



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

~~~~~  
**CALENDAR FOR THE MEETING  
of  
MONDAY, NOVEMBER 18, 2024  
CITY COUNCIL CHAMBER  
7:30 P.M.**

**ORDER OF BUSINESS**

**\*AMENDED**

- I. CALL TO ORDER**
- II. CALL OF THE ROLL OF COUNCILLORS**
- III. OPENING PRAYER**
- IV. PLEDGE OF ALLEGIANCE**
- V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**  
Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.
- VI. READING OF MINUTES OF PRIOR MEETING(S)**
- VII. PUBLIC HEARINGS**
- VIII. COMMUNICATIONS FROM THE MAYOR**

**COMMUNICATIONS**

**11431** – A Communication from the Mayor Regarding the Certification of the FY2025 Tax Rate, Tax Levy, and Tax Recapitulation. *(Finance Committee) Page 5*

**ORDERS**

**11424** – An Order Appropriating \$131,809.00 from Free Cash to the City's Stabilization Account. *(Finance Committee) Page 21*

**11425** – An Order Appropriating \$263,617.00 from Free Cash to the DPW Road Resurfacing Account. *(Finance Committee) Page 24*

- 11426** – An Order Appropriating \$26,362.00 from Free Cash to the City’s Other Post Employee Benefit (OPEB) Stabilization Account. *(Finance Committee) Page 26*
- 11427** – An Order Appropriating \$75,000.00 from Free Cash to Landfill Closure Account. *(Finance Committee) Page 29*
- 11428** – An Order Appropriating \$100,000.00 from Free Cash to the Mayor’s Unclassified Professional Services Grant Writing Expense Account. *(Finance Committee) Page 32*
- 11429** – An Order Appropriating \$95,000.00 from Free Cash to the Information Technology Equipment Expense Account. *(Finance Committee) Page 34*
- 11430** – An Order Appropriating \$77,000.00 from Golf Retained Earnings to Golf New Vehicles Account. *(Finance Committee) Page 36*
- \*11433** – An Order Appropriating \$45,000.00 from Free Cash to Elections Salary and Labor. *(Finance Committee) Page 39*

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

- 11432** – A Ruling from the Attorney General Relative to an Open Meeting Law Complaint filed by the following: *Page 39*
- (a) Kimberly Blake
  - (b) Paul DeMeo
  - (c) Ernestina Duda
  - (d) Darlene Halfrey
  - (e) David Hillman
  - (f) Mary Marsh
  - (g) Janna McPherson
  - (h) Eleanor Gamarsh
  - (i) Laurie Meagher
  - (j) Debra Moore Alie
  - (k) Stephanie Orlow
  - (l) Laureen Peabody
  - (m) Judith Tysinger

**X. REPORTS OF STANDING COMMITTEES**

**FINANCE COMMITTEE**

- 11419** – A Measure Authorizing the City to Enter Into a Contract for Up to Five (5) Years for Police Department Body Camera Cloud Storage. *(In the City Council and Referred to Finance Committee 11/4/2024). Page 147*

**11420** – A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 73 Stuart Street. *(In the City Council and Referred to Finance Committee 11/4/2024) Page 150*

### **SAFETY COMMITTEE**

**11415** – An Ordinance to Amend the Code of the City of Gardner, Chapter 477, thereof entitled “Mobile Homes and Trailers.” *(In the City Council and Referred to Public Safety Committee 10/21/2024; Ordered to First Printing 10/21/2024; First Printing 11/9/2024) Page 154*

**11416** – An Ordinance to Amend the Code of the City of Gardner, Chapter 600, thereof entitled “Vehicles and Traffic,” to add a new Section 21 to be entitled “Parking Meter Fees Waived.” *(In the City Council and Referred to Public Safety Committee 10/21/2024; Ordered to First Printing 10/21/2024; First Printing 11/9/2024) Page 159*

**11422** – An Ordinance to Amend the Chapter 600 of the Code of the City of Gardner, thereof entitled, “Vehicles and Traffic.” *(In the City Council and Referred to Safety Committee 11/4/2024) Page 161*

### **SERVICE COMMITTEE**

**11417** – A Petition by National Grid. City Hall Ave – To install underground facilities. Install 1 Pad-mounted transformer and ~20’ of conduit in the parking lot off Main Street and Pleasant Street, Gardner, MA. *(In the City Council and Referred to Public Service Committee 10/21/2024; More Time 11/4/2024) Page 164*

### **APPOINTMENTS**

**11414** – A Measure Confirming the Mayor’s Appointment of Paul Gaj, to the position of Historical Commission Member, for a term expiring October 16, 2027. *(In the City Council and Referred to Appointments Committee 10/21/2024; More Time 11/4/2024) Page 171*

### **COMMITTEE OF THE WHOLE**

**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, 9/16/2024, 10/7/2024, 10/21/2024, 11/4/2024) Page 174*

**11423** – A Proposal Relative to the Rules of the City Council *(Submitted by Council President Kazinskas) (In the City Council and Referred to Committee of the Whole 11/4/2024) Page 412*

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

**XII. NEW BUSINESS**

**XIII. COUNCIL COMMENTS AND REMARKS**

**XIV. CLOSING PRAYER**

**XV. ADJOURNMENT**

---

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

**\*Amended** – Item #11433 – An Order Appropriating \$45,000.00 from Free Cash to Elections Salary and Labor, has been added to the calendar.





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

November 7, 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 Regarding the Certification of the FY2025 Tax Rate, Tax Levy, and Tax Recapitulation

Dear Madam President and Councilors,

Following the vote to set the residential factor of real and personal property taxation at the previous City Council meeting, the Commonwealth has now officially certified the City's tax rate, tax levy, and tax recapitulation.

This is the earliest we've been able to get this done in Gardner in recent history.

The Tax Rate was certified at \$14.36. This is lower than we projected with the information presented at the hearing.

The information on this with the new certified rate is attached to this correspondence as well as copies of the certified tax levy, tax recapitulation, and tax rate forms.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 NOV - 8 AM 9:10  
CITY OF GARDNER

| Average Single Family Home Tax Bill                               |               |               |              |
|-------------------------------------------------------------------|---------------|---------------|--------------|
|                                                                   | FY2024        | FY2025        | Difference   |
| <b>Yearly Tax Bill</b>                                            |               |               |              |
| Average Single Family Home Value                                  | \$ 326,380.00 | \$ 340,779.00 | \$ 14,399.00 |
| Tax Rate                                                          | \$ 14.99      | \$ 14.36      | \$ (0.63)    |
| Average Single Family Home Bill                                   | \$ 4,892.44   | \$ 4,893.59   | \$ 1.15      |
| <b>Preliminary Tax Bills (July and October)</b>                   |               |               |              |
| Average Single Family Home Value                                  | \$ 326,380.00 | \$ 340,779.00 | \$ 14,399.00 |
| Previous Fiscal Year Tax Rate                                     | \$ 16.13      | \$ 14.99      | \$ (1.14)    |
| Average Preliminary Tax Bill                                      | \$ 1,316.13   | \$ 1,277.07   | \$ (39.06)   |
| Average amount paid                                               | \$ 2,632.25   | \$ 2,554.14   | \$ (78.12)   |
| <b>Actual Tax Bills (January and April)</b>                       |               |               |              |
| Average Single Family Home Value                                  | \$ 326,380.00 | \$ 340,779.00 | \$ 14,399.00 |
| Current Tax Rate                                                  | \$ 14.99      | \$ 14.36      | \$ (0.63)    |
| Average Single Family Home Tax Bill                               | \$ 1,223.11   | \$ 1,169.72   | \$ (53.39)   |
| Reduction in Average Single Family Tax Bill Preliminary vs Actual | \$ 93.02      | \$ 107.35     | \$ 14.33     |

Calculation: (((Average Single Family Home Value/1000)\*FY25 Tax Rate)-(((Average Single Family Home Value/1000)\*FY24 Tax Rate)/(4)\*2)/2

**Levy Limit  
Fiscal Year 2025**

FOR BUDGET PLANNING PURPOSES

**I. TO CALCULATE THE FY 2024 LEVY LIMIT**

|                                       |                   |                                            |
|---------------------------------------|-------------------|--------------------------------------------|
| A. FY 2023 Levy Limit                 | 31,687,128        |                                            |
| A1. Amended FY 2023 Growth            | -655              |                                            |
| B. ADD (IA + IA1)*2.5%                | 792,162           |                                            |
| C. ADD FY 2024 New Growth             | 347,809           |                                            |
| C1. ADD FY 2024 New Growth Adjustment | 0                 |                                            |
| D. ADD FY 2024 Override               | 0                 |                                            |
| E. FY 2024 Subtotal                   | <u>32,826,444</u> |                                            |
| F. FY 2024 Levy Ceiling               | 54,641,080        | I. <u>32,826,444</u><br>FY 2024 Levy Limit |

**II. TO CALCULATE THE FY 2025 LEVY LIMIT**

|                                       |                   |                                             |
|---------------------------------------|-------------------|---------------------------------------------|
| A. FY 2024 Levy Limit from I          | 32,826,444        |                                             |
| A1. Amended FY 2024 Growth            | 0                 |                                             |
| B. ADD (IIA + IIA1)*2.5%              | 820,661           |                                             |
| C. ADD FY 2025 New Growth             | 282,951           |                                             |
| C1. ADD FY 2025 New Growth Adjustment | 0                 |                                             |
| D. ADD FY 2025 Override               | 0                 |                                             |
| E. ADD FY 2025 Subtotal               | <u>33,930,056</u> |                                             |
| F. FY 2025 Levy Ceiling               | 59,036,676        | II. <u>33,930,056</u><br>FY 2025 Levy Limit |

**III. TO CALCULATE THE FY 2025 MAXIMUM ALLOWABLE LEVY**

|                                             |                   |  |
|---------------------------------------------|-------------------|--|
| A. FY 2025 Levy Limit from II.              | 33,930,056        |  |
| B. FY 2025 Debt Exclusion(s)                | 0                 |  |
| C. FY 2025 Capital Expenditure Exclusion(s) | 0                 |  |
| D. FY 2025 Stabilization Fund Override      | 0                 |  |
| E. FY 2025 Other Adjustment :               | 0                 |  |
| F. FY 2025 Water/Sewer                      | 0                 |  |
| G. FY 2025 Maximum Allowable Levy           | <u>33,930,056</u> |  |

**Signatures**

**Board of Assessors**

**Christine Marie Kumar, City Assessor , Gardner , ckumar@gardner-ma.gov 978-630-4004 | 10/23/2024 3:19 PM**

**Levy Limit**  
**Fiscal Year 2025**

---

**Documents**

No documents have been uploaded.



**TAX RATE RECAPITULATION**  
**Fiscal Year 2025**

**I. TAX RATE SUMMARY**

|                                                                            |                  |
|----------------------------------------------------------------------------|------------------|
| la. Total amount to be raised (from page 2, IIe)                           | \$ 90,407,491.61 |
| lb. Total estimated receipts and other revenue sources (from page 2, IIIe) | 56,496,825.21    |
| lc. Tax Levy (Ia minus Ib)                                                 | \$ 33,910,666.40 |
| ld. Distribution of Tax Rates and levies                                   |                  |

| CLASS           | (b)<br>Levy percentage<br>(from LA5) | (c)<br>lc above times<br>each percent in col (b) | (d)<br>Valuation by class<br>(from LA-5) | (e)<br>Tax Rates<br>(c) / (d) x 1000 | (f)<br>Levy by class<br>(d) x (e) / 1000 |
|-----------------|--------------------------------------|--------------------------------------------------|------------------------------------------|--------------------------------------|------------------------------------------|
| Residential     | 83.8199                              | 28,423,886.67                                    | 1,979,379,280.00                         | 14.36                                | 28,423,886.46                            |
| Net of Exempt   |                                      |                                                  |                                          |                                      |                                          |
| Open Space      | 0.0000                               | 0.00                                             | 0.00                                     | 0.00                                 | 0.00                                     |
| Commercial      | 7.7891                               | 2,641,335.72                                     | 183,937,920.00                           | 14.36                                | 2,641,348.53                             |
| Net of Exempt   |                                      |                                                  |                                          |                                      |                                          |
| Industrial      | 3.7685                               | 1,277,923.46                                     | 88,992,140.00                            | 14.36                                | 1,277,927.13                             |
| <b>SUBTOTAL</b> | <b>95.3775</b>                       |                                                  | <b>2,252,309,340.00</b>                  |                                      | <b>32,343,162.12</b>                     |
| Personal        | 4.6225                               | 1,567,520.55                                     | 109,157,680.00                           | 14.36                                | 1,567,504.28                             |
| <b>TOTAL</b>    | <b>100.0000</b>                      |                                                  | <b>2,361,467,020.00</b>                  |                                      | <b>33,910,666.40</b>                     |

MUST EQUAL 1C

| Signatures                                                                                             |          |
|--------------------------------------------------------------------------------------------------------|----------|
| <b>Assessors</b>                                                                                       |          |
| Christine Marie Kumar, City Assessor, Gardner, ckumar@gardner-ma.gov 978-630-4004   11/5/2024 10:35 AM | Comment: |
| Charles R. Leblanc, Assessor, Gardner, leblanc37@comcast.net 978-630-4004   11/5/2024 10:40 AM         | Comment: |
| Paulette A. Burns, Assessor, Gardner, duncan.burns75@gmail.com 978-630-4004   11/5/2024 10:58 AM       | Comment: |

| Documents                        |
|----------------------------------|
| No documents have been uploaded. |

Do Not Write Below This Line --- For Department of Revenue Use Only

**Reviewed By:** David Guzman  
**Date:** 11/06/2024  
**Approved:** Jared Curtis  
**Director of Accounts:** Deborah A. Wagner

**TAX RATE RECAPITULATION**

**Fiscal Year 2025**

---

*Deborah A. Wagner*

**TAX RATE RECAPITULATION**  
**Fiscal Year 2025**

**II. Amounts to be raised**

|                                                           |              |                      |
|-----------------------------------------------------------|--------------|----------------------|
| IIa. Appropriations (col.(b) through col.(g) from page 4) |              | <u>87,323,017.93</u> |
| IIb. Other amounts to be raised                           |              |                      |
| 1. Amounts certified for tax title purposes               | 0.00         |                      |
| 2. Debt and interest charges not included on page 4       | 0.00         |                      |
| 3. Final Awards                                           | 0.00         |                      |
| 4. Retained Earnings Deficit                              | 0.00         |                      |
| 5. Total cherry sheet offsets (see cherry sheet 1-ER)     | 1,021,113.00 |                      |
| 6. Revenue deficits                                       | 0.00         |                      |
| 7. Offset receipts deficits Ch. 44, Sec. 53E              | 0.00         |                      |
| 8. CPA other unappropriated/unreserved                    | 0.00         |                      |
| 9. Snow and ice deficit Ch. 44, Sec. 31D                  | 0.00         |                      |
| 10. Other :                                               | 0.00         |                      |
| TOTAL IIb (Total lines 1 through 10)                      |              | <u>1,021,113.00</u>  |
| IIc. State and county cherry sheet charges (C.S. 1-EC)    |              | 1,896,993.00         |
| IId. Allowance for abatements and exemptions (overlay)    |              | 166,367.68           |
| IIe. Total amount to be raised (Total IIa through IId)    |              | <u>90,407,491.61</u> |

**III. Estimated receipts and other revenue sources**

|                                                                              |               |                      |
|------------------------------------------------------------------------------|---------------|----------------------|
| IIIa. Estimated receipts - State                                             |               |                      |
| 1. Cherry sheet estimated receipts (C.S. 1-ER Total)                         | 36,622,439.00 |                      |
| 2. Massachusetts school building authority payments                          | 0.00          |                      |
| TOTAL IIIa                                                                   |               | <u>36,622,439.00</u> |
| IIIb. Estimated receipts - Local                                             |               |                      |
| 1. Local receipts not allocated (page 3, col (b) Line 24)                    | 6,461,082.00  |                      |
| 2. Offset Receipts (Schedule A-1)                                            | 0.00          |                      |
| 3. Enterprise Funds (Schedule A-2)                                           | 11,654,904.52 |                      |
| 4. Community Preservation Funds (See Schedule A-4)                           | 0.00          |                      |
| TOTAL IIIb                                                                   |               | <u>18,115,986.52</u> |
| IIIc. Revenue sources appropriated for particular purposes                   |               |                      |
| 1. Free cash (page 4, col (c))                                               | 1,387,236.96  |                      |
| 2. Other available funds (page 4, col (d))                                   | 371,162.73    |                      |
| TOTAL IIIc                                                                   |               | <u>1,758,399.69</u>  |
| IIId. Other revenue sources appropriated specifically to reduce the tax rate |               |                      |
| 1a. Free cash..appropriated on or before June 30, 2024                       | 0.00          |                      |
| 1b. Free cash..appropriated on or after July 1, 2024                         | 0.00          |                      |

**TAX RATE RECAPITULATION**

**Fiscal Year 2025**

|                                                                                     |                                                                                   |                      |                      |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------|----------------------|
| 2.                                                                                  | Municipal light surplus                                                           | 0.00                 |                      |
| 3.                                                                                  | Other source :                                                                    | 0.00                 |                      |
|                                                                                     | <b>TOTAL III d</b>                                                                |                      | <u>0.00</u>          |
| III e.                                                                              | Total estimated receipts and other revenue sources<br>(Total III a through III d) |                      | <u>56,496,825.21</u> |
| <b>IV. Summary of total amount to be raised and total receipts from all sources</b> |                                                                                   |                      |                      |
| a.                                                                                  | Total amount to be raised (from II e)                                             |                      | <u>90,407,491.61</u> |
| b.                                                                                  | Total estimated receipts and other revenue sources (from III e)                   | <u>56,496,825.21</u> |                      |
| c.                                                                                  | Total real and personal property tax levy (from I c)                              | <u>33,910,666.40</u> |                      |
| d.                                                                                  | Total receipts from all sources (total IV b plus IV c)                            |                      | <u>90,407,491.61</u> |



**TAX RATE RECAPITULATION**

**Fiscal Year 2025**

LOCAL RECEIPTS NOT ALLOCATED \*

|     | Receipt Type Description                       | (a)<br>Actual Receipts<br>Fiscal 2024 | (b)<br>Estimated Receipts<br>Fiscal 2025 | Percentage<br>Change |
|-----|------------------------------------------------|---------------------------------------|------------------------------------------|----------------------|
| ==> | 1. MOTOR VEHICLE EXCISE                        | 2,399,863.96                          | 2,184,662.00                             | -8.97                |
|     | 2. OTHER EXCISE                                |                                       |                                          |                      |
| ==> | a.Meals                                        | 0.00                                  | 125,000.00                               | 100.00               |
| ==> | b.Room                                         | 200,240.19                            | 155,704.00                               | -22.24               |
| ==> | c.Other                                        | 0.00                                  | 0.00                                     | 0.00                 |
| ==> | d.Cannabis                                     | 192,412.65                            | 238,179.00                               | 23.79                |
| ==> | 3. PENALTIES AND INTEREST ON TAXES AND EXCISES | 361,319.81                            | 398,766.00                               | 10.36                |
| ==> | 4. PAYMENTS IN LIEU OF TAXES                   | 23,367.24                             | 26,104.00                                | 11.71                |
|     | 5. CHARGES FOR SERVICES - WATER                | 0.00                                  | 0.00                                     | 0.00                 |
|     | 6. CHARGES FOR SERVICES - SEWER                | 0.00                                  | 0.00                                     | 0.00                 |
|     | 7. CHARGES FOR SERVICES - HOSPITAL             | 0.00                                  | 0.00                                     | 0.00                 |
|     | 8. CHARGES FOR SERVICES - SOLID WASTE FEES     | 0.00                                  | 0.00                                     | 0.00                 |
|     | 9. OTHER CHARGES FOR SERVICES                  | 0.00                                  | 0.00                                     | 0.00                 |
|     | 10. FEES                                       | 1,866,516.90                          | 1,670,451.00                             | -10.50               |
|     | a.Cannabis Impact Fee                          | 0.00                                  | 0.00                                     | 0.00                 |
|     | b.Community Impact Fee Short Term Rentals      | 0.00                                  | 0.00                                     | 0.00                 |
|     | 11. RENTALS                                    | 116,295.00                            | 80,516.00                                | -30.77               |
|     | 12. DEPARTMENTAL REVENUE - SCHOOLS             | 0.00                                  | 0.00                                     | 0.00                 |
|     | 13. DEPARTMENTAL REVENUE - LIBRARIES           | 0.00                                  | 0.00                                     | 0.00                 |
|     | 14. DEPARTMENTAL REVENUE - CEMETERIES          | 0.00                                  | 0.00                                     | 0.00                 |
|     | 15. DEPARTMENTAL REVENUE - RECREATION          | 0.00                                  | 0.00                                     | 0.00                 |
|     | 16. OTHER DEPARTMENTAL REVENUE                 | 254,023.17                            | 253,191.00                               | -0.33                |
|     | 17. LICENSES AND PERMITS                       |                                       |                                          |                      |
|     | a.Building Permits                             | 333,575.21                            | 201,037.00                               | -39.73               |
|     | b.Other licenses and permits                   | 178,603.68                            | 142,775.00                               | -20.06               |
|     | 18. SPECIAL ASSESSMENTS                        | 0.00                                  | 0.00                                     | 0.00                 |
| ==> | 19. FINES AND FORFEITS                         | 88,370.27                             | 76,082.00                                | -13.91               |
| ==> | 20. INVESTMENT INCOME                          | 736,946.55                            | 410,000.00                               | -44.37               |
| ==> | 21. MEDICAID REIMBURSEMENT                     | 409,703.10                            | 274,324.00                               | -33.04               |
| ==> | 22. MISCELLANEOUS RECURRING                    | 252,117.98                            | 224,291.00                               | -11.04               |
|     | 23. MISCELLANEOUS NON-RECURRING                | 108,432.06                            | 0.00                                     | -100.00              |
|     | 24. Totals                                     | 7,521,787.77                          | 6,461,082.00                             | -14.10               |

Signatures

**TAX RATE RECAPITULATION**

**Fiscal Year 2025**

**Accounting Officer**

I hereby certify that the actual receipts as shown in column (a) are, to the best of my knowledge correct and complete, and I further certify that I have examined the entries made on page 4 of the above-indicated fiscal year tax rate recapitulation form by the City / Town / District Clerk and hereby acknowledge that such entries correctly reflect the appropriations made and the sources from which such appropriations are to be met.

