20, 1941.*

AN ACT RELATIVE TO THE APPROVAL BY MUNICIPAL AUTHORITIES OF THE LOCATION OF A RACE TRACK WHERE A RACING MEETING AT WHICH THE PARI-MUTUEL SYSTEM OF WAGERING SHALL BE PERMITTED IS PROPOSED TO BE HELD IN CONNECTION WITH A STATE OR COUNTY FAIR.

*Chap. 295*

*Be it enacted, etc., as follows:*

Section thirteen A of chapter one hundred and twenty-eight A of the General Laws, as most recently amended by chapter one hundred and fifty-nine of the acts of nineteen hundred and thirty-nine, is hereby further amended by inserting after the word "town" in the tenth line the words: —, except in connection with a state or county fair, — so as to read as follows: — *Section 13A.* The provisions of section one hundred and eighty-one of chapter one hundred and forty and of sections thirty-one, thirty-three and thirty-four of chapter two hundred and seventy-one, and of chapter four hundred and ninety-four of the acts of nineteen hundred and eight, shall not apply to race tracks or racing

G. L. (Ter.  
Ed.), 128A,  
§ 13A, etc.,  
amended.

Approval of  
location of  
certain race  
tracks  
required.

meetings laid out and conducted by licensees under this chapter; except that no license shall be granted by the commission for a racing meeting in any city or town, except in connection with a state or county fair, unless the location of the race track where such meeting is to be held or conducted has been once approved by the mayor and aldermen or the selectmen as provided by said section thirty-three of said chapter two hundred and seventy-one, after a public hearing, seven days' notice of the time and place of which hearing shall have been given by posting in a conspicuous public place in such city or town and by publication in a newspaper published in such city or town, if there is any published therein, otherwise in a newspaper published in the county wherein such city or town is situated.

*Approved May 20, 1941.*

**Chap. 296** AN ACT AUTHORIZING THE LEASING OF MUNICIPALLY OWNED LANDS FORMERLY HELD UNDER TAX TITLES, AUTHORIZING THE CUSTODIAN OF SUCH LANDS TO EMPLOY ASSISTANTS AND EXTENDING THE PERIOD OF OPERATION OF THE LAW RELATIVE TO THE CARE AND DISPOSAL OF SUCH LANDS.

Emergency  
preamble.

*Whereas*, The provisions of law sought to be extended by this act would, but for this act, shortly cease to be effective, but the circumstances and conditions which made advisable their enactment still continue and it is accordingly desirable that said provisions continue in effect without interruption; therefore this act is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

SECTION 1. Chapter three hundred and fifty-eight of the acts of nineteen hundred and thirty-eight, as most recently amended in section one by chapter one hundred and twenty-three of the acts of nineteen hundred and thirty-nine, is hereby further amended by inserting after section two the two following new sections: — *Section 2A.* If the custodian is of the opinion that a sale of any such property is not immediately practicable, the custodian, acting on behalf of the city or town, may, subject to the approval of the mayor or the board of selectmen, notwithstanding any provision of law, ordinance or by-law inconsistent herewith, lease such property for a term not exceeding three years, and may on behalf of the city or town execute and deliver such lease.

*Section 2B.* The custodian, subject to appropriation, may employ one or more assistants as may be necessary for the proper performance of his duties, and such assistants shall receive as compensation such amounts as may be approved by the mayor or by the board of selectmen.

SECTION 2. Section three of said chapter three hundred and fifty-eight is hereby amended by striking out, in the



**Chap.437** AN ACT FURTHER REGULATING THE APPROVAL OF LOCATIONS FOR HOLDING HORSE AND DOG RACING MEETINGS AT WHICH THE PARI-MUTUEL SYSTEM OF WAGERING SHALL BE PERMITTED.

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 128A, § 13A, etc., amended.

Approval of locations for race meetings, regulated.

Section 13A of chapter 128A of the General Laws, as most recently amended by chapter 295 of the acts of 1941, is hereby further amended by adding at the end the following paragraph:—

Provided, nevertheless, that in the case of towns said approval by the selectmen, excepting only the approval of locations where racing meetings have already been held, other than in connection with state and county fairs, prior to May first, nineteen hundred and forty-eight, shall not become effective unless and until it shall be ratified and confirmed by vote, taken by Australian ballot, of a majority of the registered voters of said town voting at the next annual election. In the event that a location of a race track has been disapproved by the town officials or at a town election as aforesaid, no petition for approval of the same location shall be received by town authorities and no hearing shall be held on the question of approving or disapproving of the same location for a period of three years from the date of disapproval. Said approval by the selectmen of the location of a race track, excepting only the approval of locations where racing meetings have already been held, other than in connection with state and county fairs, prior to May first, nineteen hundred and forty-eight, shall be effective for a period of six years at the expiration of which time the location shall again be so approved before the commission shall grant a license for a racing meeting in said town.

*Approved May 28, 1948.*

**Chap.438** AN ACT AUTHORIZING INSPECTORS OF BUILDINGS TO ISSUE CERTAIN PERMITS OR CERTIFICATES UNDER CERTAIN CONDITIONS.

Emergency preamble.

*Whereas*, The deferred operation of this act would tend to defeat its purpose which is in part, in view of the existing housing emergency in the commonwealth, to provide immediately that inspectors of buildings may issue permits or certificates in certain cases for structures used or to be used for dwelling purposes, therefore it is hereby declared to be an emergency law necessary for the immediate preservation of the public health, safety and convenience.

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 143, § 31, etc., amended.

**SECTION 1.** Section 31 of chapter 143 of the General Laws, inserted by section 1 of chapter 631 of the acts of 1947, is hereby amended by striking out, in lines 6, 8 and 27, the words:— demolition, removal,

**Chap.776** AN ACT RELATIVE TO THE SALARY OF THE COMMISSIONER OF INSURANCE.

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 26, § 6, etc., amended.

Salary of commissioner of insurance.

Section 6 of chapter 26 of the General Laws, as most recently amended by section 40 of chapter 591 of the acts of 1946, is hereby further amended by striking out, in line 6, the words "eighty-five hundred" and inserting in place thereof the words: — twelve thousand, — so as to read as follows: — *Section 6.* Upon the expiration of the term of office of a commissioner of insurance, his successor shall be appointed for three years by the governor, with the advice and consent of the council. The commissioner shall receive such salary, not exceeding twelve thousand dollars, as the governor and council determine. He shall give bond with sureties in the sum of ten thousand dollars, to be approved by the state treasurer, for the faithful performance of his duties.

*Approved November 9, 1951.*

**Chap.777** AN ACT RELATIVE TO THE TENURE OF OFFICE OF THE PRESENT INCUMBENT OF THE OFFICE OF DOG OFFICER IN THE CITY OF REVERE AND RELATIVE TO CERTAIN POWERS AND DUTIES OF DOG OFFICERS.

*Be it enacted, etc., as follows:*

SECTION 1. Ralph T. Mele, the present incumbent of the office of dog officer in the city of Revere, is hereby given unlimited tenure of office therein, and shall not be involuntarily separated from his service as such except subject to and in accordance with the provisions of sections forty-three and forty-five of chapter thirty-one of the General Laws.

G. L. (Ter. Ed.), 128A, § 13A, etc., amended.

Powers and duties of dog officers.

SECTION 2. The first paragraph of section 13A of chapter 128A of the General Laws, as appearing in chapter 295 of the acts of 1941, is hereby amended by inserting after the word "forty", in line 3, the words: — and the provisions of said chapter relative to the powers and duties of dog officers, — and by inserting after the word "chapter", in line 8, the words: — or to animals eligible to race at such meetings, — so as to read as follows: — The provisions of section one hundred and eighty-one of chapter one hundred and forty and the provisions of said chapter relative to the powers and duties of dog officers and of sections thirty-one, thirty-three and thirty-four of chapter two hundred and seventy-one, and of chapter four hundred and ninety-four of the acts of nineteen hundred and eight, shall not apply to race tracks or racing meetings laid out and conducted by licensees under this chapter or to animals eligible to race at such meetings; except that no license shall be granted by the commission for a racing meeting in any city or town, except in connection with a state or county fair, unless the location of the race track where such meeting is to be held

or conducted has been once approved by the mayor and aldermen or the selectmen as provided by said section thirty-three of said chapter two hundred and seventy-one, after a public hearing, seven days' notice of the time and place of which hearing shall have been given by posting in a conspicuous public place in such city or town and by publication in a newspaper published in such city or town, if there is any published therein, otherwise in a newspaper published in the county wherein such city or town is situated.

SECTION 3. Section one of this act shall take full effect upon its acceptance during the current year by vote of the city council of the city of Revere, subject to the provisions of its charter, but not otherwise.

*Approved November 14, 1951.*

AN ACT AUTHORIZING THE CITY OF BROCKTON TO APPROPRIATE MONEY FOR THE PAYMENT OF, AND TO PAY A CERTAIN UNPAID BILL.

*Chap. 778*

*Be it enacted, etc., as follows:*

SECTION 1. The city of Brockton is hereby authorized to appropriate money for the payment of, and after such appropriation the treasurer of said city is hereby authorized to pay an unpaid bill incurred by said city in nineteen hundred and fifty in the amount of twenty-nine hundred and sixty-five dollars for repairs to number one and number two engines of the Silver Lake pumping station, which bill is legally unenforceable against said city by reason of its being incurred in excess of an available appropriation or by reason of the failure of said city to comply with the provisions of its charter.

SECTION 2. The bill referred to in section one shall not be approved by the city auditor of said city for payment or paid by the treasurer thereof under authority of this act unless and until a certificate has been signed and filed with said city auditor, stating under the penalties of perjury that the services for which the bill has been submitted were ordered by an official or employee of said city, and that such services were rendered to said city.

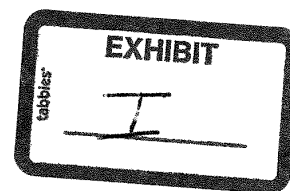
SECTION 3. Any person who knowingly files a certificate required by section two which is false and who thereby receives payment for services which were not rendered to said city shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars, or both.

SECTION 4. This act shall take effect upon its passage.

*Approved November 14, 1951.*

# EXHIBIT I





April 30, 2024

Council President Elizabeth Kazinskas  
 City of Gardner  
 City Hall, 95 Pleasant Street, Room 121  
 Gardner, Massachusetts 01440

Dear Madam President and Honorable Councilors:

On behalf of Baystate Racing llc, I write to express our interest in what we believe to be an exciting project for Gardner.

Gardner is known as the Chair City. But nearly 150 years ago, Gardner started to emerge as the premier destination for horse breeding, training, and racing in the state. Local physician Dr. Robert Foster Andrews created what was then called Andrews Park on the site currently managed by GAAHMA, Inc. on Route 140. The first horse race was on September 26, 1875 with more than 600 attendees. Over the course of the next several decades, the site also became the location of the Mid-State Fair, and the Agricultural Fair sponsored by the Gardner Agricultural Society and the Gardner Chamber of Commerce. In later years, Leonard LeBlanc, one of the top trainers in New England, bought the farm to raise and train his horses.

More recently, under the guidance of GAAMHA, the location has become a place for those with substance user disorder and mental health needs find therapy and recovery while taking care of the farm and its animals.

Bay State Park is a natural continuation of Gardner's agricultural legacy. Our proposal is developed by horse and agricultural enthusiasts. It is strongly supported by the Massachusetts Thoroughbred Breeders Association and the New England Horsemen's Benevolent and Protective Association. Bay State Park will be the location for thoroughbred breeding and off-track retirement programs, training, and racing facilities, while preserving open space for future generations. Additionally, we are collaborating with GAAMHA on equestrian training for clients and providing retired horses for therapeutic programs and partnering with Mount Wachusett Community College Pathway for Jobs around agricultural and veterinarian tech training.

We respectfully request that you schedule a public hearing with seven days notice in the Gardner News in accordance with MGL c. 128A, s. 13A to consider Andrews Park as a location for a Race Meet License.

We will submit a draft Host Community Agreement (HCA) to Mayor Michael J. Nicholson. The HCA is our contract with the City of Gardner. Highlights of our proposal include an annual review of operations with the Mayor and Council, estimated new revenue of \$500,000 a year, cover any costs related to police, fire, and EMS details on festival days, create local jobs, and \$10,000 upfront for the cost of any reviews during the approval process.

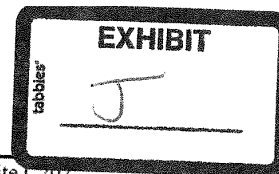
We look forward to working with you, your colleagues, and partners in government in the months ahead on this project and be part of Gardner's great agricultural legacy.

Sincerely,

John A. Stefanini

CC: Mayor Michael J. Nicholson

# EXHIBIT J



## Gould Title Company, Inc.

Real Estate Title Services

90 Front Street, Suite C202  
 Worcester, MA 01608  
 Tel: (508) 754-1871  
 Fax: (508) 754-7079

### PRELIMINARY TITLE REPORT

Prepared for:

Todd K. Helwig, Esquire

**We have examined the records as indexed in the Registries of Deeds and Probate for the County of Worcester (Worcester District) since October 31, 1950 and March 18, 1954**

**for the Premises described in a Quitclaim Deed**

**from** Deborah M. Rosenblatt, Trustee under the Last Will of Noella M. LeBlanc, Docket #WO132966EA

**to** GAAMHA, Inc.

**dated** November 19, 2020 **and recorded in Book 63792, Page 211.**

**Title appears to be in GAAMHA, Inc.\*\***

**and is free from encumbrances of record during the period examined, except:**

Construction Mortgage from GAAMHA, Inc. to Enterprise Bank and Trust Company for \$1,015,000.00, dated November 19, 2020 and recorded in Book 63792, Page 217;

Assignment of Rents from GAAMHA, Inc. to Enterprise Bank and Trust Company dated November 19, 2020 and recorded in Book 63792, Page 233;

Excepting that portion of premises owned by the Boston and Maine Railroad as recited in deed in Book 3299, Page 3 (see Plan Book 135, Plan 22 for possible location);

Subject to pole and wires rights of New England Telephone and Telegraph Company as recited in deed in Book 3299, Page 3;

Order of Taking (easement) for Winchendon Road by the County of Worcester (County Commissioners) vs. Gardner Agricultural Association Inc. et als dated October 16, 1936 and recorded in Book 2679, Page 584 (Parcels 7 and 8 on Plan Book 94, Plan 6);

Order of Taking (easement) for Winchendon Road by the County of Worcester (County Commissioners) vs. Gardner Agricultural Association Inc. et als dated February 3, 1939 and recorded in Book 2739, Page 13 (Parcel 1 on Plan Book 107, Plan 36);

Deed out to Francis R. Cosentino dated February 15, 1957 and recorded in Book 3873, Page 1 (Gould Title Reference No. 15135-A);

Order of Taking for Route 140 by the Commonwealth of Massachusetts (Department of Public Works) vs. Land Corporation of Gardner et als dated May 10, 1972 and recorded in Book 5222, Page 477 (Parcels taken in fee: 7-14, 7-17 and 7-36. Parcels taken for drainage and slope easements: 7-DS-2 and 7-DS-4 on Plan Book 364, Plan 16);

Order of Taking for Route 140 by the Commonwealth of Massachusetts (Department of Public Works) vs. Land Corporation of Gardner et als dated April 9, 1980 and recorded in Book 6960, Page 296 (Parcel 8-R-1 [easement] and Parcel 8-30 [fee] as shown on Plan Book 474, Plan 65);

Terms and provisions of Decision re: Special Permit from the City of Gardner (Zoning Board of Appeals) to Industrial Tower and Wireless, LLC (applicant) and GAAMHA, Inc. (owner) dated October 17, 2023 and recorded in Book 69891, Page 304 (to construct a wireless communication facility);

Possible rights of others in Old Abandoned Road as shown on Plan Book 135, Plan 22;

Provisions of M.G.L. c. 40, Section 54A restriction prohibiting issuance of building permits without approval of the Secretary of Executive Office of Transportation and Construction;

Outstanding charges as shown on Municipal Lien Certificate dated October 28, 2020 and recorded in Book 63792, Page 203;

Possible corporate excise taxes for GAAMHA, Inc. if the contemplated conveyance will be all or substantially all of the assets of said corporation in the Commonwealth of Massachusetts.

**\*\*Note: The Deed recorded in Book 50612, Page 71 raises the question as to whether Noella and Leonard LeBlanc conveyed their full interest or if Leonard was only releasing homestead rights as stated under his signature line. The title being vested in the current owner is subject to interpretation of that deed. A 5B Affidavit may be needed to clarify the chain of title. If the LeBlancs did not effectively convey their full interest in said Deed, then title will be in the Estate of Leonard LeBlanc and be subject to the following:**

Tax Lien by the Commonwealth of Massachusetts vs. Leonard LeBlanc (35 Duval Court, Winchendon xxx-xx-8629) dated April 13, 2018 and recorded in Book 58764, Page 347, if same person;

Possible expenses of administration and Massachusetts and federal estate taxes under the Estate of Leonard LeBlanc, Worcester Probate Case No. 19P2900.

**Note: Agricultural Lien recorded in Book 10272, Page 293 was recently released in Book 70156, Page 133. A property classified under this chapter "shall not be sold for, or converted to, residential, industrial or commercial use while so taxed or within one year after that time unless the city or town in which the land is located has been notified of the intent to sell for, or convert to, that other use." (See M.G.L. c. 61A, sec. 14). A waiver of right of first refusal may be needed for the contemplated transaction.**

**Note: Recreational Lien recorded in Book 53055, Page 211 was recently released in Book 70156, Page 84. A property classified under this chapter "shall not be sold for, or converted to, residential, industrial or commercial use while so taxed or within one year after that time unless the city or town in which the land is located has been notified of the intent to sell for, or convert to, that other use." (See M.G.L. c. 61B, sec. 9). A waiver of right of first refusal may be needed for the contemplated transaction.**

Note: No survey of record to establish accuracy of description.

**Run Through:** March 27, 2024  
**Reference:** #15135  
**Location:** Green Street, aka Route 140 (fka Winchendon Road)  
 Gardner, MA

*Nicole S. Trainor*

\*Bankruptcy indices are no longer available in the Worcester District Registry of Deeds' computer system; therefore this examination does not include possible bankruptcies.

# Gould Title Company, Inc.

Real Estate Title Services

90 Front Street, Suite C202  
Worcester, MA 01608  
Tel: (508) 754-1871  
Fax: (508) 754-7079

## PRELIMINARY TITLE REPORT

Prepared for:

Todd K. Helwig, Esquire

**We have examined the records as indexed in the Registries of Deeds and Probate for the County of Worcester (Worcester District) since April 1, 1966**

**for the Premises described in a Quitclaim Deed**

**from** Thomas R. LeBlanc, Deborah M. Rosenblatt, Joann M. McAvoy and Steven J. LeBlanc

**to** GAAMHA, Inc.

**dated** August 28, 2021 **and recorded in Book** 66317, **Page** 109.

**Title appears to be in** GAAMHA, Inc.

**and is free from encumbrances of record during the period examined, except:**

Order of Taking (easement) for Winchendon Road by the County of Worcester (County Commissioners) vs. Gardner Agricultural Association Inc. et als dated February 3, 1939 and recorded in Book 2739, Page 13 (Parcel 1 on Plan Book 107, Plan 36);

Order of Taking for Route 140 (fee) by the Commonwealth of Massachusetts vs. Aurule E. Charland et als dated May 10, 1972 and recorded in Book 5222, Page 477 (Parcel 7-20 on Plan Book 364, Plan 16);

Possible corporate excise taxes for GAAMHA, Inc. if the contemplated conveyance will be all or substantially all of the assets of said corporation in the Commonwealth of Massachusetts.

Tax Lien by the Commonwealth of Massachusetts vs. Leonard LeBlanc (35 Duval Court, Winchendon xxx-xx-8629) for \$11,668.66 dated April 13, 2018 and recorded in Book 58764, Page 347, if same person;\*\*

Possible expenses of administration and Massachusetts and federal estate taxes under the Estate of Leonard LeBlanc, Worcester Probate Case No. 19P2900.\*\*

\*\*If the Deed recorded in Book 50612, Page 69 is interpreted to convey Noelle and Leonard's LeBlanc's full interest, this encumbrance would not apply.

Note: No survey of record to establish accuracy of description.

**Run Through:** March 27, 2024  
**Reference:** #15135-A  
**Location:** Green Street, aka Route 140  
Gardner, MA



\*Bankruptcy indices are no longer available in the Worcester District Registry of Deeds' computer system; therefore this examination does not include possible bankruptcies.

