



City of Gardner, Massachusetts  
Office of the City Council

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CALENDAR FOR THE MEETING  
of  
MONDAY, SEPTEMBER 16, 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)**

September 4, 2024, Regular Meeting

**VII. PUBLIC HEARINGS**

**VIII. COMMUNICATIONS FROM THE MAYOR**

**COMMUNICATIONS**

**11388** – A Resolution to Support the Administration’s request for the Massachusetts Department of Transportation to take over custodianship of Route 140 from Green Street to the Winchendon Town line. *(Finance Committee) Page 10 of packet.*

**11390** – A Measure Authorizing a Five-Year Contract Period for School District Copier Printer Services. *(Finance Committee) Page 12 of packet*

**11391** – A Measure Authorizing a Five-Year Contract Period for Fire Alarm and Sprinkler Testing Services. *(Finance Committee) Page 14 of packet*

**11392** – A Communication from the Mayor providing an update on the progress at the Waterford Community Center. *Page 16 of packet*

**ORDERS**

**11389** – An Order Authorizing \$12,139.35 Payment of Previous Fiscal Year Bill for Public Building Utilities- Mayor’s Unclassified Account. *(Finance Committee) Page 17 of packet*

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

**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, 7/1/2024, 8/5/2024, 9/4/2024) Page 19 of packet*

**11370** – An Ordinance to Amend the Code of the City of Gardner, Chapter 590, thereof entitled "Solid Waste" to change the fee for solid waste collections *(In the City Council and Ordered to First Printing 8/5/2024; More Time 9/4/2024; First Printing 9/12/2024) Page 138 of packet*

**11371** – An Ordinance to Amend the Code of the City of Gardner, Chapter 553, thereof entitled "Sewer Rates" *(In the City Council and Ordered to First Printing 8/5/2024; More Time 9/4/2024; First Printing 9/12/2024) Page 141 of packet*

**11372** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171, thereof entitled "Personnel" to amend Schedule E- Non-union Compensation Schedule *(In the City Council and Ordered to First Printing 8/5/2024; More Time 9/4/2024; First Printing 9/12/2024) Page 144 of packet*

**11387** – A Resolution Relating to the Future of Coleman Street School. *(Submitted by Councillor Brad Heglin) (In the City Council and Referred to Finance Committee 9/4/2024) Page 149 of packet*

**SAFETY COMMITTEE**

**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, 7/1/2024, 8/5/2024, 9/4/2024) Page 150 of packet*

**11349** – An Application by EcoATM LLC, for a License to Deal in Second Hand Articles at 677 Timpany Blvd-Inside Walmart (*In the City Council and Referred to Safety Committee 8/5/2024*) Page 152 of packet

**11350** – An Application by Gardner Ten Pins, Inc., for a Bowling Alley License at 560 West Broadway (*In the City Council and Referred to Safety Committee 8/5/2024*) Page 160 of packet

**SERVICE COMMITTEE**

**11326** – A Petition by National Grid, Elm Street and Cross Street -relocate pole 1SO pole approximately 15 feet. (*In the City Council and Referred to the Service Committee 8/5/2024; More Time 9/4/2024; Public Hearing Required*) Page 167 of packet

**11385** – A Measure to Grant National Grid an Easement to Install a Transformer at 95 Pleasant Street. (*In the City Council and Referred to Service Committee 9/4/2024*) Page 172 of packet

**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.



REGULAR MEETING OF SEPTEMBER 4, 2024

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Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Wednesday evening, September 4, 2024.

**CALL TO ORDER**

Council President Elizabeth Kazinskas called the meeting to order at 7:32pm.

**CALL OF THE ROLL**

Assistant City Clerk Jayen Kumar called the Roll of Members. Ten (10) Councillors were present including Councillors Calvin Brooks, Craig Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Brad Heglin, Elizabeth Kazinskas, Judy Mack, David Thibault-Muñoz and George Tyros. City Councillor Paul Tassone was not present.

**OPENING PRAYER**

President Kazinskas led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Kazinskas led the Council in reciting the “Pledge of Allegiance”.

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

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

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

There were no prior minutes to approve.

**PUBLIC HEARINGS**

There were no public hearings.





REGULAR MEETING OF SEPTEMBER 4, 2024

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COMMUNICATIONS FROM THE MAYOR

There were no communications from the Mayor.

ORDERS

**#11383**

An Order Authorizing \$5,025.36 Payment of Prior Year Expenditure.

Councillor Dernalowicz made a motion to approve the Order, seconded by Councillor Judy Mack.

The Order was voted viva voce, eleven (10) yeas, President Elizabeth Kazinskas and Councillors Calvin Brooks, Craig Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Brad Heglin, Judy Mack, David Thibault-Muñoz, George Tyros.

**10 yeas, the motion passes.**

**#11384**

A Measure Transferring \$4,000 from City Clerk Salaries and Wages to City Clerk Professional Services Operating Expenditures.

Councillor Dernalowicz made a motion to adopt the Measure to transfer the funds, seconded by Councillor Mack.

**10 yeas, the motion passes.**

**#11385**

A Measure to Grant National Grid an Easement to Install a Transformer at 95 Pleasant Street.

Councillor Tyros made a motion to refer the Measure to the Public Service Committee, seconded by Councillor Dernalowicz.

**10 yeas, the motion passes.**

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

**#11386**

A Ruling from the Attorney General Relative to an Open Meeting Law Complaint Filed by Paul DeMeo.

REGULAR MEETING OF SEPTEMBER 4, 2024

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Councillor Tyros made a motion to place the communication on file, seconded by Councillor Dernalowicz.

**10 years, the motion passes.**

**#11387**

A Resolution Relating to the Future of Coleman Street School.

Councillor Heglin made a motion to refer the Resolution to the Finance Committee, seconded by Councillor Dernalowicz.

**10 years, the motion passes.**

**REPORTS OF STANDING COMMITTEES****FINANCE COMMITTEE****#11289**

An Ordinance to Amend the Code of the City of Gardner, Part 1, thereof entitled, "Administrative Legislation".

Councillor Alek Dernalowicz requested for MORE TIME.

**There were no objections, more time was granted.**

**#11382**

Motion to Amend Item #11256: A Resolution to Rename the City Council Chamber the "Ronald F. Cormier Council Chamber" as adopted by the City Council on June 17, 20204.

Councillor Mack made a motion to form an ad-hoc committee, seconded by Councillor Dernalowicz

**9 years, the motion passes. Councillor Craig Cormier abstained.**

**#11370**

An Ordinance to Amend the Code of the City of Gardner, Chapter 590, thereof entitled "Solid Waste" to change the fee for solid waste collections.

President Kazinskas informed the Council that there was not enough time between the 1<sup>st</sup> Printing Publication and the next action. Because of the insufficient time, the item will remain on the calendar for the September 16, 2024, meeting.

**There were no objections, item remains on the calendar.**

REGULAR MEETING OF SEPTEMBER 4, 2024

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**#11371**

An Ordinance to Amend the Code of the City of Gardner, Chapter 553, thereof entitled "Sewer Rates".

President Kazinskas informed the Council that there was not enough time between the 1<sup>st</sup> Printing Publication and the next action. Because of the insufficient time, the item will remain on the calendar for the September 16, 2024, meeting.

**There were no objections, item remains on the calendar.**

**#11372**

An Ordinance to Amend the Code of the City of Gardner, Chapter 171, thereof entitled "Personnel" to amend Schedule E- Non-Union Compensation Schedule.

President Kazinskas informed the Council that there was not enough time between the 1<sup>st</sup> Printing Publication and the next action. Because of the insufficient time, the item will remain on the calendar for the September 16, 2024, meeting.

**There were no objections, item remains on the calendar.**

**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.

Councillor Cormier made a motion to remove the item from the calendar, seconded by Councillor Dernalowicz.

**10 yeas, the motion passes.**

**#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.

Councillor Craig Cormier requested for MORE TIME.

**There were no objections, more time was granted.**



REGULAR MEETING OF SEPTEMBER 4, 2024

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**#11349**

An Application by EcoATM LLC, for a License to Deal in Second Hand Articles at 677 Timpany Blvd—  
Inside Walmart.

Councillor Craig Cormier requested for MORE TIME.

**There were no objections, more time was granted.**

**#11350**

An Application by Gardner Ten Pins, Inc., for a Bowling Alley License at 560 W. Broadway.

Councillor Craig Cormier requested for MORE TIME.

**There were no objections, more time was granted.**

**SERVICE COMMITTEE**

**#11326**

A Petition by National Grid, Elm Street and Cross Street – relocate pole 1SO approximately 15 feet.

Councillor Tyros requested for MORE TIME.

**There were no objections, more time was granted.**

**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”.

Councillor Mack made a motion to remove the item from the schedule, seconded by Councillor  
Dernalowicz.

**10 yeas, the item will be removed from the calendar.**

**UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

There was no unfinished business or matters for reconsideration.

**NEW BUSINESS**

There was no new business.

REGULAR MEETING OF SEPTEMBER 4, 2024

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COUNCIL COMMENTS AND REMARKS

Councillor Mack mentioned that they are still looking for volunteers to plant mums from 9:00am to 11:00am on Saturday, September 14, 2024. She also wanted to thank Stephanie Young (Director of the Heywood Levi Memorial Library) for her work on submitting and obtaining a grant that allows the Library to be open on Saturday from 9:00am to 1:00pm starting on Saturday, September 7, 2024.

Councillor Brooks read a statement based on his attendance at the Overdose Awareness Day and Night of Hope that was held on Wednesday, August 28, 2024. He pointed out that there is much support throughout the city with AA and NA meetings, GAAMHA, Alyssa's Place, etc.

Councillor Heath welcomed Jersey Mike's to Gardner and thanked them for their donation to the GHS Band. He also noted that he is looking forward to the start of Fall sports.

Councillor Tyros noted that Maki Park is now open downtown. He hopes it attracts people to the area and saw a lively game of cornhole being played.

CLOSING PRAYER

President Kazinskas led the Council in the Closing Prayer.

ADJOURNMENT

On a motion made by Councillor Mack and seconded by Councillor Heath, the meeting adjourned at 7:55pm.

**10 yeas, the motion passes.**



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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September 9, 2024

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

RE: An Resolution to Support the Administration's request for the Massachusetts Department of Transportation to take over custodianship of Route 140 from Green Street to the Winchendon Town line

Dear Madam President and Councilors,

Currently, the maintenance and upkeep of Route 140 in the City of Gardner is split between the Massachusetts Department of Transportation (MassDOT) and the City.

MassDOT controls all sections of the road except for the portion between Green Street and the City's border with the Town of Winchendon. Under this system, the City is responsible for all paving, upkeep, maintenance, line painting, and other custodial aspects of this section of the state highway. Prior to a few years ago, the City was also responsible for plowing and salting this section of the road, however, MassDOT offered to take that for approximately the last four (4) years.

The Commonwealth recently approached the City and offered to take over this section of Route 140- similar to how they did with sections of the route in Winchendon a few years ago - so that they would have full control of the highway.

This would transfer the custody of the road itself to the Commonwealth, but the City would retain the fee interest in the land under the roadways. As such, this is not a conveyance vote, but rather a resolution in support of the Administration's request to the Commonwealth for this transfer of custodianship.

I respectfully request that the City Council vote to adopt the attached resolution to be sent with a letter from my office to finalize this transition.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**A RESOLUTION SUPPORTING THE MAYOR'S REQUEST TO THE  
MASSACHUSETTS DEPARTMENT OF TRANSPORTATION TO OBTAIN FULL  
CUSTODIANSHIP OF ROUTE 140 FROM GREEN STREET TO THE TOWN OF  
WINCHENDON**

**WHEREAS,** The City of Gardner currently holds all responsibility and liability for the maintenance, upkeep, line painting, paving, design planning, and other responsibilities- financial and physical with the section of State Route 140 from the intersection with Green Street and the border of the City of Gardner and the Town of Winchendon; and

**WHEREAS,** the Massachusetts Department of Transportation currently holds all responsibility for these aspects in all other sections of State Route 140 that run through the City of Gardner; and

**WHEREAS,** the Massachusetts Department of Transportation has made a concerted effort to obtain full custodianship of all other sections of Route 140 in other area municipalities; and

**WHEREAS,** the Massachusetts Department of Transportation and the Administration, through the Mayor, the Department of Public Works, and the City Engineer, have requested that the Massachusetts Department of Transportation take over custody of the section of State Route 140 that the City currently maintains;

**NOW THEREFORE,** The City Council of the City of Gardner hereby adopts this resolution in support of the City's Administration's request for the Massachusetts Department of Transportation to take over custodianship of the section of State Route 140 from the intersection of Green Street to the City's border with the Town of Winchendon.