**John Richard, City Auditor , Gardner , jrlichard@gardner-ma.gov 978-630-4005 | 10/22/2024 3:41 PM**

**Comment:**

**Documents**

No documents have been uploaded.

\* Do not include receipts in columns (a) or (b) that were voted by the City / Town / District Council or Town Meeting as offset receipts on Schedule A-1, enterprise funds on Schedule A-2, or departmental revolving funds per Chapter 44, Section 53E 1/2. The Recap Page 3 Support form must be submitted to support increases / decreases of estimated receipts to actual receipts.

==> The Recap Page 3 Support form must be submitted to support increases/ decreases of FY 2025 estimated receipts to FY 2024 estimated receipts to be used in calculating the Municipal Revenue Growth Factor (MRGF). The Recap Page 3 Support form must be submitted to list each receipt type included in rows 22 and 23, Miscellaneous Recurring and Non-Recurring.

MASSACHUSETTS DEPARTMENT OF REVENUE  
 DIVISION OF LOCAL SERVICES  
 BUREAU OF ACCOUNTS

Gardner  
 CITY

TAX RATE RECAPITULATION  
 Fiscal Year 2025

| City/Town Council or Town Meeting Dates | FY*  | APPROPRIATIONS                              |                                   |                                 |                                             |                                       |                                        |                                                    |                                         | AUTHORIZATIONS                         |      |
|-----------------------------------------|------|---------------------------------------------|-----------------------------------|---------------------------------|---------------------------------------------|---------------------------------------|----------------------------------------|----------------------------------------------------|-----------------------------------------|----------------------------------------|------|
|                                         |      | (a)<br>Total Appropriations Of Each Meeting | (b)<br>From Raise and Appropriate | (c)<br>From Free Cash (See B-1) | (d)<br>From Other Available Funds (See B-2) | (e)<br>From Offset Receipts (See A-1) | (f)<br>From Enterprise Funds (See A-2) | (g)<br>From Community Preservation Funds (See A-4) | (h)<br>*** Departmental Revolving Funds | (i)<br>Borrowing Authorization (Other) |      |
| 11/30/2023                              | 2024 | 0.00                                        | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 2,200,000.00                           | 0.00 |
| 11/30/2023                              | 2024 | 0.00                                        | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 550,000.00                             | 0.00 |
| 04/01/2024                              | 2024 | 77,318.00                                   | 0.00                              | 77,318.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/01/2024                              | 2024 | 49,000.00                                   | 0.00                              | 49,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/01/2024                              | 2024 | 55,500.00                                   | 0.00                              | 55,500.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 212,510.00                                  | 0.00                              | 212,510.00                      | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 40,000.00                                   | 0.00                              | 40,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 390,000.00                                  | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 390,000.00                             | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 75,000.00                                   | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 75,000.00                              | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 140,000.00                                  | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 140,000.00                             | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 04/16/2024                              | 2024 | 75,000.00                                   | 0.00                              | 75,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 05/20/2024                              | 2024 | 5,000.00                                    | 0.00                              | 5,000.00                        | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 0.00                                        | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 265,000.00                             | 0.00 |
| 06/03/2024                              | 2024 | 13,665,414.45                               | 13,665,414.45                     | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 27,034,122.27                               | 27,034,122.27                     | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 34,212,226.00                               | 34,212,226.00                     | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 9,242,683.09                                | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 9,242,683.09                           | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 201,162.73                                  | 0.00                              | 0.00                            | 201,162.73                                  | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 170,000.00                                  | 0.00                              | 0.00                            | 170,000.00                                  | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |
| 06/03/2024                              | 2024 | 322,709.43                                  | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 322,709.43                             | 0.00                                               | 0.00                                    | 0.00                                   | 0.00 |

MASSACHUSETTS DEPARTMENT OF REVENUE  
 DIVISION OF LOCAL SERVICES  
 BUREAU OF ACCOUNTS

Gardner

CITY

**TAX RATE RECAPITULATION**  
**Fiscal Year 2025**

| City/Town Council or Town Meeting Dates | FY*  | (a)<br>Total Appropriations Of Each Meeting | (b)<br>From Raise and Appropriate | (c)<br>From Free Cash (See B-1) | (d)<br>From Other Available Funds (See B-2) | (e)<br>From Offset Receipts (See A-1) | (f)<br>From Enterprise Funds (See A-2) | (g)<br>From Community Preservation Funds (See A-4) | (h)<br>*** Departmental Revolving Funds | (i)<br>Borrowing Authorization (Other) |
|-----------------------------------------|------|---------------------------------------------|-----------------------------------|---------------------------------|---------------------------------------------|---------------------------------------|----------------------------------------|----------------------------------------------------|-----------------------------------------|----------------------------------------|
| 06/03/2024                              | 2024 | 93,687.00                                   | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 93,687.00                              | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 320,000.00                                  | 0.00                              | 320,000.00                      | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 35,000.00                                   | 0.00                              | 35,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 24,000.00                                   | 0.00                              | 24,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 50,000.00                                   | 0.00                              | 50,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 4,000.00                                    | 0.00                              | 4,000.00                        | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/03/2024                              | 2024 | 7,000.00                                    | 0.00                              | 7,000.00                        | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 30,000.00                                   | 0.00                              | 30,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 50,000.00                                   | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 50,000.00                              | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 140,000.00                                  | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 140,000.00                             | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 55,000.00                                   | 0.00                              | 55,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 4,000.00                                    | 0.00                              | 4,000.00                        | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 90,000.00                                   | 0.00                              | 90,000.00                       | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 253,908.96                                  | 0.00                              | 253,908.96                      | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| 06/17/2024                              | 2024 | 40,825.00                                   | 0.00                              | 0.00                            | 0.00                                        | 0.00                                  | 40,825.00                              | 0.00                                               | 0.00                                    | 0.00                                   |
| 10/21/2024                              | 2025 | 157,951.00                                  | 157,951.00                        | 0.00                            | 0.00                                        | 0.00                                  | 0.00                                   | 0.00                                               | 0.00                                    | 0.00                                   |
| <b>Total</b>                            |      | <b>87,323,017.93</b>                        | <b>75,069,713.72</b>              | <b>1,387,236.96</b>             | <b>371,162.73</b>                           | <b>0.00</b>                           | <b>10,494,904.52</b>                   | <b>0.00</b>                                        | <b>0.00</b>                             | <b>0.00</b>                            |

\* Enter the fiscal year to which the appropriation relates.

\*\* Appropriations included in column (b) must not be reduced by local receipts or any other funding source.

Appropriations must be entered gross to avoid a duplication in the use of estimated or other sources of receipts.

\*\*\* Include only revolving funds pursuant to Chapter 44, Section 53 E 1/2.

Clerk \_\_\_\_\_ Signatures \_\_\_\_\_ 11431



**TAX RATE RECAPITULATION**  
**Fiscal Year 2025**

I hereby certify that the appropriations correctly reflect the votes taken by City / Town / District Council.  
**Tithi Sriphan, City Clerk, Gardner, tsriphan@gardner-ma.gov 978-630-4058 | 11/5/2024 11:32 AM**  
Comment:

**Documents**

No documents have been uploaded.

**Mayor**

---

**From:** Chris Kumar  
**Sent:** Thursday, November 7, 2024 8:28 AM  
**To:** Mayor; Jennifer Dymek; John Richard; Joshua Cormier  
**Subject:** Out of 351 Municipalities...  
**Attachments:** FY25 Public-TaxRateApproved.pdf

Just an FYI...

This year we are #39 in the state for getting our tax rate (\$14.36) approved--on 11/6/24 . Last year we were #123, approved on 11/29/23. If you glance at the attached list, there is nobody else in our area that has a tax rate yet 😊 (I'm not competitive or anything).

I don't know if it will always be possible to get approval this early each year, but I feel the goal is prior to Thanksgiving.

I am so happy and VERY fortunate to work with such an awesome finance team!!!

Thank you,

*Christine Kumar, MAA*

City Assessor

978-632-1900 x8034

[ckumar@gardner-ma.gov](mailto:ckumar@gardner-ma.gov)

**Communities With Tax Rates Approved as of 11/7/2024**  
**Total Number of Approved Communities 39 - Fiscal Year 2025**

| Approval Rank | Community Name   | Tax Rate Residential | Tax Rate Open Space | Tax Rate Commercial | Tax Rate Industrial | Tax Rate Personal | Date Approved |
|---------------|------------------|----------------------|---------------------|---------------------|---------------------|-------------------|---------------|
| 1             | Williamstown     | 13.80                | 0.00                | 13.80               | 13.80               | 13.80             | 08/15/2024    |
| 2             | Alford           | 4.95                 | 0.00                | 4.95                | 0.00                | 4.95              | 08/29/2024    |
| 3             | New Ashford      | 5.66                 | 0.00                | 5.66                | 5.66                | 5.66              | 09/06/2024    |
| 4             | Provincetown     | 5.60                 | 0.00                | 5.22                | 5.22                | 5.22              | 09/06/2024    |
| 5             | Sturbridge       | 15.93                | 15.93               | 15.93               | 15.93               | 15.93             | 09/06/2024    |
| 6             | Russell          | 18.30                | 0.00                | 18.30               | 18.30               | 18.30             | 09/09/2024    |
| 7             | Brewster         | 6.88                 | 0.00                | 6.88                | 6.88                | 6.88              | 09/11/2024    |
| 8             | Nahant           | 9.15                 | 0.00                | 9.15                | 9.15                | 9.15              | 09/12/2024    |
| 9             | Yarmouth         | 7.08                 | 0.00                | 7.08                | 7.08                | 7.08              | 09/13/2024    |
| 10            | Tolland          | 7.47                 | 0.00                | 7.47                | 7.47                | 7.47              | 09/13/2024    |
| 11            | Eastham          | 7.71                 | 0.00                | 7.71                | 7.71                | 7.71              | 09/16/2024    |
| 12            | Windsor          | 11.34                | 0.00                | 11.34               | 11.34               | 11.34             | 09/17/2024    |
| 13            | Halifax          | 14.27                | 0.00                | 14.27               | 14.27               | 14.27             | 09/17/2024    |
| 14            | Lincoln          | 12.81                | 0.00                | 19.55               | 19.55               | 19.55             | 09/17/2024    |
| 15            | Chatham          | 3.47                 | 0.00                | 3.47                | 3.47                | 3.47              | 09/20/2024    |
| 16            | Truro            | 6.18                 | 0.00                | 5.73                | 5.73                | 5.73              | 10/03/2024    |
| 17            | Cambridge        | 6.35                 | 0.00                | 11.52               | 11.52               | 11.52             | 10/09/2024    |
| 18            | Brimfield        | 14.14                | 0.00                | 14.14               | 14.14               | 14.14             | 10/10/2024    |
| 19            | Rochester        | 10.82                | 0.00                | 10.82               | 10.82               | 10.82             | 10/10/2024    |
| 20            | Conway           | 14.44                | 0.00                | 14.44               | 14.44               | 14.44             | 10/11/2024    |
| 21            | Hinsdale         | 11.15                | 0.00                | 11.15               | 11.15               | 11.15             | 10/15/2024    |
| 22            | Lee              | 11.25                | 0.00                | 11.25               | 11.25               | 11.25             | 10/18/2024    |
| 23            | Holland          | 12.98                | 0.00                | 12.98               | 12.98               | 12.98             | 10/18/2024    |
| 24            | Attleboro        | 12.55                | 0.00                | 18.62               | 18.62               | 18.62             | 10/21/2024    |
| 25            | Washington       | 14.16                | 0.00                | 14.16               | 14.16               | 14.16             | 10/22/2024    |
| 26            | Adams            | 17.01                | 0.00                | 23.41               | 23.41               | 23.41             | 10/23/2024    |
| 27            | Southborough     | 13.81                | 0.00                | 13.81               | 13.81               | 13.81             | 10/23/2024    |
| 28            | Topsfield        | 14.99                | 0.00                | 14.99               | 14.99               | 14.99             | 10/23/2024    |
| 29            | Cheshire         | 11.13                | 0.00                | 11.13               | 11.13               | 11.13             | 10/23/2024    |
| 30            | Hatfield         | 13.84                | 0.00                | 13.84               | 13.84               | 13.84             | 10/25/2024    |
| 31            | East Bridgewater | 13.67                | 0.00                | 13.67               | 13.67               | 13.67             | 10/29/2024    |
| 32            | Oxford           | 12.67                | 0.00                | 14.23               | 14.23               | 14.23             | 10/31/2024    |
| 33            | Peru             | 15.95                | 0.00                | 15.95               | 15.95               | 15.95             | 11/04/2024    |
| 34            | Stockbridge      | 7.09                 | 0.00                | 7.09                | 7.09                | 7.09              | 11/05/2024    |
| 35            | Holden           | 13.86                | 0.00                | 13.86               | 13.86               | 13.86             | 11/05/2024    |
| 36            | Milford          | 12.80                | 0.00                | 23.25               | 23.25               | 23.25             | 11/05/2024    |
| 37            | Granville        | 13.64                | 0.00                | 13.64               | 13.64               | 13.64             | 11/05/2024    |

**Communities With Tax Rates Approved as of 11/7/2024**  
**Total Number of Approved Communities 39 - Fiscal Year 2025**

---

| <b>Approval Rank</b> | <b>Community Name</b> | <b>Tax Rate Residential</b> | <b>Tax Rate Open Space</b> | <b>Tax Rate Commercial</b> | <b>Tax Rate Industrial</b> | <b>Tax Rate Personal</b> | <b>Date Approved</b> |
|----------------------|-----------------------|-----------------------------|----------------------------|----------------------------|----------------------------|--------------------------|----------------------|
| 38                   | Rowe                  | 5.14                        | 0.00                       | 11.01                      | 11.01                      | 11.01                    | 11/06/2024           |
| 39                   | Gardner               | 14.36                       | 0.00                       | 14.36                      | 14.36                      | 14.36                    | 11/06/2024           |

Report Last Updated at 8:12 AM





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 15, 2024

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

RECEIVED  
2024 NOV - 8 AM 9:42  
CITY OF GARDNER  
EXECUTIVE OFFICE  
CITY HALL

RE: An Order Appropriating \$131,809 from Free Cash to the City's Stabilization Account

Dear Madam President and Councilors,

With the recent certification of the City's Free Cash, I hereby submit this appropriation request pursuant to the City's Administrative Financial Policies.