# EXHIBIT K



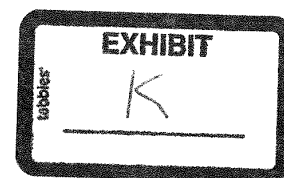
Menu



Mass.gov

Search Mass.gov

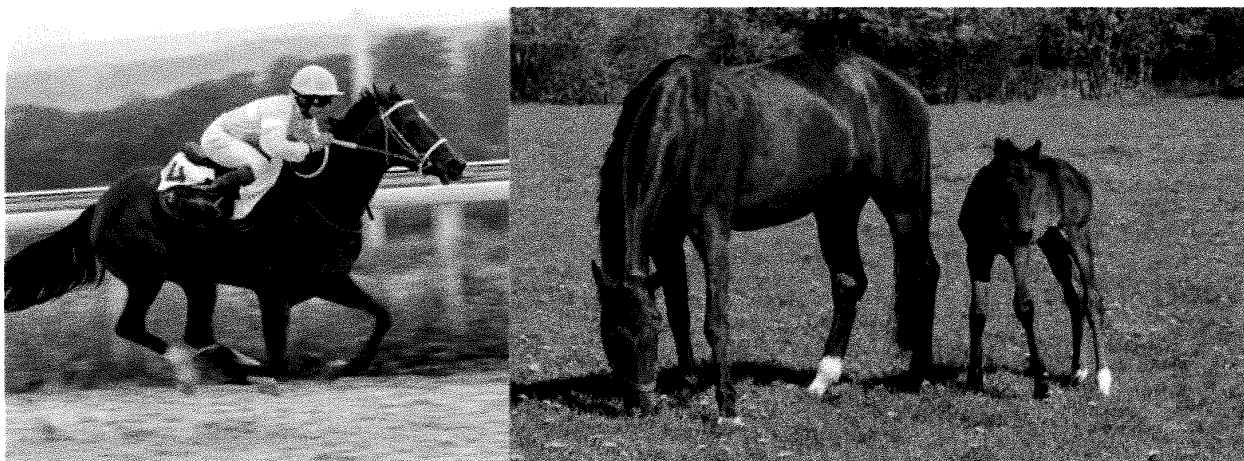
SEARCH



(/) > EEA (/orgs/executive-office-of-energy-and-environmental-affairs) > Massachusetts Department of Agricultural Resources (/orgs/massachusetts-department-of-agricultu

## Thoroughbred Breeding Program

The Division of Animal Health administers the race horse breeding registration programs in conjunction with the Massachusetts State Gaming Commission and the representative breed organizations.



The Massachusetts Department of Agricultural Resources' Division of Animal Health ("MDAR") is charged with promoting, developing, and encouraging through the Massachusetts Thoroughbred Breeding Program, the breeding of thoroughbred horses in the commonwealth by offering cash prizes to breeders of such horses.

The authorizing statute, Massachusetts General Law Chapter 128, section 2, part (g) (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter128/Section2>), describes the specific standards by which horses, and thereby their owners, would be eligible to receive such prizes.

**M.G.L. c. 128, Section 2, states, in part:**

"No person shall be eligible for the prizes provided herein unless the following standards are met:

1. The foal of a thoroughbred mare that drops said foal in the commonwealth and is bred back to the Massachusetts registered stallion shall be Massachusetts bred; or
2. The foal of a thoroughbred mare who resides in the commonwealth from the fifteenth day of October of the year prior to foaling and continues such residence until foaling and foals in the commonwealth shall be Massachusetts bred.
3. In either the case of subparagraph (1) or (2) each thoroughbred foal dropped in the commonwealth shall be registered with the Jockey Club and the department of food and agriculture.”

## Thoroughbred Breeding Registration Forms

### Registration fees:

MDAR does not collect registration fees associated with this program.

### Forms and Critical Dates:

The Thoroughbred breeding season runs from February 1-June 30

- [Thoroughbred Stallion Mares Bred and Declaration Form 2024 – Due September 1, 2024](/doc/thoroughbred-stallion-mares-bred-and-declaration-form-2024/download)  
(/doc/thoroughbred-stallion-mares-bred-and-declaration-form-2024/download)
- [Thoroughbred Resident Broodmare Registration Form 2024 – Due October 15, 2024](/doc/thoroughbred-resident-broodmare-registration-form-2024/download)  
(/doc/thoroughbred-resident-broodmare-registration-form-2024/download)
- [Thoroughbred Resident Broodmare Registration Late Form \(After October 15, 2024\)](/doc/thoroughbred-resident-broodmare-registration-form-late-after-october-15-2024/download) (/doc/thoroughbred-resident-broodmare-registration-form-late-after-october-15-2024/download) – **Due when mare arrives**
- [Thoroughbred Yearling Registration Form 2024 – Due December 31, 2024](/doc/thoroughbred-yearling-registration/download)  
(/doc/thoroughbred-yearling-registration/download)
- [Thoroughbred Stallion Registration Form 2024 – Due February 1, 2024](/doc/thoroughbred-stallion-registration-form-2024/download)  
(/doc/thoroughbred-stallion-registration-form-2024/download)

**Form submissions, program questions, updates, and notifications regarding foal births and emergency situations can be directed to:**

**Linda Harrod**

MDAR Thoroughbred Breeders Program

225 Turnpike Road

Southborough, MA 01772

Phone: 617-872-9956

Fax: 617-626-1736

[linda.harrod@mass.gov](mailto:Linda.harrod@mass.gov) (mailto:Linda.harrod@mass.gov)

## Thoroughbred Broodmare Registration and Foal Eligibility

All Thoroughbred broodmares, whether current Massachusetts residents or recent imports, **MUST** be registered with MDAR.

### **Broodmare registration on or before October 15:**

If a Thoroughbred broodmare arrives and registers on or before October 15 of the year the mare is bred, an MDAR Thoroughbred Resident Broodmare Registration Form must be completed and submitted on or before October 15. This is the October prior to foaling. Registrations that are postmarked after October 15 will be considered late.

Mares shall be present on the farm listed on their registration forms by October 15 and must remain there through foaling. MDAR inspectors may inspect during that time to confirm residency. If a mare needs to be moved to another premises in Massachusetts, MDAR must be notified prior to the movement to maintain eligibility. Movement of the mare to a premises outside of Massachusetts may void their eligibility.

MDAR must be notified within 24 hours of foaling so a final inspection can be scheduled.

### **Broodmare registration after October 15:**

If a Thoroughbred broodmare arrives and/or registers **AFTER** October 15 of the year she was bred, the owner must contact MDAR immediately upon arrival to complete the necessary paperwork. An MDAR Thoroughbred Resident Broodmare Registration Form Late must be completed and submitted when the mare arrives in Massachusetts. MDAR may schedule an inspection of a late arriving mare to ensure that she is present on the farm named on the registration form. This applies to mares being brought into Massachusetts or mares that reside in Massachusetts year-round.

There is **ONLY** one option for the foal of a late arriving/registering Thoroughbred broodmare to become eligible to the Massachusetts Thoroughbred Breeding Program. The mare **MUST** be bred back to a Massachusetts registered Thoroughbred stallion in the year the foal is born. This breeding must take place within the defined breeding season, February 1-June 30.

MDAR must be notified within 24 hours of the foal's birth so that an MDAR inspector may verify that the mare and foal are present on the farm named in the registration form.

The breed back to a Massachusetts registered stallion must be documented on the MDAR Thoroughbred Stallion Mares Bred and Declaration Form in the year of foaling. A date of last cover is required.

### **Broodmares bred to a Massachusetts registered stallion:**

Foals sired by a Massachusetts registered stallion are not eligible for this program unless they are born to mares who have met the requirements listed in the Thoroughbred Broodmare Registration and Foal Eligibility section, above. Mares bred to a Massachusetts registered stallion are required by the statute to register with MDAR on or before the October 15 deadline and their location will be confirmed by MDAR. Should the mare arrive or register after October 15, a breed back to a Massachusetts registered

Thoroughbred stallion will be required for the foal to be eligible for the program. An MDAR Inspector may verify their presence on the registered farm.

MDAR must be notified within 24 hours of the foal's birth to verify that the foal was "dropped in the Commonwealth." These mares must appear on the MDAR Thoroughbred Stallion Mares Bred and Declaration Form for the year prior to foaling."

**Stallions:**

Stallions standing at either private or public service in Massachusetts must be registered with MDAR on or before the start of the breeding season, February 1. Stallions must stand in Massachusetts for the entire breeding season of February 1 - June 30. An MDAR Thoroughbred Stallion Mares Bred and Declaration Form is due to MDAR by September 1 of the year the stallion stood.

**Foals:**

The birth of a foal must be reported within 24 hours to MDAR, prior to the mare leaving the registered farm. MDAR requests that the mare and foal remain on the registered farm for 72 hours following the birth of the foal to allow Animal Health Inspectors the opportunity to confirm the birth of the foal..

**Yearling registration:**

Eligible foals must be registered with the Jockey Club and MDAR. The MDAR Thoroughbred Yearling Registration Form is due to MDAR by December 31 of the yearling year.

**Equines entering Massachusetts – Health Certificate and EIA Test Required:**

Horses entering Massachusetts from another state are required to have a negative Equine Infectious Anemia (EIA) test (sometimes called a Coggins Test) performed no more than 12 months prior to entry and an Official Certificate of Veterinary Inspection (sometimes called a Health Certificate) issued no more than 30 days prior to entry. This includes horses returning to Massachusetts from out of state.

**MDAR inspection:**

For MDAR to verify eligibility to the satisfaction of the Office of the State Auditor, inspections may be completed to confirm residency. All registered stallions, mares and foals are subject to unannounced inspection by MDAR staff at any time during their residency period to confirm their location.

**Emergency situations:**

Should a mare, foal or stallion need to move off the registered farm during their residency period for emergency veterinary care or any other reason, MDAR must be contacted as soon as possible but within 24 hours. Movement off the registered premises without timely notification or movement to a location outside MA may void eligibility.

**Massachusetts Thoroughbred Breeders Association contact information:**

MDAR shares registration information with MTBA on a regular basis. Should you have further questions, MTBA can be contacted here:

#### MTBA

175 Littleton Road, Unit B-10

Chelmsford, MA 01824

[mtba@comcast.net](mailto:mtba@comcast.net) (mailto:mtba@comcast.net)

508-252-3690

[www.massbreds.com](http://www.massbreds.com) (http://www.massbreds.com/)

## Contact

### Linda Harrod

#### Online

[linda.harrod@mass.gov](mailto:linda.harrod@mass.gov) (mailto:linda.harrod@mass.gov)

#### Phone

[617-872-9956](tel:6178729956) (tel:6178729956)

#### Fax

617-626-1736

#### RELATED

### MDAR Policy Statement Thoroughbred Broodmare Registration and Foal

[Eligibility](https://www.mass.gov/doc/policy-on-thoroughbred-broodmare-registration-august-2022/download) (https://www.mass.gov/doc/policy-on-thoroughbred-broodmare-registration-august-2022/download)



All

[Topics \(/topics/massachusetts-topics\)](/topics/massachusetts-topics)

Site

[Policies \(/massgov-site-policies\)](/massgov-site-policies)

Public Records

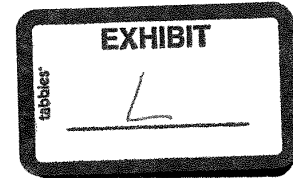
[Requests \(/topics/public-records-requests\)](/topics/public-records-requests)

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# EXHIBIT L





## Wetlands NOI Project Information

### Related links

There are no related links for displayed element.

NOI Number ?  
160-0642

Applicant Information  
GAAMHA,  
INC.

Filing Date ?  
01/15/2021

Filing Type ?  
Buffer Zone

Project Type  
Other

Project Address  
827 GREEN STREET

Comments  
ADDITION TO AN EXISTING SFH IN BZ

Technical Comments

### Inland Resource Areas

RESOURCE AREA ALTERED      PROPOSED ALTERATION      PROPOSED REPLACEMENT

**Coastal Resource Areas**

RESOURCE AREA ALTERED

PROPOSED ALTERATION

PROPOSED REPLACEMENT

◀ PREVIOUS

🔍 SEARCH AGAIN

EEA Site Policies (<https://www.mass.gov/site-policies>)

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# EXHIBIT M

**VOTE**

Shall a track of land located within the limits of the City of Gardner, now owned by the GAAMHA, Inc., located at 827 Green Street, comprising approximately 114 acres also identified as assessors lot number R42/21/1// and more particularly described in Worcester Registry of Deeds Book 63792 and Page 211 and situated on the easterly side of Route 140, otherwise called Green Street, be approved as the location of a running horse racing track where race meetings laid out and conducted by licensees under M.G.L c. 128A will be held or conducted?

# EXHIBIT N

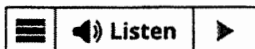


## H.R.1754 - Horseracing Integrity and Safety Act of 2020

116th Congress (2019-2020)

**Sponsor:** [Rep. Tonko, Paul \[D-NY-20\]](#) (Introduced 03/14/2019)  
**Committees:** House - Energy and Commerce  
**Committee Reports:** [H. Rept. 116-554](#)  
**Latest Action:** Senate - 09/30/2020 Received in the Senate. ([All Actions](#))  
**Tracker:** Introduced Passed House

[Summary\(2\)](#) [Text\(4\)](#) [Actions\(13\)](#) [Titles\(5\)](#) [Amendments\(0\)](#) [Cosponsors\(261\)](#) [Committees\(1\)](#) [Related Bills\(3\)](#)



There are 2 summaries for H.R.1754.

[Passed House \(09/29/2020\)](#) ▼

Bill summaries are authored by [CRS](#).

### Shown Here:

**Passed House (09/29/2020)**

#### Horseracing Integrity and Safety Act of 2020

This bill recognizes the Horseracing Integrity and Safety Authority for purposes of developing and implementing a horseracing anti-doping and medication control program and a racetrack safety program.

The authority shall establish an anti-doping and medication control standing committee and a racetrack safety standing committee to provide guidance to the authority on the development and maintenance of the programs.

The Federal Trade Commission (FTC) shall have oversight over the authority. The authority shall submit to the FTC any proposed rule, standard, or procedure developed by the authority to carry out the horseracing anti-doping and medication control program or the racetrack safety program. The authority shall seek to enter into an agreement with the U.S. Anti-Doping Agency or an entity equal in qualification under which the entity acts as the anti-doping and medication control enforcement agency under this bill.

Among the required elements of the horseracing safety program are sets of training and racing safety standards consistent with the humane treatment of horses, a system to maintain track surface quality, programs for injury and fatality analysis, investigation and disciplinary procedures, and an evaluation and accreditation program.

The bill sets forth other provisions regarding (1) funding, conflicts of interest, and jurisdiction; (2) registration with the authority; (3) program enforcement; (4) rule violations and civil sanctions; (5) testing laboratories; (6) review of final decisions of the authority by an administrative law judge; (7) unfair or deceptive acts or practices; and (8) agreements with state racing commissions.



**Elizabeth Doiron**

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Thursday, June 27, 2024 9:49 AM  
**To:** Elizabeth Doiron  
**Cc:** Titi Siriphan  
**Subject:** [EXTERNAL] Fwd: Another Gardner Massachusetts Open Meeting Law Formal Complaint  
**Attachments:** EPSON022.doc; EPSON022.PDF

**Importance:** High

RECEIVED

2024 JUN 27 AM 10:05

CITY CLERK'S OFFICE  
GARDNER, MA

**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.

----- Original Message -----

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**To:** Elizabeth Kazinskas <elizabeth.kazinskas@gmail.com>, Elizabeth Kazinskas <ekazinskas@gardner-ma.gov>, "elizabeth.kazinskas@state.ma.us" <elizabeth.kazinskas@state.ma.us>, Titi Siriphan <tsiriphan@gardner-ma.gov>, "matthew.lindberg@mass.gov" <matthew.lindberg@mass.gov>, "openmeeting@state.ma.us" <openmeeting@state.ma.us>, "natalie.arellano@state.ma.us" <natalie.arellano@state.ma.us>  
**Cc:** Scott Graves <sgraveslawoffice37@gmail.com>, PAUL DEMEO <ryanrealty@comcast.net>  
**Date:** 06/27/2024 8:48 AM EDT  
**Subject:** Another Gardner Massachusetts Open Meeting Law Formal Complaint

Good morning Ms. Kazinskas,

Attached please find another Massachusetts Open Meeting Law Complaint filed against you and the Gardner City Council for failing to comply with Massachusetts Law.

Thank you for your time and immediate attention to this matter.

Best Regards,  
 Paul DeMeo



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](mailto: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: Miss Elizabeth Kazinskas; Titi Siriphan

Date of alleged violation: June 3rd, 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 June 3rd, 2024, the Gardner City Council met in Open Public Session.

On the agenda for the evening was the expected approval of the December 4th, 2023 Executive Session Meeting Minutes having to do with the illegal loan order requested by mayor Michael Nicholson for \$550,000 to pay back GAAMHA, a non-profit organization. (agenda attached)

First of all the Executive Session held on December 4th, 2023 was illegal as the content of the meeting did not fall within the exemptions under the Mass Open Meeting Law to exclude the Public from the discussion. There was no imminent legal action being taken against the City of Gardner.

Second, even though the Executive Meeting Minutes of the December 4th city council meeting were expected to be approved at the June 3rd, 2024 Gardner City Council Meeting, they were never read out loud nor were the written minutes provided to the Public to view. The Public to this day has not been provided with the December 4th, 2023 Executive Session Meeting Minutes.

City Solicitor John Flick, advised mayor Nicholson, not to seek a loan order of \$550,000 to be paid by Taxpayers, though the Gardner City Council approved it anyway, with city councilor Atty. James Walsh having strong reservations.

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.

The Gardner City Council still commits flagrant violations of the Mass Open Meeting Law even after being required by the Attorney General's Office to take remedial educational courses of compliance with the law. The Gardner City Council fails to take seriously the Mass Open Meeting Law and the requirements of compliance.

Miss Kazinskas and City Clerk Siriphan to release immediately the Executive Session Meeting Minutes of December 4th, 2023 to the Public and to Comply with the Massachusetts Law.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

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

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

**II. Consulting With a Private Attorney.**

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

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

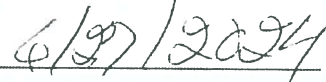
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

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

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



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



For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



City of Gardner, Massachusetts  
Office of the City Council

CALENDAR FOR THE MEETING

of

MONDAY, JUNE 3, 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)

- March 18, 2024, Regular Meeting
- December 4, 2023, Executive Session

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE MAYOR

ORDERS

11292 – An Order Appropriating \$320,000.00 from Free Cash to the DPW Snow and Ice Removal Expense Account (*Finance Committee*)

11293 – An Order Appropriating \$35,000.00 from Free Cash to DPW Repairs and Maintenance Expense Account (*Finance Committee*)

11294 – An Order Appropriating \$24,000.00 from Free Cash to DPW Energy and Utilities Account (*Finance Committee*)

11295 – An Order Appropriating \$50,000.00 from Free Cash to Mayor's Unclassified Termination Leave Expense Account (*Finance Committee*)



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



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June 27, 2024

## VIA ELECTRONIC MAIL

Elizabeth Kazinskas, President  
City of Gardner, City Council  
95 Pleasant Street  
Gardner, MA 01440

Re: Law Department Representation Legal Opinion  
File No. 19.1952

Dear President Kazinskas:

This letter is in response to the City Council's request to the Law Department for a legal opinion regarding its representation of City of Gardner Departments. This question arose in specific response to the Law Departments statement regarding representation of the School Department. It is the Law Department's understanding that the context of the Council's request emanates from City Ordinance §140 in which reference is made to the Law Department's duties as they pertain to City departments.

Section 140 of the City Ordinances provides, in relevant part, that the Law Department provides the following legal services to the City of Gardner:

- A. Approve contracts, give legal advice and furnish written opinions when so requested by the Mayor, City Council, the chairperson of a City committee or the head of any City department.
- B. Prosecute or defend all cases and proceedings to which the City is a party.
- C. Prepare or approve all deeds or other legal instruments relating to the City, consider claims against the City and make recommendation for their resolution to the Mayor or appropriate

committee of the City Council, as the case may be, and generally handle all legal affairs pertaining to the City.

The School Department presents a complicated scenario whereas the provision of legal services to City department by the Law Department is concerned. While it is true that the Gardner Public Schools is a “department” of the City, unlike other City departments, the School Department has certain legal autonomy which makes it distinct from other City departments. It is relevant to note that the Ordinance specifically states that the Law Department shall “prosecute or defend all cases and proceedings to which the City is a party.”

M.G.L. c. 71, § 37E authorizes a school committee to employ “legal counsel in connection with collective bargaining with employee organizations for school employees, and may expend money therefor from the funds appropriated by said city or town for school purposes provided, however, that no such money shall be expended in excess of twenty-five thousand dollars without the prior approval of the mayor.”

M.G.L. c. 71, § 37F authorizes a school committee to “employ legal counsel for the general purposes of the committee and may expend money therefor from the funds appropriated by said city or town for school purposes.” Note that the employment of general counsel by a school committee is not subject to the expenditure limitation that is applicable to collective bargaining counsel.

In addition, M.G.L. c. 71, § 37M provides that a municipality and its school district may share administrative services such as financial, personnel, and maintenance functions if such sharing of services is approved by the City Council and School Committee, and approval of the Mayor. This authorization can be revoked by a majority vote of either the City Council or the School Committee. The Statute does not address shared legal services.

The Law Department has, in the past, and continues to provide general legal representation to the School department. However, each matter that is brought to the Law Department regarding legal representation of the School Department raises concerns of conflicts of interest.