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Hon. Elizabeth J. Kazinskas  
City Council President

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Date Voted on by the City Council

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A True Copy Attest:  
Jayen Kumar  
Assistant City Clerk



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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September 12, 2024

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

RE: A measure authorizing a five (5) year contract for School Dept Copier and Printer services

Dear Madam President and Councilors,

As you are aware, the General Laws of the Commonwealth do not allow the City to enter into a contract for more than three (3) years without approval being granted by the City Council. However, there are times that a five (5) year contract is more beneficial to the City due to the cost savings that come from entering into a long-term agreement.

I respectfully request that the City Council vote to authorize the City to enter into a contract for a period of five (5) years for copier and printer services for the School Department.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner



CITY OF GARDNER  
PURCHASING DEPARTMENT

Room 217 - City Hall  
95 Pleasant Street  
Gardner, MA 01440-2687



Joshua Cormier, Director  
jcormier@gardner-ma.gov  
Telephone (978) 632-0426

TO: Gardner City Council  
Mayor Michael J. Nicholson

FROM: Joshua Cormier, Purchasing Agent

DATE: June 18, 2024

SUBJECT: Request for 5-year contracts

According to MGL c 30B, any contract that exceeds three years must be approved by a majority vote by the City Council.

I respectfully request permission from the Gardner City Council to seek up to a five-year contract (including renewals) for the below listed projects. Following compliance with procurement requirements, all such contracts will continue only if the contracted vendor(s) is in good standing.

- School District Copier Printer Agreement

My intention to seek a longer-term contract is to attract more competitive rates from vendors and to conduct more effective contract management.

If you have any questions or concerns, please feel free to contact me for additional details.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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September 12, 2024

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

RE: A measure authorizing a five (5) year contract for fire alarm and sprinkler testing services

Dear Madam President and Councilors,

As you are aware, the General Laws of the Commonwealth do not allow the City to enter into a contract for more than three (3) years without approval being granted by the City Council. However, there are times that a five (5) year contract is more beneficial to the City due to the cost savings that come from entering into a long-term agreement.

I respectfully request that the City Council vote to authorize the City to enter into a contract for a period of five (5) years for fire alarm and sprinkler testing services.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CITY OF GARDNER  
PURCHASING DEPARTMENT

Room 217 - City Hall  
95 Pleasant Street  
Gardner, MA 01440-2687



Joshua Cormier, Director  
jcormier@gardner-ma.gov  
Telephone (978) 632-0426

TO: Gardner City Council  
Mayor Michael J. Nicholson

FROM: Joshua Cormier, Purchasing Agent

DATE: August 28, 2024

SUBJECT: Request for 5-year contracts

According to MGL c 30B, any contract that exceeds three years must be approved by a majority vote by the City Council.

I respectfully request permission from the Gardner City Council to seek up to a five-year contract (including renewals) for the below listed projects. Following compliance with procurement requirements, all such contracts will continue only if the contracted vendor(s) is in good standing.

- Fire Alarm & Sprinkler Testing Agreement

My intention to seek a longer-term contract is to attract more competitive rates from vendors and to conduct more effective contract management.

If you have any questions or concerns, please feel free to contact me for additional details.



## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

September 12, 2024

Hon. Elizabeth J. Kazinskas, Council President

And City Councilors

Gardner City Hall, Rm 121

95 Pleasant Street

Gardner, MA 01440

RE: A Communication from the Mayor providing an update on the progress at the Waterford Community Center

Dear Madam President and Councilors,

As you are aware, for the last few years, the City has been working to convert the former Waterford Street School building into a new community center. I am writing to you here to provide you with an update regarding what the next steps of the process are and a synopsis of the work that has been done.

With the Council's recent vote to declare the property surplus, the Administration is preparing to issue the Request for Proposals (RFP) for the entities that are looking to operate in this space. This is being done for the kitchen space, and the two-story classroom wing. The Administration is able to issue this RFP based on the previous vote by the City Council. The Council will see the final lease agreements with the entities that were awarded as part of this process once this stage is completed. We anticipate that all lease agreements for space in the building will be awarded and signed by late fall of this year.

However, the Gardner Community Action Committee (CAC), is being given a lease under a grant agreement for the former library space of the building. This is the current style lease they have at the McKean Building on Pleasant Street. In this scenario, the City awards the usage of the space as an in-kind grant to the non-profit in recognition of the service they provide to the City's residents. These types of lease agreements are exempt from the RFP process and thus I anticipate the lease agreement between the City and the CAC for the use of the space to be before the City Council for consideration at the first meeting in October.

Extensive renovations have been done to the building during the last few years. New LED motion sensor lights have been installed throughout the building to help with electricity costs, electrical systems within the kitchen have been upgraded, the front door is currently being replaced due to the previous doors being in compliance with the Americans with Disability Act (ADA), and new electric heat/cooling systems and plumbing upgrades have been made to the two-story wing.

This process has taken up a fair amount of time, effort, and resources, but the final product is going to largely benefit the City and we are nearing the point where the light is at the end of the tunnel. I wish to thank the City Council, State Representative Jon Zlotnik, and all of the city officials and community members who have been involved in getting this process to where it is.

Respectfully Submitted,

Michael J. Nicholson

Mayor, City of Gardner



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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September 9, 2024

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

RE: An Order Authorizing the Payment of Previous Fiscal Year Bill for Public Building Utilities-  
Mayor's Unclassified Account.

Dear Madam President and Councilors,

As you are aware, the General Laws of the Commonwealth require that the City Council vote to approve all bills that are associated with work done in a previous fiscal year, when the bill is received after the new fiscal year has started.

This is due to the fact that such approval allows expenses from a previous fiscal year to be paid for with an appropriation for the current fiscal year.

The attached request is being put forward to allow for the payments of utility bills received for various City buildings for usage in the previous fiscal year.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

## AUTHORIZING PAYMENT OF PRIOR YEAR OPERATING EXPENDITURE

*ORDERED:* To authorize payment of prior year MAYOR UNCLASSIFIED operating expenditure account for prior year, as follows:

|        |                        |             |
|--------|------------------------|-------------|
| FY2024 | ENERGY & UTILITIES WSB | \$12,089.70 |
| FY2023 | ENERGY & UTILITIES WSB | \$49.65     |



City of Gardner - *Executive Department*

Updated 9/9/2024

Mayor Michael J. Nicholson

September 9, 2024

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

RE: Update regarding Item #11289: An Ordinance To Amend the Code of the City of Gardner, Part 1, thereof entitled, "Administrative Legislation."

Dear Madam President and Councilors,

As stated during the Finance Committee Meeting of September 4<sup>th</sup>, 2024, based on feedback received by the members of various boards and commissions of the City, I hereby submit a third revision of the ordinance proposal listed as Item#11289.

This revision unifies the timeline for the re-organization of the City's boards and commissions and defines the oaths of office for all positions in the City.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

Updated 9/9/2024

**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.



Updated 9/9/2024

**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 3. Elected Official Oath of Office**

#### **A. Mayoral Oath of Office**

Pursuant to the Charter of the City of Gardner and the General Laws of the Commonwealth, the following oath shall be used to swear in the Mayor-Elect of the City:

“I, (insert name), Do Solemnly Swear That I Will Bear True Faith And Allegiance To The Commonwealth Of Massachusetts And The City Of Gardner, And Will Support The Constitution And The Charter Thereof, (So Help Me God.)

I, (insert name), Do Solemnly Swear And Affirm, That I Will Faithfully And Impartially Discharge And Perform All Of The Duties Incumbent On Me As Mayor Of The City Of Gardner According To The Best Of My Abilities And Understanding, Agreeably, To The Rules And Regulations Of The

Constitution And The Laws Of The Commonwealth and the Ordinances and Charter of the City of Gardner. (So Help Me God.)

I, (insert name), Do Solemnly Swear That I Will Support The Constitution Of The United States. (So Help Me God.)”

**B. City Council Oath of Office; At-Large and Ward**

Pursuant to the Charter of the City of Gardner and the General Laws of the Commonwealth, the following oath shall be used to swear in the City Councilors-Elect of the City:

I, (insert name), do solemnly swear that I will faithfully and impartially discharge and perform the duties of City Councilor according to law and the best of my abilities. (so help me God.)

**C. School Committee Oath of Office**

Pursuant to the Charter of the City of Gardner and the General Laws of the Commonwealth, the following oath shall be used to swear in the School Committee Members- Elect of the City:

I, (insert name), do solemnly swear that I will faithfully and impartially discharge and perform the duties of School Committee Member according to law and the best of my abilities. (so help me God.)

**SECTION 30:** That a new Chapter 3 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, for a period of three (3) years, unless otherwise stated.

**Section 3: Oath of Office**

A. 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.

#### B. Oath of Office

Pursuant to the Charter of the City of Gardner and the General Laws of the Commonwealth, the following oath shall be used to swear in all appointed officials of the City of Gardner, except those appointed to the Gardner Police Department, whose oath shall be given as prescribed by the General Laws of the Commonwealth and the Code of the United States.

I, (insert name), do solemnly swear that I will faithfully and impartially perform the duties of (insert position title) according to law and the best of my abilities. (so help me God.)

#### **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 that has been approved by both majority vote of the City Council and the Mayor.
- 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 7: Employees**

The City may hire employees for any city department, entity, board, commission, and any subdivision subject to appropriation approved by the City Council, in accordance with the provisions of the Charter of the City of Gardner.

### **Section 8: Vacancies**

Any vacancies that occur in any positions appointed position shall be filled in the same manner by which the position was appointed. The successor who fills said vacancy shall serve for the unfinished remainder of the term of office in which the vacancy occurred before said successor shall be appointed to a full term.

**SECTION 30:** That a new “PART II” be added, to be entitled “LEGISLATIVE BRANCH” be added to include Chapter 4 and Chapter 5, with the current, “PART II: GENERAL LEGISLATION” section be re-numbered accordingly as “PART III”

**SECTION 31:** That a new Chapter 4 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 5, 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 a term of three (3) 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 6 through Chapter 8.

**SECTION 34:** That a new Chapter 6 be added to the Code of the City of Gardner to be entitled, “Executive Departments,” as follows:

### **Section 1: Assessing Department**

#### **A. Department Established and Employees**

- a. An Assessing Department in the City of Gardner is hereby established under the charge of a board of up to five (5) but no less than three (3) Assessors, one of which shall serve as the City Assessor.
- b. The City Assessor shall serve full time as an Assessor and employee of the City of Gardner, who shall serve as the Department Head over the City’s Assessor’s Department.

### **Section 2: Building Department**

#### **A. Department Established and Employees**

The position of Building Commissioner is hereby established and shall be a full-time position. The duties of said Building Commissioner shall be those set forth in the General Laws of the Commonwealth and the Code of the City of Gardner.

#### **B. Electrical Inspection Division**

##### **a. Division Established**

- i. 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 "Electrical Inspector," and such officer is hereby designated as the officer required by the General Laws of the Commonwealth and the Code of the City of Gardner.

- ii. Said Inspection of Wires Division and the Electrical Inspector shall be subject to the authority of the Mayor and the Building Commissioner, and, for fire alarm superintendent related activities, the Electrical Inspector shall report to the Building Commissioner and confer with the Fire Chief.

b. Electrical Inspector

- i. The Mayor shall appoint an Electrical Inspector, subject to the provisions of the Code of the City of Gardner and the Charter of the City of Gardner. The Electrical Inspector shall be a licensed electrician in the Commonwealth of Massachusetts.
- ii. They shall keep an accurate record of the transactions of their office and shall report the same to the Building Commissioner on a monthly basis, to be reported to the Mayor as part of the Building Department's Annual Report.

C. Plumbing and Gas Inspection Division

a. Division and Position Established

An Inspection of Gas and Plumbing Division of the Building Department is hereby established, the affairs of which shall be conducted by an officer known as the "Plumbing and Gas Inspector," and such officer is hereby designated. The Plumbing and Gas Inspector shall be licensed to performing plumbing and gas work by the Commonwealth of Massachusetts.

b. Duties

The Plumbing and Gas Inspector 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, the General Laws of the Commonwealth, and the Code of the City of Gardner as presently in force, and as may be amended and in force from time to time.

**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 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

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."