These financial policies, adopted in 2017, and updated earlier this year, state that upon certification of Free Cash, the Mayor shall submit an appropriation request of an amount equal to five percent (5%) of certified free cash for the City's Stabilization Account.

Respectfully Submitted,

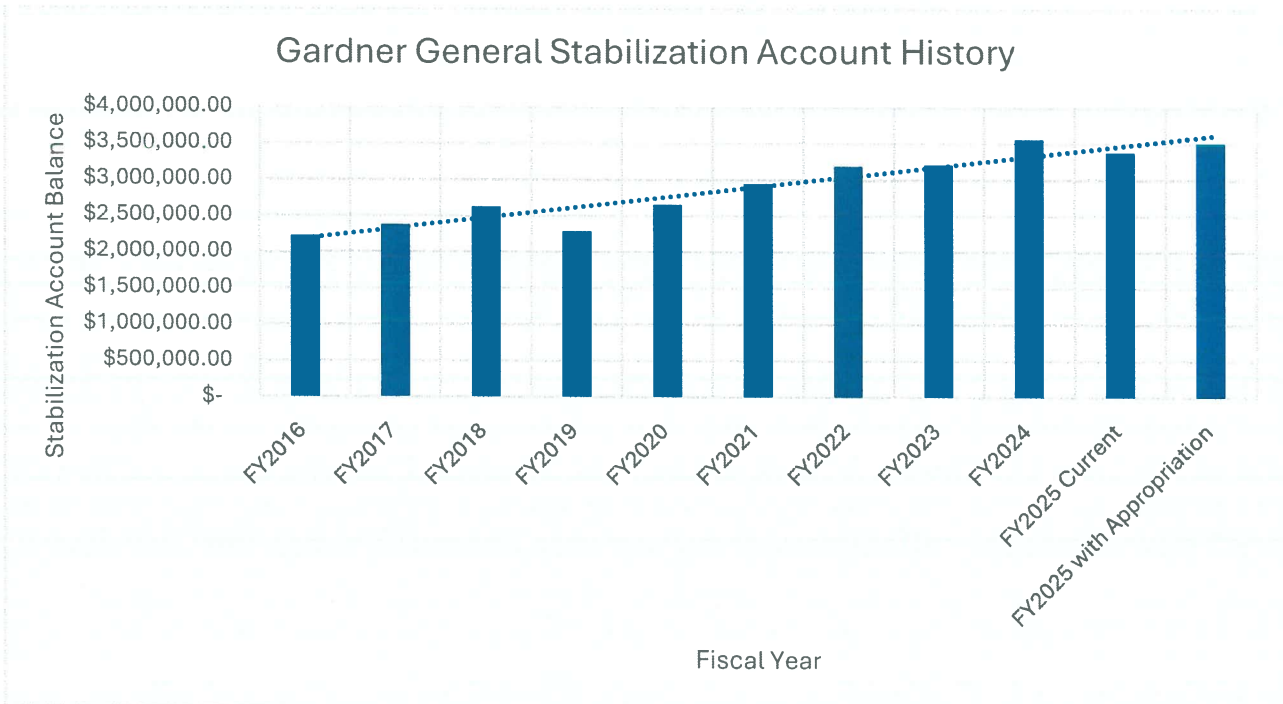
Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO STABILIZATION.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Thirty-One Thousand Eight Hundred Nine Dollars and No Cents (\$131,809.00) from Free Cash to Stabilization.

| <b>Fiscal Year</b>        | <b>Stabilization Account Balance</b> |
|---------------------------|--------------------------------------|
| FY2016                    | \$ 2,225,146.26                      |
| FY2017                    | \$ 2,379,395.86                      |
| FY2018                    | \$ 2,621,830.43                      |
| FY2019                    | \$ 2,284,737.78                      |
| FY2020                    | \$ 2,651,095.74                      |
| FY2021                    | \$ 2,938,257.22                      |
| FY2022                    | \$ 3,188,962.31                      |
| FY2023                    | \$ 3,206,825.58                      |
| FY2024                    | \$ 3,559,953.49                      |
| FY2025 Current            | \$ 3,376,531.97                      |
| FY2025 With Appropriation | \$ 3,508,340.97                      |





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

October 15, 2024

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

RE: An Order Appropriating \$263,617 from Free Cash to the DPW Road Resurfacing Account

Dear Madam President and Councilors,

With the recent certification of the City's Free Cash, I hereby submit this appropriation request pursuant to the City's Administrative Financial Policies.

These financial policies, adopted in 2017, and updated earlier this year, state that upon certification of Free Cash, the Mayor shall submit an appropriation request of an amount equal to ten percent (10%) of certified free cash for road resurfacing and repair.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 NOV -8 AM 9:42  
CITY CLERK'S OFFICE  
GARDNER, MA

AN ORDER APPROPRIATING FROM FREE CASH TO DEPARTMENT OF PUBLIC WORKS DEPT. - ROAD RESURFACING EXPENSE ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Sixty-Three Thousand Six Hundred Seventeen Dollars and No Cents (\$263,617.00) from Free Cash to Department of Public Works Dept. – Road Resurfacing Expense Account.



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

---

October 15, 2024

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

RECEIVED  
2024 NOV -8 PM 9:12  
CITY CLERK'S OFFICE

RE: An Order Appropriating \$26,362 from Free Cash to the City's Other Post Employee Benefit (OPEB) Stabilization Account

Dear Madam President and Councilors,

With the recent certification of the City's Free Cash, I hereby submit this appropriation request pursuant to the City's Administrative Financial Policies.

These financial policies, adopted in 2017, and updated earlier this year, state that upon certification of Free Cash, the Mayor shall submit an appropriation request of an amount equal to one percent (1%) of certified free cash.

Respectfully Submitted,

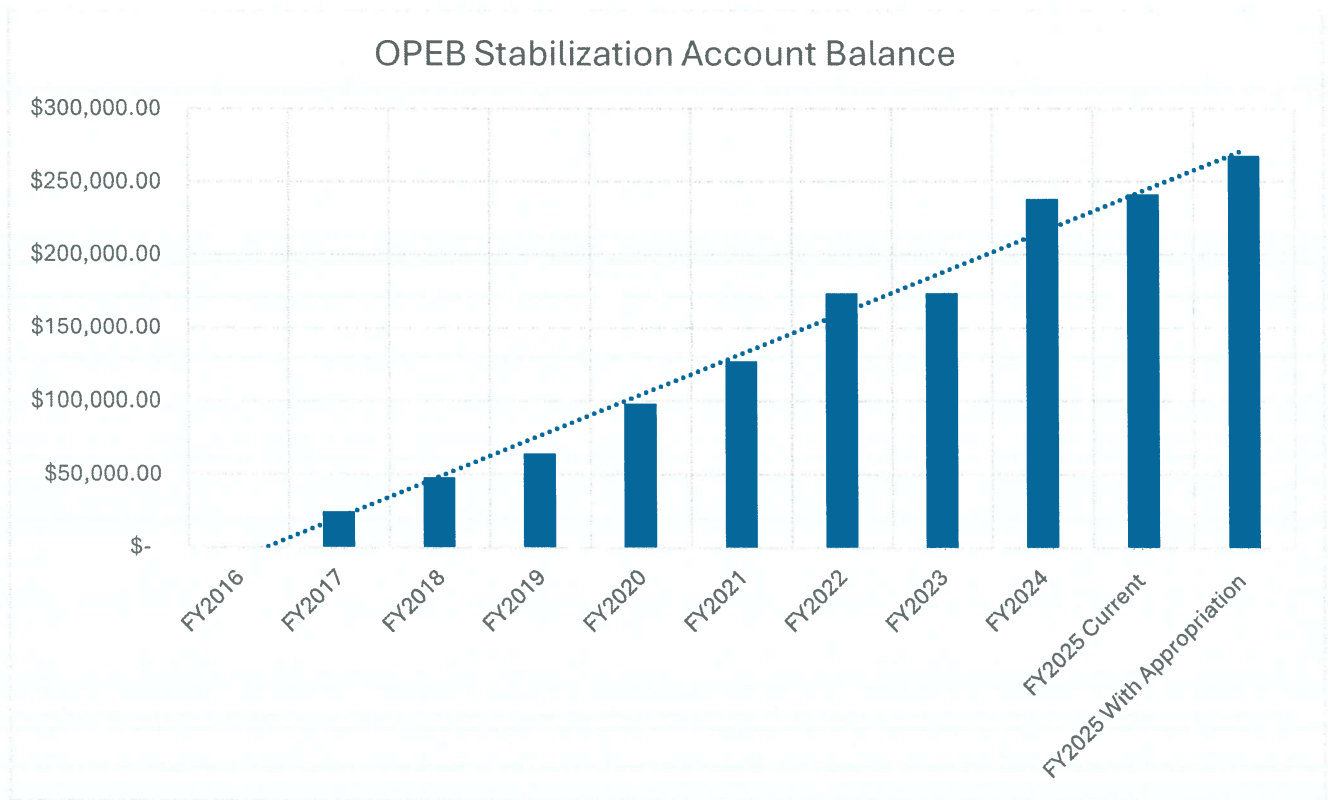
Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY TRUST FUND.

ORDERED:

That there be and is hereby appropriated the sum of Twenty-Six Thousand Three Hundred Sixty-Two Dollars and No Cents (\$26,362.00) from Free Cash to the Other Post-Employment Benefits Liability Trust Fund.

| <b>Fiscal Year</b>        | <b>OPEB Stabilization Account Balance</b> |
|---------------------------|-------------------------------------------|
| FY2016                    | \$ -                                      |
| FY2017                    | \$ 24,558.83                              |
| FY2018                    | \$ 47,754.37                              |
| FY2019                    | \$ 64,122.25                              |
| FY2020                    | \$ 98,043.08                              |
| FY2021                    | \$ 127,103.48                             |
| FY2022                    | \$ 173,460.42                             |
| FY2023                    | \$ 173,730.00                             |
| FY2024                    | \$ 237,969.29                             |
| FY2025 Current            | \$ 241,004.98                             |
| FY2025 With Appropriation | \$ 267,366.98                             |







City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 15, 2024

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

RE: An Order Appropriating \$75,000 from Free Cash to Landfill Closure Account

Dear Madam President and Councilors,

The City is obligated to maintain and monitor the former West Street Landfill for a period of thirty (30) years from the date of closure. The West Street Landfill closed in 2005.

The fund that was previously set up to maintain and monitor the former landfill will be all but exhausted by the end of the fiscal year. In order to maintain and monitor the landfill going forward, I am requesting the transfer of \$75,000 from Free Cash to the Landfill Closure Fund.

I anticipate this will be an annual request to replenish the account. We anticipate the cost to maintain and monitor the former landfill will be approximately \$50,000 a year. By adding \$75,000 a year for the next eleven (10) years, we anticipate we will be able to re-establish a small cushion for the fund. I've included a sample spreadsheet to show the anticipated appropriations and expenses.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 NOV - 6 AM 9:42  
CITY CLERK'S OFFICE  
GARDNER, MA

AN ORDER APPROPRIATING FROM FREE CASH TO LANDFILL  
CLOSURE EXPENDITURES.

ORDERED:

That there be and is hereby appropriated the sum of Seventy-Five Thousand  
Dollars and No Cents (\$75,000.00) from Free Cash to Landfill Closure Expenditures.

| <b>Fiscal</b> |                      |                                    | <b>End of Year</b> |
|---------------|----------------------|------------------------------------|--------------------|
| <b>Year</b>   | <b>Appropriation</b> | <b>Expenses*</b>                   | <b>Balance</b>     |
| 2019          | \$0                  | \$50,000                           | \$856              |
| 2020          | \$75,000             | \$50,000                           | \$25,856           |
| 2021          | \$75,000             | \$51,250                           | \$49,606           |
| 2022          | \$75,000             | \$52,531                           | \$72,075           |
| 2023          | \$75,000             | \$53,845                           | \$93,230           |
| 2024          | \$75,000             | \$55,191                           | \$113,040          |
| 2025          | \$75,000             | \$56,570                           | \$131,469          |
| 2026          | \$75,000             | \$57,985                           | \$148,484          |
| 2027          | \$75,000             | \$59,434                           | \$164,050          |
| 2028          | \$75,000             | \$60,920                           | \$178,130          |
| 2029          | \$75,000             | \$62,443                           | \$190,687          |
| 2030          | \$75,000             | \$64,004                           | \$201,683          |
| 2031          | \$75,000             | \$65,604                           | \$211,078          |
| 2032          | \$75,000             | \$67,244                           | \$218,834          |
| 2033          | \$50,000             | \$68,926                           | \$199,908          |
| 2034          | \$25,000             | \$70,649                           | \$154,260          |
| 2035          | -                    | \$72,415                           | \$81,845           |
|               |                      |                                    |                    |
|               |                      | *2 ½ Percent<br>Annual<br>Increase |                    |



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 14, 2024

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

RECEIVED  
2024 NOV -8 AM 9:52  
CITY OF GARDNER OFFICE  
MAYOR MICHAEL J. NICHOLSON

RE: An Order Appropriating \$100,000 from Free Cash to the Mayor's Unclassified Professional Services Grant Writing Expense Account

Dear Madam President and Councilors,

On March 6, 2023 and March 18<sup>th</sup>, 2024, the City Council voted to appropriate funding to hire a grant writing firm to assist the City in authoring grant applications and performing reporting on the grants that are awarded.

In the two years since these contracts were entered into, close to \$20 million has been awarded to the City in grant funding that these grant writers have assisted us with, on top of the applications we normally handle in-house.

This free cash appropriation request is being put forward to cover the costs of professional grant writing and lobbyist services for the City for the coming year.

Should this appropriation be approved, the City will then issue an RFP for a long term contract for the City. The average cost of grant writing services like these is around \$7-10 thousand a month, but the return on investment is much more than this expense.

I truly believe this is one of the best investments the City can make, and one that we see the return for almost immediately.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO MAYOR UNCLASSIFIED PROFESSIONAL SERVICES GRANT WRITING EXPENSE.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Thousand Dollars and No Cents (\$100,000.00) from Free Cash to Mayor Unclassified Professional Services Grant Writing Expense.



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

---

October 16, 2024

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

RECEIVED  
2024 NOV -8 PM 9:52  
CITY CLERK'S OFFICE

RE: An Order Appropriating \$95,000 from Free Cash to the Information Technology Equipment Expense Account

Dear Madam President and Councilors,

As we work to increase our City Hall efficiencies and protect the City's network, I am hereby requesting that the attached free cash appropriation request be approved.

This funding would allow the City to migrate our timesheet procedures and aspects of the City's personnel files onto the City's existing MUNIS software to substantially reduce the time or employees are spending on working through the payroll procedures.

Additionally, funding is being put toward upgrading the City Hall servers after several years of use.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO THE INFORMATION  
TECHNOLOGY DEPARTMENT.

ORDERED:

That there be and is hereby appropriated the sum of Ninety-Five Thousand Dollars and No Cents (\$95,000.00) from Free Cash to the Information Technology Equipment Expense Account.



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

---

November 14, 2024

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

RE: An Order Appropriating \$77,000.00 from Golf Retained Earnings to Golf New Vehicles Account

Dear Madam President and Councilors,

The attached appropriation request is being submitted to appropriate funds from the Golf Enterprise Fund Retained Earnings (enterprise fund versions of free cash), to the Golf Course New Vehicle Account.

This funding is being requested to replace a current one-ton pick up truck pick up truck with a snow plow attachment.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 NOV 14 AM 10:49  
CITY CLERK'S OFFICE  
GARDNER, MA



AN ORDER REQUESTING A TRANSFER FROM GOLF SURPLUS/RETAINED EARNINGS TO NEW VEHICLE EXPENDITURES.

ORDERED:

That there be and is hereby transfer the sum of Seventy-Seven Thousand Dollars and 00/100 (\$77,000.00) from Golf Surplus/Retained Earnings to New Vehicle Expenditures.



***CITY of GARDNER***

**Office of the City Auditor**

John Richard, City Auditor

95 Pleasant Street, Room 126

Gardner, MA 01440

Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778

Email: jrichard@gardner-ma.gov

To: City Council

Re: Money Orders for consideration on November 18, 2024

Listed below are balances in various ledger accounts that pertain to Money Order transfers for your consideration.