An attorney cannot represent two parties who are adverse to each other. So when the Law Department is presented with a legal issue for the School Department, or that involves the School Department, the matter has to be analyzed to determine if there is a potential for a conflict between the City and the School Department. Conflicts can arise in any matter, and can be fact based or law based. If a determination can be made with certainty that the interests of the City and School Department are aligned and there is no chance that the City and School Department’s interest would be adverse, then the Law Department can proceed with representation. If the opposite determination is made, then the Law Department has to determine who is the client, the City or the School department. This analysis can often be complicated by facts and the legal



issues involved, and may change as other facts come to light. The professionals employed by the Law Department, and only those professionals have the legal knowledge, training and background to determine if a potential conflict may arise in the course of advising the School department. It is, after all, a decision to be made in light of relevant facts, relevant law, and the rules of professional conduct. In order to avoid missteps, it is advisable that a school department avail itself of the statutory authorization to retain counsel separate and distinct from the municipality. Nevertheless, issues are brought to the Law Department by the School Department which clearly do not rise to the level of a conflict and advice or representation proceeds without hindrance.

This dichotomy does not exist for any other City department as all other departments are part of the Executive branch of government (excepting the Clerk, Treasurer and Auditor departments in the City of Gardner)<sup>1</sup> and do not have autonomy like the School Department. Note that City Ordinance §140 states that the Law Department defends and prosecutes cases on behalf of the City. What happens if the School Department sues the City, who does the Law Department represent? Who is advising the School Department in prosecuting its lawsuit against the City? See City of Gloucester School Committee v. the City of Gloucester, 324 Mass. 209 (1949) for just one example of a school committee suing its municipality.

Please let me know if you have any further questions.

Very truly yours,



John M. Flick

Cc: Mayor  
City Clerk

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<sup>1</sup> It is possible that the City Council could initiate a lawsuit against the City if it alleged that actions taken by the executive branch unlawfully by-passed the legislative branch, and vice versa. In such case, and consistent with the Ordinance, the Law Department would represent the executive branch of the City.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

May 7, 2024

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

RE: An Ordinance to Amend the Code of the City of Gardner, Part 1, thereof entitled  
"Administrative Legislation."

Dear Madam President and Councilors,

During my Inaugural Address that I delivered on January 4, 2024, I stated the following:

*"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 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 attached ordinance proposal is the first of those packages, dealing with Part 1 of the City Code, known as "Administrative Legislation."

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
 MAY - 8 PM 3:18  
 CITY OF GARDNER  
 OFFICE OF THE MAYOR

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, PART 1,  
THEREOF ENTITLED, "ADMINISTRATIVE LEGISLATION"**

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

**SECTION 1:** Chapter 13 of the Code of the City of Gardner, entitled "Council on Aging" be deleted in its entirety.

**SECTION 2:** Chapter 22 of the Code of the City of Gardner, entitled "Assessing Department," be deleted in its entirety.

**SECTION 3:** Chapter 31 of the Code of the City of Gardner, entitled "Building Department," be deleted in its entirety.

**SECTION 4:** Chapter 34 of the Code of the City of Gardner, entitled "Capital Improvement Planning Committee," be deleted in its entirety.

**SECTION 5:** Chapter 39 of the Code of the City of Gardner, entitled "Cemetery Commission," be deleted in its entirety.

**SECTION 6:** Chapter 45 of the Code of the City of Gardner, entitled "City Council," be deleted in its entirety.

**SECTION 7:** Chapter 50 of the Code of the City of Gardner, entitled "Community Development and Planning," be deleted in its entirety.

**SECTION 8:** Chapter 62 of the Code of the City of Gardner, entitled "Disability Commission," be deleted in its entirety.

**SECTION 9:** Chapter 75 of the Code of the City of Gardner, entitled "Emergency Management," be deleted in its entirety.

**SECTION 10:** Chapter 87 of the Code of the City of Gardner, entitled "Fire Department," be deleted in its entirety.

**SECTION 11:** Chapter 92 of the Code of the City of Gardner, entitled "Flags," be deleted in its entirety.

**SECTION 12:** Chapter 106 of the Code of the City of Gardner, entitled "Historical Commission," be deleted in its entirety.

**SECTION 13:** Chapter 110 of the Code of the City of Gardner, entitled "Holidays," be deleted in its entirety.

**SECTION 14:** Chapter 113 of the Code of the City of Gardner, entitled "Human Resources Department," be deleted in its entirety.

**SECTION 15:** Chapter 118 of the Code of the City of Gardner, entitled "Information Technology Department," be deleted in its entirety.

**SECTION 16:** Chapter 140 of the Code of the City of Gardner, entitled "Law Department," be deleted in its entirety.

**SECTION 17:** Chapter 152 of the Code of the City of Gardner, entitled "Municipal Golf Course Commission," be deleted in its entirety.

**SECTION 18:** Chapter 156 of the Code of the City of Gardner, entitled "Municipal Grounds Commission," be deleted in its entirety.

**SECTION 19:** Chapter 160 of the Code of the City of Gardner, entitled "Officers and Employees," be deleted in its entirety.

**SECTION 20:** Chapter 182 of the Code of the City of Gardner, entitled "Planning Board," be deleted in its entirety.

**SECTION 21:** Chapter 193 of the Code of the City of Gardner, entitled "Police Department," be deleted in its entirety.

**SECTION 22:** Chapter 217 of the Code of the City of Gardner, entitled "Department of Public Works," be deleted in its entirety.

**SECTION 23:** Chapter 221 of the Code of the City of Gardner, entitled "Purchasing/Civil Enforcement Department," be deleted in its entirety.

**SECTION 24:** Chapter 252 of the Code of the City of Gardner, entitled "Seal," be deleted in its entirety.

**SECTION 25:** Chapter 264 of the Code of the City of Gardner, entitled "Survey Department," be deleted in its entirety.

**SECTION 26:** Chapter 275 of the Code of the City of Gardner, entitled "Traffic Commission," be deleted in its entirety.

**SECTION 27:** Chapter 290 of the Code of the City of Gardner, entitled "Youth Commission," be deleted in its entirety.

**SECTION 28:** Chapter 298 of the Code of the City of Gardner, entitled "Airport," be deleted in its entirety.

**SECTION 29:** That a new Chapter 2 be added to the Code of the City of Gardner, to be entitled "Seal and other Emblems of the City," as follows:

**Section 1: City Seal.**

A. The Seal of the City of Gardner shall be a circle two inches in diameter having in the center a representation of Colonel Thomas Gardner with sword in hand; in the background Crystal Lake and Monadnock Mountain; within the inner circle, five small circles, the one at the top enclosing a chair, the ones on the sides each enclosing the letter "W," the one at the bottom at the left enclosing the letter "A" and the one at the bottom at the right enclosing the letter "T"; and in the margin the inscription "Gardner, A Town June 27, 1785, A City January 1, 1923," the whole to be arranged according to the impression hereto annexed.

B. Deeds.

a. All deeds given by the City shall be sealed with the City Seal and shall be signed and acknowledged in behalf of the City by the Mayor.

C. Use of Seal.

a. The City Clerk shall be keeper of the City Seal but shall permit the Mayor or any other City officer to affix the same to any document to which the Seal is required to be affixed.

**Section 2. Flag of the City of Gardner**

A. Description

a. The Flag of the City of Gardner shall consist of a navy-blue rectangular field bearing on either side a representation of the Seal of the City of Gardner in white.

**SECTION 30:** That a new "PART II" be added, to be entitled "LEGISLATIVE BRANCH" be added to include Chapter 3 and Chapter 4, with the current, "PART II: GENERAL LEGISLATION" section be re-numbered accordingly as "PART III"

**SECTION 31:** That a new Chapter 3 be added to the Code of the City of Gardner to be entitled, "City Council," as follows:

**Article 1: Meetings:****Section 1: Regular Meetings.**

A. Regular meetings of the City Council of the City of Gardner shall be held as follows: the first and third Mondays of January, February, March, April, May, June, September, October, November, and December and on the first Mondays of July and August. Whenever a meeting falls on a legal holiday, the meeting shall be held the following night at the same time.

- B. All regular meetings shall be called at 7:30 p.m. in the Council Chamber in the City Hall. In the event a public emergency or other condition renders it impracticable for the Council to hold a meeting on the day of a scheduled meeting, or in the City Hall, the Council President, upon consultation with at least two other Councilors, may direct the meeting be held on another day or at such other location that encourages maximum public participation.
- C. All matters of every description to be presented at the regular meeting of the City Council shall be filed with the Clerk of the Council not later than 12:00 noon on Thursday preceding the meeting, and the City Clerk shall prepare a calendar of matters for consideration, a list of papers laying on the table and such other matters as they may deem necessary and shall cause the same to be distributed among the members of the City Council prior to each regular meeting; the Council may by a vote of at least 2/3 of its members admit any matter for consideration at any meeting, pursuant to all requirements of the General Laws of the Commonwealth.
- D. In the event a regular meeting falls on the evening of a state or City primary or election, the meeting shall be held on the following day at the scheduled time.

## **Section 2: Special meetings.**

- A. Special meetings of the City Council may be called by the President or shall be called at any time upon the written request therefor being made to the City Clerk by at least two members of the Council.
- B. At a special meeting of the Council no business shall be taken up which is not mentioned in the call of that meeting; provided, however, that any matter not so mentioned in the call of the meeting may be taken up if at least 2/3 of all the members of the Council vote affirmatively in favor of admitting the matter for consideration at that special meeting and that no such matter shall be finally disposed of at that session except by the affirmative vote of 2/3 of all the members of the Council and then only as provided by Section 28 of the City Charter, and the provisions of the General Laws of the Commonwealth.

## **Article II: Legal Counsel**

### **Section 3: Legal counsel.**

- A. The City Council shall have the authority to retain independent legal counsel of its own selection from time to time by majority vote, and legal counsel shall be a member of the Bar of the Commonwealth of Massachusetts in good standing.

- B. Legal counsel shall assist the City Council in the preparation and formulation of legislation and in the rendering of opinions concerning legal matters, either of a substantive or procedural nature, the provisions of the Code of the City of Gardner notwithstanding.
- C. Any invoice or charge for payment from said legal counsel shall be paid from the City Council budget.

**SECTION 32:** That a new Chapter 4, be added to the Code of the City of Gardner to be entitled, “Legislative Departments.”

**Section 1: Office of the City Clerk**

- A. There shall be an Office of the City Clerk established, overseen by the City Clerk, as defined by the City Charter.
- B. The City Clerk may appoint two Assistant City Clerks for terms of three years, subject to confirmation by the City Council, who shall be sworn to the faithful performance of duty and, in the absence of the City Clerk, may perform those duties and have the powers and be subject to the requirements and penalties applicable to that office.
- C. Nothing contained herein shall be construed to prevent the reappointment of an Assistant City Clerk upon the expiration of the term of office.

**SECTION 33:** That a new “PART III” be added, to be entitled “EXECUTIVE BRANCH” to include Chapter 5 through Chapter 7.

**SECTION 34:** That a new Chapter 5 be added to the Code of the City of Gardner to be entitled, “Executive Departments,” as follows:

**Section 1: Assessing Department**

- A. Department Established
  - a. An Assessing Department in the City of Gardner is hereby established under the charge of a board of three Assessors.
  - b. The City Assessor shall serve full time as an Assessor and employee of the City of Gardner.

**Section 2: Building Department**

- A. Building Commissioner

The position of Building Commissioner is hereby established and shall be a full-time position. The appointment of said Building Commissioner shall be made by



the Mayor, subject to confirmation by the City Council, and the Building Commissioner shall hold said position for a term of three years from the date of confirmation by the City Council or until his successor is duly appointed and qualified. The duties of said Building Commissioner shall be those set forth in MGL c. 143.

## B. Electrical Inspection Division

### a. Division Established

An Inspection of Wires Division of the Building Department is hereby established, the affairs of which shall be conducted by an officer known as the "Inspector of Wires," and such officer is hereby designated as the officer required by MGL c. 166, § 32. The Inspector of Wires shall also perform the duties heretofore performed by the Superintendent of Fire Alarm Telegraph and shall have charge of the police signal system. Said Inspection of Wires Division and the Inspector of Wires shall be subject to the authority of the Mayor and the Building Commissioner, and, for fire alarm superintendent related activities, the Inspector of Wires shall report to the Building Commissioner and confer with the Fire Chief.

### b. Electrical Inspector

The Mayor shall appoint, subject to recommendation of the Building Commissioner and confirmation by the City Council, an Inspector of Wires, who shall be appointed for a term of three years. The Inspector of Wires shall be a journeyman electrician licensed in Massachusetts. He shall keep an accurate record of the transactions of his office and shall report the same to the Building Commissioner on a monthly basis, to be reported to the Mayor in January of each year.

## C. Plumbing and Gas Inspection Division

### a. Division and Position Established

The position(s) of Inspector of Gas Piping and Gas Appliances is hereby created.

### b. Duties

The Inspector of Gas Piping and Gas Appliances shall perform such duties as may be required in enforcing the rules and regulations established by authority of the Massachusetts Code for Installation of Gas Appliances and Gas Piping, as presently in force, and as may be amended and in force from time to time.

c. Plumbing Inspector to Serve

The Plumbing Inspector(s) of the City shall be the Inspector(s) of Gas Piping and Gas Appliances. Said Plumbing Inspector(s) and Inspector(s) of Gas Piping and Gas Appliances shall be subject to the authority of the Mayor and the Building Commissioner.

d. Appointment, Term of Office

The Plumbing Inspector(s) and Inspector(s) of Gas Piping and Gas Appliances shall be appointed by the Mayor, subject to confirmation by the City Council, and shall hold said position for a term of three years from the date of confirmation by the City Council or until his successor is duly appointed and qualified.

**Section 3: Department of Community Development and Planning**

A. Department Established; Director

- a. There shall be established in the City of Gardner a Community Development and Planning Department to be administered by a Director.
- b. The Director shall be appointed by the Mayor, subject to confirmation by the City Council, and shall be appointed for a term of three years, except that the first such term shall expire two years from enactment of this chapter. Said Director shall hold office until his successor is appointed. Said Director may be removed from office in the same manner as department heads as provided by Section 8 of the City Charter. Said Director shall report to the Mayor and City Council and shall appear before the City Council whenever requested to do so.

**Section 4: Engineering Department**

A. Department established; appointment of City Engineer.

An Engineering Department is hereby established. It shall be under the charge and control of a graduate certified civil engineer who shall have the title of "City Engineer." The City Engineer shall be appointed by the Mayor, subject to confirmation by the City Council, and shall be appointed for a term of three years.

B. Department responsibilities.

The Engineering Department shall be responsible for the following:

- A. Whenever any petition for laying out, making public, widening, altering, relocating, grading or discontinuing any way is presented to the Mayor and City Council, it

shall be the duty of the Engineering Department to prepare a plan and estimate showing the probable cost of said work apportioned to the several estates liable for the same, together with the estimated cost of other assessable improvements, such as sewers and sidewalks, that may reasonably be necessitated by such proposed alteration, said cost likewise being apportioned to the respective estates. Said plan and estimate shall be furnished complete with the names and addresses of the owners of the several estates and the amounts assessable upon each of them.

- B. The Engineering Department shall have charge and custody of all plans of streets, sidewalks and bridges belonging to the City; it shall enter in a book to be kept for that purpose the names of all streets that shall be accepted, laid out and established by the City Council, with the boundaries and measurements thereof, the names of the owners of the land, if known, over or through which said streets or ways are located, and the estates bounding and abutting thereon; and shall keep a record of all sidewalks that are now or may be hereafter laid out or established by the City Council, the width, height and grade of the same, stating the boundaries and measurements thereof, with the date of such laying out.
- C. To inspect all streets and ways being constructed under the Subdivision Control Law to ascertain whether said construction complies with plans filed pursuant to the Planning Board regulations, City ordinances and state statutes and to give to the Planning Board a report of its inspection prior to the release of any bond posted by the developer constructing said street and prior to the approval of said street by the Planning Board.
- D. Planning Board Engineer.

Provide technical assistance to the Planning Board as required, including attendance at meetings one or two evenings per month. Duties will include:

- i. Review of site plans and subdivision plans, with particular emphasis on drainage and stormwater management. Prepare cost estimates where the developer must post bond or security in order to insure completion of infrastructure.
  - ii. Inspect subdivision infrastructure (drainage, sanitary sewers, water mains, roads and sidewalks) during construction and submit periodic reports to the Planning Board.
  - iii. Develop stormwater management practices and policies for subdrainage basins within the City.
- E. Zoning Board of Appeals/Conservation Commission reviews.

At the request of the Zoning Board of Appeals/Conservation Commission review applications to the above bodies, with particular attention to potential effects on

public underground utilities or streets and sidewalks. Provide technical advice and/or guidance when necessary to the public interest.

F. Infiltration/Inflow Coordinator.

Maintain records of all sanitary sewer and manhole inspections and repairs/rehabilitation which result in reduction of infiltration and/or inflow to the City's sanitary sewer system. Quantify estimates of flow reduction due to these efforts and prepare and submit semiannual reports to the Department of Environmental Protection.

G. Construction administration.

Oversee construction contracts being performed directly for the Department of Public Works, based on plans and specifications prepared by the Engineering Department. This task will include construction inspection and field documentation of as-built quantities and locations. This task will involve supervision of the City Engineer or other designee.

**Section 5: Fire Department**

A. Personnel

The Fire Department of the City of Gardner shall consist of a Fire Chief, a Fire Captain, Lieutenants, and such fire privates and other support personnel as the Mayor, with the approval of the City Council, shall from time to time deem necessary, subject to appropriation.

B. Appointments.

Subject to the following, all appointments to the Fire Department shall be made by the Fire Chief.

C. Fire Chief

- a. The Fire Chief shall be appointed by the Mayor, subject to confirmation by the City Council, and shall be the head of the Fire Department, and shall have full and absolute control and command of the Department, its firefighters and members and other officers when engaged in the fire service of the City, or when assigned by him to any special duty. The Chief shall also have control of all City property used by the Fire Department and shall have all other authorities and responsibilities as provided by law.
- b. The Chief shall be appointed for a term of three years, shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012 providing for such exemption, and shall meet such minimum

qualifications for said position as the Mayor, with the approval of the City Council, shall from time to time establish.

### **Section 6: Human Resources Department**

#### A. Department Established; Director

- i. There shall be established in the City of Gardner a Human Resources Department to be administered by a Director.
- ii. The Director shall be appointed by the Mayor, subject to confirmation by the City Council, and shall be appointed for a term of three years. Said Director shall hold office until his/her successor is appointed and confirmed. Said Director may be removed from office in the same manner as department heads as provided by Section 8 of the City Charter. Said Director shall report to the Mayor and City Council and shall appear before the City Council whenever requested to do so.

### **Section 7: Information Technology Department**

#### A. Department Established; Director

- i. There shall be established in the City of Gardner an Information Technology Department to be administered by a Director.
- ii. The Information Technology Director (the "Director") shall be appointed by the Mayor, subject to confirmation by the City Council, and shall be appointed for a term of three years. Said Director shall hold office until his/her successor is appointed and confirmed. Said Director may be removed from office in the same manner as department heads as provided by Section 8 of the City Charter. Said Director shall report to the Mayor and City Council and shall appear before the City Council whenever requested to do so.

### **Section 8: Law Department**

#### A. Department Established

- i. There shall be established in the City of Gardner a Law Department to be administered by the City Solicitor with the assistance of an Assistant City Solicitor, if one has been appointed.
- ii. Said officers shall be members of the Bar of the Commonwealth of Massachusetts in good standing.
- iii. The City Solicitor shall be appointed as provided by the provisions of Section 6 of the City Charter. The Assistant City Solicitor shall be appointed by the Mayor,

subject to confirmation by the City Council, for a term of one year. Said City Solicitor and Assistant City Solicitor may be removed from office as provided by Section 8 of the City Charter.

- iv. The City Solicitor and Assistant City Solicitor may be full time employees of the City or may be contracted law firms subject to the appropriations authorized by the City Council in the City's annual operating budget, with the same appointment approval methods listed in this section for the City Solicitor and Assistant City Solicitor.

#### B. Issuance of Written Legal Opinions

The Law Department shall furnish written legal opinions when so requested by the Mayor, City Council by vote of the Council or request of the City Council President, the chairperson of a City committee upon vote of that committee, or the head of any City Department with the approval of the Mayor.

### **Section 9: Police Department**

#### A. Department Established

The Police Department of the City of Gardner shall consist of a Chief of Police, a Deputy Police Chief, Lieutenants, Sergeants and such subordinate officers, patrol officers and other support personnel as the Mayor, with the approval of the City Council, shall from time to time deem necessary by formal adoption of an Official Table of Organization for the Police Department and to be made part of the Operational Manual. Such Department may be augmented by a reserve police force in accordance with the provisions of the General Laws of the Commonwealth.

#### B. Chief of Police; Deputy Chief of Police

- i. The Chief of Police shall be the head of the Police Department and shall have immediate control and command of the Department, its officers and members, and all constables and other officers when engaged in the police service of the City, or when assigned by him to any special duty. The Chief shall also have immediate control of all City property used by the Police Department. The Chief shall be appointed for a term of three years, shall be exempt from the provisions of MGL c. 31 in accordance with Chapter 416 of the Acts of 1991 providing for such exemption and shall meet such minimum qualifications for said position as the Mayor, with the approval of the City Council, shall from time to time establish. The Chief of Police shall be the Keeper of the Lockup in compliance with MGL c. 40, § 35.
- i. The Deputy Chief of Police shall be appointed for a term of three years, shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012 providing for such exemption, and shall meet such

minimum qualifications for said position as the Mayor, with the approval of the City Council, shall from time to time establish.