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 and other such personnel as the Mayor, with the approval of the City Council, shall from time to time deem necessary, subject to appropriation.

B. Appointment of Firefighters and Fire Department Personnel

All appointments to the Fire Department shall be made by the Fire Chief and shall not be subject to confirmation by the City Council.

C. Fire Chief

- i. The Fire Chief shall be the Department 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.
- ii. The Chief shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012.

**Section 6: Human Resources Department**

A. Department Established

There shall be established in the City of Gardner a Human Resources Department to be administered by a Director.

**Section 7: Information Technology Department**

A. Department Established

There shall be established in the City of Gardner an Information Technology Department to be administered by a Director.

**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 and shall report to and be overseen by the Mayor. The Assistant City Solicitor shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of one (1) year.
- 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**

- i. 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.
- ii. Said written legal opinions shall be issued by the City's Law Department no later than thirty (30) days upon receipt of the request.
- iii. The Law Department shall provide the Mayor with a copy of all written legal opinions issued pursuant to this section.

**Section 9: Police Department**

**A. Department Established**

- i. The Police Department of the City of Gardner shall consist of a Chief of Police and any 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.
- ii. 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.
- ii. The Chief shall be exempt from the provisions of MGL c. 31 in accordance with Chapter 416 of the Acts of 1991.
- iii. The Chief of Police shall be the Keeper of the Lockup in compliance with MGL c. 40, § 35.
- iv. The Deputy Chief of Police shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012

### 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, not subject to confirmation by the City Council.
- 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

- i. There shall be established in the City of Gardner a Department of Public Works administered by a Director.
- ii. 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.
- iii. 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.
- i. The Purchasing Agent/Civil Enforcement Director shall be responsible for all purchases and contractual services and all sales of property.
- ii. 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.
- iii. 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

- i. There shall be a Senior Center overseen by the Director of Senior Citizens.



- 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 7 be added to the Code of the City of Gardner to be entitled, "Board and Commissions," as follows:

### **Section 1: Miscellaneous**

#### **A. Board and Commission Membership**

All boards and commission made by the City shall have an odd number of members, unless membership is defined by any other section of the General Laws of the Commonwealth or the Code of the City of Gardner.

#### **B. Acceptance of Donations**

Any board or commission may, upon receiving prior approval by majority vote of the City Council may receive gifts of property, both real and personal, in the name of the City, subject to the rules and regulations of the General Laws of the Commonwealth, the Charter of the City of Gardner, and the Code of the City of Gardner.

#### **C. Organization and Election of Officers**

Unless otherwise stated by the General Laws of the Commonwealth or by the provisions of the City Charter of the City of Gardner or the Code of the City of Gardner, all boards and commissions shall annually vote to elect the Chairperson and all other officers of their respective body.

### **Section 2: Airport Commission**

#### **A. Establishment**

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 majority vote of the City Council and the Mayor, to institute a system of charges and fees for use of the Gardner Municipal Airport.

### **Section 3: 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 4: Board Of Assessors**

#### **A. Establishment**

- i. There is hereby a Board of Assessors established, who shall work with the City Assessing Department in accordance with the provisions of Chapter 6 of the Code of the City of Gardner.

- ii. 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 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

- i. There shall be a Board of Health consisting of not less than three (3) members but no more than seven (7) members
- ii. At least one (1) member of the Board of Health shall be a physician and at least one (1) member shall be a registered nurse
- iii. No members of the Board of Health shall be members of the City Council.
- iv. Each year at its first meeting the Board shall organize and elect a Chairperson.

**Section 5: Board Of Registrars Of Voters**

A. Establishment

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. Establishment

- i. There shall be established in the City of Gardner a Capital Improvement Planning Committee.
- ii. 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 as ex officio full voting members.
- iii. The Committee shall choose its own officers.

B. Review of Projects

- i. The Committee shall study proposed capital projects and improvements involving major nonrecurring tangible assets and projects which:
  1. Are purchased or undertaken at intervals of not less than five years;
  2. Have a useful life of at least five years; and
  3. Cost over \$25,000.
- ii. All department heads, 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. 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 plan to the City Council for acceptance.

D. Expenditures

Such capital improvement program, after its acceptance, 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.

**Section 7: Cemetery Commission**

A. Establishment

- i. There shall be established a Cemetery Commission for the City of Gardner consisting of no more than five (5) members but not less than seven (7) members.

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 at least seven (7) members but not more than eleven (11) members.

#### 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. Establishment

There shall be established, pursuant to MGL c. 40, § 8J, a Disability Commission for the City of Gardner consisting of not less than seven (7) members and not more than nine (9) member who are legal voters of said City. The majority of said Commission members shall consist of disabled persons, and at least one (1) of such members shall be a member of the immediate family of a disabled person, and one (1) member of said Commission shall be either an elected or appointed official of the City.

#### 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.

**Section 10: Golf Commission**

A. Establishment

A Municipal Golf Course Commission is hereby established.

B. Membership; terms of office.

The Municipal Golf Course Commission shall consist of not less than five (5) members, but not more than (7) seven members, including a Chairperson and Secretary.

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 manners generally used in practice by the City 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. Establishment

There is hereby established, under the provisions of MGL c. 40, § 8D, a Historical Commission of the City of Gardner for the purposes and with the rights and duties provided by law, to be composed of not less than seven (7) members, but not more than eleven (11) members.

**Section 12: Planning Board**

A. Establishment

A Planning Board is hereby established, consisting of no less than five (5) members, no more than nine (9) members.

B. Powers and duties.



The Planning 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.

### **Section 13: Zoning Board Of Appeals.**

#### **A. Establishment and Authority**

The Zoning Board of Appeals shall consist of five persons with a sufficient number of alternate members that the Mayor and City Council shall deem necessary for the proper function of the Zoning Board of Appeals. 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. Establishment**

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 as ex officio, full voting members.

#### **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 local Regional Planning Commission.

### **Section 15: Youth Commission**

A. Establishment

There shall be established, pursuant to MGL c. 40, § 8E, a Youth Commission for the City of Gardner consisting of no less than three (3) members and no more than seven (7) members, who shall be appointed by the Mayor, subject to confirmation by the City Council, except for one (1) member who shall be appointed by the City Council President not subject to confirmation by the City Council.

B. 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.

C. 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.

**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 8.

**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:

- A. Regularly employed for one (1) to four (4) years shall be entitled to Four (4) weeks or twenty (20) working days.
- B. Regularly employed for five (5) to nine (9) years shall be entitled to five (5) weeks or twenty-five (25) working days
- C. Regularly employed for ten (10) to fourteen (14) years shall be entitled to six (6) weeks or thirty (30) working days
- D. 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

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August 1, 2024

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

RE: Update regarding Item #11289: An Ordinance to Amend the Code of the City of Gardner, Part 1, thereof entitled "Administrative Legislation"

Dear Madam President and Councilors,

Based on feedback the Administration has received regarding placement of repetitive language and consistency of organization, I hereby submit this substitute version of Item 11289 for the City Council's consideration.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**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 Chapter 3 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, for a period of three (3) years, 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 that has been approved by both majority vote of the City Council and the Mayor.
- 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 7: Employees**

The City may hire employees for any city department, entity, board, commission, and any subdivision subject to appropriation approved by the City Council, in accordance with the provisions of the Charter of the City of Gardner.

#### **Section 8: Vacancies**

Any vacancies that occur in any positions appointed position shall be filled in the same manner by which the position was appointed. The successor who fills said vacancy shall serve for the unfinished remainder of the term of office in which the vacancy occurred before said successor shall be appointed to a full term.

**SECTION 30:** That a new “PART II” be added, to be entitled “LEGISLATIVE BRANCH” be added to include Chapter 4 and Chapter 5, with the current, “PART II: GENERAL LEGISLATION” section be re-numbered accordingly as “PART III”

**SECTION 31:** That a new Chapter 4 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 5, 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 a term of three (3) 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 6 through Chapter 8.

**SECTION 34:** That a new Chapter 6 be added to the Code of the City of Gardner to be entitled, "Executive Departments," as follows:

### **Section 1: Assessing Department**

#### **A. Department Established and Employees**

- a. An Assessing Department in the City of Gardner is hereby established under the charge of a board of up to five (5) but no less than three (3) Assessors, one of which shall serve as the City Assessor.
- b. The City Assessor shall serve full time as an Assessor and employee of the City of Gardner, who shall serve as the Department Head over the City's Assessor's Department.

### **Section 2: Building Department**

#### **A. Department Established and Employees**

The position of Building Commissioner is hereby established and shall be a full-time position. The duties of said Building Commissioner shall be those set forth in the General Laws of the Commonwealth and the Code of the City of Gardner.

#### **B. Electrical Inspection Division**

##### **a. Division Established**

- i. 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 "Electrical Inspector," and such officer is hereby designated as the officer required by the General Laws of the Commonwealth and the Code of the City of Gardner.
- ii. Said Inspection of Wires Division and the Electrical Inspector shall be subject to the authority of the Mayor and the Building Commissioner, and, for fire alarm superintendent related activities, the Electrical Inspector shall report to the Building Commissioner and confer with the Fire Chief.

##### **b. Electrical Inspector**

- i. The Mayor shall appoint an Electrical Inspector, subject to the provisions of the Code of the City of Gardner and the Charter of the City of Gardner. The Electrical Inspector shall be a licensed electrician in the Commonwealth of Massachusetts.

- ii. They shall keep an accurate record of the transactions of their office and shall report the same to the Building Commissioner on a monthly basis, to be reported to the Mayor as part of the Building Department's Annual Report.

### C. Plumbing and Gas Inspection Division

#### a. Division and Position Established

An Inspection of Gas and Plumbing Division of the Building Department is hereby established, the affairs of which shall be conducted by an officer known as the "Plumbing and Gas Inspector," and such officer is hereby designated. The Plumbing and Gas Inspector shall be licensed to performing plumbing and gas work by the Commonwealth of Massachusetts.

#### b. Duties

The Plumbing and Gas Inspector 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, the General Laws of the Commonwealth, and the Code of the City of Gardner as presently in force, and as may be amended and in force from time to time.

### **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 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

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."

#### 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 and other such personnel as the Mayor, with the approval of the City Council, shall from time to time deem necessary, subject to appropriation.

B. Appointment of Firefighters and Fire Department Personnel

All appointments to the Fire Department shall be made by the Fire Chief and shall not be subject to confirmation by the City Council.

C. Fire Chief

- i. The Fire Chief shall be the Department 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.
- ii. The Chief shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012.

**Section 6: Human Resources Department**

## A. Department Established

There shall be established in the City of Gardner a Human Resources Department to be administered by a Director.

**Section 7: Information Technology Department**

## A. Department Established

There shall be established in the City of Gardner an Information Technology Department to be administered by a Director.

**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 and shall report to and be overseen by the Mayor. The Assistant City Solicitor shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of one (1) year.
- 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

- i. 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.

- ii. Said written legal opinions shall be issued by the City's Law Department no later than thirty (30) days upon receipt of the request.
- iii. The Law Department shall provide the Mayor with a copy of all written legal opinions issued pursuant to this section.

### **Section 9: Police Department**

#### **A. Department Established**

- i. The Police Department of the City of Gardner shall consist of a Chief of Police and any 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.
- ii. 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.
- ii. The Chief shall be exempt from the provisions of MGL c. 31 in accordance with Chapter 416 of the Acts of 1991.
- iii. The Chief of Police shall be the Keeper of the Lockup in compliance with MGL c. 40, § 35.
- iv. The Deputy Chief of Police shall be exempt from the provisions of Chapter 31 of the General Laws in accordance with Chapter 284 of the Acts of 2012

#### **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, not subject to confirmation by the City Council.
- 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

- i. There shall be established in the City of Gardner a Department of Public Works administered by a Director.
- ii. 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.
- iii. 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.
- i. The Purchasing Agent/Civil Enforcement Director shall be responsible for all purchases and contractual services and all sales of property.
- ii. 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.
- iii. 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

- i. There shall be a Senior Center overseen by the Director of Senior Citizens.
- 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 7 be added to the Code of the City of Gardner to be entitled, "Board and Commissions," as follows:

**Section 1: Miscellaneous**

A. Board and Commission Membership

All boards and commission made by the City shall have an odd number of members, unless membership is defined by any other section of the General Laws of the Commonwealth or the Code of the City of Gardner.