These balances are as of October 31, 2024:

|                                         |             | <u>Money<br/>Order</u> | <u>Balance</u> |
|-----------------------------------------|-------------|------------------------|----------------|
| Golf Enterprise Retained Earnings Fund  | 63000-35400 |                        | \$901,425      |
| to Golf Course New Vehcile Expenditures | 63640-55090 | \$ 77,000              | \$824,425      |
|                                         |             |                        | \$824,425      |

The Snow & Ice account currently has available \$232,850.50  
14421-52210

Sincerely

*John Richard*

John Richard  
City Auditor

copies: Mayor  
City Clerk



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

November 15, 2024

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

RECEIVED  
2024 NOV 15 2:11:52  
CITY OF GARDNER OFFICE  
GARDNER, MA

RE: An Order Appropriating \$45,000 from Free Cash to Elections Salary and Labor

Dear Madam President and Councilors,

The City has been made aware that Mr. Bruce Chester, who was a candidate for Representative to the General Court for the 2<sup>nd</sup> Worcester District in the November 5, 2024 election, will be turning in petitions for a recount of the election for each Ward in the City.

The City has been advised by the Elections Division of the Secretary of the Commonwealth's office that all costs associated with Ward/Precinct Level Recounts must be borne fully by the municipality in which the recount is taking place.

The candidate has indicated that he intends to submit re-count petition papers for all five (5) of the City's wards.

The attached appropriation request covers the cost of conducting the five (5) ward recounts being requested by Mr. Chester and his campaign. The cost arises from having to recall all of our poll workers to do a hand recount of the ballots cast in the November 5<sup>th</sup>, 2024 election.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO ELECTION STAFF SALARY AND WAGES EXPENSE.

ORDERED:

That there be and is hereby appropriated the sum of Forty Five Thousand Dollars and No Cents (\$45,000.00) from Free Cash to Election Staff Salary and Wages Expense.

**Titi Siriphan**

---

**From:** Bruce Chester <brucechester4rep@gmail.com>  
**Sent:** Thursday, November 14, 2024 5:20 PM  
**To:** Titi Siriphan  
**Subject:** [EXTERNAL] Re: Receipt

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Hey Titi,

I am having the signed petitions dropped off tomorrow along with the receipt but you guys close at 1pm. I don't get out of work before 1pm and the state deadline is 5pm tomorrow. Can you assure me that if we drop them in the dropbox that they will be considered on time? You can call or text me at 978-514-5500 if that is easier for you or faster.

Thanks

Bruce Chester

On Wed, Nov 13, 2024 at 1:39 PM Bruce Chester <[brucechester4rep@gmail.com](mailto:brucechester4rep@gmail.com)> wrote:

Sure I will get that to you asap

On Wed, Nov 13, 2024, 1:20 PM Titi Siriphan <[tsiriphan@gardner-ma.gov](mailto:tsiriphan@gardner-ma.gov)> wrote:

Good Afternoon Bruce,

I forgot to give you a receipt when you picked up the recount papers. Could you please fill out the attached receipt and return to our office at your earliest convenience.

Also, please be aware that our office closes at 1 pm on Fridays.

Thank you,

Ti

Titi Siriphan

City Clerk

95 Pleasant Street, Room 121

Gardner, MA 01440

Tel 978-630-4058

Fax 978-630-2589

***When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.***



THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 05, 2024

Kimberly Blake  
 Via email: aryelsheadbands@gmail.com

Dear Kimberly Blake:

We understand that on or about July 15, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 14, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Reyes".

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 2024 NOV 14 AM 10:48  
 OFFICE OF THE ATTORNEY GENERAL



**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Sunday, July 14, 2024 11:45 PM  
**To:** Titi Siriphan; Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas; elizabeth.kazinskas@state.ma.us; openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Kimberly Blake  
**Attachments:** EPSON032.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Kimberly Blake

2024 JUL 15 AM 7:40  
RECEIVED  
CITY OF GARDNER



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

#### Your Contact Information:

First Name: Kimberly Last Name: Blake

Address: 25 Baker Street

City: Gardner State: MA Zip Code: 01440

Phone Number: 9782493859 Ext. \_\_\_\_\_

Email: Aryelsheadbands@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual       Organization       Media

#### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): Gardner City Council

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to my email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Elizabeth Kazinskas

Date: 7/15/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

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

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 20 I  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
**Aryelsheadbands@gmail.com**

Kimberly Blake  
25 Baker Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Sir/ Madam,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney

General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SIzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

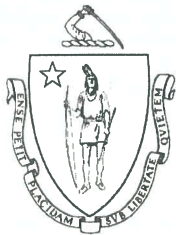
Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elizabeth Kazinskas, City Council President





THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 7, 2024

Paul DeMeo  
 Via email: pndemeo@gmail.com

Dear Paul DeMeo:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Reyes".

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 NOV 14 AM 10:18  
 CLERK'S OFFICE  
 BOSTON, MA

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Sunday, July 14, 2024 11:38 PM  
**To:** Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas;  
elizabeth.kazinskas@state.ma.us; openmeeting@state.ma.us; Titi Siriphan  
pndemeo@gmail.com  
**Cc:**  
**Subject:** [EXTERNAL] OPEN MEETING LAW COMPLAINT PAUL DEMEO  
**Attachments:** EPSON030.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Paul DeMeo

RECEIVED  
2024 JUL 15 AM 7:39  
CITY OF GARDNER



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Paul Last Name: DeMeo

Address: 9 Willis Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 9786321300 Ext. \_\_\_\_\_

Email: pdemeo@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): Gardner City Council

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to my email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.


**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 7/14/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street. Suite 20 I  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
pndemeo@gmail.com

Paul DeMeo  
9 Willis Road  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Paul DeMeo,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney



General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SlzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 7, 2024

Ernestina Duda  
 Via email: [ernestinaduda@gmail.com](mailto:ernestinaduda@gmail.com)

Dear Ernestina Duda:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council (“Council”), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body’s response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government, G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 NOV 14 AM 10:18  
 ATTORNEY GENERAL'S OFFICE  
 BOSTON, MA

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:24 AM  
**To:** Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas; Titi Siriphan;  
openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Ernestina Duda  
**Attachments:** EPSON036.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Ernestina Duda

EPSON036.PDF  
2024 JUL 15 AM 7:40  
CITY OF GARDNER



The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body **AND** to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**  
First Name: ERNESTINA (TINA) DUDA Last Name: DUDA  
Address: 56 STEPHANIE DRIVE  
City: GARDNER State: MA Zip Code: 01440  
Phone Number: (978) 235-5908 Ext. \_\_\_\_\_  
Email: ernestina.duda@gmail.com  
Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024



**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: *Ernestina (Tina) Quada*

Date: *July 14 2024*

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street. Suite 20 I  
Gardner, MA 01440

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

Writer's Email:

[Vpusateri@pusaterilaw.com](mailto:Vpusateri@pusaterilaw.com)

August 1, 2024

## VIA ELECTRONIC MAIL

Ernestinaduda@gmail.com

Ernestina (Tina) Duda  
56 Stephanie Drive  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Ernestina (Tina) Duda,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

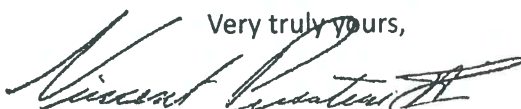
The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SlzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
[www.mass.gov/ago](http://www.mass.gov/ago)

November 8, 2024

Darlene Halfray  
Via email: [dahalfr@verizon.net](mailto:dahalfr@verizon.net)

Dear Darlene Halfray:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Reyes".

Natalie Reyes  
Paralegal  
Division of Open Government

cc: Gardner City Council

RECEIVED  
NOV 14 AM 10:11  
ATTORNEY GENERAL'S OFFICE  
BOSTON, MASSACHUSETTS

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:30 AM  
**To:** Elizabeth Doiron; Titi Siriphan; Elizabeth Kazinskas; Elizabeth Kazinskas;  
openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint  
**Attachments:** EPSON038.PDF

**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Darlene Halfrey

2024 JUL 15 PM 7:10  
038



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).





### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Darlene Last Name: Halfrey

Address: 165 Waterford Street

City: Gardner State: MA Zip Code: 01440

Phone Number: 978-868-2423 Ext. \_\_\_\_\_

Email: dahalfre@verizon.net

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024



**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Darlene A Halfrey

Date: 7/14/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
[Vpusateri@pusaterilaw.com](mailto:Vpusateri@pusaterilaw.com)

August 1, 2024

**VIA ELECTRONIC MAIL**  
**Dahalfr@verizon.net**

Darlene Halfrey  
165 Waterford Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Sir/ Madam,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1S1zP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024, did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elizabeth Kazinskas, City Council President





THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 8, 2024

David Hillman  
 Via email: davidhilman71@gmail.com

Dear David Hillman:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council (“Council”), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body’s response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 2024 NOV 14 AM 10:18  
 CITY OF GARDNER  
 CIVIL RIGHTS OFFICE

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 11:30 AM  
**To:** Jayen Kumar; Jess Miller; Titi Siriphan; Elizabeth Doiron; openmeeting@state.ma.us; Elizabeth Kazinskas; Elizabeth Kazinskas  
**Cc:** pndemeco@gmail.com; Carnes-Flynn, Elizabeth (AGO); carrie.benedon@state.ma.us; matthew.lindberg@mass.gov  
**Subject:** [EXTERNAL] Fourteenth Open Meeting Law Complaint filed against Elizabeth Kazinskas; David Hilman  
**Attachments:** EPSON044.PDF  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.  
Miss Kazinskas,

Please acknowledge the fourteenth Open Meeting Law complaint filed against you for failing to provide adequate space for the Public at a duly noticed Public City Council Meeting.

Folks in the Council Chambers and Perry Auditorium were not able to hear all the proceedings of the City Council Meeting held on July 1st, 2024.

Your further defiance of providing adequate space for the Public at the Public Hearing scheduled for Tuesday, July 23rd is rude and unacceptable.

Please move the Public Hearing to Landry Auditorium at Gardner High School.

There is no rush to Vote on this matter!

Regards,  
Paul DeMeo

RECEIVED  
2024 JUL 15 PM 12:01





The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: David Last Name: Hilman

Address: 114 Rich St

City: Gardner State: MA Zip Code: 01440

Phone Number: 978 277 1141 Ext. \_\_\_\_\_

Email: David.Hilman21@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 7/14/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

## Elizabeth Doiron

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 20 I  
Gardner, MA 01440

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

Writer's Email:  
[Vpusateri@pusaterilaw.com](mailto:Vpusateri@pusaterilaw.com)

August 1, 2024

## VIA ELECTRONIC MAIL

Davidhilman71@gmail.com

David Hilman  
114 Rich Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear David Hilman,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SizP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

November 8, 2024

Mary Marsh  
Via email: mary.marsh@shutr.net

Dear Mary Marsh:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government, G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Reyes".

Natalie Reyes  
Paralegal  
Division of Open Government

cc: Gardner City Council

RECEIVED  
NOV 14 AM 10:18  
OFFICE OF THE ATTORNEY GENERAL  
COMMUNICATIONS DIVISION

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:34 AM  
**To:** Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas; Titi Siriphan;  
openmeeting@state.ma.us  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Mary Marsh  
**Attachments:** EPSON039.PDF  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Mary Marsh

2024 JUL 15 PM 7:50  
CITY OF GARDNER  
MASSACHUSETTS



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Mary Last Name: Marsh

Address: 150 Acadia Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 508-612-9882 Ext. \_\_\_\_\_

Email: mary.marsh@shuts.net

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Mary E. Marsh

Date: 7/14/24

For Use By Public Body Date Received by Public Body: For Use By AGO Date Received by AGO:



**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

**Confidentiality:** This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:

[vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)

August 1, 2024

## VIA ELECTRONIC MAIL

Mary.marsh@shutr.net

Mary Marsh  
150 Acadia Road  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Mary Marsh,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

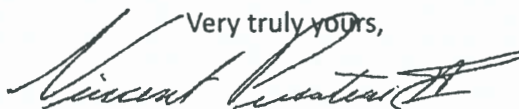
The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SizP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 8, 2024

Janna McPherson  
 Via email: jannamcpherson72@gmail.com

Dear Janna McPherson:

We understand that on or about July 15, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 14, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 2024 NOV 14 AM 10:18  
 OFFICE OF THE ATTORNEY GENERAL  
 BOSTON, MA

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:41 AM  
**To:** Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas; openmeeting@state.ma.us; Titi Siriphan  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Janna McPherson  
**Attachments:** EPSON042.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Janna McPherson

RECEIVED  
CITY OF GARDNER  
JUL 15 AM 7:40  
1000 STATE ST  
GARDNER MA 01459



The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).





### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

#### Your Contact Information:

First Name: Janna Last Name: McPherson

Address: 77 Riverside Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 9786020440 Ext. \_\_\_\_\_

Email: jannamcpherson72@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual       Organization       Media

#### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): Gardner City Council

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas

Date of alleged violation: 7/1/2024



**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to my email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street. Suite 20 I  
Gardner, MA 01440

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

Writer's Email:

[vpusateri@pusaterilaw.com](mailto:vpusateri@pusaterilaw.com)

August 1, 2024

## VIA ELECTRONIC MAIL

Jannamcpherson72@gmail.com

Janna McPherson  
77 Riverside Road  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Janna McPherson,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.


The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SizP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

November 8, 2024

Eleanor Gamarsh  
Via email: eg.gardnerlady@gmail.com

Dear Eleanor Gamarsh:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government, G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024 that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

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

Natalie Reyes  
Paralegal  
Division of Open Government

cc: Gardner City Council



**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:36 AM  
**To:** Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas; openmeeting@state.ma.us; Titi Siriphan  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Eleanor Gamarsh  
**Attachments:** EPSON040.PDF  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.  
Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Eleanor Gamarsh

2024 JUL 15 PM 7:40  
CITY OF GARDNER  
RECEIVED





The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: ELEANOR F. Last Name: GAMARSH

Address: 21 Norman St

City: Gardner State: MA Zip Code: 01440

Phone Number: 3573546361 Ext. \_\_\_\_\_

Email: eg.gardenlady@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed:           *Elleanor F Gamarsh*          

Date:           7-14-24          

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
[Vpusateri@pusaterilaw.com](mailto:Vpusateri@pusaterilaw.com)

August 1, 2024

**VIA ELECTRONIC MAIL**  
**Eg.gardenlady@gmail.com**

Eleanor F. Gamarsh  
21 Norman Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Eleanor F. Gamarsh,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney



General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SizP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elizabeth Kazinskas, City Council President





THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 13, 2024

Laurie Meagher  
 Via email: lauriemeagher81@yahoo.com

Dear Laurie Meagher:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024, that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Reyes".

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 NOV 14 AM 10:28  
 RELATIONS OFFICE  
 ATTORNEY GENERAL

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:28 AM  
**To:** Elizabeth Doiron; Titi Siriphan; Elizabeth Kazinskas; Elizabeth Kazinskas;  
openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Laurie Meagher  
**Attachments:** EPSON037.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Laurie Meagher

2024 JUL 15 PM 7:10  
FBI  
FBI  
FBI



The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

#### Your Contact Information:

First Name: Laurie Last Name: meagher

Address: 99 Catherine Street

City: Gardner State: MA Zip Code: 01448

Phone Number: 978-690-0483 Ext. \_\_\_\_\_

Email: Laurie.meagher81@yahoo.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

- Individual
- Organization
- Media

#### Public Body that is the subject of this complaint:

- City/Town
- County
- Regional/District
- State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 7-14-24

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

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

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
[Vpusateri@pusaterilaw.com](mailto:Vpusateri@pusaterilaw.com)

August 1, 2024

## VIA ELECTRONIC MAIL

Lauriemeagher81@yahoo.com

Laurie Meagher  
99 Catherine Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Laurie Meagher,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

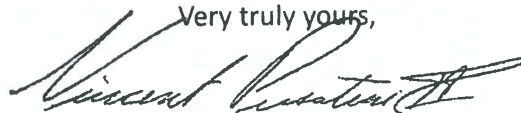
The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link <https://drive.google.com/drive/folders/1SizP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

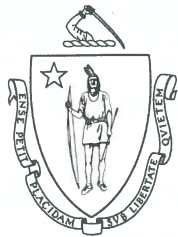
It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 13, 2024

Debra Moore Alie  
 Via email: ninagalie110@gmail.com

Dear Debra Moore Alie:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024, that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in black ink that reads "N. Reyes".

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

RECEIVED  
 2024 NOV 11 AM 10:25  
 CIVIL RIGHTS OFFICE

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Sunday, July 14, 2024 11:52 PM  
**To:** Titi Siriphan; Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas;  
elizabeth.kazinskas@state.ma.us; openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com; ninagalie110@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Debra Moore Alie  
**Attachments:** EPSON033.PDF

**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.  
Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Debra Moore Alie

RECEIVED  
2024 JUL 15 AM 7:40  
TITTI SIRIPHAN



The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).





### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

#### Your Contact Information:

First Name: Debra Last Name: Moore Alie

Address: 23 Oriole Street

City: Gardner State: MA Zip Code: 01440

Phone Number: 9783503719 Ext. \_\_\_\_\_

Email: ninagalie110@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual     Organization     Media

#### Public Body that is the subject of this complaint:

City/Town     County     Regional/District     State

Name of Public Body (including city/ town, county or region, if applicable): Gardner City Council

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to my email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: debra g alie

Date: Sun. 17, 2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 20 I  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
Ninagalie110@gmail.com

Debra Moore Alie  
23 Oriole Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Debra Moore Alie,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SlzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

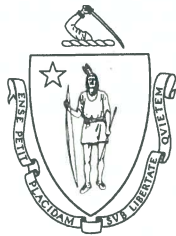
Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President





THE COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF THE ATTORNEY GENERAL  
 ONE ASHBURTON PLACE  
 BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
 ATTORNEY GENERAL

(617) 727-2200  
 (617) 727-4765 TTY  
 www.mass.gov/ago

November 13, 2024

Stephanie Orlow  
 Via email: spoxx00@yahoo.com

Dear Stephanie Orlow:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council (“Council”), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body’s response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024, that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

Natalie Reyes  
 Paralegal  
 Division of Open Government

cc: Gardner City Council

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:18 AM  
**To:** Elizabeth Doiron; Titi Siriphan; Elizabeth Kazinskas; Elizabeth Kazinskas;  
openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Stephanie Orlow  
**Attachments:** EPSON035.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.  
Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Stephanie Orlow

RECORDED  
2024 JUL 15 AM 7:40



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Stephanie Last Name: Orlow

Address: 41 Holly Drive

City: Gardner State: MA Zip Code: 01440

Phone Number: 978-660-3372 Ext. \_\_\_\_\_

Email: spxx00@yahoo.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual       Organization       Media

**Public Body that is the subject of this complaint:**

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to the email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

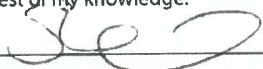
**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 7/14/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
Spoxx00@yahoo.com

Stephanie Orlow  
41 Holly Drive  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Stephanie Orlow,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney

General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

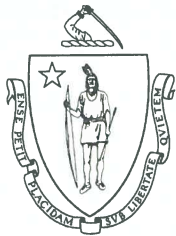
The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SlzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,

  
Vincent Pysateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

November 13, 2024

Laureen Peabody  
Via email: laureen.p@hotmail.com

Dear Laureen Peabody:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024, that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

Natalie Reyes  
Paralegal  
Division of Open Government

cc: Gardner City Council

RECEIVED  
2024 NOV 14 AM 10:33  
DIVISION OF OPEN GOVERNMENT

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Sunday, July 14, 2024 11:42 PM  
**To:** Titi Siriphan; Elizabeth Doiron; Elizabeth Kazinskas; Elizabeth Kazinskas;  
elizabeth.kazinskas@state.ma.us; openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law Complaint ; Laureen Peabody  
**Attachments:** EPSON031.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Laureen M. Peabody

RECEIVED  
2024 JUL 15 AM 7:40  
CITY OF GARDNER, MA





The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

#### Your Contact Information:

First Name: Laureen M. Last Name: Peabody

Address: 3 Jackson Park

City: Gardner State: MA Zip Code: 01440

Phone Number: 9786325349 Ext. \_\_\_\_\_

Email: laureen.p@hotmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual       Organization       Media

#### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): Gardner City Council

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas

Date of alleged violation: 7/1/2024

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 30th and July 1st, Gardner city council president Elizabeth Kazinskas was notified by email to expect a large crowd at the City Council meeting on Monday, July 1st, 2024 due to the proposed sale of the GAAMHA property at 827 Green Street to Baystate Racing LLC. Kazinskas failed to respond to my email to her. The email was copied to the Mass Attorney Generals's Open Meeting Division to make them aware of the concern.

Miss Kazinskas upon being notified, had the opportunity to move the city council meeting to Perry Auditorium which seats several hundred people, but she failed to do so. Only sixty-five people including city councilors were allowed in to the Council Chambers. The rest of those present, were "herded" to Perry Auditorium where audio/visual was set-up to view the council meeting. The audio was very poor in Perry Auditorium and much was not able to be understood by those in attendance.

I believe this to be a deliberate attempt by Miss Kazinskas to divide the opposition to the racetrack whereas she could have the council meeting in the auditorium to accomodate all who wish to attend the Public Meetings and Hearings to be scheduled. Meetings have been held in Perry Auditorium before.

Miss Kazinskas has scheduled a Public Hearing for the racetrack proposal on July 23rd, 2024 where she plans once again to divide the residents between two rooms. This is not right.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

For city council president Miss Kazinskas upon being advised there will be a large crowd at a city council meeting, to hold the meeting in Perry Auditorium which can accomodate all those who wish to attend in a large room.

For Miss Kazinskas to issue a Public Apology to all those "herded" to Perry Auditorium and not allowed to be in Council Chambers for a Public Meeting duly posted.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Jaimeon M. Peabody

Date: 7/13/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.



# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
Laureen.p@hotmail.com

Laureen M. Peabody  
3 Jackson Park  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Laureen M. Peabody,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.

The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

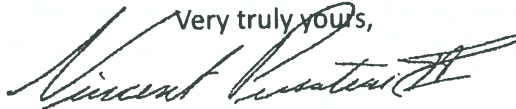


Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SlzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

November 13, 2024

Judith Tysinger  
Via email: judyblueeyes67@aol.com

Dear Judith Tysinger:

We understand that on or about July 14, 2024, you filed a complaint with the Gardner City Council ("Council"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Our office received notification of the complaint and a response from the Council on August 1, 2024.

If a complainant is unsatisfied with the public body's response, and at least 30 days have passed since the complaint was filed with the public body, the complainant may request review by our office by filing a copy of the initial complaint with the Division of Open Government. G.L. c. 30A, § 23(b); 940 CMR 29.05(7). The request for review generally must be filed no later than 90 days after the date of the alleged Open Meeting Law violation. 940 CMR 29.05(7). We notified you on August 13, 2024, that if we did not receive the request for review from you by September 29, 2024, we would presume the action taken by the Council was sufficient and would close this file. Our office currently has no record that you requested review of the complaint. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

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

Natalie Reyes  
Paralegal  
Division of Open Government

cc: Gardner City Council

**Elizabeth Doiron**

---

**From:** PAUL DEMEO <ryanrealty@comcast.net>  
**Sent:** Monday, July 15, 2024 12:16 AM  
**To:** Elizabeth Kazinskas; Elizabeth Kazinskas; Titi Siriphan; Elizabeth Doiron;  
openmeeting@state.ma.us  
**Cc:** pndemeo@gmail.com  
**Subject:** [EXTERNAL] Open Meeting Law complaint; Judy Tysinger  
**Attachments:** EPSON034.PDF  
  
**Importance:** High

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.  
Dear Miss Kazinskas,

Please find attached an Open Meeting Law complaint filed against you.

Judy Tysinger

2024 JUL 15 AM 7:10  
RECEIVED



The Commonwealth of Massachusetts  
 Office of the Attorney General  
 One Ashburton Place  
 Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



### OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Judith Last Name: Tysinger

Address: 323 Park St

City: Gardner State: Ma Zip Code: 01440

Phone Number: 978-894-3152 Ext. \_\_\_\_\_

Email: JudyBlueeyes67@aol.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual     Organization     Media

**Public Body that is the subject of this complaint:**

City/Town     County     Regional/District     State

Name of Public Body (including city/town, county or region, if applicable): GARDNER CITY COUNCIL

Specific person(s), if any, you allege committed the violation: GARDNER CITY COUNCIL PRESIDENT ELIZABETH KAZINSKAS

Date of alleged violation: 7/1/2024





**Elizabeth Doiron**

---

**From:** Vincent Pusateri II <vpusateri@pusaterilaw.com>  
**Sent:** Friday, July 26, 2024 6:16 PM  
**To:** Elizabeth Doiron  
**Cc:** Elizabeth Kazinskas; Vincent Pusateri II  
**Subject:** [EXTERNAL] Open Meeting Law Reply  
**Attachments:** 2024.07.25 OMLC Blake 2024.07.15.docx; 2024.07.25 OMLC DeMeo 2024.07.15.docx; 2024.07.25 OMLC Halfrey 2024.07.15.docx; 2024.07.25 OMLC Halfrey D 2024.07.15 - Copy.docx; 2024.07.25 OMLC Gamarsh 2024.07.15.docx; 2024.07.25 OMLC Tysigner 2024.07.15.docx; 2024.07.25 OMLC Peabody 2024.07.15.docx; 2024.07.25 OMLC Orlow 2024.07.15.docx; 2024.07.25 OMLC Moore Alie 2024.07.15.docx; 2024.07.25 OMLC Meagher 2024.07.15.docx; 2024.07.25 OMLC McPherson 2024.07.15.docx; 2024.07.25 OMLC Marsh 2024.07.15.docx; 2024.07.25 OMLC Hilman 2024.07.15.docx; 2024.07.25 OMLC Duda 2024.07.15.docx

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear Ms. Doiron,

Attached please find a series of DRAFT replies to open meeting law complaints that I have prepared for Council's consideration. Please place a watermark DRAFT on these documents and convert them to PDF prior to including them in the packet for the City Council meeting. After doing so, please ensure that the link is active and will bring the reader to the videos contained in the google drive. Please contact me should you have any questions so that I may assist you.

Thank you for your attention to this matter.

Vincent P. Pusateri, II, Esquire

Assistant Solicitor, Law Department - City of Gardner, Massachusetts

O: 978-342-6081 | vpusateri@pusaterilaw.com

Confidentiality: This information contained in this electronic message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by telephone (978) 342-6081.

# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Vincent Pusateri II  
Assistant City  
Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:  
Vpusateri@pusaterilaw.com

August 1, 2024

**VIA ELECTRONIC MAIL**  
Judyblueeyes67@aol.com

Judith Tysinger  
323 Park Street  
Gardner, MA 01440

**RE: Open Meeting Law Complaints dated 7/15/2024 regarding  
the July 1, 2024, City Council Meeting Reply**

Dear Judith Tysinger,

The city has received fourteen (14) Open Meeting Law complaints including your Open Meeting Law Complaint served on July 15, 2024. Whereas the deadline to respond to your Complaint is August 2, 2024, this response to your Complaint is timely. The Complaints all present two (2) issues.


The first issue is whether the Open Meeting law was violated by the city's use of an overflow room. The city determined it needed to prepare for a larger crowd. Once this determination was made, Attorney General Determination Letters were reviewed as guidance. Two options were presented. First, was to locate the public meeting in Perry Auditorium. Alternatively, the second option was to use Perry Auditorium as a location to accommodate an overflow crowd. City personnel conferred about these options, and it was decided Perry Auditorium would be used as an overflow room. We respect the fact that reasonable minds may differ on this decision, however, the use of the overflow room has been approved by the Attorney General. For these reasons, it is respectfully suggested that the use of a second room to accommodate a large crowd does not violate the Open Meeting Law.

Secondly, the Complaints raise an issue with the quality of the audio in the Perry Auditorium. The city respectfully disagrees with the assertion that the audio was poor. Staff were assigned to assess and set up audio and visual equipment prior to the meeting. The equipment was tested to ensure it would perform as expected, permitting those attending to hear and see the meeting. The equipment did perform when tested before the meeting by producing a clear audio signal. In addition, additional city staff were present during the meeting to assist members of the public to ensure they would be able to participate in the Public Meeting. After the meeting ended, city personnel who attended the meeting in Perry Auditorium reported that its content was clear and that the speakers were able to be understood. The first time a complaint was received by the city was when the public hearing was posted for the vote on the underlying matter.

The number of complaints received by the city in connection with this matter was concerning as we have had a public hearing scheduled on July 23, 2024, and the overflow room was set up in a similar manner. However, the city has taken additional steps to confirm compliance with the requirements of the Open Meeting Law by ensuring the audio-visual equipment in Perry Auditorium will allow those in attendance to both see and hear the meeting. This included retesting the equipment, adding a test at the beginning of the meeting, having city employees monitor the quality of the audio, have the same people reporting to the Council and suspending the meeting when technical difficulties occurred. Finally, the July 23, 2024, meeting in Perry Auditorium was recorded. To listen to the recording of the July 23, 2024 meeting please use this link:<https://drive.google.com/drive/folders/1SIzP1boCAWabTA4tz2E6rkedN2caiAZ-?usp=sharing>. It is respectfully suggested that this recording exemplifies the experience that attendees had in Perry Auditorium on July 1, 2024.

It is for these reasons that the meeting of July 1, 2024 did not violate the Open Meeting Law.

Very truly yours,



Vincent Pusateri II

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Elizabeth Doiron, Assistant City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
Elisabeth Kazinskas, City Council President



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 31, 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 the City to Enter Into a Contract For Up To Five (5) Years for Police Department Body Camera Cloud Storage

Dear Madam President and Councilors,

At the recommendation of the Police Chief and Deputy Chief, the Administration is currently working to purchase body cameras for our police officers.

We currently have an active grant application to the federal government pending for this purpose.

While we are still waiting to hear back regarding the grant, the Administration requesting authorization to enter into a contract of up to five years for body camera footage storage.

This would allow the City to seek a more competitive price for this service and allow us to better plan the budget for the costs associated with this.

The use of body cameras was negotiated with both Police Department Unions in the last rounds of contract negotiations.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 OCT 31 PM 10:13  
CITY OF GARDNER  
POLICE DEPARTMENT



AUTHORIZING FIVE-YEAR CONTRACT PERIOD  
POLICE BODY CAM STORAGE

VOTED: To authorize the City to enter into a contract not to exceed five (5) years for Police body cam storage, pursuant to the provisions of Massachusetts General Law, Chapter 30B, section 12 and under the terms outlined in the Purchasing Agent's Memorandum.

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: October 31, 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.

- Body Cam Maintenance & Storage

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

October 31, 2024

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

RE: A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 73 Stuart Street

Dear Madam President and Councilors,

On December 19, 2022, the City Council voted to declare the former factory located at 73 Stuart Street as surplus for the minimum sale price of \$17,000- an amount equivalent to the amount of taxes that were owed to the City when the property was taken in tax title.

When the City Council voted to declare the property surplus in 2022, the Council voted to set the minimum amount at \$17,000, rather than the full assessed value of the property, due to the costs associated with the demolition of the building. A municipality may only sell a property for an amount lower than an assessed or appraised value if there is a documented public benefit for such reduction- in this case, the public benefit was blight removal and safety improvements.

However, with the City now demolishing the building, this public benefit for a reduced price is no longer applicable. As such, the Administration is requesting that the minimum authorization price be amended to the new assessed value of the property - \$77,400.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
CITY OF GARDNER  
OCT 31 PM 1:13

**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL OF  
LAND AND BUILDINGS AT 73 STUART STREET**

***VOTED:*** To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at 73 Stuart Street, further identified on the City of Gardner Assessor's Map as M32-00024-00006, to establish as a minimum amount of \$77,400 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the mayor shall consider proper in accordance with this Vote.

Property Location 73 STUART ST Account # Map ID M32/ 24/ 6/ / Bldg # 1 Bldg Name Sec # 1 of 1 Card # 1 of 1 State Use 9311  
 Vision ID 2621 Print Date 10-31-2024 10:45:41

| CURRENT OWNER                                                                  |            | TOPO              | UTILITIES      | STRT / ROAD | LOCATION     | CURRENT ASSESSMENT |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
|--------------------------------------------------------------------------------|------------|-------------------|----------------|-------------|--------------|--------------------|------------------------------|--------------------------------|---------------------------------------------------------------------|------------------------|----------|------------------|---------------------|---------------------------|-------------|
| CITY OF GARDNER                                                                |            | 4   Rolling       | 1   All Public | 1   Paved   | 2   Suburban | Description        | Code                         | Appraised                      | Assessed                                                            | 316                    |          |                  |                     |                           |             |
| 95 PLEASANT ST STE 125                                                         |            |                   |                |             |              | EXEMPT             | 9310                         | 22,500                         | 22,500                                                              | GARDNER, MA            |          |                  |                     |                           |             |
| GARDNER MA 01440                                                               |            |                   |                |             |              | EXM LAND           | 9310                         | 77,400                         | 77,400                                                              | <b>VISION</b>          |          |                  |                     |                           |             |
| Alt Prcl ID<br>Sub-Div<br>Photo<br>Ward<br>Prec.                               |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| GIS ID M_159041_926346                                                         |            | Assoc Pid#        |                |             |              | Total              |                              |                                |                                                                     | 99,900                 | 99,900   |                  |                     |                           |             |
| RECORD OF OWNERSHIP                                                            |            | BK-VOL/PAGE       | SALE DATE      | Q/U         | V/I          | SALE PRICE         | VC                           | PREVIOUS ASSESSMENTS (HISTORY) |                                                                     |                        |          |                  |                     |                           |             |
| CITY OF GARDNER                                                                |            | 68529 125         | 11-25-2022     | U           | I            | 15,000             | 1 1                          | Year                           | Code                                                                | Assessed               | Year     | Code             | Assessed            |                           |             |
| RUSCIO STEVEN                                                                  |            | 07363 0155        | 11-17-1981     | Q           | I            |                    |                              | 2024                           | 9310                                                                | 20,000                 | 2023     | 4000             | 19,300              |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                | 9310                                                                | 73,800                 |          | 4000             | 53,100              |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                |                                                                     |                        | 2022     | 4000             | 17,600              |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          | 4000             | 46,200              |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              | Total                          |                                                                     | 93,800                 | Total    |                  | 72,400              |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              | Total                          |                                                                     |                        | Total    |                  | 63,800              |                           |             |
| EXEMPTIONS                                                                     |            | OTHER ASSESSMENTS |                |             |              |                    |                              |                                | This signature acknowledges a visit by a Data Collector or Assessor |                        |          |                  |                     |                           |             |
| Year                                                                           | Code       | Description       | Amount         | Code        | Description  | Number             | Amount                       | Comm Int                       |                                                                     |                        |          |                  |                     |                           |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| Total                                                                          |            |                   | 0.00           |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| ASSESSING NEIGHBORHOOD                                                         |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| Nbhd                                                                           | Nbhd Name  | B                 | Tracing        | Batch       |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| 0001                                                                           |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| NOTES                                                                          |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| UNHEATED POOR COND<br>OVERGROWN<br>PARTS OF BLDG OPEN<br>RED "X" MARKED 4/2014 |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| BUILDING PERMIT RECORD                                                         |            |                   |                |             |              |                    |                              |                                |                                                                     | VISIT / CHANGE HISTORY |          |                  |                     |                           |             |
| Permit Id                                                                      | Issue Date | Type              | Description    | Amount      | Insp Date    | % Comp             | Date Comp                    | Comments                       | Date                                                                | Id                     | Type     | Is               | Cd                  | Purpost/Result            |             |
| B-24-695                                                                       | 09-30-2024 | 04                | Demo           | 308,750     |              | 0                  |                              | DEMO 4100SF WOOD STRU          | 01-10-2020                                                          | CJ                     |          |                  | 01                  | Measur+1Visit - Info Card |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                | 08-26-2009                                                          | WH                     |          |                  | 04                  | Vacant & Abandon          |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                | 12-26-1995                                                          | RM                     |          |                  | 00                  | Measur+Listed             |             |
|                                                                                |            |                   |                |             |              |                    |                              |                                | 04-08-1981                                                          |                        |          |                  |                     |                           |             |
| LAND LINE VALUATION SECTION                                                    |            |                   |                |             |              |                    |                              |                                |                                                                     |                        |          |                  |                     |                           |             |
| B                                                                              | Use Code   | Description       | Zone           | Land Type   | Land Units   | Unit Price         | I. Factor                    | Site Index                     | Cond.                                                               | Nbhd.                  | Nbhd Adj | Notes            | Location Adjustment | Adj Unit Pric             | Land Value  |
| 1                                                                              | 9311       | City of Gardner   | I1             |             | 17,000       | SF 4.56            | 1.00000                      | A                              | 1.00                                                                | C1                     | 1.000    |                  |                     | 0                         | 4.56 77,400 |
| Total Card Land Units                                                          |            |                   |                |             | 0.39         | AC                 | Parcel Total Land Area: 0.39 |                                |                                                                     |                        |          | Total Land Value |                     | 77,400                    |             |







City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 16, 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 477, thereof entitled  
"Mobile Homes and Trailers"

Dear Madam President and Councilors,

At the request of the Gardner Police Department, I hereby submit this ordinance proposal to the City Council regarding the operation and maintaining of Mobile Homes and Trailers in the City.