C. Special Police Officers

- i. The City of Gardner may employ a person in police duty only when such duty is absolutely essential to its regular services as an employee of the City.
- ii. Special Police Officers will be compensated at the current collective bargaining rate for patrol/superior officers.

D. Traffic Control Unit

- i. The City of Gardner may employ a person in police duty in the traffic control unit, when such duties are deemed to be needed by the Chief of Police.
- ii. Traffic Control Officer will be compensated at the current collective bargaining rate for patrol/superior officers.

E. Civilian Public Safety Dispatch Division

- i. The Chief of Police shall oversee all dispatch operations for the City.
- ii. The Division shall be run by a director who shall be appointed by the Chief of Police.
- iii. The Division may employ all full and part time dispatchers as deemed necessary to execute the functions of the division.

**Section 10: Department of Public Works**

A. Department established; duties of Director.

- a. There shall be established in the City of Gardner a Department of Public Works administered by a Director.

B. Aside from all duties outlined in the job description of the Director, they shall also:

- a. The Director shall have all the duties and powers vested in the separate boards and commissions and any amendments thereto and shall succeed to all rights, privileges, duties and liabilities of said separate boards and commissions.
- b. Meet when requested by the City Council Public Service Committee.

C. The Director shall have the power to make rules and regulations for the governing of the Department of Public Works and sections thereof and shall attend to the



proper enforcement of the same. The Director shall have jurisdiction over the sections and over each member of each section. The Director shall sign all vouchers for the Department of Public Works.

- D. In the event that the Director is absent from the City, he shall notify the City Auditor in writing of the person designated by the Director to assume his responsibilities during his absence.

**Section 11: Purchasing and Civil Enforcement Department**

- A. Purpose.

There is hereby established in the administrative service of the City of Gardner the Purchasing/Civil Enforcement Department and, in said Department, the position of City Purchasing Agent/Civil Enforcement Director, hereinafter referred to as "Director."

- B. General authority of Director.

- i. The Purchasing Agent/Civil Enforcement Director shall direct, supervise and have control of the Purchasing/Civil Enforcement Department.
- ii. The Purchasing Agent/Civil Enforcement Director shall have all powers and duties prescribed by this chapter and the positions job description on file in the City's Department of Human Resources and shall serve as the City's Chief Procurement Officer (CPO) and Affirmative Marketing Construction Officer.
- iii. The Purchasing Agent/Civil Enforcement Director shall be responsible for all purchases and contractual services and all sales of property.
- iv. The Purchasing Agent/Civil Enforcement Director shall be responsible for the tracking, recordkeeping and collection of parking, animal control and civil violations and act as the Parking Clerk.
- v. The Purchasing Agent/Civil Enforcement Director shall serve as the City's Municipal Hearing Officer.

- C. Purchasing.

Except as herein provided or specifically authorized by the Purchasing Agent/CPO, it shall be unlawful for any City employee or City official to purchase any supplies or services other than through the Purchasing Department and in accordance with this chapter.

- D. Sale or disposal of personal or real property.

- i. The head of the department, board or commission in possession of the surplus supplies shall certify, in writing, the estimated value, determined through a commercially reasonable process. The Chief Procurement Officer shall decide upon the most appropriate method of disposal, including direct sale, quotes, or donations and the decision should be based upon the best interest of the City of Gardner. No tangible property shall be sold or otherwise disposed of without the written approval of the head of the department, board or commission as well as the City Council committee or School Committee subcommittee having charge of matters concerning such department, board or otherwise and with the written approval of the Mayor.
- ii. Real property shall be declared surplus by a vote of the City Council, with the approval of the Mayor, following the determination of value. No real estate, whether the same is controlled by any department, board or otherwise, shall be sold or otherwise disposed of except with the approval of the City Council and Mayor.

E. Award of contract.

- i. The Purchasing Agent shall have the authority to award contracts within the purview of this chapter and shall have the authority to determine responsibility of bidders.
- ii. The Purchasing Agent shall have the authority to declare vendors as irresponsible bidders and to disqualify them from receiving any orders or contract awards from the municipality.

F. Tie bids.

If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder, "local bidder" defined as having its corporate/home office in the City Gardner. If no local bidder exists, the Purchasing Agent shall award the contract to one of the tie bidders by drawing lots in public.

G. Bid protests.

Upon receipt of a written protest of an award made by the Chief Procurement Officer, the matter shall be reviewed by the Chief Procurement Officer and a determination made to:

- i. Reject the bid protest on grounds the protest fails to prove a violation of the Massachusetts Uniform Procurement Act and continue with the award of a contract; or

- ii. Uphold the bid protest on grounds the protest proves a violation of the Massachusetts Uniform Procurement Act and conduct a new procurement.

H. Cooperative purchasing.

The Purchasing Agent shall have the authority to join other units of government (federal, state, county, municipal and municipal subdivisions, including such quasi-municipal agencies as water districts, sewer districts, etc.) in cooperative purchasing plans when the best interest of the City would be served thereby and such action is in accordance with and pursuant to prevailing General Laws.

I. Other duties of Purchasing Agent.

The Purchasing Agent shall perform such other duties related to the functions, duties and authorities set forth herein as may be prescribed by the Mayor or any applicable state or local laws and ordinances.

J. Chief Procurement Officer.

The Chief Procurement Officer shall conduct requests for proposals, including oversight of the solicitation, opening and evaluation of proposals and award of contract, in accordance with the authority delegated by MGL c. 30B.

K. Affirmative Marketing Construction Officer.

The Affirmative Marketing Construction Officer shall serve as the City's liaison with the Supplier Diversity Office and be responsible for all reporting in compliance with MGL c. 93.

L. Municipal Hearing Officer.

The Municipal Hearing Officer shall conduct local hearings of code violations pursuant to and in compliance with MGL c. 148A (Code Enforcement Officer). The Municipal Hearing Officer shall conduct such hearings using formal rules established under MGL c. 148A and shall render a written decision to the appropriate parties.

**Section 12: Senior Center**

A. Department Established, Director

- i. There shall be a Senior Center overseen by the Senior Citizens Director, who shall be appointed by the Mayor, subject to confirmation by the City Council for a term of three years.

- ii. The Senior Citizens' Director shall report directly to the Mayor and shall have the duty and responsibility of working with the Council on Aging and various state and federal elder affairs agencies in providing programs and services for the elderly, shall be responsible for preparing the annual budget and shall plan all programs and activities for the senior citizens of the City of Gardner.

**SECTION 35:** That a new Chapter 6 be added to the Code of the City of Gardner to be entitled, "Board and Commissions," as follows:

**Section 1: Airport Commission**

A. Establishment and Membership

There shall be an Airport Commission, consisting of not less than three (3) nor more than eleven (11) members.

B. Issuance of Fees and Charges

The Airport Commission shall have the authority, with the approval of the City Council and the Mayor, to institute a system of charges and fees for use of the Gardner Municipal Airport.

**Section 2: Bandstand Committee**

A. Establishment

There is hereby established under this section the Community Bandstand Committee, which shall exist and be operated hereunder for the purpose of implementing seasonal programs to be conducted in the City's parks, including but not limited to summer musical concerts and other community entertainment events at the Bandstand located in Monument Park, as well as at the City's other parks, at the City's other municipal grounds and at other appropriate locations in the City.

B. Membership

The Community Bandstand Committee shall consist of no less than three (3) members. One (1) of the members appointed to the Community Bandstand Committee shall be a member of the Municipal Grounds Commission, to carry out the purposes of this section.

C. Donations to Committee

- i. The Community Bandstand Committee may receive donations and gifts of property, both real and personal, in the name of the City to further the purposes as set forth in this section. Upon receipt of any such donation or gift, the Community Bandstand Committee shall

provide each such gift or donation to the Treasurer, who shall deposit same into an account to be created and named the "Community Bandstand Committee Program Fund." All funds in such Community Bandstand Committee Program Fund shall be used for the purposes set forth in this section.

- ii. In accordance with the General Laws of the Commonwealth, the Community Bandstand Committee shall from time to time submit a listing of all donations and gifts received by the Committee for acceptance by majority vote of the City Council.

### **Section 3: Board Of Assessors**

#### **A. Board established.**

- i. The Mayor shall appoint a City Assessor who will also serve on the Board of Assessors and two additional members of the Board of Assessors, each for a term of three years, subject to confirmation by majority vote of the City Council.
- ii. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council.
- iii. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office.
- iv. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof. Failure to be sworn in after

#### **B. Appointment of Members**

- i. The Mayor shall appoint members to serve for the term of three years following the expiration of the terms as hereinbefore outlined.
- ii. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council.
- iii. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office
- iv. Each year at its first meeting the Board shall organize and elect a Chairperson.

#### **C. Duties**

The Assessors shall perform, or cause to be performed, all the duties required of assessors under the General Laws of the Commonwealth of Massachusetts and shall be subject to said General Laws, as well as to the Charter and ordinances of the City of Gardner.

D. Employment Status

The City Assessor shall serve full time as an Assessor, while the other two members shall be part-time Assessors.

E. Abatements

The Board shall meet with any person filing an application for abatement or his attorney upon request for such a meeting.

**Section 4: Board Of Health**

A. Establishment and Membership

- i. There shall be a Board of Health consisting of three (3) members, one of whom shall be a physician, for a period of three (3) years.
- ii. No members of the Board of Health shall be members of the City Council.
- iii. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council.
- iv. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office
- v. Each year at its first meeting the Board shall organize and elect a Chairperson.

**Section 5: Board Of Registrars Of Voters**

A. Establishment and Membership

Per the provisions of the General Laws of the Commonwealth, there shall be a Board of Registrars of Voters consisting of three (3) members and the City Clerk shall serve as its fourth (4th) voting member.

**Section 6: Capital Improvement Planning Committee**

A. Committee Established, Membership

There shall be established in the City of Gardner a Capital Improvement Planning Committee. Members shall consist of the Council President and/or designee(s), the City Engineer, the Director of Community Development and Planning, the City Treasurer, the Director of Public Works, the City Purchasing Agent/Civil Enforcement Director, the City Auditor, and the School Department Business

Manager, all of whom shall serve ex officio. The Committee shall choose its own officers.

B. Review of Projects

a. The Committee shall study proposed capital projects and improvements involving major nonrecurring tangible assets and projects which:

- i. Are purchased or undertaken at intervals of not less than five years;
- ii. Have a useful life of at least five years; and
- iii. Cost over \$25,000.

b. All officers, boards and committees shall, by November 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring City Council action during the ensuing six years. The Committee shall consider the relative need, impact, timing, and cost of these expenditures and the effect each will have on the financial position of the City.

c. No appropriation shall be voted for a capital improvement requested by a department, board, or commission unless the proposed capital improvement is considered in the Committee's report or the Committee shall first have submitted a report to the City Council explaining the omission.

C. Capital Improvement Budget and Program

The Committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year and a capital improvement program, including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Mayor for consideration and approval. The Mayor shall submit the approved capital budget to the City Council for adoption.

D. Expenditures

Such capital improvement program, after its adoption, shall permit the expenditures on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals, but no such expenditure shall be incurred on projects which have not been so approved by the City through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

E. Publication of Report and Budget



The Committee's report and the Mayor's recommended capital budget shall be published and made available in a manner consistent with the distribution of the Mayor's budget recommendations to the City Council. The Committee shall submit its original report to the City Clerk.

### **Section 7: Cemetery Commission**

- A. Commission established; membership; appointment.
- i. There shall be established a Cemetery Commission for the City of Gardner consisting of five members, legal voters of said City, who shall be appointed by the Mayor, subject to confirmation by the City Council, as follows: the Mayor shall immediately appoint one person to serve until the expiration of two years and two to serve until the expiration of one year from the first day of March 1980 and thereafter annually shall appoint one or two persons, as the case may be, to serve for the term of two years from the first day of March following the expiration of the terms as hereinbefore outlined.
  - ii. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office.
  - iii. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.
- B. Meetings, minutes and records.
- i. The Commission shall meet annually in March each year to organize and elect a Chairperson and Secretary. The Commission shall hold monthly meetings each month during the course of the year.
  - ii. The Secretary shall keep accurate minutes and records of all meetings of the Commission.
- C. Duties; perpetual care funds.
- i. The Commission shall have sole control over and responsibility for the management of perpetual care funds pursuant to MGL c. 114, § 19, and MGL c. 44, § 54.

- ii. Said Commission shall be charged with keeping full and complete records concerning such perpetual care funds and render to the Mayor and the City Council as often as may be required by them a full report concerning such perpetual care funds under its control during the period reported on.
- iii. Said Commission shall advise the Director of Public Works and the Municipal Grounds Commission as to the supervision, care and upkeep of all public cemeteries within the City of Gardner and as to the proper expenditure of the perpetual care funds under the control of said Commission.

### **Section 8: Council On Aging**

#### **A. Establishment.**

A Council on Aging is hereby established.

#### **B. Membership; terms of office.**

The Council on Aging shall consist of seven members, appointed by the Mayor, subject to confirmation by the City Council. The Mayor shall appoint individuals to serve for a term of three years. Upon expiration of the term of office of each member, a successor shall be appointed for a term of three years, or until a successor is duly appointed and qualified. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council. Before entering the discharge of their duties, members shall be sworn to the faithful discharge thereof.

#### **C. Duties.**

The Council on Aging shall have the duty and obligation of carrying out programs designed to meet the problems of the aging in coordination with the programs of the Massachusetts Council on Aging.

#### **D. Private nature of certain information.**

The names, addresses, telephone numbers, or other identifying information about elderly persons in the possession of the Council shall not be public records, but the use of these records shall comply with MGL c. 19A, §§ 14 to 24, inclusive, as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

### **Section 9: Disability Commission**

A. Commission Established

There shall be established, pursuant to MGL c. 40, § 8J, a Disability Commission for the City of Gardner consisting of seven members, legal voters of said City, who shall be appointed by the Mayor, subject to confirmation by the City Council, as follows: the majority of said Commission members shall consist of disabled persons, and one of such members shall be a member of the immediate family of a disabled person, and one member of said Commission shall be either an elected or appointed official of the City.

a. Terms of Membership

The terms of the first members of said Commission shall be for one, two, or three years and so arranged that the term of 1/3 of the members expires each year, and their successors shall be appointed for terms of three years each. Any member of said Commission may, after a public hearing, if so requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

B. Officers, meetings and records.

The Commission shall meet once annually to organize and elect a Chairperson, Vice Chairperson, Treasurer, and Clerk. The Chairperson of the Commission shall be chosen by a majority vote of said Commission members. The Commission shall hold monthly meetings each month of the year. It shall keep accurate records of its meetings and actions and shall file an annual report.

C. Powers and duties.

The Commission shall have the following powers and duties:

- i. Its purpose shall be to develop and carry out programs which may be designed or established to meet the opportunities, challenges, and problems of the disabled of the City and in conjunction with any agency of the federal government.
- ii. The Commission may appoint such clerks or other employees as it may from time to time require, subject always to appropriation of funds therefor.
- iii. The Commission may receive gifts of property, both real and personal, in the name of the City, subject to the approval of the City Council, such gifts to be managed and controlled by said Commission for the purposes of this section.

**Section 10: Golf Commission****A. Commission Established**

A Municipal Golf Course Commission is hereby established.

**B. Membership; terms of office.**

The Municipal Golf Course Commission shall consist of seven members, including a Chairperson and Secretary, legal voters of said City, who shall be appointed by the Mayor, subject to confirmation by the City Council, as follows: the Mayor shall immediately appoint one person until the expiration of one year, two to serve until the expiration of two years, and two to serve until the expiration of three years from the first day of May 1990 and thereafter annually shall appoint their successors for terms of three years each from the first day of May then next ensuing. A vacancy occurring may be filled at any time for the unexpired term by the Mayor, subject to confirmation by the City Council.

**C. Membership in lieu of Compensation**

A Golf Commissioner shall receive a free family membership as defined in the family membership fee schedule of the Golf Course Commission each year while serving on the Commission. The free membership shall be subject to taxation pursuant to the Internal Revenue Code.

**D. Meetings**

The Commission shall meet annually in January of each year to organize and to elect a Chairperson and Secretary. The Commission shall hold bimonthly meetings each month during the course of each year, except that monthly meetings shall be held during the months of July and August.

**E. Duties.**

The Commission shall, subject to the regulations and orders of the Department of Public Works and Board of Health with reference to the management, improvement and control thereof for the purpose of preserving and protecting the water supply, have complete charge of the operation, improvement and maintenance of the Municipal Golf Course and all such other properties and activities as may hereafter be placed under its jurisdiction and control by the Mayor with the approval of the City Council. The Golf Course Commissioners shall have the authority to annually institute a system of charges and fees for use of the Municipal Golf Course. The charges and fees so to be charged are to be published in the Gardner News, upon their being determined, prior to the date the same are to take effect.

F. Appointees of the Golf Commission.

- i. The Commission shall, as soon as practicable after the qualification of its members, appoint such superintendent, officer or officers, agents and employees as it may deem necessary and shall have the power to remove said appointees for cause.
- ii. The appointees shall perform such duties as shall be required of them by said Commission.

**Section 11: Historical Commission**

A. Commission Established

There is hereby established, under the provisions of MGL c. 40, § 8D, an Historical Commission of the City of Gardner for the purposes and with the rights and duties provided by law, to be composed of seven members appointed by the Mayor, subject to confirmation by the City Council, for terms of three years, except that the initial appointment shall be two members for one year, two members for two years, and three members for three years. One member may be chosen from one of the surrounding communities.

**Section 12: Planning Board**

A. Board Established and membership

A Planning Board is hereby established. The Planning Board, hereinafter called the "Board," shall consist of up to nine persons.

B. Powers and duties.

The Board shall have all the powers and duties imposed and conferred by MGL c. 41, §§ 81A to 81GG, inclusive, and acts in amendment thereof and in addition thereto.

C. Appointment; vacancies; compensation.

- a. The Mayor shall appoint the members of the Board whose term of office shall commence on January 1 of the year in which they are appointed and confirmed to serve a term of three years.
- b. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office.

- c. Any vacancy occurring in the Board, occurring otherwise than by expiration of term of office, shall be filled for the unexpired term in the same manner as an original appointment.

### **Section 13: Zoning Board Of Appeals.**

#### **A. Board Established, Authority**

The Zoning Board of Appeals, hereinafter called the "Board," shall consist of five persons, up to four of which are residents of Gardner and shall be appointed by the Mayor, subject to confirmation by the City Council. The Zoning Board of Appeals established under Chapter 675, Zoning, of this Code is hereby constituted the Zoning Board of Appeals as provided in MGL c. 41, § 81Z. The Zoning Board of Appeals shall have all the powers and duties imposed and conferred by MGL c. 41, §§ 81Z and 81AA, as well as all other powers and duties imposed and conferred on the Zoning Board of Appeals by said MGL c. 41, §§ 81A to 81GG.

### **Section 14: Traffic Commission**

#### **A. Commission Established**

There shall be established in the City of Gardner a Traffic Commission.

#### **B. Membership**

Members shall consist of the Chief of Police or his designee, as Chairperson, a member of the Council's Public Safety Committee as designated by the Chairperson of that Committee, the City Engineer, the Director of Public Works, the Director of Community Development and Planning, and the Civil Enforcement Director, all whom shall serve ex officio.

#### **C. Placement of official traffic signs and signals.**

The Director of Public Works, under supervision of the Traffic Commission, is hereby authorized and it shall be his duty to place and maintain or cause to be placed and maintained all official traffic signs and signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Highway Division of the Massachusetts Department of Transportation.

#### **D. Meetings; duties.**

The Traffic Commission shall meet regularly, not less often than quarterly.

- E. Among its duties the Traffic Commission shall:
- i. Make recommendations to the City Council, supported by engineering studies and reports when necessary, regarding changes required to the Chapter 600, Vehicles and Traffic, of this Code.
  - ii. Monitor all traffic-related issues, from signs to major project proposals.
  - iii. Actively pursue state or federal grants for street improvements (including curbing, pedestrian crossings, and signalization).
  - iv. Improve traffic on a regional basis, working with and supporting endeavors of the Montachusett Regional Planning Commission (MRPC), with an active member (appointed by Mayor for a three-year term) to be part of the MRPC.

## SECTION 15: YOUTH COMMISSION

### A. Commission established

There shall be established, pursuant to MGL c. 40, § 8E, a Youth Commission for the City of Gardner consisting of no more than seven members, one of whom shall be a currently elected City Councillor, who shall be appointed by the Mayor, subject to confirmation by the City Council.

B. The Mayor shall immediately appoint two persons to serve until the expiration of one year, two persons to serve until the expiration of two years and three persons to serve until the expiration of three years, and the successors shall be appointed for a term of three years each. Any member of a Commission so appointed may, after a public hearing, if requested, be removed for cause by the Mayor. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment. Nothing contained herein shall be construed to prevent the reappointment of any member upon the expiration of his term of office.

C. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.

### D. Meetings, records and annual report.

The Commission shall meet once annually to organize and elect a Chairperson, Vice Chairperson, Treasurer and Clerk. The Commission shall hold monthly meetings each month of the year. It shall keep accurate records of its meetings and actions and shall file an annual report.