B. Acceptance of Donations

Any board or commission may, upon receiving prior approval by majority vote of the City Council may receive gifts of property, both real and personal, in the name of the City, subject to the rules and regulations of the General Laws of the Commonwealth, the Charter of the City of Gardner, and the Code of the City of Gardner.

**Section 2: Airport Commission**

A. Establishment

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 majority vote of the City Council and the Mayor, to institute a system of charges and fees for use of the Gardner Municipal Airport.

**Section 3: 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 4: Board Of Assessors**

A. Establishment

- i. There is hereby a Board of Assessors established, who shall work with the City Assessing Department in accordance with the provisions of Chapter 6 of the Code of the City of Gardner.
- ii. 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 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**

- i. There shall be a Board of Health consisting of not less than three (3) members but no more than seven (7) members
- ii. At least one (1) member of the Board of Health shall be a physician and at least one (1) member shall be a registered nurse
- iii. No members of the Board of Health shall be members of the City Council.
- iv. Each year at its first meeting the Board shall organize and elect a Chairperson.

#### **Section 5: Board Of Registrars Of Voters**

##### **A. Establishment**

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. Establishment**

- i. There shall be established in the City of Gardner a Capital Improvement Planning Committee.
- ii. 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 as ex officio full voting members.
- iii. The Committee shall choose its own officers.

##### **B. Review of Projects**

- i. The Committee shall study proposed capital projects and improvements involving major nonrecurring tangible assets and projects which:
  1. Are purchased or undertaken at intervals of not less than five years;
  2. Have a useful life of at least five years; and
  3. Cost over \$25,000.
- ii. All department heads, 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. 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 plan to the City Council for acceptance.

D. Expenditures

Such capital improvement program, after its acceptance, 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.

**Section 7: Cemetery Commission**

A. Establishment

- i. There shall be established a Cemetery Commission for the City of Gardner consisting of no more than five (5) members but not less than seven (7) members.

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 at least seven (7) members but not more than eleven (11) members.

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. Establishment

There shall be established, pursuant to MGL c. 40, § 8J, a Disability Commission for the City of Gardner consisting of not less than seven (7) members and not more than nine (9) member who are legal voters of said City. The majority of said Commission members shall consist of disabled persons, and at least one (1) of such members shall be a member of the immediate family of a disabled person, and one (1) member of said Commission shall be either an elected or appointed official of the City.

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.

### **Section 10: Golf Commission**

#### **A. Establishment**

A Municipal Golf Course Commission is hereby established.

#### **B. Membership; terms of office.**

The Municipal Golf Course Commission shall consist of not less than five (5) members, but not more than (7) seven members, including a Chairperson and Secretary.

#### **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 manners generally used in practice by the City 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. Establishment**

There is hereby established, under the provisions of MGL c. 40, § 8D, a Historical Commission of the City of Gardner for the purposes and with the rights and duties provided by law, to be composed of not less than seven (7) members, but not more than eleven (11) members.

### **Section 12: Planning Board**

#### **A. Establishment**

A Planning Board is hereby established, consisting of no less than five (5) members, no more than nine (9) members.

#### **B. Powers and duties.**

The Planning 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.

### **Section 13: Zoning Board Of Appeals.**

#### **A. Establishment and Authority**

The Zoning Board of Appeals shall consist of five persons with a sufficient number of alternate members that the Mayor and City Council shall deem necessary for the proper function of the Zoning Board of Appeals. 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. Establishment**

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 as ex officio, full voting members.

**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 local Regional Planning Commission.

**Section 15: Youth Commission****A. Establishment**



There shall be established, pursuant to MGL c. 40, § 8E, a Youth Commission for the City of Gardner consisting of no less than three (3) members and no more than seven (7) members, who shall be appointed by the Mayor, subject to confirmation by the City Council, except for one (1) member who shall be appointed by the City Council President not subject to confirmation by the City Council.

B. 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.

C. 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.

**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 8.

**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:

- A. Regularly employed for one (1) to four (4) years shall be entitled to Four (4) weeks or twenty (20) working days.
- B. Regularly employed for five (5) to nine (9) years shall be entitled to five (5) weeks or twenty-five (25) working days
- C. Regularly employed for ten (10) to fourteen (14) years shall be entitled to six (6) weeks or thirty (30) working days
- D. 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

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  
 95 PLEASANT STREET  
 GARDNER, MA 01440

**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

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July 18, 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 560, thereof entitled  
"Solid Waste," to Change the Fee for Solid Waste Collections

Dear Madam President and Councilors,

On May 20, 2024, the City Council voted to amend the fee structure for solid waste (trash and recycling) collection rates for FY25 through FY28.

However, with the beginning for FY2025 approaching when the ordinance was drafted, the ordinance contained a scrivener's error for the starting date. A redlined version showing the errors and corrections is attached to this proposal.

I respectfully request that the City Council vote to pass the attached ordinance after passage and publication, in order to correct the scheduling error.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560,  
THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE  
COLLECTION

Be it ordained by the City Council of the City of Gardner as follows:

**SECTION 1:** Section 560-3(B)(i) of the Code of the City of Gardner, thereof entitled "Annual Fee; Trash Bags," is hereby amended by deleted in its entirety and replaced with the following:

B. Annual Fee; Trash Bags

i. For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be as follows:

(a) Effective July 1, 2024:

- \$68.00 per quarter

(b) Effective July 1, 2025:

- \$72.00 per quarter

(c) Effective July 1, 2026:

-\$75.00 per quarter

(d) Effective July 1, 2027:

- \$79.00 per quarter

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

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560,  
THEREOF, ENTITLED “SOLID WASTE,” TO CHANGE THE FEE FOR SOLID WASTE  
COLLECTION

**FOR EXPLANATION PURPOSES ONLY – RED LINED EDIT VERSION -**

Be it ordained by the City Council of the City of Gardner as follows:

**SECTION 1:** Section 560-3(B)(i) of the Code of the City of Gardner, thereof entitled “Annual Fee; Trash Bags,” is hereby amended by deleted in its entirety and replaced with the following:

B. Annual Fee; Trash Bags

i. For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be as follows:

(a) Effective July 1, 2025: (Should have been 2024 for the rate to be effective at the start of Fiscal Year 2025, with the schedule following from there. Proposed amendment corrects this to adequately reflect the rate study that was done)

- \$68.00 per quarter

(b) Effective July 1, 2026:

- \$72.00 per quarter

(c) Effective July 1, 2027:

-\$75.00 per quarter

(d) Effective July 1, 2028:

- \$79.00 per quarter

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

**AS ADOPTED BY CITY COUNCIL  
MAY 6, 2024**





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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July 18, 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, Section 90 of Chapter 553, thereof entitled "Sewer Rates"

Dear Madam President and Councilors,

On July 1, 2024, the City Council voted to amend sewer rate collection fees for FY25 through FY29.

However, with the beginning for FY2025 approaching when the ordinance was drafted, the ordinance contained a scrivener's error for the starting date. A redlined version showing the errors and corrections is attached to this proposal.

I respectfully request that the City Council vote to pass the attached ordinance after passage and publication, in order to correct the scheduling error.

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 July 1, 2024
- 2) Uniform Rate (per 100 cubic feet of metered use): \$6.10
  - i. Effective July 1, 2025
- 3) Uniform Rate (per 100 cubic feet of metered use): \$6.80
  - i. Effective July 1, 2026
- 4) Uniform Rate (per 100 cubic feet of metered use): \$7.50
  - i. Effective July 1, 2027
- 5) Uniform Rate (per 100 cubic feet of metered use): \$8.30
  - i. Effective July 1, 2028

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

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, SECTION 90 OF  
CHAPTER 553, THEREOF ENTITLED, "SEWER RATES"**

**FOR EXPLANATION PURPOSES ONLY- RED LINED EDIT VERSION!**

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 (Effective Date: July 1, 2024)
- 2) Uniform Rate (per 100 cubic feet of metered use): \$6.10
  - i. Effective July 1, 2026 (Skips FY25 which starts on July 1, 2025.  
Proposed Corrections fix this issue to meet scheduled outlined in rate study)
- 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.

**AS ADOPTED BY THE CITY COUNCIL ON  
JULY 1, 2024**



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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July 25, 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, Chapter 171, thereof entitled "Personnel" to amend Schedule E- Non Union Compensation Schedule

Dear Madam President and Councilors,

When the City Council voted to pass the FY2025 Compensation Schedule Ordinance, there were a few typographical errors in the rates for certain positions.

These errors resulted in certain positions not receiving the Cost of Living Adjustments that were given to our employees.

This proposal reflects that.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**Amendment to City Code  
Chapter 171: Personnel  
Article XVI: Classification and Compensation  
§171-68  
Compensation Schedule**

**An amendment to §171-68 Compensation Schedule, 171b 5**

A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.

All appointive officers and all positions in the City of Gardner, except those filled by popular election and those under the direction and control of the School Committee, shall be classified into positions, groups, and grades according to their duties pertaining to each as herein provided.

CLASSIFICATION CLASS TITLE

| <u>Pay Grade</u> | <u>Class/Title</u>                                                                   |
|------------------|--------------------------------------------------------------------------------------|
| S-4              | Certified Pool Operator (Seasonal)                                                   |
| S-5              | Head Lifeguard (Seasonal)                                                            |
| S-6              | Lifeguard (Seasonal)                                                                 |
| T-4              | Temporary Seasonal Employees (Department of Public Works)                            |
| T-5              | Temporary Seasonal Recreational Playground Supervisor                                |
| T-6              | Temporary Seasonal Technical                                                         |
| GC-4             | Golf Course Laborers/Pro-Shop Assistants - Temporary Seasonal Employment             |
| GC-5             | Golf Course Groundsman                                                               |
| GC-6             | Golf Course Ranger                                                                   |
| GC-8             | Grounds Maintenance Man or Motor Equipment Repairman                                 |
| GC-9             | Working Foreman Grounds Maintenance Man or Working Foreman Motor Equipment Repairman |

The officers, positions, and classifications are hereby allocated and fixed into salary grades in accordance with the following schedule:

**A. DEPARTMENT HEADS**

|                                              |       | 07/01/24           |                  |                   | GRADE |
|----------------------------------------------|-------|--------------------|------------------|-------------------|-------|
| Position                                     | Grade | Annual             |                  |                   |       |
| Building Commissioner                        | G-10  | \$87,558.74        | Weekly           |                   | 02    |
|                                              |       | \$350.00           |                  |                   |       |
|                                              |       | \$87,908.74        |                  |                   |       |
| Chief of Police                              | G-13  | <i>Masters</i>     | <i>Bachelors</i> | <i>Associates</i> | 03    |
|                                              |       | \$145,600.27       | \$139,818.06     | \$128,253.64      |       |
| City Assessor                                | G-9   | \$81,941.40        |                  |                   | 01    |
| City Auditor                                 | G-10  | \$94,187.47        |                  |                   | 04    |
|                                              |       | MGL c. 32, §20(6)  |                  |                   |       |
|                                              |       | Total Compensation |                  |                   |       |
| City Clerk                                   | G-10  | \$97,687.47        |                  |                   | 05    |
|                                              |       | \$89,309.91        |                  |                   |       |
|                                              |       | MGL c. 41, §19F    |                  |                   |       |
|                                              |       | \$3,500.00         |                  |                   |       |
|                                              |       | MGL c. 41, §19G    |                  |                   |       |
|                                              |       | \$550.00           |                  |                   |       |
|                                              |       | Total Compensation |                  |                   |       |
| City Collector/Treasurer                     | G-10  | \$93,359.91        |                  |                   | 08    |
|                                              |       | \$94,187.47        |                  |                   |       |
|                                              |       | MGL c. 32, §20     |                  |                   |       |
|                                              |       | \$300.00           |                  |                   |       |
|                                              |       | Total Compensation |                  |                   |       |
| City Engineer                                | G-11  | \$94,487.47        |                  |                   | G11   |
| City Solicitor                               | G-10  | \$95,428.04        |                  |                   | 07    |
| Council on Aging Director                    | G-10  | \$90,337.92        |                  |                   | 21    |
| Director of Community Development & Planning | G-6   | \$64,519.52        |                  |                   | 10    |
|                                              |       | City               |                  |                   |       |
|                                              |       | \$76,336.06        |                  |                   |       |
|                                              |       | GRA                |                  |                   |       |
|                                              |       | \$27,550.80        |                  |                   |       |
|                                              |       | Total Compensation |                  |                   |       |
| Director of Cable Operations                 | G-6   | \$103,886.86       |                  |                   | 44    |
| Director of Public Health                    | G-10  | \$72,581.23        |                  |                   | 44    |
|                                              |       | Step 1             |                  |                   | 14    |
|                                              |       | \$78,827.12        |                  |                   |       |

|        |                    |          |             |  |            |    |
|--------|--------------------|----------|-------------|--|------------|----|
|        | Article XI §171-45 | Clothing | \$350.00    |  |            |    |
|        |                    | Total    | \$79,177.12 |  |            |    |
| Step 2 |                    |          | \$83,374.84 |  | \$1,603.36 | 14 |
|        | Article XI §171-45 | Clothing | \$350.00    |  |            |    |
|        |                    | Total    | \$83,724.84 |  |            |    |
| Step 3 |                    |          | \$87,922.56 |  | \$1,690.82 | 14 |
|        | Article XI §171-45 | Clothing | \$350.00    |  |            |    |
|        |                    | Total    | \$88,272.56 |  |            |    |