This ordinance proposal addresses the recent concerns regarding the increase in overnight parking of RV's and campers in the City in areas other than the houses of those who own these vehicles.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

2024 OCT 17 PM 3:13

RECEIVED

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 477, THEREOF  
ENTITLED “MOBILE HOMES AND TRAILERS.”**

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

**SECTION 1:** Chapter 477 of the Code of the City of Gardner, thereof entitled “Mobile Homes and Trailers,” be deleted in its entirety and replaced with the following thereof:

**Section 1: Purpose and Intent**

The City of Gardner is committed to ensuring the safety, health, and welfare of its residents and the general public. This ordinance seeks to regulate the use of campers and recreational vehicles (RVs) on public streets to prevent long-term habitation in such vehicles and to maintain the cleanliness, safety, and accessibility of public spaces. The intent of this ordinance is to prevent the obstruction of public streets and ensure that public ways remain accessible for public use.

**Section 2: Definitions**

1. **Camper/Recreational Vehicle (RV):** A motor vehicle or trailer designed and equipped for human habitation, including but not limited to motorhomes, travel trailers, campervans, and any other type of recreational vehicle capable of providing living accommodations.
2. **Public Ways:** All streets, roads, highways, alleys, sidewalks, and any other publicly owned areas designated for vehicular or pedestrian use.
3. **Park:** To leave a vehicle standing, whether occupied or not, other than temporarily for the purpose of and while actively engaged in loading or unloading merchandise or passengers.

**Section 3: Prohibition of Sleeping in Campers/RVs on Public Ways**

1. It shall be unlawful for any person to use or occupy a camper/RV for sleeping, habitation, or any living purposes while the camper/RV is parked on any public way within the City of [City Name].
2. This prohibition applies to all public ways, including but not limited to residential streets, commercial streets, and public parking lots, regardless of the time of day.

**Section 4: Limitation on Parking Campers/RVs on Public Ways**

1. No camper/RV may be parked on any public way for a period exceeding **24 consecutive hours**.
2. After 24 hours, the owner or operator of the camper/RV must move the vehicle at least **500 feet** from its original location and may not

return to the same location or within 500 feet of that location for a period of **48 hours**.

### **Section 5: Exceptions**

This ordinance shall not apply to:

1. **Emergency Situations:** Where the camper/RV is temporarily parked due to mechanical failure or emergency circumstances, provided that the vehicle is moved within 24 hours of the resolution of the emergency or breakdown.
2. **Special Events:** Campers/RVs may be parked on public ways during authorized special events or festivals, provided that the event has been approved by the City and proper permits have been issued allowing such use.
3. **Loading/Unloading:** A camper/RV may be temporarily parked for loading or unloading purposes, provided that this period does not exceed **two (2) hours**.

### **Section 6: Penalties**

1. Any violation of this ordinance shall result in a fine of not less than **\$300** for the first offense and not more than **\$100** for subsequent offenses.
2. In addition to fines, any camper/RV found in violation of this ordinance may be subject to towing and impoundment at the owner's expense after **24 hours** of non-compliance following a notice of violation.

### **Section 7: Enforcement**

The provisions of this ordinance shall be enforced by the Gardner Police Department, Parking Enforcement Officer(s), or any other department or agency designated by the City to ensure compliance with parking and public safety regulations.

### **Section 8: Severability**

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

### **SECTION 2: Effective Date**

This ordinance shall take effect upon passage and publication as required by law.





## CITY OF GARDNER POLICE DEPARTMENT

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



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

October 16, 2024

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

Dear Mayor Nicholson,

I am writing to express my concern regarding the increasing presence of campers and recreational vehicles (RVs) parked overnight and for extended periods on public streets within our city. I respectfully request that the city council consider an ordinance change that will prohibit sleeping in campers/RVs on public ways and impose stricter limits on the parking of these vehicles on public streets. This issue has significant implications for public health, safety, and the city's infrastructure.

One of the primary concerns with allowing individuals to sleep in campers or RVs on public streets is the improper disposal of waste materials. Unlike homes or established RV parks, which have connections to sewage systems, campers parked on public streets often lack access to proper waste disposal facilities. This situation can lead to the illegal dumping of wastewater and sewage, creating serious environmental and health hazards. Waste materials can contaminate local water supplies, damage ecosystems, and spread harmful bacteria and pathogens. Moreover, the improper disposal of trash, food waste, and other refuse exacerbates the problem, attracting pests and leading to unsanitary conditions.

Ensuring public health and sanitation requires appropriate infrastructure, which is not available on our city streets. Without such an ordinance, the city may find it difficult to enforce proper waste disposal, leading to potentially hazardous and unsanitary conditions for all residents.

Allowing campers/RVs to be parked for extended periods on public streets also raises several safety concerns. First, these large vehicles often obstruct sightlines for other drivers, especially at intersections, crosswalks, and around curves, increasing the risk of accidents. They can also limit visibility for pedestrians and cyclists, posing a significant safety risk. Furthermore, streets that were not designed to accommodate prolonged RV parking can experience congestion, making it difficult for emergency vehicles to navigate through narrow or crowded streets, which could delay response times in critical situations.

Additionally, RVs parked in residential areas for extended periods may create opportunities for illegal or unsafe activities. Without proper regulation, these vehicles could be used for unauthorized purposes, which would be challenging for local law enforcement to monitor. Implementing restrictions will help ensure that our streets remain safe, accessible, and conducive to the well-being of all community members.



**CITY OF GARDNER POLICE DEPARTMENT**

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



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

Permitting extended RV parking without proper infrastructure support may encourage more individuals to utilize city streets in this manner, leading to increased congestion, littering, and damage to city property. The costs associated with cleaning up illegal dumping, repairing damaged roads, and maintaining public spaces can quickly add up, placing an unnecessary financial burden on the city.

I urge the city council to consider adopting an ordinance that prohibits sleeping in campers/RVs on public streets and enforces stricter parking regulations for these vehicles. Such a measure would address significant public health risks related to waste disposal, improve safety for all road users, and alleviate the strain on city infrastructure.

By implementing these changes, we can ensure that our city remains a safe, clean, and welcoming environment for all residents and visitors. Thank you for your consideration on this important issue.

Very truly yours,

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

Eric P. McAvene  
Chief of Police



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 16, 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 600, thereof entitled "Vehicles and Traffic," to add a new Section 21 to be entitled "Parking Meter Fees Waived"

Dear Madam President and Councilors,

The new parking meters purchased by the City are set to arrive imminently and will be installed throughout the parking meter area listed in Chapter 600 of the City Code between now and the end of the calendar year.

As part of the review of items related to the parking meters, it was originally suggested by the City's Department of Veterans Services that the attached ordinance proposal be considered.

Now that we are at a point where the parking meters will be installed and put into service shortly, I am hereby asking that this ordinance be considered to waive all parking meter fees for individuals driving vehicles with certain license plates related to veterans service.

Please note that vehicles with these plates will still be subject to all time limits and other regulations, and that this ordinance only waives the fee for parking at the meters.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED

2024 OCT 17 PM 4:13

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 600,  
THEREOF ENTITLED “VEHICLES AND TRAFFIC,” TO ADD A NEW SECTION 21 TO BE  
ENTITLED “PARKING METER FEES WAIVED.”**

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

**SECTION 1:** That a new Section 21 be added to Chapter 600 of the Code of the City of Gardner to be entitled, “Parking Meter Fees Waived” to be as follows:

§21 Parking Meter Fees Waived

- A. Vehicles affixed with the following license plates, issued by the Massachusetts Department of Transportation Registry of Motor Vehicles shall be exempt from payment at parking meters throughout the City:
- a. Handicap/ADA/Disability
  - b. Veteran (of any branch of service)
  - c. Disabled Veteran
  - d. Bronze Star
  - e. Congressional Medal of Honor
  - f. Distinguished Flying Cross
  - g. Ex-POW
  - h. Gold Star Family
  - i. Legion of Valor
  - j. Medal of Liberty
  - k. National Guard
  - l. Pearl Harbor Survivor
  - m. Purple Heart
  - n. Silver Star
- B. All vehicles with plates listed in Section A shall still be liable for all other time limits, restrictions, regulations, or other limitations prescribed by ordinance or the General Laws of the Commonwealth.

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



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

October 31, 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 Chapter 600 of the Code of the City of Gardner, thereof entitled,  
 "Vehicles and Traffic."

Dear Madam President and Councilors,

At the recommendation of the Traffic Commission and the Mayor's Parking Meter Ad-Hoc Advisory Committee, I am hereby submitting this proposed ordinance amendment to Chapter 600 of the Code of the City of Gardner.

The first part of this ordinance proposal amends the winter parking ban with respect to the parking lots. When the ordinance was amended to an on-call parking ban system for on-street parking, the ordinance for the parking lots was never amended in conjunction with this change. As such, the ordinances contradict themselves with the on-street section of the ordinance saying parking lots in the City must be cleared two- (2) hours after the on-street ban has ended, but the parking lot section of the ordinance states that parking is not allowed in any City lots from 7am to 9am from the timeline set in the former parking ban structure.

The second part of this proposal also corrects a contradiction that currently exists in the City's ordinances relating to Parking Meters. This proposal makes it consistent that the meters are two (2) hour meters. Additionally, with the new meters being installed soon with the ability to utilize an online phone application to pay by card, it requests that Gardner do what Athol and Fitchburg did recently and increase the price of the meters from \$0.25/ half-hour to \$0.50/ half-hour. With the cost of the application and credit card option, if this change is not done, the City would only be making \$0.03 per half-hour if someone pays by credit card.

While increasing costs must always be thoughtfully considered, the funds collected by the meters is utilized for the maintenance of the meters, salaries of the employees working in relation to the meters, and the improvements of the sidewalks, painting, and other infrastructure projects in the parking meter area. Additionally, this would put us at a uniform rate across other communities in the region with parking meters.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

RECEIVED  
 2024 OCT 31 PM 12:13  
 CITY OF GARDNER OFFICE

**AN ORDINANCE TO AMEND CHAPTER 600 OF THE CODE OF THE CITY OF GARDNER,  
THEREOF ENTITLED “VEHICLES AND TRAFFIC”**

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

**SECTION 1:** Section 23(D) of Chapter 600 of the Code of the City of Gardner, thereof entitled “All-Night Parking” be deleted in its entirety and replaced with the following thereof,

D. At the prescribed lots, during the parking ban, designated overnight parking areas shall be properly signed and parking shall be allowed for the duration of the parking ban, issued pursuant to the provisions of this Chapter of the Code of the City of Gardner, unless otherwise noted. No vehicle may park in a designated overnight parking area, in any municipal lot, during the parking ban, for a period of three hours after a called on-street parking ban expires, unless otherwise noted. Any vehicle or trailer parking in violation of the above shall be tagged and/or towed by the Police Department. The following are designated areas:

- (1) West Street: north side facing Franklin Court.
- (2) Knowlton Street: east side facing Pleasant Street (one lane).
- (3) Knowlton Street: from 7:00 p.m. to 7:00 a.m., east side from the southerly point of entrance of the City Hall Annex driveway south 75 feet to the overnight parking area.
- (4) Pleasant Street: southerly boundary of lot (one lane).
- (5) Pleasant Street: northerly boundary of lot (one lane).
- (6) West Lynde Street Parking North Lot: Except for the four parking spaces located outside of the enclosure, all City-designated parking spaces located in the lower level of the lot, except when the lot is posted for maintenance or weather-related cleanup. This lot is exempt from the 7:00 a.m. to 9:00 a.m. restriction on parking due to it being a covered lot.
- (7) George Sweeney Park: all spaces.
- (8) Prospect Street Parking Lot: all spaces along west boundary of lot.



(9) Nichols Street Lot: west end running parallel to Nichols Street; east end running parallel to Connors Street.

**SECTION 2:** That a new Section 85 be added to Chapter 600 of the Code of the City of Gardner to be entitled, “Prohibited Acts in Streets,” to be as follows:

§85: Prohibited Acts in Streets

A. Prohibition of on-street soliciting.

As a means of promoting traffic and pedestrian safety, no person, organization, business, or group shall stand within a street in the City to solicit, fundraise, or for any other reason cause traffic to be interrupted, impeded, or stopped.

B. Public Safety/Traffic Control Exemption

Nothing in this section shall be construed to be applied to any individual working in an official capacity in conjunction with City public safety personnel to help with directing traffic around official road closures, detours, or construction sites.

C. Violations and Penalties.

Any person who violates any provisions of this section shall be subject to a fine of \$50 per instance, in addition to any other punishment as may be provided by law.

**SECTION 3:** Section 15 of Chapter 600 of the Code of the City of Gardner, thereof entitled “Parking Meters,” be amended by replacing “\$0.25,” in subsection C with “\$0.50.”

**SECTION 4:** Section 18 of Chapter 600 of the Code of the City of Gardner, thereof entitled “Three-Hour Parking Meters,” be amended by replacing the phrase “Three Hours” with “Two Hours” throughout the section.

**SECTION 5:** Section 20(b) of the Code of the City of Gardner, thereof entitled “Off-Street Parking Areas,” be amended by replacing “\$0.25” with “\$0.50.”

**SECTION 6:** That this ordinance take effect upon passage and publication as required by law.



**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
**CITY CLERK**

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

---

**NOTICE TO ABUTTERS**

October 24, 2024

TO ABUTTERS AND OTHER INTERESTED PARTIES:

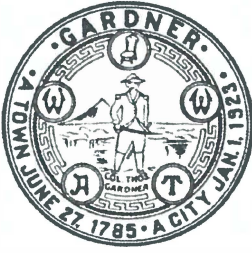
Pursuant to the provisions of M.G.L., c. 166, §22, you are hereby notified that a Public Hearing will be conducted on **MONDAY, NOVEMBER 4, 2024 at 7:30 o'clock P.M.** on the petition of Massachusetts Electric Company, d/b/a NATIONAL GRID for permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies:

CITY HALL AVE – A Petition by National Grid. City Hall Ave – To install underground facilities. Install 1 Pad-mounted transformer and ~20' of conduit in the parking lot off Main Street and Pleasant Street, Gardner, MA.

A sketch of the proposed pole location is attached for your edification.

CITY COUNCIL OF GARDNER

By: TITI SIRIPHAN  
City Clerk



**ENGINEERING DEPARTMENT**  
**CITY OF GARDNER**  
 50 Manca Drive, Gardner MA 01440

Robert E. Oliva, City Engineer  
 Telephone (978) 630-8195  
 roliva@gardner-ma.gov

---

**PROJECT REVIEW MEMORANDUM**

**To:** Elizabeth Kazinskas, Council President

**Cc:** Dane Arnold, DPW Director  
 Titi Siriphan, City Clerk

**From:** Robert Oliva – City Engineer *REO*

**Date:** October 25, 2024

**Project:** National Grid City Council Petition – City Hall Ave.  
 Council Item #11417

National Grid has submitted a petition for the installation of underground conduit and a pad mounted transformer within the layout of City Hall Ave. The location for the proposed equipment is in the parking area at Sweeney Park at the rear of 25 Main Street.

It is my understanding that this proposal is for the purpose of upgrading the electrical service to the building at 25 Main Street. Based on my review of the petition application and the plan provided therein, I have the following concerns:

1. The application and plan do not provide sufficient detail to allow a reasonable assessment of the impacts the proposal will have on the existing parking area, see comments below.
2. The application should include an engineered site plan showing all existing conditions, including but not limited to existing and proposed utilities, materials, curbs, sidewalks, light poles, etc. Existing conditions should be shown from an on the ground survey.