### E. Powers and duties.



The Commission shall have the following powers and duties:

- a. Its purpose shall be to develop and carry out programs which may be designed or established to meet the opportunities, challenges and problems of youth of the City and in conjunction with any similar or related programs of any agency of the commonwealth or any agency of the federal government.
- b. The Commission may appoint such clerks or other employees as it may from time to time require, subject always to appropriation of funds therefor.
- c. The Commission may receive gifts of property, both real and personal, in the name of the City, subject to the approval of the City Council, such gifts to be managed and controlled by the Commission for the purposes set forth in Subsection A above.

**SECTION 36:** That a new Chapter 6 be added to the Code of the City of Gardner entitled “Personnel, Appointments, and Employment,” as follows:

**Section 1: Compensation**

The salaries and compensation of any City employee who receives compensation and any other employees of any of the departments, boards, committees, and commissions shall be established in the ordinances designating salaries and wages for the City employees.

**Section 2: Appointment**

Subject to the provisions of the Charter of the City of Gardner and the General Laws of the Commonwealth, all those appointed to positions in the City shall be appointed by the Mayor, subject to confirmation by majority vote of the City Council, unless otherwise stated.

**Section 3: Oath of Office**

Failure by anyone duly appointed and confirmed by majority vote of the City Council, Mayor, Joint Convention, Fire Chief, or other appointing authority as designated by law, to take their respective oath of office within sixty (60) days of the date on which their appointment was confirmed by majority vote of the City Council shall be considered forfeiture of the office and shall be deemed a vacancy in the position.

**Section 4: Temporary Appointments**

In case of a vacancy in any office, appointment to which is made by the Mayor, which vacancy is caused by the incapacity, death, resignation or expiration of the

term of the incumbent, the filling of which is not provided for by law, the Mayor, without confirmation by the City Council, shall appoint a temporary officer to serve until a successor to such incapacitated, deceased or resigned officer, or officer whose term has expired, is duly appointed and qualified in accordance with law, but no such temporary officer shall in any event be appointed hereunder to serve for a period longer than 90 days.

### **Section 5: Powers and Duties of Temporary Officers**

Except as otherwise provided by the General Laws, City Charter or other ordinance, any temporary officer so appointed shall, during the time he fills the position to which he is appointed under this article, exercise all the powers and perform all the duties of the officer in whose place he serves.

### **Section 6: Job Descriptions**

- A. All positions in the City shall have a job description outlining the duties of the position on file in the City's Human Resources Department.
- B. Any changes made to the job description of a position of a Department Head must first be approved by majority vote of the City Council before becoming effective.

**SECTION 37:** Chapter 171 of the Code of the City of Gardner, thereof entitled "Personnel," be amended by replacing the title as "Non-Union Employees" and renumbered as Chapter 7.

**SECTION 38:** Section 2 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Conduct of Examination," be amended by deleting the phrase, "or the department head" from the section.

**SECTION 39:** Section 3 of Chapter 171 of the Code of the City of Gardner, thereof entitled, "Report" be deleted in its entirety and replaced with the following:

Section 3: The employment candidate cannot commence employment until the Human Resources Department has received the pre-employment screening report clearing the candidate for full duty and/or identifying appropriate and applicable reasonable accommodations.

**SECTION 40:** Section 6 of Chapter 171 of the Code of the City of Gardner, thereof entitled, "Compensation for Blasting Services" be deleted in its entirety.

**SECTION 41:** Section 8 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Summons to be presented to Department Head," be amended by adding the following sentence to the end of the section:

The summons and/or jury duty service confirmation shall be submitted to the Human Resources Department to be maintained in the employee's personnel file.

**SECTION 42:** Section 12 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Compensation," be deleted in its entirety and replaced with the following:

Section 12: During such time as the employee is out on an authorized civic duty leave or unable to perform their duties, upon the submission of the proper civic duty service confirmation document(s) to the Human Resources Department, the City will pay the employee the difference between the wages earned on such civic duty leave and the salary or wages to which the employee would have been entitled to for the regular performance of their duties. In the event the employee receives no compensation for their civic duty service, the City will pay the employee their full wages for the time spent serving said civic duty in lieu of performing their duties for the City.

**SECTION 43:** Section 13 of the Code of the City of Gardner, thereof entitled “Effect on Vacation,” be deleted in its entirety and replaced with the following:

Section 13: Employees are allowed to roll over twice as much as their annual vacation allotment. An employee who at the end of the year has in excess of the authorized accrued vacation carry over as a result of being summoned for jury duty service shall be entitled to carry over the accrued vacation time that exceeds the authorized roll over benefit. The excess vacation time must be taken within the year it was allowed to be carried over into.

**SECTION 44:** Section 14 of Chapter 171 of the Code of the City of Gardner, entitled “Holidays Designated,” be deleted in its entirety and replaced with the following:

Section 14: Holidays Designated

A. All full time and regular part-time City employees, not covered by a collective bargaining agreement shall be granted holidays with pay at the rate fixed for such employees respectively on each of the following twelve (12) legal holidays:

1. New Year’s Day
2. Martin Luther King Day
3. Presidents Day
4. Patriots Day
5. Memorial Day
6. Juneteenth
7. Independence Day
8. Labor Day
9. Indigenous Peoples Day/Columbus Day
10. Veterans Day
11. Thanksgiving Day
12. Christmas Day

B. Sunday holidays shall be celebrated the following Monday. Saturday Holidays shall be celebrated on the preceding Friday.

- C. Employees who work a schedule other than a Monday through Friday Schedule and the holiday falls on a non-work day, shall be given a day in lieu to be taken on a day approved by the employee's department director.
- D. All full-time and regular part-time City employees, not covered by a collective bargaining agreement, shall have the Friday after Thanksgiving as a day off, but not as a designated holiday.

**SECTION 45:** Section 15 of Chapter 171 of the Code of the City of Gardner, entitled "Compensation for Working on a Holiday" be deleted in its entirety and replaced with the following:

Section 15: In the event that a non-exempt employee shall be required to work on a holiday, their compensation shall be at two (2) times their regular straight-time pay for all hours worked on such holiday. The employee may elect to earn compensatory time for the time worked on the holiday (1 hour worked equivalent to 2 hours of compensatory time) to be reported to the Human Resources Department for accrued time benefit tracking.

**SECTION 46:** Section 17 of Chapter 171 of the Code of the City of Gardner, entitled "Credit and Use of Sick Days," be deleted in its entirety and replaced with the following:

Section 17: Sick days shall be credited to employees on January 1<sup>st</sup> of each year. Employees may carry an unlimited number of unused sick days at the end of the year into the next year. Sick time shall not be used in less than one (1) hour increments.

**SECTION 47:** Section 18 of Chapter 171 of the Code of the City of Gardner, entitled "Doctor's Certification," be deleted in its entirety and replaced with the following:

Section 18: An employee that has been absent from work due to an illness or injury and/or the use of non-occupational sick leave for three (3) or more consecutive days at one time must present a medical note to their department director. This note shall be attached to the weekly benefit time reports. A doctor's note may also be required if a department head and/or the Director of Human Resources has reasonable cause to believe that the employee may be abusing their non-occupational sick time.

**SECTION 48:** Section 21 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Payment for accumulated sick leave upon death of employee" be deleted in its entirety and replaced with the following:

Section 21: For employees hired before October 17, 1995, in the event that the employee shall die prior to retirement, if the employee has accumulated sick leave, shall be granted pay for such accumulation not to exceed fifty (50)

full days of pay, plus an additional fifty percent (50%) of the daily rate for accumulated days over and above the first fifty (50) days, not to exceed a total of one hundred thirty (130) days paid (equivalent to ninety (90) full days of total pay.- 50 full days and 80 at 50%) Payment shall be paid to the estate of said deceased employee.

**SECTION 49:** Section 23 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Sick Leave Incentive Time,” be deleted in its entirety and replaced with the following:

Section 23: Commencing effective January 1, 2024, employees that do not call in sick and/or use sick leave in a calendar month shall earn four (4) hours per month of sick leave incentive time (not defined as vacation or personal time). The use of sick leave incentive time is subject to the approval of the department director. Employees may carry over up to twelve (12) hours of sick leave incentive time between years.

**SECTION 50:** Section 24 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Annual Report; Notification of Absence Due to Illness,” be deleted in its entirety and replaced by the following:

Section 24: On or about July 1<sup>st</sup> of each year, the Human Resources Department will provide the Mayor and the City Auditor a fiscal report of all sick leave accumulated and used by all City employees eligible for this benefit. Each employee will notify their department director each morning by 8:30 a.m. when they are going to be absent from work due to illness or injury.

**SECTION 51:** Section 25 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Grant of Leave,” be deleted in its entirety and replaced with the following:

Section 25: Grant of Leave

- A. A full-time and regularly part-time employees, not covered by a collective bargaining agreement, shall be granted bereavement leave without loss of regular straight-time pay for normally scheduled working hours as follows:
- 1) Five (5) consecutive days for the death of an immediate family member of the employee, which shall include a spouse, parent, step-parent, sibling, step sibling, children, step-children, or a person living in the immediate household of the employee.
  - 2) Three (3) consecutive days for the death of family members of the employee, which shall include parent of spouse or grandparent.

- 3) Two (2) consecutive days for an employee's niece, nephew, sibling in-law, child in-law, aunt, or uncle.
- B. If there is a delay in scheduling services, the employee may request a delay in their use of this benefit until that time. This request should be directed to the employee's department director.
  - C. For the purposes of this section, miscarriage of pregnancy shall be an eligible use for bereavement leave as defined in the schedule of time previously listed.

**SECTION 52:** Section 25(B) of Chapter 171 of the Code of the City of Gardner, thereof entitled "Full-time employees," be amended by deleting the sentence, "but in no event shall longevity pay for any such employee exceed \$1,050 in any fiscal year."

**SECTION 53:** Section 27(a) of Chapter 171 of the Code of the City of Gardner, thereof entitled "Part-time Employees," be deleted in its entirety and replaced with the following:

Section 27: Part – Time Employees

- A. Any regular part-time employee of the City that is not covered by a collective bargaining agreement, except those under the control of the School Department and officials elected by the voters of the City, who have been employed for at least five (5) continuous and consecutive years of service and has worked at least 1,000 hours each year of service, shall receive, in addition to their regular compensation, longevity pay of \$75 during the first year that such service is attained and each fiscal year thereafter.
- B. Such employee shall receive an additional \$15 per year for each additional year of part-time continuous and consecutive service with the City.

**SECTION 54:** Section 30 of the Code of the City of Gardner, thereof entitled "Grant of Personal Days," be deleted in its entirety and replaced with the following:

Section 30: Grant of Personal Days

- a. Regular full-time and part-time employees, not covered by a collective bargaining agreement, except officials elected by the voters of the City, shall be granted four (4) personal days (equivalent to 32 hours) per calendar year at the employee's normal straight-time pay for normally scheduled hours. A personal day for part-time employees will be equal to one-fifth (1/5) of the employee's regular work week.
- b. Upon termination, resignation, or retirement, the annual allotment of personal time for the year in which the employee's employment ends shall be prorated quarterly from the date the employee's employment ends as follows:

1. January 1<sup>st</sup> to March 31<sup>st</sup>: three (3) days
2. April 1<sup>st</sup> to June 30<sup>th</sup>: two (2) days
3. July 1<sup>st</sup> to September 30<sup>th</sup>: one (1) day

**SECTION 55:** Section 31(B) of Chapter 171 of the Code of the City of Gardner, thereof entitled “Use of Personal Days,” be amended by replacing “half day” with “one (1) hour.”

**SECTION 56:** Section 32 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Crediting of Personal Days,” be amended by adding the phrase, “Personal Time cannot be carried over from year to year” at the end of the section.

**SECTION 57:** Section 33 of Chapter 171 of the Code of the City of Gardner, thereof entitled “New Employees,” be deleted in its entirety and replaced with the following:

Section 33: New Employees

Newly hired employees shall be granted personal leave according to the following schedule:

| First Day of Employment  | Number of Personal Days |
|--------------------------|-------------------------|
| January 1 to March 31    | 4                       |
| April 1 to June 30       | 3                       |
| July 1 to September 30   | 2                       |
| October 1 to December 31 | 1                       |

**SECTION 58:** Article IX of Chapter 171 of the Code of the City of Gardner, thereof entitled “Vacations for City Officers and Employees,” be amended by deleting the words “City Officers and” from the title.

**SECTION 59:** Section 34 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Police Officers,” be amended by deleting the title and replacing the title with “Deputy Chief of Police.”

**SECTION 60:** Section 34 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Police Officers,” be amended by replacing the phrase, “All police officers of the City of Gardner, not covered by a collective bargaining agreement,” with the phrase “The Deputy Chief of Police.”

**SECTION 61:** Section 35 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Firefighters,” be deleted in its entirety.



**SECTION 62:** Section 36 of Chapter 171 of the Code of the City of Gardner, thereof Entitled “Other full-time officers and employees,” be amended by replacing the title of the section with the following: “Full-time Employees.”

**SECTION 63:** Section 36 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Other full-time officers and employees,” be amended by removing the phrase “All other employees or officers,” from the first sentence.

**SECTION 64:** Section 36 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Other full-time officers and employees,” be deleted in its entirety and replaced with the following:

Section 36: City Employees, except those provided for by law and those covered by a collective bargaining agreement, regularly employed full-time by the City shall be granted an annual vacation without loss of pay as follows:

- A. Regularly employed for one (1) to four (4) years shall be entitled to three (3) weeks or 15 working days.
- B. Regularly employed for five (5) to nine (9) years shall be entitled to four (4) weeks or 20 working days
- C. Regularly employed for ten (10) to fourteen (14) years shall be entitled to five (5) weeks or 25 working days
- D. Regularly employed for fifteen (15) to nineteen (19) years shall be entitled to six (6) weeks or thirty (30) working days
- E. Regularly employed for twenty (20) years or more shall be entitled to seven (7) weeks or thirty five (35) working days.

**SECTION 65:** Section 37 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Other Part-time officers and employees,” be amended by replacing the title with “Part-time Employees.”

**SECTION 66:** Section 37 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Other Part-time Officers and Employees,” be amended by removing the word “other” from the first sentence.

**SECTION 67:** Section 40 of Chapter 171 of the Code of the City of Gardner, thereof entitled “New Employees,” be deleted in its entirety and replaced with the following:

Section 40: New full-time employees will earn one(1) day per month up to ten (10) days per calendar year. This day will be credited the last day of each month. The new employee shall continue to earn vacation in this manner until the first anniversary date of benefited employment when they shall be credited with the difference between the number of days of vacation days they have earned up until such date, and ten (10) vacation days. This vacation time will only be allowed upon completion of a period of three (3) months of employment with the City of

Gardner. In no event shall a new employee be eligible for more than ten (10) days of vacation per calendar year.

**SECTION 68:** Section 42 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Minimum Increments,” be amended by replacing the phrase “half day” with “hour.”

**SECTION 69:** Article X of Chapter 171 of the Code of the City of Gardner, thereof entitled, “Salaries of Police and Fire Personnel,” be deleted in its entirety.

**SECTION 70:** Section 44 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Compensation in Lieu of Paid Holidays,” be deleted in its entirety.

**SECTION 70:** Section 45 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Compensation Established,” be deleted in its entirety and replaced with the following:

Section 45: Compensation Established

In addition to the provisions of the salary ordinance, the following full-time personnel shall receive compensation to be paid annually as follows:

- A. The Fire Chief shall receive \$1,250.00 for the upkeep and purchase of uniforms, equipment, and footwear.
- B. The Chief of Police and Deputy Chief of Police shall receive \$1,250.00 for the upkeep and purchase of uniforms, equipment, and footwear.
- C. The following shall receive \$500.00 annually for the upkeep and purchase of clothing, gear, and/or footwear:
  - Building Commissioner
  - Director of Public Health
  - Director of Public Works
  - City Engineer
  - Golf Course Superintendent
  - Transfer Station Supervisor
  - Transfer Station Monitor
  - Golf Grounds Maintenance Staff
  - Golf Grounds Maintenance Working Foreman
- D. The following shall receive \$650.00 annually for the upkeep and purchase of clothing, gear, and/or footwear:
  - Golf Motor Equipment Working Foreman

- Golf Motor Equipment Repairmen

**SECTION 72:** Section 47 of Chapter 171 of the Code of the City of Gardner, thereof entitled “New Employees,” be deleted in its entirety and replaced with the following:

Section: 44: New Employees

Any newly appointed full-time employee as referenced above shall receive clothing/uniform allowance prorated quarterly for the balance of the remaining fiscal year at the time of their appointment.

**SECTION 73:** Section 52 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Department Heads,” be amended by replacing “Council on Aging Director,” with “Senior Center Director.”

**SECTION 74:** Section 52 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Department Heads,” be amended by adding “Director of Cable Operations” above “Director of Community Development and Planning.”

**SECTION 75:** Section 50(B) of Chapter 171 of the Code of the City of Gardner, thereof entitled “Benefit Time Off Requests and Reporting,” be deleted in its entirety and replaced with the following:

B. A Department Head will contact the Mayor’s Office and Director of Human Resources via email each morning by 8:30 a.m. when they are going to be absent from work due to illness.

**SECTION 76:** Section 53(A) of Chapter 171 of the Code of the City of Gardner, thereof entitled “Vacation,” be deleted in its entirety.

**Section 77:** Section 53(B) of Chapter 171 of the Code of the City of Gardner, thereof entitled “Vacation,” be deleted in its entirety and replaced with the following:

All Department Heads as defined earlier in this Chapter, shall be granted an annual vacation without loss of pay as follows:

- Regularly employed for one (1) to four (4) years shall be entitled to Four (4) weeks or twenty (20) working days.
- Regularly employed for five (5) to nine (9) years shall be entitled to five (5) weeks or twenty-five (25) working days
- Regularly employed for ten (10) to fourteen (14) years shall be entitled to six (6) weeks or thirty (30) working days
- Regularly employed for fifteen (15) to nineteen (19) years shall be entitled to seven (7) weeks or thirty-five (35) working days

- E. Regularly employed for twenty (20) years or more shall be entitled to eight (8) weeks or forty (40) working days.

**SECTION 78:** Section 53(E) of Chapter 171 of the Code of the City of Gardner, thereof entitled, "Vacation" be amended by replacing the schedule of time with the following:

| First day of Employment    | Number of Vacation Days |
|----------------------------|-------------------------|
| January 1 to April 30      | 20 Days                 |
| May 1 to August 31         | 15 Days                 |
| September 1 to December 31 | 10 Days                 |

**SECTION 79:** Section 54 of Chapter 171 of the Code of the City of Gardner, thereof entitled, "Personal Time," be deleted in its entirety and replaced with the following:

- A. Department heads shall be granted five (5) personal days (equivalent to 40 hours) per calendar year. Personal days shall be credited to department heads on January 1 of each year. Personal days are not cumulative and must be used in the calendar year in which they have been credited.
- B. Upon termination, resignation, or retirement, the annual allotment of personal time for the year in which the department head's employment ends shall be prorated from the date the department head's employment ends as follows:
- January 1<sup>st</sup> through March 31<sup>st</sup>: Five (5) Days
  - April 1<sup>st</sup> through June 30<sup>th</sup>: Four (4) Days
  - July 1 through September 30<sup>th</sup>: Three (3) Days
  - October 1<sup>st</sup> through December 31<sup>st</sup>: One (1) Day
- C. Newly hired department heads shall be granted personal leave according to the following schedule:

| First Day of Employment  | Number of Personal Days |
|--------------------------|-------------------------|
| January 1 to March 31    | 5                       |
| April 1 to June 30       | 4                       |
| July 1 to September 30   | 3                       |
| October 1 to December 31 | 2                       |

**SECTION 80:** Section 55 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Sick Leave," be amended by deleting subsections C and D in their entirety and replacing them with the following:

- C. Department heads shall be granted a maximum of twenty (20) nonoccupational sick days per calendar year. Sick Days shall be credited on January 1 of each year. Department heads may carry an unlimited number of

sick days. Newly hired (hired from outside of the City and not promoted within) department heads shall be granted nonoccupational sick days prorated quarterly based on their date of hire.

D. A department head that has been absent from work due to the use of nonoccupational sick leave for three (3) consecutive days or more at one time must present a doctors note to the Human Resources Director. A doctor's note may also be required if the Mayor has reasonable cause to believe that the department head may be abusing their nonoccupational sick leave.

**SECTION 81:** Section 56 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Sick Leave Incentive Time," be deleted in its entirety and replaced with the following:

Effective January 1, 2024, department heads that do not use sick leave in a calendar month shall earn ½ day off (equal to four (4) hours) not to be charged to sick leave or vacation leave. Time earned in this manner shall be referred to as "sick leave incentive time."