**A. DEPARTMENT HEADS (Cont.)**

| Position                                    | Grade | 07/01/24           |                    |              |              |              |            |            |
|---------------------------------------------|-------|--------------------|--------------------|--------------|--------------|--------------|------------|------------|
|                                             |       | Annual             |                    |              |              | Weekly       |            |            |
|                                             |       |                    | Masters            | Bachelors    | Associates   | Masters      | Bachelors  | Associates |
| Fire Chief                                  | G-12  |                    | \$117,983.63       | \$115,983.63 | \$113,983.63 | \$2,268.92   | \$2,230.45 | \$2,191.99 |
|                                             |       | Article X §171-44  | Holiday            | \$11,975.34  | \$11,772.34  | \$11,569.34  |            |            |
|                                             |       |                    | Total              | \$129,958.97 | \$127,755.97 | \$125,552.97 |            | 11         |
| Golf Course Driving Range/Superintendent    | G-9   |                    | \$85,788.97        |              |              | \$1,649.79   |            | 13         |
|                                             |       | Article XI §171-45 | Clothing           | \$350.00     |              |              |            |            |
|                                             |       |                    | Total              | \$86,138.97  |              |              |            |            |
| Human Resources Director                    | G-11  |                    | \$99,245.52        |              |              | \$1,908.57   |            | 24         |
| Information Technology Director             | G-11  |                    | \$107,457.64       |              |              | \$2,066.49   |            | 25         |
| Library Director                            | G-9   |                    | \$84,488.49        |              |              | \$1,624.78   |            | 15         |
| Public Works Director                       | G-12  |                    | \$112,141.58       |              |              | \$2,156.57   |            | 18         |
|                                             |       | Article XI §171-45 | Clothing           | \$350.00     |              |              |            |            |
|                                             |       |                    | Total              | \$112,491.58 |              |              |            |            |
| Purchasing Agent/Civil Enforcement Director | G-10  |                    | \$82,508.29        |              |              |              |            | 17         |
|                                             |       | MGL c. 148A, §5    | Total Compensation | \$2,500.00   |              |              |            |            |
|                                             |       |                    |                    | \$85,008.29  |              | \$1,634.77   |            |            |
| Veterans' Director                          | G-6   |                    | \$64,991.14        |              |              | \$1,249.83   |            | 22         |

**B. NON-UNION DIRECT AND SUPERVISORY STAFF POSITIONS**

| Position                                      | Grade | 07/01/24           |             |  |            |         |    |
|-----------------------------------------------|-------|--------------------|-------------|--|------------|---------|----|
|                                               |       | Annual             |             |  | Weekly     | Hourly  |    |
| Airport Manager                               |       | \$26,790.30        |             |  | \$515.20   | AM24    |    |
| Assistant City Clerk                          | G-3   | \$47,913.33        |             |  | \$921.41   | \$24.90 | 65 |
|                                               |       | Step 2 (5 Yrs)     | \$48,871.59 |  | \$939.84   | \$25.40 | 65 |
|                                               |       | Step 3 (10 Yrs)    | \$49,849.04 |  | \$958.64   | \$25.91 | 65 |
| Assistant City Auditor                        | G-4   | \$54,523.62        |             |  | \$1,048.53 | \$28.34 | 1C |
| Assistant City Engineer                       | G-8   | \$75,180.45        |             |  | \$1,445.78 |         | 33 |
| Assistant City Solicitor                      | G-3   | \$49,934.02        |             |  | \$960.27   |         | 03 |
| Assistant City Treasurer/Collector            | G-5   | \$59,795.13        |             |  | \$1,149.91 |         | 1B |
| Assistant Director of Community Development** | G-7   | City               | \$3,745.19  |  |            |         |    |
|                                               |       | CDBG               | \$71,158.42 |  |            |         |    |
|                                               |       | Total Compensation | \$74,903.61 |  | \$1,440.45 |         | 53 |

**B. NON-UNION DIRECT AND SUPERVISORY STAFF POSITIONS (Cont.)**

| Position                                           | Grade | 07/01/24     |              |              |            |        |
|----------------------------------------------------|-------|--------------|--------------|--------------|------------|--------|
|                                                    |       | Annual       |              |              | Weekly     | Hourly |
| Assistant Director of Public Health                | G-5   | \$59,795.11  |              |              | \$1,149.91 | 04     |
|                                                    |       | \$350.00     |              |              |            |        |
|                                                    |       | \$60,145.11  |              |              |            |        |
| Assistant Library Director                         | G-6   | \$65,453.39  |              |              | \$1,258.72 | 05     |
| Assistant Veteran's Service Agent                  |       | \$57,783.00  |              |              | \$1,111.21 | 22A    |
| Senior Civil Engineer                              | G-9   | \$81,941.40  |              |              | \$1,575.80 | G9     |
|                                                    |       | \$350.00     |              |              |            |        |
|                                                    |       | \$82,291.40  |              |              |            |        |
| Conservation/Planning Agent                        | G-6   | \$66,115.63  |              |              | \$1,271.45 | 20     |
|                                                    |       | Masters      |              | Bachelors    | Associates |        |
| Deputy Chief of Police                             | G-11  | \$126,294.75 | \$121,284.76 | \$111,264.78 |            | 10     |
| Director of Public Safety Regional Dispatch Center | G-9   | \$83,226.22  | \$1,600.50   |              |            | 34     |
|                                                    |       | \$350.00     |              |              |            |        |
|                                                    |       | \$83,576.22  |              |              |            |        |
| Economic Development Coordinator**                 | G-7   | \$65,453.39  |              |              | \$1,258.72 | 51     |





|                                            |      |         |         |     |
|--------------------------------------------|------|---------|---------|-----|
| Staff Librarian                            |      | \$24.49 |         | 07  |
| Senior Library Technician                  |      | \$22.31 |         | 08  |
| Library Technician                         |      | \$21.04 |         | 09  |
| Library Clerical Staff                     |      | \$15.76 | \$16.28 | 12  |
| Certified Pool Operator/<br>Head Lifeguard | S-4  | \$24.76 |         | 15  |
| Certified Pool Operator/Lifeguard          |      | \$20.80 |         | L15 |
| Election Warden                            |      | \$17.00 |         | 03  |
| Election Inspector                         |      | \$15.00 |         | 01  |
| Election Clerk                             |      | \$16.00 |         | 02  |
| Golf Course Laborer/Pro Shop<br>Assistant  | GC-4 | \$15.50 |         | 25  |
| Golf Course Groundsman                     | GC-5 | \$16.50 |         | 24  |
| Golf Course Ranger                         | GC-6 | \$15.50 |         | 26  |
| Head Life Guard                            |      | \$17.86 | \$18.91 | 19  |
| Lifeguard                                  | S-6  | \$16.50 |         | 18  |

**D. NON-UNION STAFF: TEMPORARY, SEASONAL AND INTERMITTENT POSITIONS**

| Position                                    | Grade | 07/01/24 (Hourly)                    |         |         |        |
|---------------------------------------------|-------|--------------------------------------|---------|---------|--------|
|                                             |       | Step 1                               | Step 2  | Step3   |        |
| Assistant Recreation Director               |       | \$26.25                              |         |         | A5     |
| Recreation Season Coach                     |       | \$750.00 Annual (per sport & season) |         |         | 49     |
| Recreational Playground Supervisor<br>(T-5) |       | \$17.50                              | \$18.25 |         | 5      |
| Recreational Support Staff                  |       | \$15.50                              |         |         | 27     |
| Special Detail Police Officer               |       | \$54.00                              |         |         | 01     |
| Temporary Seasonal Laborer                  | T-4   | \$15.75                              | \$16.25 | \$16.75 | T4     |
| Temporary Seasonal Technical                | T-6   | \$17.00                              |         |         | 66/66A |

\*\*Compensation increase contingent upon positive evaluation of oversight commission, Board or individual (Mayor or City Council) with the approval of the Mayor.



**A RESOLUTION RELATING TO THE FUTURE OF COLEMAN STREET SCHOOL**

**WHEREAS**, The City of Gardner has owned a building at 68 Coleman Street, known as Coleman Street School; and

**WHEREAS**, The City of Gardner has not used this property for municipal purposes for a number of years; and

**WHEREAS**, the organization Making Opportunity Count, formerly known as the Montachusett Opportunity Council (MOC), has utilized the space for many years to house the Head Start Program, benefitting many Gardner families and youth;

**NOW THEREFORE BE IT RESOLVED**, The Gardner City Council formally requests the Mayor to study and report with his recommendations the declaration of surplus and later disposal of the building at 68 Coleman Street, known as Coleman Street School, by lease or sale.

---

Elizabeth J. Kazinskas, City Council President  
On Behalf of the City Council of the City of Gardner



**CITY OF GARDNER  
MASSACHUSETTS 01440**

OFFICE OF THE  
**CITY CLERK**

Room 121, City Hall  
Tel (978) 630-4058  
Fax (978) 630-2589

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**ABUTTERS NOTICE AND OTHER INTERESTED PARTIES**

Pursuant to the provisions of Chapter 567 of *The Code of the City of Gardner*, notice is hereby given that the Public Safety Committee will conduct a Public Hearing on Friday, September 13, 2024 at 8:15 a.m. in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, Massachusetts, regarding:

#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.

Persons interested in this matter are encouraged to attend and to offer testimony.

CITY COUNCIL OF GARDNER

Titi Siriphan, City Clerk

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

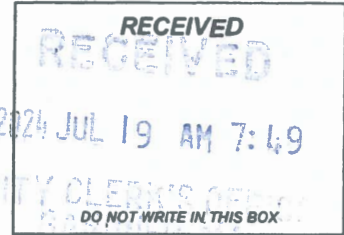
| <u>Name of Street</u> | <u>Side</u> | <u>Location</u>                    |
|-----------------------|-------------|------------------------------------|
| Edgell Street         | North       | From Elm Street to Lawrence Street |

COLLECTOR LICENSE APPLICATION FEE - \$30.00  
DEALER LICENSE APPLICATION FEE - \$100.00



# 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: EcoATM LLC  
Applicant / Licensee Address: (MAILING) 10121 BARNES CANYON RD, SAN DIEGO, CA 92121  
Applicant / Licensee phone number(s): 858-766-7250  
Applicant / Licensee E-mail: sean.flaherty@ecoatm.com  
Social Security number: \_\_\_\_\_ **OR** Business FID number 26-3879952

### ESTABLISHMENT INFORMATION

Establishment Name: EcoATM LLC  
Establishment address (Current): 677 Timpany Blvd, Gardner, MA 01440 (Inside Walmart2155)  
Establishment address (New, if applicable): \_\_\_\_\_  
Establishment Phone: 858-766-7250  
On-Site manager / contact person: Sean Flaherty  
For which type of license(s) are you applying? Secondhand 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? \_\_\_\_\_  
self-serve, automated kiosk that buys used electronics, no sales or employees

Where at the licensed address will the articles be stored, displayed, etc? \_\_\_\_\_  
Inside kiosk machine

Massachusetts Sales & Use Tax Registration number: N/A  
(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 OATHS AND PENALTIES OF PERJURY.



DATE SIGNED 5/29/2024

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 Treasurer/Tax Collector

95 Pleasant Street, Gardner, MA 01440 (978) 630-4016

## PERMIT/APPLICATION GOOD STANDING CERTIFICATION

License/Permit Applicant Name: EcoATM LLC

Address: 677 Timpany Blvd, Gardner, MA 01440 (Inside Walmart2155)

*Applicants for Building Permits, Site Plan Review, Special Permits, Variances, Conservation Permits, and Water or Sewer Connection Permits must include the following information:*

Property Owner Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

**For City of Gardner Use Only:**

- The above named applicant and/or property owner *is* in good standing with all municipal taxes, assessments, betterments, and other municipal fees and/or fines.