3. The site plan should include construction details for all proposed construction, including but not limited to underground duct construction, trenching, sidewalk and curb repair, pavement repair, line striping replacement, bollards, etc.
4. The plan as drawn does not require the loss of any parking. However, given the existing curb and sidewalk layout, this might not be possible without altering the layout of the curb and sidewalk. The existing light post and tree may also be affected.
5. Should the proposal move forward, and upon construction, the petitioner shall provide a detailed record plan (as built) to this office of the construction that clearly shows the location of the transformer, duct and appurtenances for future reference.

While I support the continuing improvements to this building and project, I can not endorse this petition until detailed plans are provided and potential impacts to the parking area are demonstrated to be minimized.

**nationalgrid**

RECEIVED  
2021 OCT -7 AM 11:30  
CITY OF GARDNER  
MASSACHUSETTS

October 4<sup>th</sup>, 2024

To the City Council of Gardner, Massachusetts

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID covering the installation of underground facilities.

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

Will Fontaine (508)-414-7308 or [William.fontaine@nationalgrid.com](mailto:William.fontaine@nationalgrid.com)

Please notify National Grid's Alyssa Jones of the hearing date/time to  
[Alyssa.jones@nationalgrid.com](mailto:Alyssa.jones@nationalgrid.com)

If this petition meets your approval, please return an executed copy to:

National Grid: Alyssa Jones; 1101 Turnpike Street, North Andover, MA 01845

Very truly yours,

*Zylmar Garcia*

Zylmar Garcia

Distribution Design Supervisor

Enclosures

Questions contact Central Design: Will Fontaine (508)-414-7308 or  
[William.fontaine@nationalgrid.com](mailto:William.fontaine@nationalgrid.com)

RECEIVED  
2021 OCT -7 AM 11:30  
CITY ENGINEERING DEPARTMENT  
GARDNER, MASSACHUSETTS

Petition of the Massachusetts Electric Company d/b/a NATIONAL GRID  
OF NORTH ANDOVER, MASSACHUSETTS  
For Electric Conduit Location:

To the City Council of Gardner, Massachusetts

Respectfully represents the Massachusetts Electric Company d/b/a NATIONAL GRID of North Andover, Massachusetts, that it desires to construct a line of underground electric conduits, including the necessary sustaining and protecting fixtures, under and across the public way or ways hereinafter named.

Wherefore it prays that after due notice and hearing as provided by law, it be granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as it may find necessary for the transmission of electricity, said underground conduits to be located substantially in accordance with the plan filed herewith marked – City Hall Ave - Gardner, Massachusetts.

The following are the streets and highways referred to:

**WR# 30950094**

City Hall Ave - National Grid to install underground facilities. Install 1 Pad-mounted transformer and ~20' of conduit in the parking lot off Main St and Pleasant St, Gardner, MA.

Location approximately as shown on plan attached.

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





Questions contact Central Design: Will Fontaine (508)-414-7308 or [William.fontaine@nationalgrid.com](mailto:William.fontaine@nationalgrid.com)

Dated: October 4, 2024

**ORDERED:**

Notice having been given and public hearing held, as provided by law, that the Massachusetts Electric Company d/b/a NATIONAL GRID be and it is hereby granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as said company may deem necessary, in the public way or ways hereinafter referred to, and to make the necessary house connections along said extensions, as requested in petition with said company dated the 4th day of October, 2024.

Said underground electric conduits shall be located substantially in accordance with the plan filed herewith marked – City Hall Ave - Gardner, Massachusetts.

The following are the public ways or part of ways along which the underground electric conduits above referred to may be laid:

**WR# 30950094**

City Hall Ave - National Grid to install underground facilities. Install 1 Pad-mounted transformer and ~20' of conduit in the parking lot off Main St and Pleasant St, Gardner, MA.

I hereby certify that the foregoing order was adopted at a meeting of the .....  
.....  
....., held on the ..... day of ....., 20 .....  
....., ....., 20 .....

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

Book ..... Page .....

Attest:  
.....

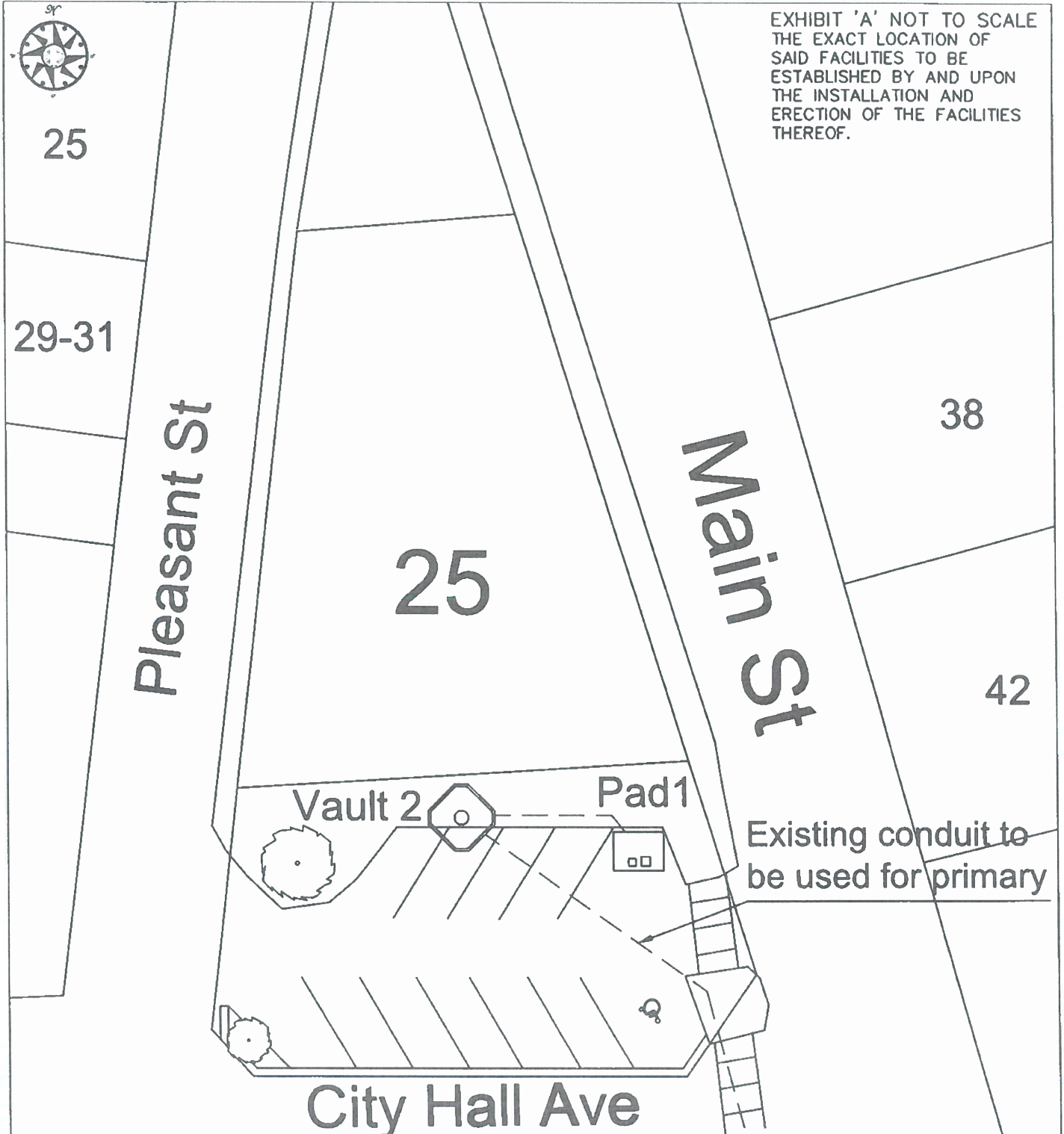
..... hereby certify that on .....20....., at ..... o'clock, ....M

at ....., a public hearing was held on the petition of Massachusetts Electric Company d/b/a NATIONAL GRID for permission to construct the underground electric conduits described in the order herewith recorded, and that I 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 construct the underground electric conduits under said order. And that thereupon said order was duly adopted.

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

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 Xfrmr Pad
-  Existing NGrid Vault
-  UG Electric

Petition Sketch

25 Main St  
Installing new Pad1 and conduit in parking lot to  
feed 25 Main St

Date: 10/4/2024  
Designer: Will Fontana  
WR: 30950094  
Gardner, MA





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 16, 2024

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

RE: A Measure Confirming the Mayor's Appointment of Paul Gaj, to the position of Historical Commission Member, for a term expiring October 16, 2027

Dear Madam President and Councilors,

I hereby submit my appointment of Paul Gaj to the position of Historical Commission Member.

This appointment comes at the recommendation of the current historical commission members based on the volunteer work he has already partnered with them on.

Attached to his appointment certificate is also the letter of interest he submitted to my office.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED

2024 OCT 17 PM 1:33

October 16, 2024

# Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

 Mayor  
Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: October 16, 2027

Worcester, ss., \_\_\_\_\_

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

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



# Paul Gaj Design

Architectural Design, Graphic Design, Fine Art & Creative Services

October 16, 2024

Hon. Michael J. Nicholson, Mayor

City of Gardner  
95 Pleasant Street, Room 125  
Gardner, MA 01440

Re: Historical Commission Appointment

Dear Mayor Nicholson:

I am writing to respectfully ask for your consideration to appoint me to the Gardner Historical Commission.

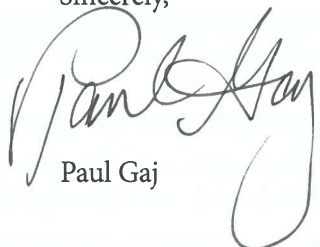
In summary, I am an Architectural and Graphic Designer with experience in designing and building residential and historical structures. With the use of traditional and CAD drafting tools, I have been designing buildings and structures of various periods in Massachusetts, Connecticut, and New Hampshire for a number of years.

Further, although not a native of Gardner, I have lived here for seven years and consider it home. I also have children and grandchildren living here who, along with the citizens of Gardner, I hope are positively affected by my contributions to the Commission.

In conclusion, if appointed, I look forward to contributing my skills and knowledge to help the Historical Commission in its efforts to monitor and preserve our historical buildings, artifacts, and sites.

Should you have any questions, please feel free to contact me at 978-807-9422 or by email at [pgaj@pgajdesign.com](mailto:pgaj@pgajdesign.com). Thank you very much for your kind consideration.

Sincerely,



Paul Gaj



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 8, 2024

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

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

Dear Madam President and Councilors,

At the October 2, 2024 meeting of the Finance Committee, it was requested that the Administration submit a red-lined copy of the current Part 1 of the City Code to further illustrate these proposed amendments.

Attached to this correspondence, please find the following:

- The latest version of the ordinance amendment proposal
- A red-lined copy of the current City Code showing the proposed amendments
- A clean copy of what Part 1 of the City Code would look like if this amendment proposal is adopted and passed
- A copy of Part 1 of the City Code as it currently exists.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 OCT --8 AM 9:03  
CITY CLERK'S OFFICE



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



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

---

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



City of Gardner - *Executive Department*

Original submission 5/7/2024

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  
CITY OF GARDNER  
MAY - 8 PM 3:18



**Amendment  
Proposal  
Administrative  
Ordinances**  
***Legislative  
Document***

**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 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 4: Colonel Thomas Gardner Day**

Whereas history is prologue, and it is important that our children be cognizant of our past, especially the early sacrifices that established the freedom and democracy we enjoy today, annually, on or before the 19th of April, the Mayor shall officially designate Patriots Day as Colonel Thomas Gardner Day in the City of Gardner and shall cause a proclamation to be issued and read in all the schools of Gardner, to honor this patriot who died of wounds received during the Battle of Bunker Hill and for whom our beloved community was named.

**Section 5: Flags**

**A. Flag at Half-Mast following death of Veteran**

The flag of the United States of America shall be flown at half-mast on all buildings owned or controlled by the City of Gardner after the death of a veteran who has served honorably in the Armed Forces of the United States and shall continue to be flown at half-mast every day until the burial of said veteran.



B. Authority of the Mayor

- i. The Mayor of the City of Gardner shall have the authority to have the flag of the United States flown at half-mast by virtue of a state and/or federal proclamation.
- ii. The Mayor of the City of Gardner shall have the authority to have the flag of the City of Gardner flown at half-mast by proclamation by the Mayor.

**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 up to two (2) 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. Miscellaneous**

Unless appointed by means other than those listed in Section 2 of Chapter 3 of the Code of the City of Gardner, all Department Heads, Officers, Employees, Boards, and Commissions shall report to the Mayor and shall appear before the City Council whenever requested to do so, in writing by majority vote of the City Council.

### **Section 2: 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 3: 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 4: 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.

### **Section 5: 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 6: 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 of the Fire Department or, during their absence, the officer in charge of the Department hereby is authorized to go to another city,

town or district for the purpose of aiding fire departments fire apparatus with personnel, and while in the performance of their duties in extending such aid, the members of the Department shall have the same immunities and privileges as if performing the same within the City of Gardner.

- iii. 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 7: 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 8: 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 9: 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 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 10: 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.

#### F. Emergency Management Division

##### Article I: Response to Calls for Mutual Aid

- i. Authority of Police Chief

The Chief of the Police Department during their absence, the officer in charge of the Department and hereby is authorized to go to another city, town or district for the purpose of aiding its police department with police vehicles with personnel, and while in the performance of their duties in extending such aid, the members of each Department shall have the same immunities and privileges as if performing the same within the City of Gardner.

##### Article II: Mutual Aid Agreements

- ii. Mutual Aid Programs for Police Purposes

The Mayor is hereby authorized under the authority granted by the General Laws of the Commonwealth, to enter into agreement between the City and any other city or town, or combination of other cities and towns, to provide mutual aid programs for police purposes in order to increase the capability of the City's Police Department to protect the lives, safety and property of the citizens of the City of Gardner and those

of said other cities and towns which may be a party to such agreement.

iii. Contents of Agreements

Such mutual aid agreements as authorized hereunder may provide for the furnishing of personal services, supplies, materials, contractual services and equipment when the resources normally available to either the City or the other municipality which is a party to such agreement are not sufficient to cope with a situation which requires police action.

Article III: Civil Defense Division

iv. Division Established

- A. There shall be established in the City of Gardner a Civil Defense Department to be administered by a Director.
- B. The Director shall report to the Mayor and Chief of Police and shall appear before the City Council whenever requested to do so.

**Section 11: 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 12: 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 13: 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.

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) members. 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. Meetings and records.

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 seven (7) 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 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 the General Laws of the Commonwealth, 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: Municipal Grounds Commission**

- A. Commission established; membership; terms of office.
- i. There shall be established a Municipal Grounds Commission for the City of Gardner consisting of at least six (6), but not more than eight (8) members
  - ii. The Director of Public Works, who shall be a of the Commission during his term of office but may only vote to break a tie in a vote of the other members.
- B. Meetings.

The Commission shall hold meetings no less than quarterly during the course of the year. The Secretary shall keep accurate minutes and records of all meetings of the Commission. The Director of Public Works shall not hold office within the Commission.

#### C. Duties

The Commission shall be an advisory body and shall advise the Director of Public Works, Mayor and City Council on matters relating to the Municipal Grounds Division.

**Section 13: 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 14: 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 15: 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 Code of the City of Gardner
- 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 16: 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 16 of Chapter 171 of the Code of the City of Gardner, entitled “Grant of Sick Days” shall be amended by replacing “15” with “twenty (20).”

**SECTION 47:** 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 48:** 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 49:** 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 50:** 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 51:** 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 52:** 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 53:** Section 26(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 54:** 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 55:** 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 56:** 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 57:** 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 58:** 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 59:** 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 60:** 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 61:** 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 62:** Section 35 of Chapter 171 of the Code of the City of Gardner, thereof entitled “Firefighters,” be deleted in its entirety.

**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 replacing the title of the section with the following: “Full-time Employees.”

**SECTION 64:** 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 65:** 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 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 replacing the title with “Part-time Employees.”

**SECTION 67:** 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 words “other” and “or officers” from the first sentence.

**SECTION 68:** 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 69:** 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 70:** 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 71:** 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 72:** 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 73:** 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 74:** 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 75:** 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 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:

A. 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.

B. 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 doctor's 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.

C. 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 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.

**Amendment  
Proposal  
Administrative  
Ordinances**

***Redlined Version***

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

## Part I: Administrative Legislation

### Chapter 1 General Provisions

~~{HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.}~~

#### Article I Enforcement

~~{Adopted 5-21-1990 by Ord. No. 1046}~~

##### § 1-1 Criminal complaint.

Any person who violates the provisions of any ordinance of the City of Gardner may be penalized by indictment or on complaint brought in District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the penalty for each violation or offense shall be not less than \$25 nor more than \$300.

##### § 1-2 Noncriminal disposition.

Any person who violates the provisions of any ordinance of the City of Gardner, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances, rules or regulations are to be included within the scope of this section, that the specific penalties as listed hereunder shall apply in such cases, and that the municipal official listed for each ordinance, rule or regulation shall be the enforcing person for such ordinance, rule or regulation. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or regulation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

A. Violation of any provision of Chapters 1 through 10 of the State Sanitary Code (105 CMR 400.000 to 105 CMR 590.000) or Title 5 of the State Environmental Code (310 CMR 15.00). ~~{Amended 4-6-1992 by Ord. No. 1092}~~

(1) Enforcing person: Director of Public Health. ~~{Amended 11-18-2013 by Ord. No. 1563}~~

(2) Penalty.