**SECTION 82:** Section 57 of Chapter 171 of the Code of the City of Gardner, thereof entitled, "Sick Leave Buy Back," be amended by adding the following after the phrase "but not to exceed 130 days,"

(equivalent of 90 days of full pay total- 50 full days and 80 days at 50%)

**SECTION 83:** Section 58 of Chapter 171 of the Code of the City of Gardner, thereof entitled "Bereavement Leave" be deleted in its entirety and replaced with the following:

- A. Department Heads shall be granted bereavement leave without loss of regular straight-time pay for normally scheduled working hours as follows:
- 4) Five (5) consecutive days for the death of an immediate family member of the employee, which shall include a spouse, parent, step-parent, sibling, step sibling, children, step-children, or a person living in the immediate household of the employee.
  - 5) Three (3) consecutive days for the death of family members of the employee, which shall include parent of spouse or grandparent.
  - 6) Two (2) consecutive days for an employee's niece, nephew, sibling in-law, child in-law, aunt, or uncle.
- D. If there is a delay in scheduling services, the employee may request a delay in their use of this benefit until that time. This request should be directed to the Mayor

- E. For the purposes of this section, miscarriage of pregnancy shall be an eligible use for bereavement leave as defined in the schedule of time previously listed.

**SECTION 84:** Section 60 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Holidays with Pay,” be amended by removing the phrase “with the exception of the Police Chief and Fire Chief (See Article X of this Chapter).”

**SECTION 85:** Section 60 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Holidays with Pay,” be amended by adding “(6) Juneteenth” between Memorial Day and Independence Day and the following renumbered accordingly.

**SECTION 86:** Section 60 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Holidays with Pay,” be amended by adding the following subsection C:

C. Department Heads shall have the Friday after Thanksgiving off (not defined as a holiday).

**SECTION 87:** Section 63(A) of Chapter 171 of the Code of the City of Gardner, thereof entitled “Fire Chief,” be amended by replacing the words, “A Fire Chief,” with the phrase “A Fire Chief, hired before July 1, 2024.”

**SECTION 88:** Section 63 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Fire Chief,” be amended by adding the following subsection C:

C. A Fire Chief hired on or after July 1, 2024 will not be eligible for this benefit as it will be included in the annual compensation schedule for this position. Nothing in this section shall apply to a fire chief who held the position prior to July 1, 2024 and is being consecutively re-appointed to the position.

**SECTION 89:** Section 64 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Chief of Police and Deputy Chief of Police,” be deleted in its entirety.

**SECTION 90:** Severability

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

**SECTION 91:** This ordinance shall become effective upon the stated dates listed in the sections above or on January 1, 2025 if no date is specified in that specific section, following passage and publication as required by law.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

RECEIVED  
2024 JUN 11 AM 7:54  
CITY CLERK'S OFFICE  
GARDNER, MA

June 10, 2024

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

RE: An Ordinance to Amend the Code of the City of Gardner, Chapter 553, Section 90, thereof  
entitled "Sewer Rates"

Dear Madam President and Councilors,

The Director of Public Works is recommending the attached amendment to the city's sewer rate schedule, based on the attached rate study to help keep the City in line with the expenses that are anticipated for our Sewer Enterprise Account.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner



**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, SECTION 90 OF  
CHAPTER 553, THEREOF ENTITLED, "SEWER RATES"**

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

**SECTION 1:**

Section 90(a) of Chapter 553 of the Code of the City of Gardner, thereof entitled "Uniform Rate" be deleted in its entirety and replaced with the following:

A. Uniform Rate

- 1) Uniform Rate (per 100 cubic feet of metered use): \$5.50
  - i. Effective FY2025
- 2) Uniform Rate (per 100 cubic feet of metered use): \$6.10
  - i. Effective July 1, 2026
- 3) Uniform Rate (per 100 cubic feet of metered use): \$6.80
  - i. Effective July 1, 2027
- 4) Uniform Rate (per 100 cubic feet of metered use): \$7.50
  - i. Effective July 1, 2028
- 5) Uniform Rate (per 100 cubic feet of metered use): \$8.30
  - i. Effective July 1, 2029

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

**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 Michael J. Nicholson and City Council Members  
 City Hall  
 95 Pleasant Street  
 Gardner, MA 01440

RE: Sewer Rate Increase

May 30, 2024

Dear Mayor Nicholson and City Council Members,

I am requesting that the Sewer Department increase its Sewer Rates as follows:

|              |                                         |       |
|--------------|-----------------------------------------|-------|
| Current Rate | \$5.00 per 100 cubic feet (748 gallons) |       |
| FY2025       | \$5.50 per 100 cubic feet               | 10.0% |
| July 1, 2026 | \$6.10 per 100 cubic feet               | 10.9% |
| July 1, 2027 | \$6.80 per 100 cubic feet               | 11.5% |
| July 1, 2028 | \$7.50 per 100 cubic feet               | 10.3% |
| July 1, 2029 | \$8.30 per 100 cubic feet               | 10.7% |

The last time the Sewer Rates were increased was July 1, 2017, 7 years ago. Below is a table outlining neighboring communities' current sewer rates that we obtained. Gardner Sewer rates for all 5 fiscal year increases were added into this table. Please note that even with our proposed rate increases, we are still in the bottom tier of the communities.

|                          | <b>Sewer</b>     |
|--------------------------|------------------|
|                          | <b>100 cu ft</b> |
| Westminster              | \$ 18.13         |
| Acton                    | \$ 15.17         |
| Ashburnham               | \$ 14.75         |
| Winchendon               | \$ 11.88         |
| Holden                   | \$5.68-\$11.78   |
| Hudson                   | \$ 11.41         |
| Fitchburg                | \$ 11.11         |
| Barre                    | \$ 11.00         |
| Athol                    | \$ 8.75          |
| <b>Gardner Rate 2029</b> | <b>\$ 8.30</b>   |
| <b>Gardner Rate 2028</b> | <b>\$ 7.50</b>   |
| <b>Gardner Rate 2027</b> | <b>\$ 6.80</b>   |
| Templeton                | \$ 6.71          |
| <b>Gardner Rate 2026</b> | <b>\$ 6.10</b>   |
| <b>Gardner Rate 2025</b> | <b>\$ 5.50</b>   |
| <b>Gardner Rate 2024</b> | <b>\$ 5.00</b>   |

This increase is necessary not only to catch up with the nearly 21%-50% increased cost of Energy, Utilities, Chemicals, Equipment, and Operation Costs, but the increase is necessary to complete improvements at the Wastewater Treatment Facility and within the 100+ year old Collection System throughout the City.

Currently the Sewer Department is spending approximately \$1.1 million annually in debt on about \$14 million worth of projects that were completed over the last 5-20 years for the Wastewater Treatment Facility and Collection System. Some of these loans that were for the sewer improvements for Snake Pond Well will be paid off in Fiscal Year 2025. We are anticipating at least another \$15 Million in improvements required in the next 6 years.

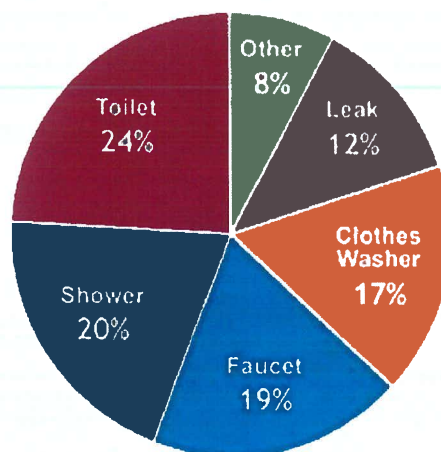
These improvements include \$5-\$6 million worth of upgrades at the Wastewater Treatment Facility WWTF for concrete tank resurfacing, large mechanism replacements, pumps, sidewalks, electrical, and other improvements on the site.

The Collection system is over 100 years old in some areas and will need to be relined or replaced in some cases costing hundreds of thousands of dollars annually. The City has 4 sewer pump stations from the early to mid-1990's that will need to be replaced at a cost of just under \$1 million each.

Sewer Revenue is based Water Meter reading. In theory, other than the small percentage of what is consumed, water entering the home or business is sent to the sewer system. Our revenue was calculated based on average usage since 2018, when the rates last increased. We took 95% of the average usage to be conservative since usage fluctuates greatly from year to year based on weather conditions throughout the year.

| <b>SEWER</b>       |                        |               |                   |
|--------------------|------------------------|---------------|-------------------|
| <b>Fiscal Year</b> | <b>Sewer Revenue</b>   | <b>Rate</b>   | <b>Rev/Rate</b>   |
| <b>2023</b>        | <b>\$ 3,062,186.00</b> | <b>\$5.00</b> | <b>612,437.20</b> |
| <b>2022</b>        | <b>\$ 3,168,500.00</b> | <b>\$5.00</b> | <b>633,700.00</b> |
| <b>2021</b>        | <b>\$ 3,223,628.00</b> | <b>\$5.00</b> | <b>644,725.60</b> |
| <b>2020</b>        | <b>\$ 2,974,141.00</b> | <b>\$5.00</b> | <b>594,828.20</b> |
| <b>2019</b>        | <b>\$ 3,181,981.00</b> | <b>\$5.00</b> | <b>636,396.20</b> |
| <b>2018</b>        | <b>\$ 3,212,970.00</b> | <b>\$5.00</b> | <b>642,594.00</b> |
| <b>2017</b>        | <b>\$ 3,067,976.00</b> | <b>\$4.76</b> | <b>644,532.77</b> |
| <b>2016</b>        | <b>\$ 2,818,790.00</b> | <b>\$4.50</b> | <b>626,397.78</b> |
| <b>2015</b>        | <b>\$ 2,614,477.00</b> | <b>\$4.10</b> | <b>637,677.32</b> |
| <b>2014</b>        | <b>\$ 2,717,429.00</b> | <b>\$4.10</b> | <b>662,787.56</b> |
| <b>2013</b>        | <b>\$ 2,668,574.00</b> | <b>\$4.10</b> | <b>650,871.71</b> |
|                    |                        |               |                   |
| <b>Average</b>     | <b>\$ 3,137,234.33</b> |               | <b>627,446.87</b> |
| <b>95% Revenue</b> | <b>\$ 2,980,372.62</b> |               | <b>596,074.52</b> |
| <b>90% Revenue</b> | <b>\$ 2,823,510.90</b> |               | <b>564,702.18</b> |
| <b>85% Revenue</b> | <b>\$ 2,666,649.18</b> |               | <b>533,329.84</b> |

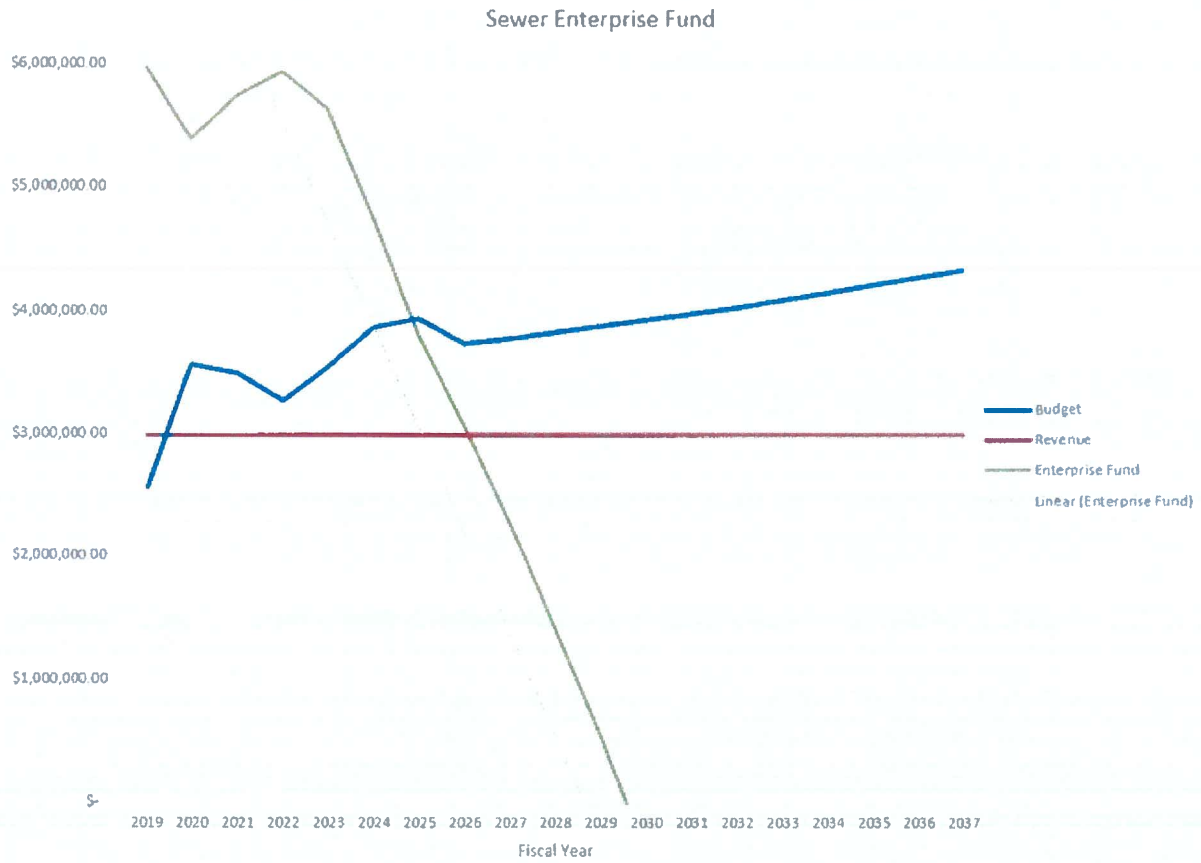
### How Much Water Do We Use?



Source: Water Research Foundation, Residential End Uses of Water, Version 2, 2016

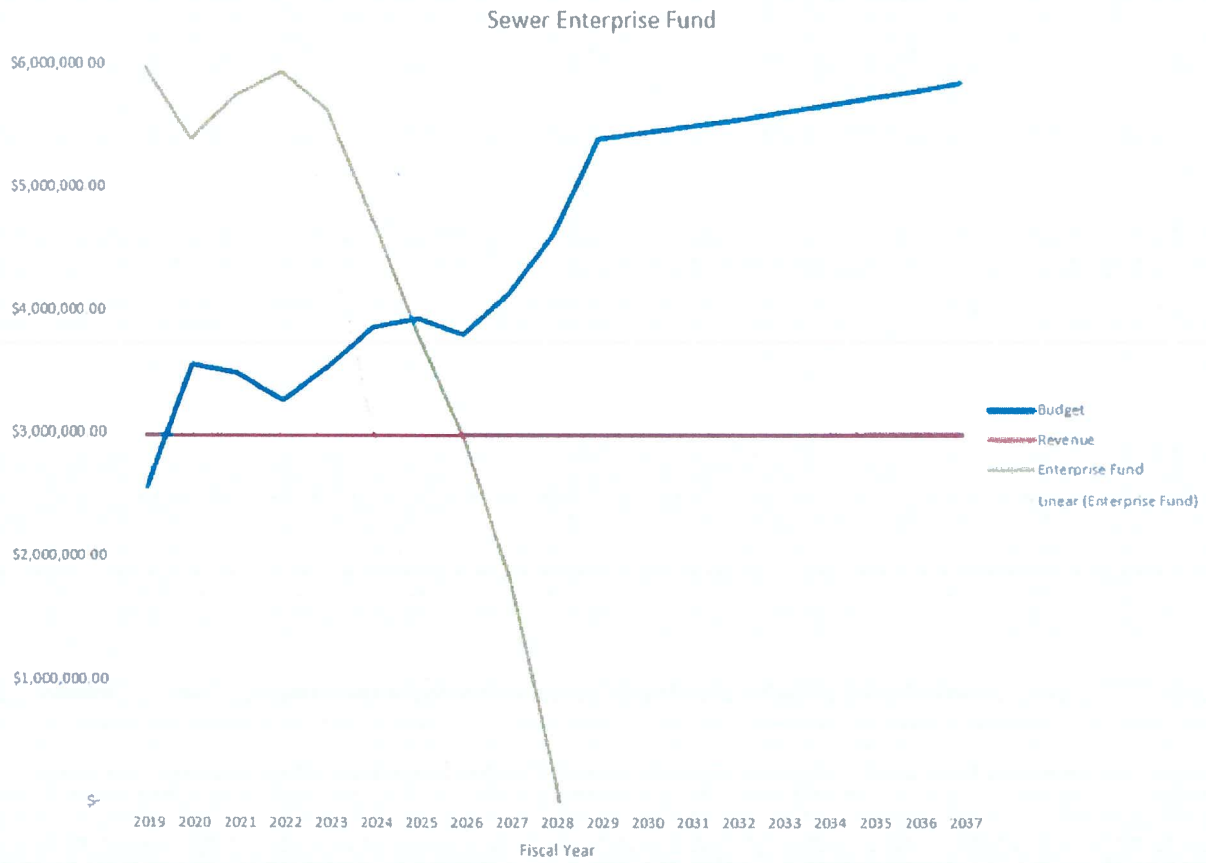


Below is a graph of the **current state** of the Sewer Enterprise Fund:  
 The Enterprise Fund (green), Budget (blue), and Revenue (red).  
 With the projected increase in chemicals, energy, utilities, operations, The Enterprise Fund  
 is at "Zero" in FY2029.



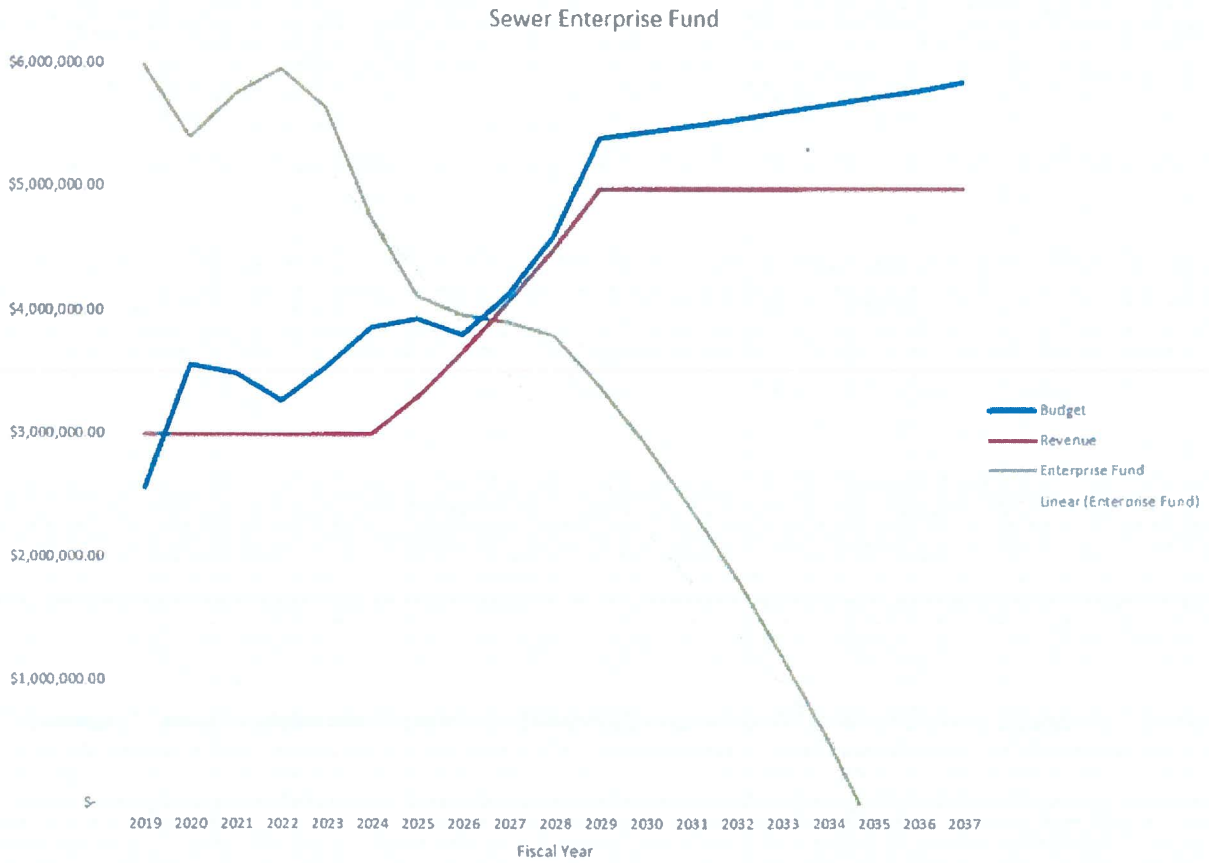
Below is a graph incorporating the proposed projects with budgetary costs and the **Current Sewer Rate**.