*Raymond Chaston*  
City Collector

Health Department/Liquor License Commission

*[Signature]*  
Civil Enforcement Officer

- The above named applicant and/or property owner has entered into a payment plan with the City for all past due municipal taxes, assessments, betterments, and other municipal fees. A copy of said payment plan is attached.

\_\_\_\_\_  
City Collector

- The above named applicant and/or property owner *is not* in good standing with all municipal taxes, assessments, betterments, and other municipal fees.

\_\_\_\_\_  
City Collector

Health Department/Liquor License Commission

\_\_\_\_\_  
Civil Enforcement Officer

List all properties in the City of Gardner in which the Property Owner or the Property Owner's immediate family (spouse) has an ownership or beneficial interest (i.e. owner, trustee, beneficiary, stockholder, etc.) This section must be completed.

| Property/Street Address       | Owner Name        | Interest       |
|-------------------------------|-------------------|----------------|
| <i>Example. 1234 Main St.</i> | <i>John Smith</i> | <i>Trustee</i> |
| N/A                           |                   |                |
|                               |                   |                |
|                               |                   |                |
|                               |                   |                |
|                               |                   |                |
|                               |                   |                |
| <u>NO</u> PP Acct             |                   |                |
|                               |                   |                |
|                               |                   |                |
|                               |                   |                |
|                               |                   |                |

Use additional pages if necessary.

City of Gardner Assessor Verification:

I verify that the above list appears to be an accurate list of all properties in the City of Gardner in which the Property Owner or the Property Owner's immediate family has an ownership interest.

Christine Kumar  
City Assessor

7/19/24  
Date





**STATE TAX CERTIFICATION AFFIDAVIT**

N/A Individual Social Security #      N/A State Identification Number      26-3879952 Federal Identification Number

Company: EcoATM LLC

P.O. Box (if any): \_\_\_\_\_ Street Address Only: 677 Timpany Blvd (Inside Walmart2155)

City/State/Zip Code: Gardner, MA 01440

Telephone Number: 858-766-7250 Fax Number: \_\_\_\_\_

List address(es) of all other property owned by company in Gardner: N/A

State whether the applicant is a:

Corporation \_\_\_\_\_

Individual \_\_\_\_\_ Name of Individual: \_\_\_\_\_

Partnership \_\_\_\_\_ Names of all Partners: \_\_\_\_\_

Limited Liability Company  Names of all Managers: Sean Flaherty, Corporate Counsel

Limited Liability Partnership \_\_\_\_\_ Names of Partners: \_\_\_\_\_

Limited Partnership \_\_\_\_\_ Names of all General Partners: \_\_\_\_\_

You must complete the following certifications and have the signature(s) notarized on the lines below. Any certification that does not apply to you, write N/A in the blanks provided. Each section must be signed by an authorized agent of the entity and the FORM MUST BE NOTARIZED.

**FEDERAL TAX CERTIFICATION AFFIDAVIT**

I, Sean Flaherty certify under the pains and penalties of perjury that EcoATM LLC, to my best knowledge and (authorized agent) (applicant) belief, has/have complied with all United States Federal taxes required by law.

Sean Flaherty Date: 6/10/2024  
Applicant Authorized Person's Signature

COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person(s) whose name is signed on the preceding and acknowledged to me that he/she signed it voluntarily for its stated purpose.

--See Attached--

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Commission Expires

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Diego }
On 6/19/2024 before me, Marion Crucena, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Sean Flaherty
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Marion Crucena
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: SHD App WM 2155 - Tax Affidavit - Gardner, MA

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer is Representing:

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer is Representing:



The Commonwealth of Massachusetts  
 Department of Industrial Accidents  
 1 Congress Street, Suite 100  
 Boston, MA 02114-2017  
 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.  
 TO BE FILED WITH THE PERMITTING AUTHORITY.

**Applicant Information**

**Please Print Legibly**

Business/Organization Name: EcoATM LLC

Address: 10121 Barnes Canyon Rd

City/State/Zip: San Diego, CA 92121 Phone #: 858-766-7250

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Are you an employer? Check the appropriate box:</b></p> <p>1. <input checked="" type="checkbox"/> I am an employer with <u>0</u> employees (full and/ or part-time).*</p> <p>2. <input type="checkbox"/> I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required]</p> <p>3. <input type="checkbox"/> We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]**</p> <p>4. <input type="checkbox"/> We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.]</p> | <p><b>Business Type (required):</b></p> <p>5. <input type="checkbox"/> Retail</p> <p>6. <input type="checkbox"/> Restaurant/Bar/Eating Establishment</p> <p>7. <input type="checkbox"/> Office and/or Sales (incl. real estate, auto, etc.)</p> <p>8. <input type="checkbox"/> Non-profit</p> <p>9. <input type="checkbox"/> Entertainment</p> <p>10. <input type="checkbox"/> Manufacturing</p> <p>11. <input type="checkbox"/> Health Care</p> <p>12. <input checked="" type="checkbox"/> Other <u>Service Kiosk</u></p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

\*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.  
 \*\*If the corporate officers have exempted themselves, but the corporation has other employees, a workers' compensation policy is required and such an organization should check box #1.

**I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information.**

Insurance Company Name: \_\_\_\_\_

Insurer's Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Policy # or Self-ins. Lic. # \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).**

Failure to secure coverage as required under Section 25A of MGL c. 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. Be advised that a copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

**I do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct.**

Signature: [Signature] Date: 6/10/2024

Phone #: 858-766-7250

**Official use only. Do not write in this area, to be completed by city or town official.**

City or Town: \_\_\_\_\_ Permit/License # \_\_\_\_\_

Issuing Authority (circle one):  
 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Licensing Board 5. Selectmen's Office  
 6. Other \_\_\_\_\_

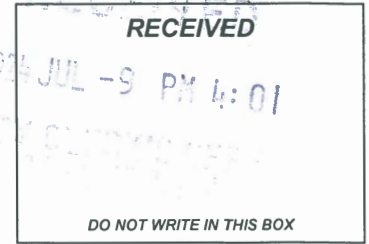
Contact Person: \_\_\_\_\_ Phone #: \_\_\_\_\_

BOWLING ALLEY FEE - \$30.00 FOR 1<sup>ST</sup> LANE + \$15.00 FOR EACH ADDITIONAL LANE  
BILLIARD TABLE FEE - \$30.00 FOR 1<sup>ST</sup> TABLE + \$15.00 FOR EACH ADDITIONAL TABLE



# CITY OF GARDNER MASSACHUSETTS 01440

95 PLEASANT STREET - ROOM 121  
TELEPHONE (978) 630-4058  
FACSIMILE (978) 630-2589



## APPLICATION FOR BILLIARD TABLE AND/OR BOWLING ALLEY LICENSE

### APPLICANT INFORMATION

Applicant / Licensee Name: GARDNER TEN PINS, INC.  
Applicant / Licensee Address: 560 WEST BROADWAY  
Applicant / Licensee phone number(s): 978-632-0010 Applicant / Licensee E-mail: GARDNERTENPINS.COM  
Social Security Number \_\_\_\_\_ OR FEIN 04-2443117

### ESTABLISHMENT INFORMATION

Establishment Name: GARDNER TEN PINS.  
Establishment address: 560 W. BROADWAY Establishment Phone: 978-632-0010  
On-Site manager / contact person: MICHAEL BUDWICK  
License(s) applied for? BOWLING ALLEY No. of lanes? 24 No. of billiard tables? \_\_\_\_\_

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, §177 AND §§ 201-205.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Michael S Budwick DATE SIGNED 6/10/24  
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 APPLICATION FORM, WORKERS' COMPENSATION AFFIDAVIT AND CHECK TO: CITY CLERK, 95 PLEASANT STREET, ROOM 121, GARDNER, MA 01440-2690.

BILLIARD TABLE AND BOWLING ALLEY LICENSES EXPIRE ON APRIL 30<sup>TH</sup> ANNUALLY





The Commonwealth of Massachusetts  
 Department of Industrial Accidents  
 1 Congress Street, Suite 100  
 Boston, MA 02114-2017  
 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.  
 TO BE FILED WITH THE PERMITTING AUTHORITY.

**Applicant Information**

**Please Print Legibly**

Business/Organization Name: GARDNER TEN PINS, INC.

Address: 560 W. BROADWAY

City/State/Zip: GARDNER MA 01440 Phone #: 978-632-0010

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Are you an employer? Check the appropriate box:</b></p> <p>1. <input checked="" type="checkbox"/> I am an employer with <u>4/25</u> employees (full and/or part-time).*</p> <p>2. <input type="checkbox"/> I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required]</p> <p>3. <input type="checkbox"/> We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]**</p> <p>4. <input type="checkbox"/> We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.]</p> | <p><b>Business Type (required):</b></p> <p>5. <input type="checkbox"/> Retail</p> <p>6. <input type="checkbox"/> Restaurant/Bar/Eating Establishment</p> <p>7. <input type="checkbox"/> Office and/or Sales (incl. real estate, auto, etc.)</p> <p>8. <input type="checkbox"/> Non-profit</p> <p>9. <input checked="" type="checkbox"/> Entertainment</p> <p>10. <input type="checkbox"/> Manufacturing</p> <p>11. <input type="checkbox"/> Health Care</p> <p>12. <input type="checkbox"/> Other _____</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

\*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.  
 \*\*If the corporate officers have exempted themselves, but the corporation has other employees, a workers' compensation policy is required and such an organization should check box #1.

**I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information.**

Insurance Company Name: NORFOLK AND DEDHAM

Insurer's Address: 222 AMES ST

City/State/Zip: DEDHAM MA 02026

Policy # or Self-ins. Lic. # WE144931A Expiration Date: 8/26/24

**Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).**

Failure to secure coverage as required under Section 25A of MGL c. 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. Be advised that a copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

**I do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct.**

Signature: Michael S Budwin Date: 7/18/24

Phone #: 978-632-0010

**Official use only. Do not write in this area, to be completed by city or town official.**

City or Town: \_\_\_\_\_ Permit/License # \_\_\_\_\_

Issuing Authority (circle one):  
 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Licensing Board 5. Selectmen's Office  
 6. Other \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone #: \_\_\_\_\_



# City of Gardner Treasurer/Tax Collector

95 Pleasant Street, Gardner, MA 01440 (978) 630-4016

## PERMIT/APPLICATION GOOD STANDING CERTIFICATION

License/Permit Applicant Name: GARDNER TEN PINS, INC

Address: 560 W. BROADWAY

License/Permit for which you are applying: BOWLING ALLEY LICENSE

*Applicants for Building Permits, Site Plan Review, Special Permits, Variances, Conservation Permits, and Water or Sewer Connection Permits must include the following information:*

Property Owner Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

**For City of Gardner Use Only:**

- The above named applicant and/or property owner **is** in good standing with all municipal taxes, assessments, betterments, and other municipal fees and/or fines.

*Ryan Chilton*  
City Collector

Health Department/Liquor License Commission

*[Signature]*  
Civil Enforcement Officer

- The above named applicant and/or property owner has entered into a payment plan with the City for all past due municipal taxes, assessments, betterments, and other municipal fees. A copy of said payment plan is attached.

\_\_\_\_\_  
City Collector

- The above named applicant and/or property owner **is not** in good standing with all municipal taxes, assessments, betterments, and other municipal fees.

\_\_\_\_\_  
City Collector

Health Department/Liquor License Commission

\_\_\_\_\_  
Civil Enforcement Officer

List all properties in the City of Gardner in which the Property Owner or the Property Owner's immediate family (spouse) has an ownership or beneficial interest (i.e. owner, trustee, beneficiary, stockholder, etc.) This section must be completed.

| Property/Street Address | Owner Name          | Interest         |
|-------------------------|---------------------|------------------|
| Example. 1234 Main St.  | John Smith          | Trustee          |
| 566 W. BROADWAY         | DRIFTWOOD FUTURELLS | OWNER            |
| 572 W. BROADWAY         | GARDNER TEN PINS    | OWNER            |
| 63 BROOK LANE           | MICHAEL BOWLER      | OWNER            |
|                         |                     |                  |
|                         |                     |                  |
| PP Acct : 600096        | (RRC # 101880)      | Gardner Ten Pins |
|                         |                     |                  |
|                         |                     |                  |
|                         |                     |                  |
|                         |                     |                  |
|                         |                     |                  |
|                         |                     |                  |

Use additional pages if necessary.