The Enterprise Fund (green), Budget (blue), and Revenue (red) Please note the Enterprise Fund is at "Zero" in FY 2028



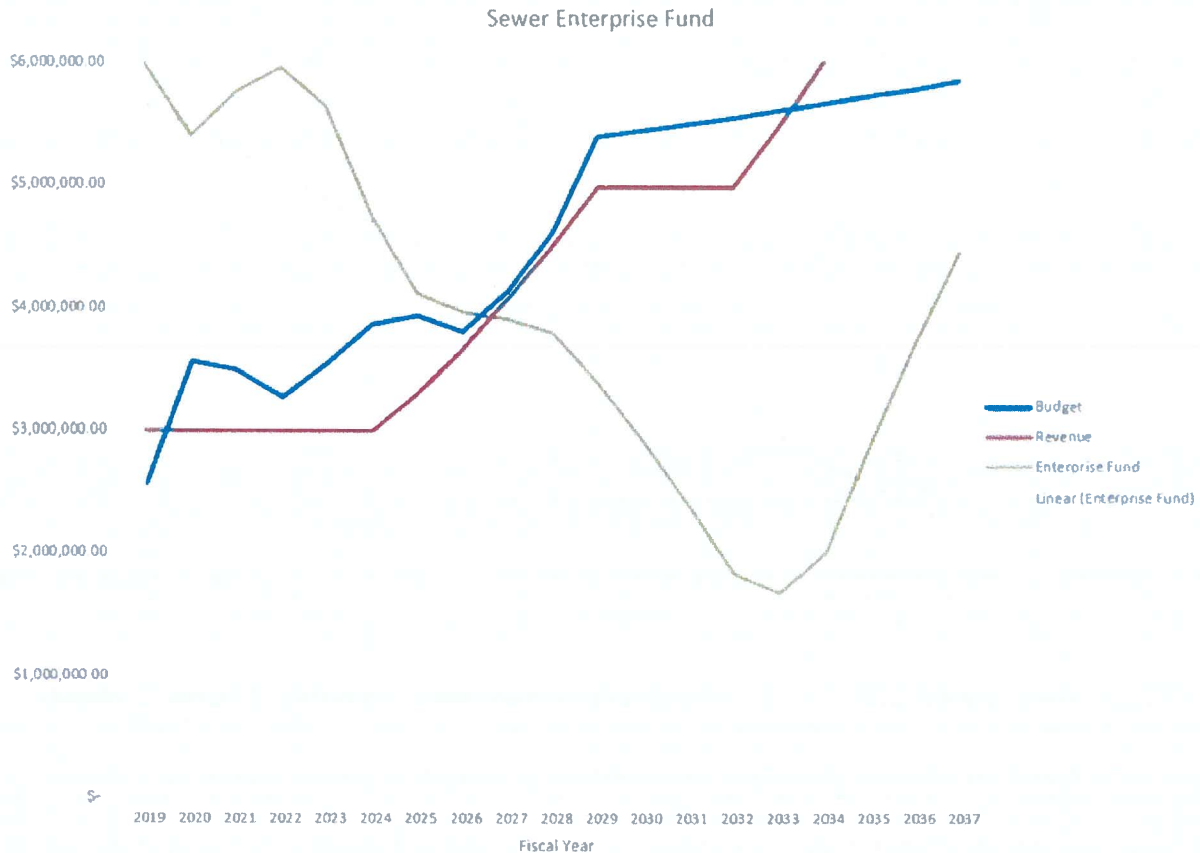
Below is a graph incorporating the proposed projects with budgetary costs and the Proposed Sewer Rates.

The Enterprise Fund (green), Budget (blue), and Revenue (red) Please note the Enterprise Fund is at "Zero" in FY 2034





- The intention is to increase the Sewer Rates by the 10% increments now for 5 years.
- In FY2030, the City would then have to increase Water Rates for 3 years.
- In FY2033, the City would then have to increase Sewer Rates for 3 years to stabilize the Fund and prepare for future regulations and improvements.



If you have any further questions or would like to go over our Sewer Enterprise Fund forecast, please feel free to reach out to me.

Sincerely,

Dane E. Arnold, Director  
Department of Public Works

PC: John Richard, City Auditor  
Rob Oliva, City Engineer  
Chris Coughlin, Business Manager

January 4, 2024

RECORDED  
2024 APR -6 11:04

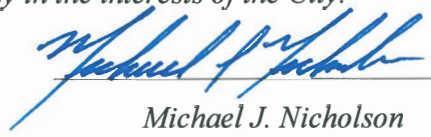
# Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2026

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

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

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

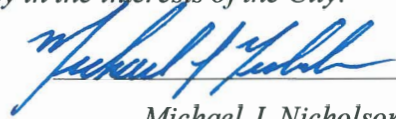
**Commonwealth of Massachusetts**

*Worcester County*

*City of Gardner*

**CERTIFICATE OF APPOINTMENT**

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



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2026

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

April 11, 2024

2024 APR 11 PM 2:20  
CITY CLERK'S OFFICE  
GARDNER, MA  
Worcester County

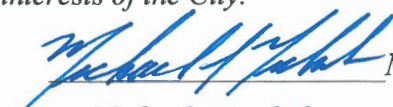
# Commonwealth of Massachusetts

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Vincent Pusateri to the position of Assistant City Solicitor, and I certify

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

 Mayor  
Michael J. Nicholson

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

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

Expires: January 1, 2025

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

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

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

June 12, 2024

RECEIVED  
2024 JUN 12 PM 3:12  
CLERK'S OFFICE  
Worcester County

# Commonwealth of Massachusetts


Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Melory Cornett to the position of Member, Zoning 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: June 12, 2026

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

Then personally appeared the above named Melory Cornett and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Zoning 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

June 12, 2024

2024 JUN 12 PM 3:22

Commonwealth of Massachusetts

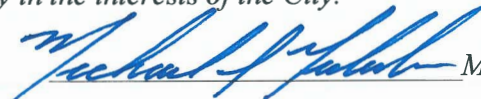
CITY CLERK'S OFFICE  
Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Laurie Wiita to the position of Member, Zoning 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: June 12, 2027

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

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

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 3 B Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

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

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

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

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





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



Eric P. McAvene  
 Chief of Police

Nicholas P. Maroni  
 Deputy Chief of Police

Date: 12/5/2023

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

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

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

| <b>Name of Street</b> | <b>Side</b> | <b>Location</b>                   |
|-----------------------|-------------|-----------------------------------|
| Park Street           | South       | From Cottage Street to Central St |

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

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

Respectfully Submitted,

Nicholas Maroni  
 Deputy Chief of Police/ Traffic Committee Commissioner

CC: Traffic Commission members, City Clerk





No Parking 30 FT

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Coleman St

Coleman St

Coleman St

Google

11115

21

13  
7

9

8

14

28

16

12

25

27

18

22



Cherry St

Westford St

Comee St

**No parking**

Edgell St

Edgell St

Westford St

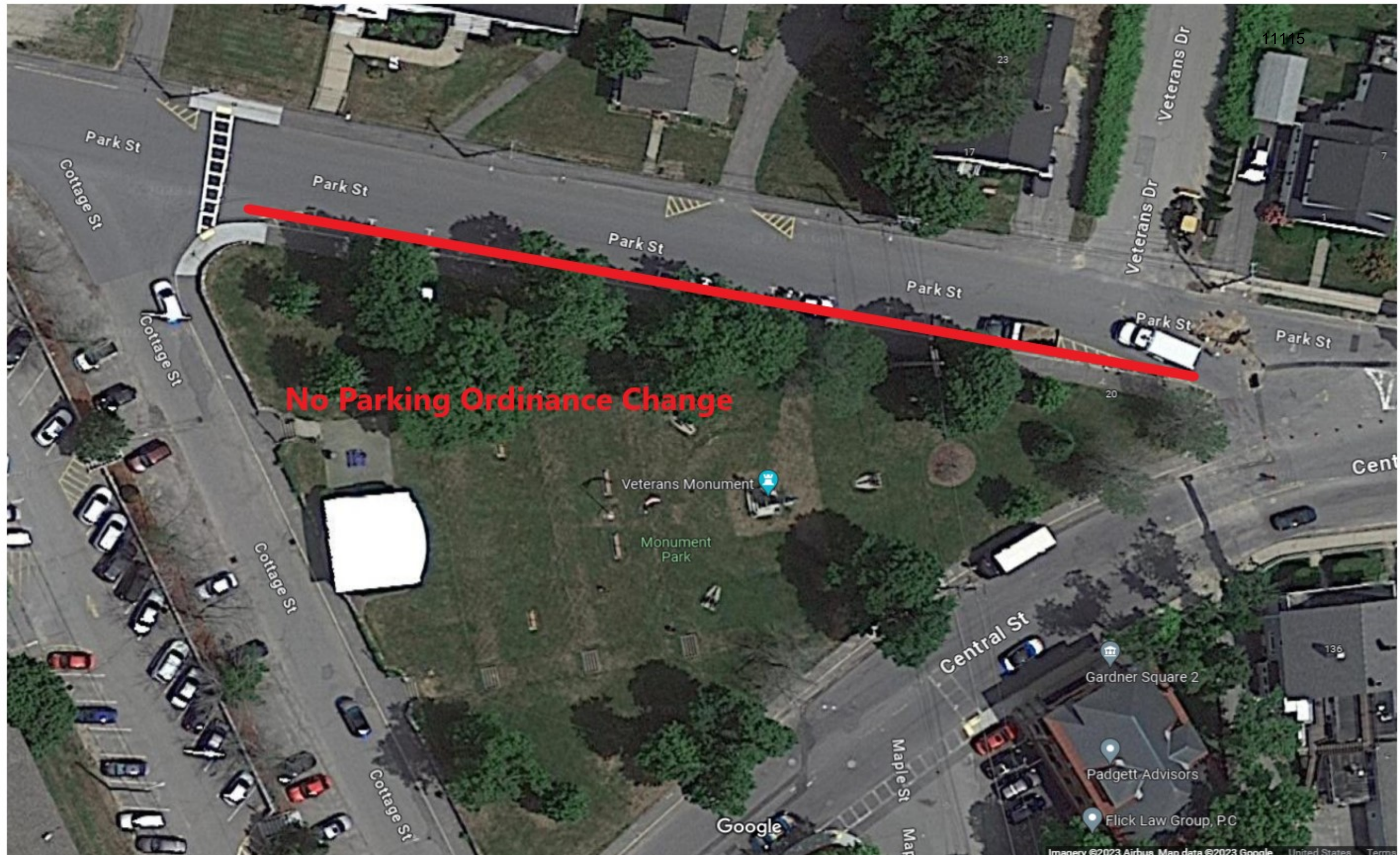
Edgell St

Lawrence St

Edgell St

Edgell St





**No Parking Ordinance Change**

11115

23

17

20

136

Google



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

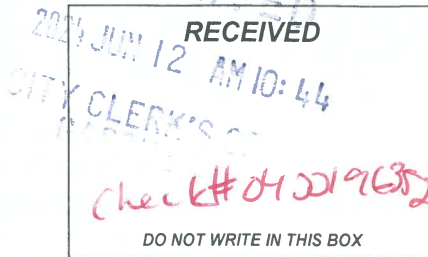
| <u>Name of Street</u> | <u>Side</u> | <u>Location</u>                    |
|-----------------------|-------------|------------------------------------|
| Edgell Street         | North       | From Elm Street to Lawrence Street |



# CITY OF GARDNER MASSACHUSETTS 01440

95 PLEASANT STREET – ROOM 121  
TELEPHONE (978) 630-4058  
FACSIMILE (978) 630-2589

COLLECTOR LICENSE APPLICATION FEE - \$30.00  
DEALER LICENSE APPLICATION FEE - \$100.00



## APPLICATION FOR LICENSE TO COLLECT OR DEAL IN SECOND HAND ARTICLES

New     Renewal     Change of Location

### APPLICANT INFORMATION

Applicant / Licensee Name: GameSto, Inc.  
Applicant / Licensee Address: 625 Westport Pkwy., Grapevine, TX 76051  
Applicant / Licensee phone number(s): 817-424-2000  
Applicant / Licensee E-mail: Licensingandsalestax@gamestop.com  
Social Security number: \_\_\_\_\_ OR Business FID number 41-1609563

### ESTABLISHMENT INFORMATION

Establishment Name: GameStop #3725  
Establishment address (Current): 376 Timany Blvd., Gardner, MA 01440  
Establishment address (New, if applicable): Licensingandsalestax@gamestop.com  
Establishment Phone: 976-630-0282  
On-Site manager / contact person: Tom Clark-Mason  
For which type of license(s) are you applying? SecondHand Dealer License

#### **Check all that apply to this Application:**

- SECONDHAND COLLECTOR** has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER** has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? \_\_\_\_\_  
Retail Sales of New/Used video games, consoles, electronic device & accessories

Where at the licensed address will the articles be stored, displayed, etc? \_\_\_\_\_

Massachusetts Sales & Use Tax Registration number: 1890082816  
*(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)*

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

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

  
\_\_\_\_\_  
INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
OFFICER OR APPLICANT

DATE SIGNED 4-2-24

**NOTICE:** THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

**LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL COMPLETED APPLICATION FORMS AND THE WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.**

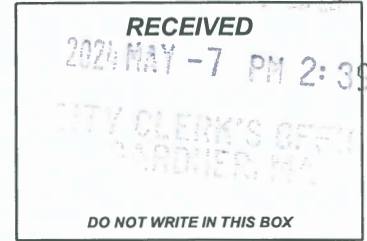
**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES  
EXPIRE ON APRIL 30<sup>TH</sup> ANNUALLY.**





# CITY OF GARDNER MASSACHUSETTS 01440

95 PLEASANT STREET - ROOM 121  
TELEPHONE (978) 630-4058  
FACSIMILE (978) 630-2589



## APPLICATION FOR LICENSE TO COLLECT OR DEAL IN SECOND HAND ARTICLES

New  Renewal  Change of Location

### APPLICANT INFORMATION

Applicant / Licensee Name: Joseph Valardi  
Applicant / Licensee Address: 36 Donovan Rd North Brookfield, MA  
Applicant / Licensee phone number(s): 978-990-0307  
Applicant / Licensee E-mail: gardnercc@yahoo.com  
Social Security number: \_\_\_\_\_ OR Business FID number 043073078

### ESTABLISHMENT INFORMATION

Establishment Name: Gardner Coins and Cards Inc  
Establishment address (Current): 18 Parker St, Gardner, MA  
Establishment address (New, if applicable): \_\_\_\_\_  
Establishment Phone: 978-632-7123  
On-Site manager / contact person: Joseph Valardi  
For which type of license(s) are you applying? Second hand dealer

**Check all that apply to this Application:**

- SECONDHAND COLLECTOR** has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER** has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? Gold, silver items  
antiques, sports memorabilia

Where at the licensed address will the articles be stored, displayed, etc? throughout the store

Massachusetts Sales & Use Tax Registration number: SL5-10154194-005  
(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

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

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

  
 \_\_\_\_\_  
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
 OFFICER OR APPLICANT

DATE SIGNED 5/7/24

**NOTICE:** THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

**LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL COMPLETED APPLICATION FORMS AND THE WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.**

**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES  
 EXPIRE ON APRIL 30<sup>TH</sup> ANNUALLY.**



**CITY OF GARDNER  
MASSACHUSETTS 01440**

95 PLEASANT STREET - ROOM 121  
TELEPHONE (978) 630-4058  
FACSIMILE (978) 630-2589

COLLECTOR LICENSE APPLICATION FEE - \$30.00  
DEALER LICENSE APPLICATION FEE - \$100.00

RECEIVED  
JUN 12 AM 11:04  
DO NOT WRITE IN THIS BOX

**APPLICATION FOR LICENSE TO COLLECT  
OR DEAL IN SECOND HAND ARTICLES**

New     Renewal     Change of Location

**APPLICANT INFORMATION**

Applicant / Licensee Name: The Salvation Army  
Applicant / Licensee Address: 440 West Nyack Road , West Nyack New York 10994  
Applicant / Licensee phone number(s): 845.732.4100  
Applicant / Licensee E-mail: Reyna.Bartlebaugh@USE.SalvationArmy.Org  
Social Security number: \_\_\_\_\_ OR Business FID number 13-5562351

**ESTABLISHMENT INFORMATION**

Establishment Name: The Salvation Army - Family Store & Donation Center  
Establishment address (Current): 8 Union Square Gardner, MA 01440  
Establishment address (New, if applicable): \_\_\_\_\_  
Establishment Phone: 800 728-7825  
On-Site manager / contact person: Ms. Debra Griffith (Cell: 978-660-6788  
For which type of license(s) are you applying? Second Hand Dealer

**Check all that apply to this Application:**

- SECONDHAND COLLECTOR** has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER** has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? \_\_\_\_\_  
Clothing and household items

Where at the licensed address will the articles be stored, displayed, etc? \_\_\_\_\_  
Sales Floor

Massachusetts Sales & Use Tax Registration number: 11050335  
(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

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

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SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

 Ashlee K. Cartwright  
Associate General Counsel DATE SIGNED 5/17/2024  
INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
OFFICER OR APPLICANT

**NOTICE:** THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

**LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL COMPLETED APPLICATION FORMS AND THE WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.**

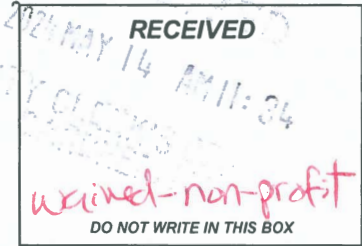
**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES  
EXPIRE ON APRIL 30<sup>TH</sup> ANNUALLY.**





**CITY OF GARDNER  
MASSACHUSETTS 01440**

95 PLEASANT STREET - ROOM 121  
TELEPHONE (978) 630-4058  
FACSIMILE (978) 630-2589



**APPLICATION FOR LICENSE TO COLLECT  
OR DEAL IN SECOND HAND ARTICLES**

New  Renewal  Change of Location

**APPLICANT INFORMATION**

Applicant / Licensee Name: House of Peace : Education / Hopeful Boutique  
 Applicant / Licensee Address: 29 Pleasant St Gardner  
 Applicant / Licensee phone number(s): 978-630-4752  
 Applicant / Licensee E-mail: jmckinnonehopegardner.org  
 Social Security number: \_\_\_\_\_ **OR** Business FID number 04-3300490

**ESTABLISHMENT INFORMATION**

Establishment Name: Hopeful Boutique  
 Establishment address (Current): 29 Pleasant St Gardner  
 Establishment address (New, if applicable): \_\_\_\_\_  
 Establishment Phone: 978 630 4752  
 On-Site manager / contact person: Jessica McKinnon  
 For which type of license(s) are you applying? \_\_\_\_\_

**Check all that apply to this Application:**

- SECONDHAND COLLECTOR** has the same meaning as the term "junk collector" in MGL c.140, § 56.
- SECONDHAND DEALER** has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

What types of articles will be purchased, stored, and/or sold? Upscale women's wear  
athle

Where at the licensed address will the articles be stored, displayed, etc? 29 Pleasant St  
Gardner

Massachusetts Sales & Use Tax Registration number: 11528068  
(Attach a copy of your Massachusetts Sales & Use Tax Registration Certificate)

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

I HAVE RECEIVED AND READ THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 140, §§54-56, §§202-205 AND CHAPTER 450 OF THE CODE OF THE CITY OF GARDNER GOVERNING JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES:

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Justica McKinnon DATE SIGNED 5/14/2024  
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
 OFFICER OR APPLICANT

**NOTICE:** THE FILING OF THIS APPLICATION CONFERS NO RIGHTS ON THE PART OF THE APPLICANT TO UNDERTAKE ANY ACTIVITIES UNTIL THE LICENSE HAS BEEN GRANTED. THE ISSUANCE OF A LICENSE UNDER THIS SECTION OR SECTIONS IS SUBJECT TO THE APPLICANT'S COMPLIANCE WITH ALL OTHER APPLICABLE FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, BYLAWS, RULES OR REGULATIONS. THE LICENSING AUTHORITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION IT REASONABLY DEEMS APPROPRIATE FOR THE PURPOSE OF DETERMINING THE TERMS AND CONDITIONS OF THE LICENSE AND ITS DECISION TO ISSUE A LICENSE. THE PROVISIONS OF G.L. c.152 MAY REQUIRE THE FILING OF A WORKERS' COMPENSATION INSURANCE AFFIDAVIT WITH THIS APPLICATION. FAILURE TO FILE THE AFFIDAVIT, ALONG WITH ANY OTHER REQUIRED INFORMATION AND/OR DOCUMENTATION, SHALL BE SUFFICIENT CAUSE FOR THE DENIAL OF THE LICENSE APPLICATION.

**LICENSE APPLICATION PROCESSING FEE MUST BE SUBMITTED WITH THIS FORM. MAKE CHECK PAYABLE TO CITY OF GARDNER. MAIL COMPLETED APPLICATION FORMS AND THE WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.**

**JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES LICENSES  
 EXPIRE ON APRIL 30<sup>TH</sup> ANNUALLY.**



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

---

March 12, 2024

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

RECEIVED  
2024 MAR 14 PM 12:49  
CITY CLERK'S OFFICE  
GARDNER, MA

RE: An Ordinance to Amend the Code of the City of Gardner, to add a new Chapter 15 to be entitled "Agricultural Commission"

Dear Madam President and Councilors,

Recently, a group of residents have created a grassroots group to advocate for the creation of an agricultural commission in the City to be created under the provisions of the General Laws of the Commonwealth.

The attached ordinance proposal is being submitted to following this group's advocacy efforts.

Copies of the petitions and letters of support received by the Administration are attached to this correspondence, as well as the provisions of Section 8L of Chapter 40 of the General Laws.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner



**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER TO CREATE A NEW CHAPTER  
15 TO BE ENTITLED, "AGRICULTURAL COMMISSION"**

Be it ordained by the City Council of the City of Gardner as follows:

**Section 1:** That a new Chapter 15 be added to the Code of the City of Gardner, to be entitled, "Agricultural Commission" as follows:

Section I: Name

There is hereby established an Agricultural Commission in the City of Gardner.

Section II: Purpose

The purpose of the Agricultural Commission is to support, encourage, and promote agriculture within the City of Gardner, and shall promote agricultural-based economic opportunities in the City. The Agricultural Commission shall also focus on improving access to fresh and local produce, providing oversight for the operation of a farmers market, and enabling community educational events.