City of Gardner Assessor Verification:

I verify that the above list appears to be an accurate list of all properties in the City of Gardner in which the Property Owner or the Property Owner's immediate family has an ownership interest.

Christene Kumar  
City Assessor

7/19/24  
Date

## Information and Instructions

Massachusetts General Laws chapter 152 requires all employers to provide workers' compensation for their employees. Pursuant to this statute, an **employee** is defined as "...every person in the service of another under any contract of hire, express or implied, oral or written."

An **employer** is defined as "an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or other legal entity, employing employees. However, the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of the dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or building appurtenant thereto shall not because of such employment be deemed to be an employer."

MGL chapter 152, §25C(6) also states that **"every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required."** Additionally, MGL chapter 152, §25C(7) states "Neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority."

### Applicants

Please fill out the workers' compensation affidavit completely, by checking the boxes that apply to your situation and, if necessary, supply your insurance company's name, address and phone number along with a certificate of insurance. Limited Liability Companies (LLC) or Limited Liability Partnerships (LLP) with no employees other than the members or partners, are not required to carry workers' compensation insurance. If an LLC or LLP does have employees, a policy is required. Be advised that this affidavit may be submitted to the Department of Industrial Accidents for confirmation of insurance coverage. **Also be sure to sign and date the affidavit.** The affidavit should be returned to the city or town that the application for the permit or license is being requested, **not** the Department of Industrial Accidents. Should you have any questions regarding the law or if you are required to obtain a workers' compensation policy, please call the Department at the number listed below. Self-insured companies should enter their self-insurance license number on the appropriate line.

### City or Town Officials

Please be sure that the affidavit is complete and printed legibly. The Department has provided a space at the bottom of the affidavit for you to fill out in the event the Office of Investigations has to contact you regarding the applicant. Please be sure to fill in the permit/license number which will be used as a reference number. In addition, an applicant that must submit multiple permit/license applications in any given year, need only submit one affidavit indicating current policy information (if necessary). A copy of the affidavit that has been officially stamped or marked by the city or town may be provided to the applicant as proof that a valid affidavit is on file for future permits or licenses. A new affidavit must be filled out each year. Where a home owner or citizen is obtaining a license or permit not related to any business or commercial venture (i.e. a dog license or permit to burn leaves etc.) said person is NOT required to complete this affidavit.

The Department's address, telephone and fax number:

The Commonwealth of Massachusetts  
 Department of Industrial Accidents  
 1 Congress Street  
 Boston, MA 02114-2017  
 Tel. # 617-727-4900 ext. 7406 or 1-877-MASSAFE  
 Fax # 617-727-7749  
[www.mass.gov/dia](http://www.mass.gov/dia)



**PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE XX. PUBLIC SAFETY AND GOOD ORDER  
CHAPTER 140. LICENSES  
BILLIARD TABLES AND BOWLING ALLEYS**

**Chapter 140: Section 177. Licensing; public hearing**

The licensing board of Boston, the license commission of Lowell, the aldermen of any other city, and the selectmen of any town may grant and may suspend or revoke at pleasure a license which shall be subject to sections two hundred and two to two hundred and five, inclusive, to a person to keep a billiard, pool or sippio table or a bowling alley for hire, gain or reward, upon such terms and conditions as they deem proper, to be used for amusement merely and not for the purpose of gaming for money or for property.

No original license shall be granted under the provisions of this section, except after a public hearing by the appropriate licensing authority, notice of the time and place of which shall have been given, at the expense of the applicant, by the clerk of such licensing authority, by publication not less than seven days prior thereto in a newspaper, if any, published in the city or town of application; otherwise, in the county in which such city or town lies; and notice of which shall also have been given by the applicant, by registered mail, not less than seven days prior to such hearing, to all owners of real estate abutting on the the land on which is located the premises for which said license is sought or directly opposite said land on any public or private street as such owners appear on the most recent local tax list at the time the application for such license is filed.

**Chapter 140: Section 178. Business operated without license**

Whoever without such license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually occupied or owned by him, a table for the purpose of playing at billiards, pool or sippio, or a bowling alley or an automatic amusement device for hire, gain or reward, or whoever for hire, gain or reward suffers any person to resort thereto for such purpose shall forfeit not more than one hundred dollars.

**Chapter 140: Section 201. Right of officers to enter premises; obstruction of entrance**

A sheriff, marshal or their deputies, a constable or police officer may at any time enter a billiard, pool or sippio room, bowling alley, skating rink, the licensed premises of a common victualler or room connected therewith, or a grove required to be licensed under section one hundred and eighty-eight, or any building therein, for the purpose of enforcing any law; and whoever obstructs or hinders the entrance of such officer shall be punished by a fine of not less than five nor more than twenty dollars.

**Chapter 140: Section 202. Signature on, record, contents and term of licenses; fees**

Licenses granted elsewhere than in Boston to dealers in junk, old metals and second hand articles, junk collectors, pawnbrokers and keepers of billiard saloons, pool or sippio rooms or tables, bowling alleys, roller skating rinks, carousels, inclined railways, Ferris wheels, outdoor exhibitions of fire fighting for the amusement of the public and picnic groves shall be signed by the clerk of the city or town where they are granted. Every such license shall, before being delivered to the licensee, be recorded by such clerk, in a book kept for that purpose. Such license shall set forth the name of the licensee, the nature of the business, and the building or place in such city or town in which it is to be carried on, and shall continue in force until May first following unless sooner revoked. The board or officer issuing such a license shall, except as provided in section seventy-seven, receive for the use of the city or town such amount, not less than two dollars for each license, as the board or officer considers reasonable. In Boston licenses for billiard saloons, pool or sippio rooms or tables, bowling alleys and picnic groves shall be signed by the licensing board and recorded by its clerk and licenses for roller skating rinks, carousels, inclined railways, Ferris wheels and outdoor exhibitions of fire fighting for the amusement of the public shall be signed by the mayor and recorded by his clerk; the other licenses referred to in this section shall be signed by the police commissioner and recorded by his clerk.

**Chapter 140: Section 203. Effective date of license**

Such licenses may be granted in April, to take effect on May first following.

**Chapter 140: Section 204. Coverage of license**

A license issued as aforesaid shall not protect the holder thereof in a building or place other than that designated in the license unless consent to removal is granted by the licensing board or officer.

**Chapter 140: Section 205. Revocation of license; record; notice**

Upon the revocation of such a license, such clerk shall note the revocation upon the face of the record thereof, and shall give written notice to the licensee by delivering it to him in person or by leaving it at the place of business designated in the license.

**STATE TAX CERTIFICATION AFFIDAVIT**

Individual Social Security # \_\_\_\_\_ State Identification Number \_\_\_\_\_ Federal Identification Number 04-2443117

Company: GARDNER TEN PINS, INC.

P.O. Box (if any): 571 Street Address Only: 560 W. BROADWAY

City/State/Zip Code: GARDNER MA 01440

Telephone Number: 978-632-0010 Fax Number: \_\_\_\_\_

List address(es) of all other property owned by company in Gardner: 560 W. BROADWAY  
572 W. BROADWAY

State whether the applicant is a:

Corporation

Individual \_\_\_\_\_ Name of Individual: \_\_\_\_\_

Partnership \_\_\_\_\_ Names of all Partners: \_\_\_\_\_

Limited Liability Company \_\_\_\_\_ Names of all Managers: \_\_\_\_\_

Limited Liability Partnership \_\_\_\_\_ Names of Partners: \_\_\_\_\_

Limited Partnership \_\_\_\_\_ Names of all General Partners: \_\_\_\_\_

You must complete the following certifications and have the signature(s) notarized on the lines below. Any certification that does not apply to you, write N/A in the blanks provided. Each section must be signed by an authorized agent of the entity and the FORM MUST BE NOTARIZED.

**FEDERAL TAX CERTIFICATION AFFIDAVIT**

I, Mike Brown certify under the pains and penalties of perjury that Mike Brown, to my best knowledge and (authorized agent) (applicant)

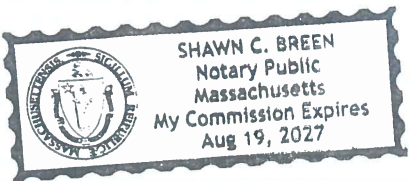
belief, has/have complied with all United States Federal taxes required by law.

Michael S Budwick Date: 7/19/24  
Applicant Authorized Person's Signature (TO BE SIGNED IN THE PRESENCE OF NOTARY PUBLIC)

COMMONWEALTH OF MASSACHUSETTS WORCESTER COUNTY

On this 19 day of JULY, 2024, before me, the undersigned notary public, personally appeared Michael Budwick, proved to me through satisfactory evidence of identification, which was MA STATE ID, to be the person(s) whose name is signed on the preceding and acknowledged to me that he/she signed it voluntarily for its stated purpose.

(SEAL)



[Signature]  
Signature of Notary Public  
08/19/2027  
Commission Expires



June 28, 2024

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

To whom it may Concern:

Enclosed please find a petition of NATIONAL GRID, covering NATIONAL GRID pole location(s)

If you have any questions regarding this permit, please contact:

**Jarad Aker** – [jarad.aker@nationalgrid.com](mailto:jarad.aker@nationalgrid.com)

Please notify National Grid's Jennifer Iannalfo of the **hearing date / time** to [Jennifer.Iannalfo@nationalgrid.com](mailto:Jennifer.Iannalfo@nationalgrid.com)

If this petition meets with your approval, please return an executed copy, including hearing date.

National Grid: Jennifer Iannalfo; 1101 Turnpike Street; North Andover, MA 01845

Very truly yours,

*Zylmar Garcia*

Zylmar Garcia  
Supervisor, Distribution Design

Enclosures

Questions contact – Jarad Aker – [jarad.aker@nationalgrid.com](mailto:jarad.aker@nationalgrid.com)

### PETITION FOR POLE AND WIRE LOCATIONS

To the City Council  
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a NATIONAL GRID requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Elm Street - National Grid to relocate 1 SO pole on Elm Street beginning at a point approximately 360 feet Southeast of the centerline of the intersection of Elm Street & Cross Street. National Grid proposes to relocate pole 7 approximately 15 feet with Anchor & guy in Gardner, Ma.

Location approximately as shown on plan attached.

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

No.# 30394729

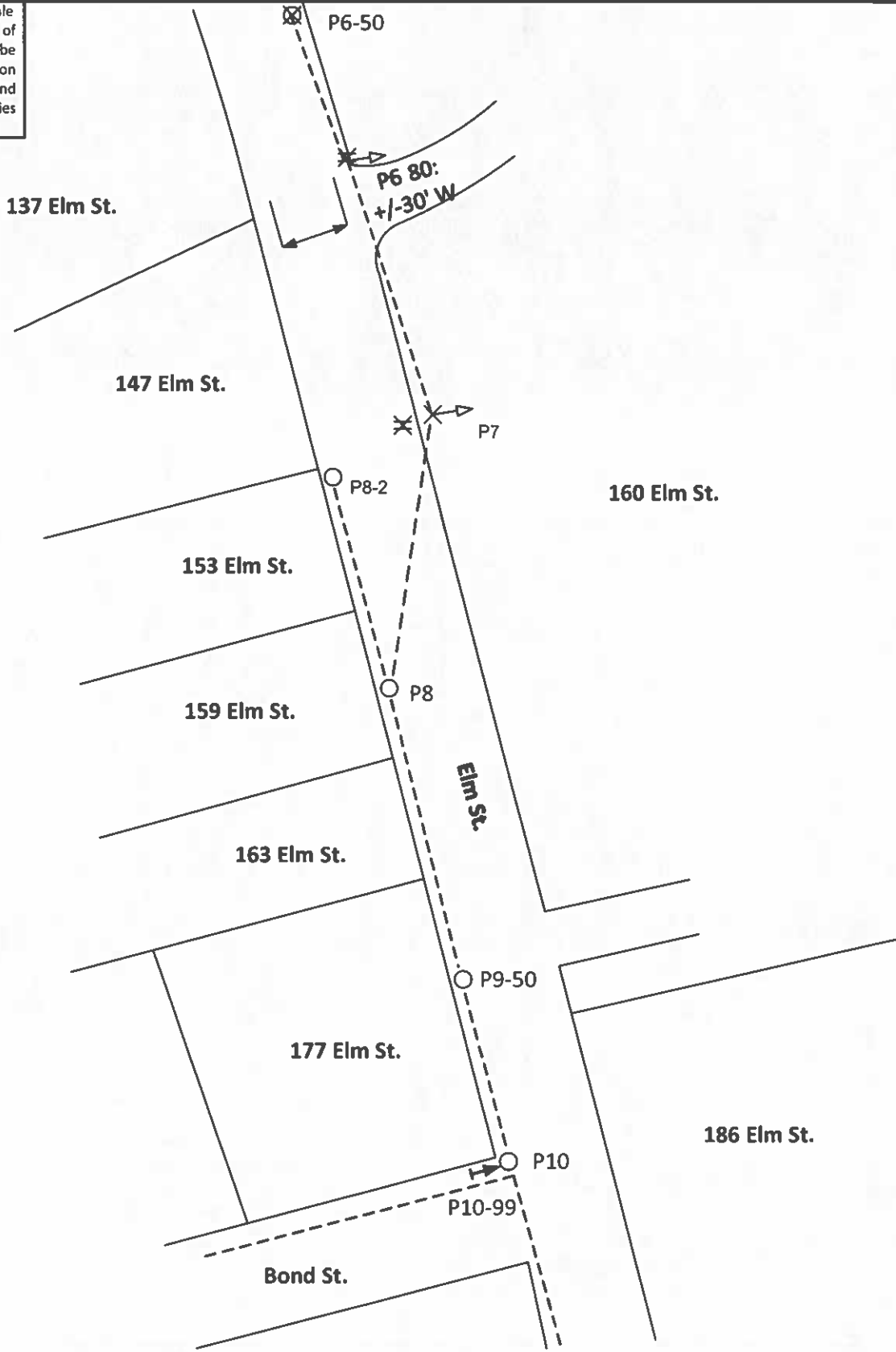
Also, for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