Section III: Establishment and Authority

1. The Agricultural Commission is hereby established in accordance with the provisions of M.G.L. Chapter 40, Section 8 (L).
2. The Agricultural Commission shall have the authority to:
  - a. Investigate, study, and make recommendations concerning agricultural issues within the City of Gardner and advise the Mayor, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Board of Assessors, and other local organizations on projects and activities.
  - b. Oversee, engage, and promote agricultural-based economic opportunities.
  - c. Oversee and support the operations of a farmers market within the city.
  - d. Collaborate with local farmers, businesses, and educational institutions to enhance the agricultural community with programs and events.
  - e. Act as mediators, advocates, educators and/or negotiators on farming issues.
  - f. Reporting on its projects and activities on an annual basis within the Annual Report of the City

Section IV: Membership

1. The Commission will consist of five resident members including members from the active farming community of Gardner, appointed by the Mayor and confirmed by majority vote of the City Council.
2. Members will be appointed for one-year terms and are eligible to be re-appointed. Up to five alternates may also be appointed by the Mayor, subject to confirmation by the City Council, each for one-year terms.

3. Members of the Agricultural Commission shall be residents of the City of Gardner, with a demonstrated interest or experience in agriculture, business, education, or related fields.
4. Members may include representatives from local farming communities, educational institutions, business owners, and concerned citizens.

#### Section V: Meetings and Quorum

1. The Agricultural Commission shall meet at least 10 times per year.
2. A quorum for Agricultural Commission meetings shall be 3 members.

#### Section VI: Officers

1. The Agricultural Commission shall elect officers annually, including a Chairperson, Vice Chairperson, and Secretary.
2. The Chairperson shall preside over meetings, the Vice Chairperson shall assume the duties of the Chairperson in their absence, and the Secretary shall keep records of Agricultural Commission proceedings and post minutes.
3. The Agricultural Commission Chairperson shall not be eligible for longer than three consecutive years.

#### Section VII: Duties and Responsibilities

1. Agricultural Education:
  - a. Promote educational programs that increase awareness of agriculture and its importance in the community.
  - b. Collaborate and support the local schools on agricultural programs.
  - c. Identify alternative ways to promote and provide access to gardening space and fresh produce for the city residents.
2. Supporting Local Agriculture:
  - a. Advocate for policies that support local farmers and agricultural businesses.
  - b. Explore opportunities for agricultural grants, incentives, and funding.
3. Farmers Market Oversight:
  - a. Oversee and explore new farmers market opportunities in the City
  - b. Work with local vendors and stakeholders to organize and oversee the farmers market.
  - c. Establish and enforce guidelines for market vendors and oversee market manager.
4. Improving Access to Fresh Produce:
  - a. Explore initiatives to increase access to fresh and locally grown produce for all residents, including underserved populations.
  - b. Collaborate with local organizations to implement programs like community gardens or food assistance programs.

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



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



June 13, 2024

Chairwoman Judy Mack  
 Welfare Committee  
 And City Councilors  
 Gardner City Hall, Rm. 121  
 95 Pleasant St.  
 Gardner, MA 01440

**RE:** Item # 11211: An Ordinance to Amend the Code of the City of Gardner, to add a new Chapter 15 to be entitled "Agricultural Commission"

Dear Madam Chairwoman and Councilors,

I am writing to provide my insight into the above-referenced ordinance amendment. Section 2. (a) of the proposed ordinance states the following...

**2. The Agricultural Commission shall have the authority to:**

a. *Investigate, study, and make recommendations concerning agricultural issues within the City of Gardner and advise the Mayor, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Board of Assessors, and other local organizations on projects and activities.*

It should be noted that the enforcement of agricultural uses within the city of Gardner is under the jurisdiction of the Building Department, specifically the Building Commissioner and Local Inspectors as outlined in section 7 of chapter 40A of the general laws of the state of Massachusetts.

Enforcement of nuisances caused by the odor associated with the spreading of manure, or noise in excess of the generally acceptable farming procedures would be the immediate jurisdiction of the Health Director or his/her designee.

This is important to mention as there is no reference to communication between the Agricultural Commission and the Building or Health Departments in the proposed ordinance. I must stress the importance of initial and continued communication between the commission and the departments charged with enforcing the laws of the Commonwealth and ordinances of the City of Gardner.

**Mission Statement**

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

Having provided the information above, I feel it is also important to mention that a well-run Agricultural Commission working closely with other commissions and departments, combined with a carefully thought-out agricultural plan is an import step in the right direction to continue moving Gardner forward.

Please accept this communication as my support for the proposed amendment to the Code of the City of Gardner.

Respectfully submitted,



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

C: Mayor Michael J. Nicholson  
C: Council President Elizabeth Kazinskas

**Titi Siriphan**

---

**From:** Michael Nicholson <mnicholson367@gmail.com>  
**Sent:** Monday, May 20, 2024 9:03 AM  
**To:** Judy Mack; Titi Siriphan  
**Subject:** [EXTERNAL] Fwd: Agricultural Commission

**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.

Good Morning Councilor Mack,

This was sent to my old personal email account.

Best,

Mike

----- Forwarded message -----

**From:** [lrlafond@verizon.net](mailto:lrlafond@verizon.net) <lrlafond@verizon.net>  
**Date:** Wed, May 8, 2024 at 7:45 PM  
**Subject:** Agricultural Commission  
**To:** Michael Nicholson <mnicholson367@gmail.com>

Honorable Mayor Nicholson,

I have just completed a review of the proposed Agricultural Commission .

I am totally in favor of the establishment of this commission.

It will provide guidance in the agricultural arena, provide oversight and be an educational tool for many including small gardeners like myself.

Sincerely,

Ray

--  
Michael J. Nicholson  
Town Administrator  
Rutland Community Hall  
250 Main St  
Rutland, MA 01543  
508-886-4131







Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

Dear Mayor Mike,

As a proud resident of Gardner, I am wholeheartedly in favor of establishing a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Gardner, contrary to common misconceptions, is home to a thriving agricultural sector that deserves acknowledgment.

The development of clear by-laws by the AgCom is crucial to ensuring the fair and effective operation of our farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement. It aligns perfectly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

Moreover, integrating educational outreach initiatives will be pivotal in dispelling misconceptions about the absence of farms in our town. The AgCom's efforts can spotlight the diverse agricultural activities taking place, fostering a more informed understanding among residents.

I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,

*Shelby Chappell*

Date 12/14/23

Your Name Shelby Chappell

Address 547 Partridge St. Gardner, MA 01440

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

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I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. In addition to expressing my support, I would like to express my interest in participating on the AgCom to contribute actively to this essential community initiative.

I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely, *Kendal M. Royer*

Date 12/14/23

Your Name Kendal M. Royer

Address 53 Olde Colonial Drive, Unit #3  
Gardner, MA

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

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I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,

Date 12/14/2023

Your Name Natalia Hutton

Address 28 Wasq Street, Gardner, MA 01440-1845

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

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I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,

Date 12/14/2023  
Your Name Japhet Huth  
Address 28 Wasa Street, Gardner, MA 01440-1845



Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

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Thank you for your time and consideration.

Sincerely,

Date 12/14/23

Your Name Patricia A. Bergstrom Patricia A. Bergstrom

Address 194 Central St #126, Gardner MA 01440



Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Dear Mayor Mike,

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I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. I urge the City Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,



Date 12-16-23

Your Name

Tommy Erdmann

Address

183 Regan Street, Gardner

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Dear Mayor Mike,

As a proud resident of Gardner, I am wholeheartedly in favor of establishing a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Gardner, contrary to common misconceptions, is home to a thriving agricultural sector that deserves acknowledgment.

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I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. I urge the City Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,



Date 12/21/23

Your Name Jason Bosse

Address 435 Partridge St, Gardner MA 01440

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Dear Mayor Mike,

As a proud resident of Gardner, I am wholeheartedly in favor of establishing a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Gardner, contrary to common misconceptions, is home to a thriving agricultural sector that deserves acknowledgment.

The development of clear by-laws by the AgCom is crucial to ensuring the fair and effective operation of our farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement. It aligns perfectly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

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Thank you for your time and consideration.

Sincerely,

*Carolyn J Meany*

Date 12/21/2023

Your Name Carolyn Meany

Address 414 Partridge St. Gardner, MA 01440

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

Dear Mayor Mike,

As a proud business owner in Gardner, I wholeheartedly support the establishment of a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Contrary to common misconceptions, Gardner boasts a thriving agricultural sector that deserves acknowledgment.


The creation of clear by-laws by the AgCom is vital for ensuring the fair and effective operation of our farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement, aligning seamlessly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

Furthermore, the integration of educational outreach initiatives will play a pivotal role in dispelling misconceptions about the absence of farms in our town. The AgCom's efforts can spotlight the diverse agricultural activities taking place, fostering a more informed understanding among residents.

I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,

Date 12/12/23  
Your Name   
Business Name CrossFit 696  
Address 696 West Broadway

Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Proposal for Gardner Agricultural Commission - Farmers' Market Oversight and Education

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

Dear Mayor Mike,

As a proud business owner in Gardner, I wholeheartedly support the establishment of a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Contrary to common misconceptions, Gardner boasts a thriving agricultural sector that deserves acknowledgment.

The creation of clear by-laws by the AgCom is vital for ensuring the fair and effective operation of our farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement, aligning seamlessly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

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I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural community. I urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank you for your time and consideration.

Sincerely,



Date

12/14/2003

Your Name

ANNE LEBLANC

Business Name

JOHN'S SPORT SHOP

Address

38 MAIN ST GARDNER



Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Support for Gardner Agricultural Commission (AgCom)

Dear Mayor Mike,

*VP of MAAC, VP WLF, VC Sterling Ag Comm. member LFW Steering Comm*

I am writing as the ~~President of Sterling Ag, Mass Farm Bureau~~ and Owner of Pineo Family Farm, to express ~~our~~<sup>my</sup> strong support for the establishment of the Gardner Agricultural Commission (AgCom) and to their oversight of the Gardner Farmers Market. We believe this initiative aligns seamlessly with our shared commitment to promoting equitable access to healthy food and fostering environmental sustainability.

*VP MAAC VP Ware County*

Through my role as ~~President of Sterling Ag and Mass Farm Bureau~~, I have dedicated myself to advancing the interests of local farmers and promoting sustainable agricultural practices. The Gardner AgCom and Farmers Market represent a significant step towards realizing our common objectives and fulfilling our mission.

The goals outlined by the Gardner AgCom, particularly making fresh, healthy food more accessible, improving well-being, and building community pride and connections, deeply resonate with my dedication to supporting local farmers and sustainable agriculture.

The strategies drafted for the Gardner AgCom, such as providing resources for community gardening, promoting sustainable food practices, and facilitating direct-to-consumer sales of affordable and healthy food, strongly align with our vision for a thriving agricultural community.

I am excited about the positive impact the Gardner AgCom and Farmers Market can have on the community and am eager to collaborate in any capacity to ensure its success. I am prepared to provide support, share resources, and actively engage in initiatives that promote healthy people and healthy communities.

Thank you for your commitment to this valuable project, and we look forward to the positive changes it will bring to the community.

Sincerely,

*Michael S. Pineo*

~~Mike Pineo~~

Pineo Family Farm  
~~MA Farm Bureau~~

~~Sterling Agriculture Commission President~~  
~~President, Sterling Agricultural Commission~~

978-833-6574

*MAAC VP Ware County Farm Bureau VC Sterling Ag Comm. Member LFW Steering Committee*



Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440

Subject: Support for Gardner Agricultural Commission (AgCom) Proposal

December 17, 2023

Dear Mayor Nicholson,

As a recent purchaser of a farm and garden business in Gardner, we wholeheartedly support the establishment of a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing the Gardner's farmers' market, crafting essential by-laws, and integrating agricultural educational outreach. Contrary to common misconceptions, Gardner boasts a thriving agricultural sector that deserves acknowledgment. We know because a lot of that energy flows through our store.

The creation of clear by-laws by the AgCom is vital for ensuring the fair and effective operation of Gardner's farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement, aligning seamlessly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

Furthermore, the integration of educational outreach initiatives will play a pivotal role in dispelling misconceptions about the absence of farms in our town. The AgCom's efforts will spotlight the diverse agricultural activities taking place, fostering a more informed understanding among residents.

We're confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of Gardner's agricultural community. We urge the Town Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to locally grown products of all kinds from food to flowers, fibers to forage, fats to fuel.

Thank you for your time and consideration.

Sincerely,



ML Altobelli

The Good Earth Farm and Garden Center

633 West Broadway

Gardner, MA 01440



Mayor Mike Nicholson Office of the Mayor of Gardner, MA, 01440  
Subject: Letter of Support for Gardner Agricultural Commission (AgCom)

Dear Mayor Mike,

I am writing this letter on behalf of Growing Places to express our wholehearted support for the establishment of the Gardner AgCom. We believe that this initiative aligns seamlessly with our shared mission and goals in promoting equitable access to healthy food and environmental sustainability.

At Growing Places, our mission is to inspire and connect the North Central MA community to create equitable access to healthy food and environmental sustainability through education, collaboration and advocacy. The Gardner AgCom represents a crucial step towards achieving our shared goals and fulfilling our mission.

The goals outlined by the Gardner AgCom, particularly in supporting the small farmers and making fresh, healthy food more accessible, improving well-being, and building community pride and connections, resonate deeply with our organizational objectives. We understand the importance of fostering healthy habits, increasing social connections, and advocating for a socially just regional food system.

The strategies employed by the Gardner AgCom, including providing educational resources for our community, promoting sustainable food practices, and increasing access to fresh affordable healthy local food, strongly align with our values and direct services. We appreciate the commitment to building cultural knowledge and competency, as well as securing the necessary resources to serve the mission effectively.

We are excited about the positive impact the Gardner AgCom can have on the community and look forward to aligning our efforts to ensure its success. Thank you for your commitment to our local food system and this valuable policy and system change for the City.

Sincerely,

A handwritten signature in black ink that reads "Ayn Yeagle". The signature is fluid and cursive, with the first name "Ayn" and last name "Yeagle" clearly distinguishable.

Date: 12/21/2023

Name: Ayn Yeagle - Growing Places, Executive Director

Address: 325 Lindell Ave, Leominster, MA 01453

208 Coleman Street  
Gardner, MA 01440  
P: 978-632-0934  
F: 978-630-3337



11211

I/DD Services  
SUD Services  
Transit Services  
[www.gaamha.org](http://www.gaamha.org)

December 12, 2023

Mayor Michael J. Nicholson  
City of Gardner  
95 Pleasant St.  
Room 125  
Gardner, MA 01440

Dear Mayor Nicholson,

I am writing to you to express GAAMHA's emphatic support for the establishment of a Gardner Agricultural Commission (AgCom) with a specific focus on overseeing our farmers' market, crafting essential by-laws, and integrating educational outreach. Contrary to common misconceptions, Gardner boasts a thriving agricultural sector that deserves acknowledgment.

As you are aware, GAAMHA is an active participant in this sector and is using agriculture as a modality to improve the lives of local youth and adults experiencing challenges related to substance use and mental health. Our program participants at our Evergreen Grove campus on Green St have recently begun growing specific crops in collaboration with Growing Places which will be made available to local residents and create revenues that will help support our non-profit mission. Additionally, GAAMHA is currently exploring our capacity to act as an institutional purchaser of locally grown produce in an effort to provide healthy, locally grown food for our residential programs and strengthen our local economy.

The creation of clear by-laws by the AgCom is vital for ensuring the fair and effective operation of our farmers' market. This initiative will actively support local farmers, improve access to locally sourced foods, and enhance community engagement, aligning seamlessly with AgCom's broader mission to provide a local voice for farmers and promote the visibility of farming in our community.

Furthermore, the integration of educational outreach initiatives will play a pivotal role in dispelling misconceptions about the absence of farms in our town. The AgCom's efforts can spotlight the diverse agricultural activities taking place, fostering a more informed understanding among residents.

I am confident that the Gardner AgCom, with its emphasis on farmers' market oversight and education, will significantly contribute to the growth and recognition of our local agricultural

208 Coleman Street  
Gardner, MA 01440  
P: 978-632-0934  
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11211

I/DD Services  
SUD Services  
Transit Services  
[www.gaamha.org](http://www.gaamha.org)

community. I urge the City Council to consider and endorse this comprehensive proposal, recognizing its potential to showcase Gardner's agricultural richness and improve access to these valuable resources.

Thank You,

A handwritten signature in black ink, appearing to read 'S.P.H.', is positioned above the typed name.

Shawn P. Hayden, LADC-II  
Vice President

**Part I** ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 40** POWERS AND DUTIES OF CITIES AND TOWNS**Section 8L** MUNICIPAL AGRICULTURAL COMMISSION

Section 8L. (a) For the purposes of this section "farming" and "agriculture" shall have the same meaning as ascribed to them in section 1A of chapter 128.

(b) A municipality which accepts this section may establish a municipal agricultural commission to promote and develop the agricultural resources of the municipality. Unless otherwise restricted by law, a municipal agricultural commission may: (i) buy, hold, manage, license or lease land for agricultural purposes; (ii) educate the public on agricultural issues; (iii) advocate for farmers, farm businesses and farm interests; (iv) assist farmers in resolving municipal problems or conflicts related to farms; (v) seek to coordinate agricultural-related activities with other governmental bodies or unofficial local groups or organizations that promote agriculture; (vi) receive grants, gifts, bequests or devises of money or personal property of any nature and interests in real property in accordance with this section; (vii) apply for, receive, expend and act on behalf of the municipality in connection with federal and state grants or programs or private grants related to local agriculture, with the approval



of the mayor or city manager in a city or the board of selectmen in a town; and (viii) advertise, prepare, print and distribute books, maps, charts and pamphlets related to local agriculture that the municipal agricultural commission deems necessary for its work.

(c) A commission may conduct research and prepare agricultural-related plans, including a comprehensive local agricultural land plan which shall be, to the extent possible, consistent with any current town master plan and regional area plans. The plan shall show or identify: (i) agricultural land areas and facilities; (ii) matters which may be shown on a tract index under section 33 of chapter 184; (iii) acquisitions of interest in land under this section; (iv) municipal lands that are held as open space; (v) nonmunicipal land subject to legal requirements or restrictions to protect that land or use it for open space, conservation, recreation or agriculture; (vi) land that should be retained as a public necessity for agricultural use; and (vii) any other information that the commission determines to be relevant to local agricultural land use. The commission may amend the plan whenever necessary.

(d) The commission may appoint a chair, clerks, consultants and other employees and may contract for materials and services as it may require, subject to appropriation by the municipality.

(e) The commission shall keep accurate records of its meetings and actions and shall file an annual report with the clerk of the municipality. The commission's annual report shall be posted on the municipality's public website and, in a town, shall be printed in the annual town report for that year.



(f) A commission shall consist of not less than 3 nor more than 7 members who shall be residents of the municipality. A majority of members shall be farmers or employed in an agriculture-related field. If farmers or persons employed in agriculture are not available to serve on the commission, then the commission shall include a majority of members with knowledge and experience in agricultural practices or knowledge of related agricultural business. Each member of the commission shall serve for a term of 3 years; provided, however, that the initial members appointed under this section shall serve for terms of 1, 2 or 3 years and the terms shall be arranged by the appointing authority so that the terms of approximately 1/3 of the commission's members shall expire each year.

In a city, the members of a commission shall be appointed by the mayor unless otherwise provided by the city's charter; provided, however, that in a city having a Plan D or Plan E charter, the appointments shall be made by the city manager unless otherwise provided by the city's charter. In a town, the members of the commission shall be appointed after a public hearing by the board of selectmen; provided, however, that in a town having a town manager form of government, the appointments shall be made by the town manager subject to the approval of the board of selectmen.

A member of a commission may be removed for cause by the appointing authority after a public hearing if a hearing is requested by the member. A vacancy created by a member being removed for cause shall be filled by the appointing authority for the remainder of the unexpired term in the same manner as the original appointment.

(g) A commission may receive gifts, bequests or devises of personal property or interests in real property as described in this subsection in the name of the municipality, subject to the approval of the city council or board of selectmen, as the case may be. The commission may purchase interests in the land only with funds available to the commission. A city council or a town meeting may raise or transfer funds so that the commission may acquire in the name of the municipality, by option, purchase, lease or otherwise, the fee in the land or water rights, conservation or agricultural restrictions, easements or other contractual rights as may be necessary to acquire, maintain, improve, protect, limit the future use of or conserve and properly utilize open spaces in land and water areas within the municipality. The commission shall manage and control the interests in land acquired under this subsection. The commission shall not take or obtain land by eminent domain.

The commission shall adopt rules and regulations governing the use of land and water under its control and prescribe civil penalties, not exceeding a fine of \$100, for a violation.

(h) A municipality may appropriate money to an agricultural preservation fund of which the treasurer of the municipality shall be the custodian. The treasurer shall receive, deposit or invest the funds in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest the funds in: (i) paid up shares and accounts of and in cooperative banks; (ii) shares of savings and loan associations; or (iii) shares of federal savings and loan associations doing business in the

commonwealth. Any income derived from deposits or investments under this subsection shall be credited to the fund. Money in the fund may be expended by the commission for any purpose authorized by this section.