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

Massachusetts Electric Company d/b/a  
NATIONAL GRID *Fylmar Garcia*  
BY \_\_\_\_\_  
Engineering Department



Exhibit "A" - Not to Scale  
 The exact location of said facilities to be established by and upon the installation and erection of the facilities thereof.



**Legend**

|                   |                      |                          |
|-------------------|----------------------|--------------------------|
| JO Pole ○         | Inst SO Pole ✕       | Rem SO Pole ✕            |
| Inst Push Brace ➔ | OH Conductor - - - - | Rem OH Conductor - · - · |
| Inst Anchor/Guy ← | Repl SO Pole ⊗       |                          |

**DOT - 610672**

160 Elm St. Gardner, Ma.

Date: 3/27/23  
 Designer: AKERJA  
 WR: 30394729

Relocating P7 ~15' w/ anchor/guy



June 28, 2024

Questions contact – Jarad Aker – [jarad.aker@nationalgrid.com](mailto:jarad.aker@nationalgrid.com)

**ORDER FOR POLE AND WIRE LOCATIONS**

In the City of Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law, IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a NATIONAL GRID and be and it is hereby granted a location for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company dated the 27th day of March, 2023.

All construction under this order shall be in accordance with the following conditions: Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Elm Street - Gardner, Massachusetts.

**No.# 30394729**

Filed with this order:

There may be attached to said poles such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

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

Elm Street - National Grid to relocate 1 SO pole on Elm Street beginning at a point approximately 360 feet Southeast of the centerline of the intersection of Elm Street & Cross Street. National Grid proposes to relocate pole 7 approximately 15 feet with Anchor & guy in Gardner, Ma.

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

\_\_\_\_\_  
Massachusetts  
City/Town Clerk.  
20 \_\_\_\_\_

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

Attest:  
City/Town Clerk

I hereby certify that on 20 , at o'clock, M  
at a public hearing was held on the petition of

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

City/Town Clerk.

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

Board or Council of Town or City, Massachusetts

CERTIFICATE

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

Attest:  
City/Town Clerk





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

RECEIVED

2024 AUG 28 PM 4:46

CITY CLERK'S OFFICE  
GARDNER, MA

August 28, 2024

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

RE: A Measure to Grant National Grid an Easement to install a transformer at 95 Pleasant Street

Dear Madam President and Councilors,

Attached, please find a request for an easement for National Grid to install a new electrical transformer near Perry Auditorium as part of the Knowlton Street Electric Vehicle Charger project that I notified the City Council on as Item #11355 at the August 5, 2024 meeting.

By installing this transformer, not only does this give the area the electrical capacity it needs to install the ten (10) fast chargers for electric vehicles in the parking lot, but also significantly reduces the cost of upgrading the City Hall electrical service.

I respectfully ask that the City Council vote to grant the requested easement so that this project can move forward.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner



**EASEMENT AUTHORIZATION  
CITY OF GARDNER AND NATIONAL GRID**

***VOTED:*** To approve and authorize the Mayor to sign an Easement Deed with National Grid, to allow for the installation of a new electrical transformer near Perry Auditorium as part of the Knowlton Street electric Vehicle Charger project.

## GRANT OF EASEMENT

**CITY OF GARDNER**, a municipal corporation having a usual place of business at 95 Pleasant Street, Gardner, Massachusetts 01440 (hereinafter referred to as the "Grantor"), for consideration of One (\$1.00) dollar, grants to **MASSACHUSETTS ELECTRIC COMPANY**, a Massachusetts corporation with its usual place of business at 170 Data Drive, Waltham, Massachusetts 02451 (hereinafter referred to as the "Grantee") with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, one (1) pole, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and an "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires, all located over, across, under and upon a portion of the Grantor's property in Gardner, Worcester County, Massachusetts, for the purpose of serving the Grantor's property and others.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon a portion of the Grantor's (the "Registry") property situated on the westerly side of Pleasant Street and the easterly side of Connors Street, being more particularly described on a deed dated January 22, 1921, and recorded with the Worcester South District Registry of Deeds in Book 2236, Page 20.

Said "OVERHEAD SYSTEM" is to originate from Pole P8, which is located on the westerly side of Connors Street, then proceed in an easterly direction from said Pole crossing Connors Street over, upon and across a portion of the Grantor's property to Pole P8-1, to be established by and upon the final installation thereof by the Grantee.

WR#30825979

Address of Grantees:  
Mass El. – 170 Data Drive, Waltham, Massachusetts 02451

After recording return to:  
Jeffrey Lord  
National Grid USA  
Service Company, Inc.  
939 Southbridge Street  
Worcester, MA 01610

05 GARDMA GEN

Property Address: 95 Pleasant Street, Gardner, MA 01440 (Worcester South County)

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "EXHIBIT 'A' NOT TO SCALE THE EXACT LOCATION OF SAID FACILITIES TO BE ESTABLISHED BY AND UPON THE INSTALLATION AND ERECTION OF THE FACILITIES THEREOF.; Easement Sketch; 95 Pleasant St, Gardner, MA; Date: 8/6/24; Designer: Will Fontaine: W/R: 30825979; Installing new P8-1 and 1500 kVA Xfmr; nationalgrid", a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass over, across and upon said Grantor's property as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the Grantor's property wherein the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are specifically located, as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantee, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns, then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent shall not be unreasonably withheld.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's property an "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" for the transmission of intelligence and for the purpose of supplying electric service to the Grantor's property, including, without limitation, the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

The easements herein granted are non-exclusive, however, it is agreed that the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall remain the exclusive property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon.

For Grantor's title see deed dated January 22, 1921, recorded with the Registry in Book 2236, Page 20.

IN WITNESS WHEREOF, City of Gardner has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Michael J. Nicholson, its Mayor, being thereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF GARDNER

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

Commonwealth of Massachusetts

County of \_\_\_\_\_ } ss.

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned Notary Public, personally appeared Michael J. Nicholson, proved to me through satisfactory evidence of identity, which was \_\_\_\_\_, to be the person whose name is signed on the preceding Grant of Easement and acknowledged to me that they signed it voluntarily for its stated purpose, as Mayor of the City of Gardner.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires \_\_\_\_\_

Place Notary Seal and/or Any Stamp Above

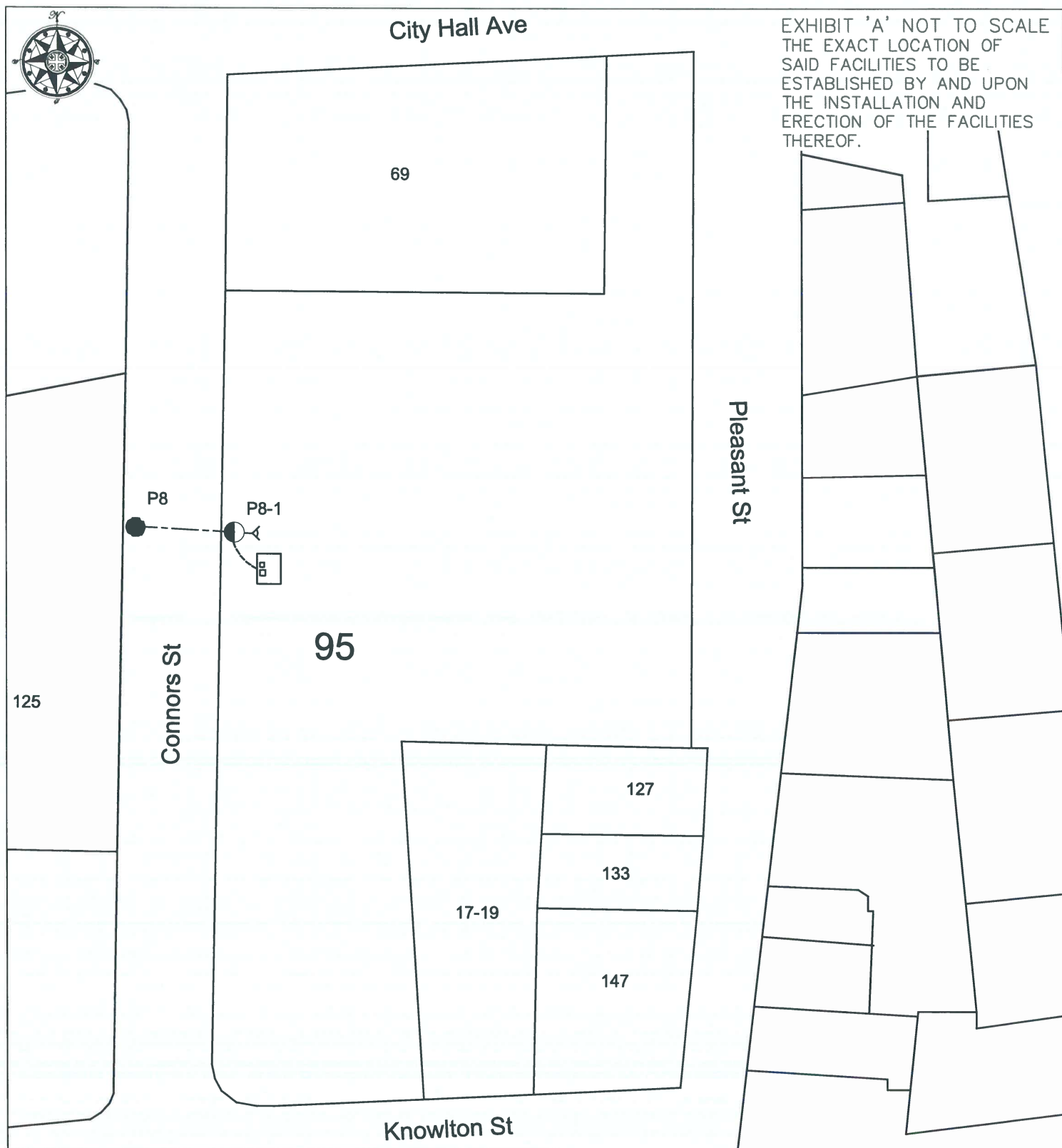


EXHIBIT 'A' NOT TO SCALE  
 THE EXACT LOCATION OF  
 SAID FACILITIES TO BE  
 ESTABLISHED BY AND UPON  
 THE INSTALLATION AND  
 ERECTION OF THE FACILITIES  
 THEREOF.

LEGEND

- Proposed JO Pole
- OH Wire
- Existing JO Pole
- ⤵ Anchored Guy Wire
- UG Wire
- Proposed Xfrmr Pad

Easement Sketch

95 Pleasant St  
 Installing new P8-1 and 1500 kVA Xfrmr

Gardner, MA

Date: 8/6/24  
 Designer: Will Fontaine  
 W/R: 30825979