(a) First offense: \$25.

(b) Second and subsequent offenses: \$50.

B. Violation of any regulation adopted by the Board of Health under MGL c. 111, § 31, 31B, 122, 127 or 155.

(1) Enforcing person: Director of Public Health. ~~{Amended 11-18-2013 by Ord. No. 1563}~~

- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- C. Violation of any regulation from the Massachusetts State Building Code. ~~Amended 11-18-2013 by Ord. No. 1563~~
- (1) Enforcing person: Building Commissioner.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- D. Violation of any provision of Chapter 675, Zoning, of this Code.
- (1) Enforcing person: Building Commissioner.
- (2) Penalty: \$300. ~~Amended 11-18-2013 by Ord. No. 1563~~
- E. Violation of any regulation from the Uniform State Plumbing Code and Massachusetts Fuel Code, 248 CMR 3 to 11. ~~Amended 11-18-2013 by Ord. No. 1563~~
- (1) Enforcing person: Plumbing Inspector.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- F. Violation of any regulation from the Massachusetts Electrical Code, 527 CMR 12.00.
- (1) Enforcing person: Wire Inspector.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- G. Violation of any provision of Chapter 390, Fees, Article VII, Wiring Permits, of this Code.
- (1) Enforcing person: Wire Inspector.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- H. Violation of MGL c. 148, §§ 26C and 26E, as accepted by the City Council on April 5, 1982.



- (1) Enforcing person: Fire Chief or legal designee of Fire Chief.
  - (2) Penalty: \$25.
- I. Violation of any regulation from the Air Pollution Control Regulations, 310 CMR 7.00, in which specific reference to 310 CMR 7.52 is cited. ~~{Amended 4-6-1992 by Ord. No. 1092}~~
- (1) Enforcing person: Fire Chief or legal designee of Fire Chief, Director of Public Health, or any police officer. ~~{Amended 11-18-2013 by Ord. No. 1563}~~
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.
- J. Violation of any provision of Chapter 567, Streets and Sidewalks, Article VII, Driveway Permits, of this Code.
- (1) Enforcing person: City Engineer.
  - (2) Penalty: \$50.
- K. Violation of any provision of Chapter 553, Sewers, of this Code.
- (1) Enforcing person: Public Works Director.
  - (2) Penalty: \$50.
- L. Violation of any provision of Chapter 625, Water, of this Code.
- (1) Enforcing person: Public Works Director.
  - (2) Penalty: \$50.
- M. Violation of any provision of Chapter 312, Animals, Article I, Dog Control, of this Code. ~~{Added 12-17-1990 by Ord. No. 1062}~~
- (1) Enforcing person: Dog Officer or any police officer.
  - (2) Penalty. ~~{Amended 11-18-2013 by Ord. No. 1563}~~
    - (a) First offense: \$25.
    - (b) Second offense: \$50.
    - (c) Third offense: \$100.
    - (d) Fourth offense: \$200.
    - (e) Fifth and each subsequent offense: \$300.
- N. Violation of any provision of Chapter 610, Vehicles, Wrecked and Abandoned, of this Code. ~~{Added 6-15-1992 by Ord. No. 1096}~~
- (1) Enforcing person: any police officer.

- (2) Penalty: \$50 a day for each day's violation beyond a fourteen-day period after notice, not to exceed \$300.
- O. Violation of any provision of the Wetland Protection Act, MGL c. 131, § 40. ~~[Added 4-6-1992 by Ord. No. 1092]~~
- (1) Enforcing person: legal designee of Conservation Commission.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- P. Violation of MGL c. 111, § 123 (abatement of nuisance by owner). ~~[Added 4-6-1992 by Ord. No. 1092]~~
- (1) Enforcing person: Director of Public Health. ~~[Amended 11-18-2013 by Ord. No. 1563]~~
- (2) Penalty: \$20.
- Q. Violation of any provision of Chapter 567, Streets and Sidewalks, Article VI, Street Excavations and Obstructions, of this Code. ~~[Added 6-5-1995 by Ord. No. 1188]~~
- (1) Enforcing person: Public Works Director.
- (2) Penalty, each offense and each day: \$100.
- R. Violation of any provision of Chapter 330, Bicycles and Play Vehicles, Article I, Bicycles, § 330-3A, of this Code. ~~[Amended 11-18-2013 by Ord. No. 1563]~~
- (1) Enforcing person: any police officer.
- (2) Penalty, any offense: \$20.
- S. Violation of any provision of Chapter 330, Bicycles and Play Vehicles, Article II, Roller Skates, Skateboards and Toy Vehicles, of this Code. ~~[Added 6-19-1995 by Ord. No. 1190]~~
- (1) Enforcing person: any police officer.
- (2) Penalty, any offense: \$5.
- T. Violation of any provision of Chapter 636, Water Use Restrictions, of this Code. ~~[Added 9-20-1999 by Ord. No. 1309]~~
- (1) Enforcing person: Public Works Director.
- (2) Penalty.
- (a) First offense: \$50.
- (b) Each subsequent offense: \$100.

**§ 1-3 Purchasing/Civil Enforcement Department.**  
**[Added 7-6-2004 by Ord. No. 1409; amended 11-18-2013 by Ord. No. 1563]**

There is hereby established in the administrative service of the City of Gardner a Civil Enforcement Department to be included with the duties and responsibilities of the Purchasing Department, and this Department shall be titled the "Purchasing/Civil Enforcement Department." The duties and responsibilities of said Department and the Purchasing Agent/Civil Enforcement Director shall include the input, computerized tracking, management, and reporting of various noncriminal violation fines and penalties from imposition through collection. These duties and responsibilities are further defined by Chapter 221, Purchasing/Civil Enforcement Department, of this Code.

## Article II Adoption of Code

**[Adopted 11-18-2013 by Ord. No. 1563]**

### **§ 1-4 Adoption of Code.**

The ordinances of the City of Gardner of a general and permanent nature adopted by the City Council of the City of Gardner, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 675, are hereby approved, adopted, ordained and enacted as the "Code of the City of Gardner," hereinafter referred to as the "Code."

### **§ 1-5 Code superseded prior ordinances.**

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

### **§ 1-6 Continuation of existing provisions.**

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

### **§ 1-7 Copy of Code on file.**

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the City Clerk, and such certified copy shall remain on file in the office of said City Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

### **§ 1-8 Amendments to Code.**

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Gardner" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

### **§ 1-9 Publication; filing.**

The Clerk of the City of Gardner shall cause this ordinance to be published in the manner required by law. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-10 Code to be kept up-to-date.**

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

**§ 1-11 Sale of Code.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-12 Altering or tampering with Code; penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Gardner to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to the penalties as set forth in § 1-1 of the Code.

**§ 1-13 Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a 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. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

**§ 1-14 Severability of ordinance provisions.**

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.

**§ 1-15 Repealer.**

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

**§ 1-16 Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-15 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to August 5, 2013.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.

- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any ordinance or portion of an ordinance pertaining to the rate and manner of payment of salaries and compensation of municipal officers and employees or establishing or classifying positions.
- N. Any ordinance or portion of an ordinance establishing traffic or parking regulations.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance accepting or adopting the provisions of any general law or special act of the commonwealth.

**§ 1-17 Changes in previously adopted ordinances.**

- A. In compiling and preparing the ordinances for publication as the Code of the City of Gardner, no changes in the meaning or intent of such ordinances have been made except as provided for in Subsections B and C hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. Nomenclature. The following titles are updated throughout the Code:
  - (1) "Chairman" to "Chairperson."
  - (2) "Building Inspector" to "Building Commissioner."
  - (3) "Department of Public Safety" to "Police Department."
  - (4) "Commissioner of Public Safety" to "Chief of Police."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

**§ 1-18 When effective.**

This ordinance shall take effect upon passage and publication as required by law.



## Chapter 2

### Seal and Other Emblems of the City

#### 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.)

## Chapter 3

# Personnel, Appointments, and Employment

### 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.

## Chapter 13 Aging, Council on

Commented [MN1]: Moved to Chapter 7, Section 8

~~[HISTORY: Adopted by the City Council of the City of Gardner 6-5-1961 by Ord. No. 237; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]~~

#### **§ 13-1 Council established.**

A Council on Aging is hereby established.

#### **§ 13-2 Membership; terms of office.**

[Amended 3-6-2023 by Ord. No. 1662]

The Council on Aging shall consist of at least seven (7) members but no more than (11) 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.~~

Commented [MN2]: Chapter 3, Sec 2 and 3

#### § 13-3 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.

#### § 13-4 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.

## Chapter 22 Assessing Department

Commented [MN3]: Assessing Dept Chapter 6, Sec 2 Board of Assessors, Chapter 7, Section 4

~~[HISTORY: Adopted by the City of Gardner at the City election (initiative petition) 11-5-1957 by Ord. No. 186; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]~~

#### § 22-1 Department established.

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)~~ three Assessors, ~~one of which shall serve as the City Assessor.~~

Commented [MN4]: Chapter 6, Section 1

#### § 22-2 Board of Assessors.

- A. ~~There is hereby a Board of Assessors established, who shall work with the City Assessing Department in accordance with the provision so of Chapter 6 of the Code of the City of Gardner. 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 the City Council. A vacancy occurring may be filed 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. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof. [Amended 3-6-2023 by Ord. No. 1663]~~
- B. ~~Each year at its first meeting the Board shall organize and elect a Chairperson.~~
- C. 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. The City Assessor shall serve full time as an Assessor, while the other ~~two~~ members shall be part-time Assessors. ~~[Amended 3-6-2023 by Ord. No. 1663]~~
- E. The Board shall meet with any person filing an application for abatement or his attorney upon request for such a meeting.

Commented [MN5]: References new Assessing Dept Chapter

Commented [MN6]: Chapter 7, Section 1 (c)

**§ 22-3 Compensation:**

~~The salary of the Assessors and other employees of the Assessing Department shall be established in the ordinances designating salaries and wages for the City employees.~~

Commented [MN7]: Chapter 3, Section 1

## Chapter 31

# Building Department

~~[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]~~

## GENERAL REFERENCES

Building Commissioner — See Ch. 160, Art. VIII.

Fees — See Ch. 390.

### Article I

#### Inspection of Wires Division

~~[Adopted 9-2-2003 by Ord. No. 1389; amended 8-6-2012 by Ord. No. 1544]~~

##### 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.~~

##### § 31-1 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~~ Electrical Inspector," and such officer is hereby designated as the officer required by ~~MGL c. 166, § 32~~ the General Laws of the Commonwealth and the Code of the City of Gardner.

~~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~~ Electrical Inspector 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.

##### § 31-2 ~~Inspector of Wires~~ Electrical Inspector

~~[Amended 11-18-2013 by Ord. No. 1563]~~

A. ~~A.~~ The Mayor shall appoint, ~~subject to recommendation of the Building Commissioner and confirmation by the City Council,~~ an Inspector of Wires Electrical Inspector, who shall be appointed for a term of three years. The Inspector of Wires shall be ~~a journeyman electrician licensed~~ licensed electrician in the Commonwealth of Massachusetts.

B. ~~He~~ They shall keep an accurate record of the transactions of ~~his~~ their 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.

~~D. — The salary of said position of Inspector of Wires shall be included in the ordinances designating salaries~~

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.58"



~~and wages for the City employees.~~

Commented [MN8]: Chapter 3, Sec 1

## Chapter 34

# Capital Improvement Planning Committee

Commented [MN9]: Ch 7, Sec 6

~~[HISTORY: Adopted by the City Council of the City of Gardner 9-5-2006 by Ord. No. 1434. Amendments noted where applicable.]~~

### § 34-1 Committee established; membership. [Amended 11-18-2013 by Ord. No. 1563]

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.]~~

Commented [MN10]: Chapter 7, Sec 1(c)

### § 34-2 Review of projects.

- A. 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.
- 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.~~

### § 34-3 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.

### § 34-4 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.

**§ 34-5 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.

## Chapter 39 Cemetery Commission

Commented [MN11]: Chapter 7, Sec 7

~~[HISTORY: Adopted by the City Council of the City of Gardner 9-17-1979 by Ord. No. 707. Amendments noted where applicable.]~~

**§ 39-1 Commission established; membership; appointment.**

A. There shall be established a Cemetery Commission for the City of Gardner consisting of ~~three no more than five (5) members but no less than seven (7) 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.~~

Commented [MN12]: Chapter 3, Sec 2

B. ~~[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.]~~

Commented [MN13]: Chapter 3, Sec 8

C. ~~[Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.]~~

Commented [MN14]: Chapter 3, Sec 3

**§ 39-2 Meetings, minutes and records.**

- A. The Commission shall meet annually in March each year to organize and elect a Chairperson and Secretary. The Commission shall hold ~~monthly~~ quarterly meetings ~~each month~~ during the course of the year.
- B. The Secretary shall keep accurate minutes and records of all meetings of the Commission.

**§ 39-3 Duties; perpetual care funds.**

- A. 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.
- B. 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.
- C. 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. ~~[Amended 3-7-1983 by Ord. No. 805; 8-6-2012 by Ord. No. 1550]~~

~~§ 39-4 Compensation.~~

~~Members of said Commission shall receive for their services such compensation as the City Council may prescribe.]~~

Commented [MN15]: Ch3, Sec 3

## Chapter 45 City Council

**[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]**

### Article I Meetings

**[Adopted 1-29-1923 by Ord. No. 2]**

#### § 45-1 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. 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. **[Amended 3-1-1926 by Ord. No. 20; 1-15-1940 by Ord. No. 61; 3-15-2010 by Ord. No. 1512; 11-18-2013 by Ord. No. 1563]**
- 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. **[Amended 3-15-2010 by Ord. No. 1512]**
- 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 he may deem necessary and shall cause the same to be printed and 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. **[Added 11-6-1933 by Ord. No. 34; amended 11-18-2013 by Ord. No. 1563]**

#### § 45-2 Special meetings.

- A. Special meetings of the City Council may be called by the President and 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. **[Added 11-6-1933 by Ord. No. 34]**

### Article II Legal Counsel

**[Adopted 5-21-2018 by Ord. No. 1612]**

**§ 45-3 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 § 140-2 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.

## Chapter 50 Community Development and Planning Department

Commented [MN16]: Ch6, Sec4

~~{HISTORY: Adopted by the City Council of the City of Gardner 9-11-1979 by Ord. No. 702. Amendments noted where applicable.}~~

**GENERAL REFERENCES**

Planning Board — See Ch. 182.  
Zoning — See Ch. 675.

**§ 50-1 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. [Amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN17]: Ch3, Sec 1

Commented [MN18]: Ch6, Sec1

**§ 50-2 Duties of Director.**

The duties of the Director shall be as follows:

- ~~A. Administer Gardner's Community Development Block Grant and Section 312 Loan Program and any and all appropriate federal or state grants to the City of Gardner.~~
- ~~B. Write future Community Development Block Grant preapplications and applications.~~
- ~~C. Prepare an annual budget for the Community Development and Planning Department.~~
- ~~D. Plan and coordinate activities in:~~
  - ~~(1) Industrial financing.~~
  - ~~(2) Housing development planning and financing.~~

- ~~(3) Subdivision review and approval.~~
- ~~(4) Capital improvement programming.~~
- ~~(5) Land use, zoning and environmental impact.~~
- ~~(6) Long range physical planning.~~
- ~~(7) Social and human services planning.~~
- ~~(8) Downtown revitalization.~~
- ~~(9) Park, recreation and open space planning.~~
- ~~E. Coordinate and upgrade code enforcement in the City of Gardner.~~
- ~~F. Assist in developer selection.~~
- ~~G. Attend public meetings relevant to community development.~~
- ~~H. Provide staff and technical assistance to independent authorities, boards, commissions and committees.~~
- ~~I. Coordinate activities between independent authorities, boards, commissions and committees.~~
- ~~J. Work with other City department heads and elected officials to undertake community development activities.~~
- ~~K. Administer the Community Development and Planning Department.~~
- ~~L. Investigate and pursue possibilities of federal, state and private capital or other outside financial aid in support of community development programs.~~
- ~~M. Coordinate the planning of Gardner's Heritage State Park.~~
- ~~N. Employ and supervise, from time to time, such full-time or part-time assistance as may be required to accomplish the above duties, subject, however, to proper appropriations being made therefor.~~

**§ 50-3 Revision of duties.**

~~The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance by a two-thirds vote of the City Council consistent with prevailing General Laws, City ordinances and the City Charter.~~

Commented [MN19]: Ch 3, Sec 6

**§ 50-4 Compensation.**

~~The salary of the Director and other employees within the Community Development and Planning Department shall be as established in the ordinances designating salaries and wages for City employees.~~

Commented [MN20]: Ch 3, Sec 3

## Chapter 62 Disability Commission

~~[HISTORY: Adopted by the City Council of the City of Gardner 11-17-2003 by Ord. No. 1395. Amendments noted where applicable.]~~



**§ 62-1 Commission established; membership; terms of office.**

A. 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) members, legal voters of said City, who shall be appointed by the Mayor, subject to confirmation by the City Council, as follows: the~~ [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. ~~Amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN21]: Ch 3, Sec 1

B. ~~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. Amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN22]: Ch 3, Sec 1 (appointment process)  
Ch 3, Sec 8 (Vacancies)  
City Charter for Hearing for Appointed Officials Removal

C. ~~Before entering the discharge of their duties, the members shall be sworn to the faithful discharge thereof.~~

Commented [MN23]: Ch 3, Sec 3

**§ 62-2 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.~~

Commented [MN24]: Ch7, Sec 1(c)

**§ 62-3 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 the disabled of the City and in conjunction with 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 said Commission for the purposes of this section.~~

Commented [MN25]: Ch7, Sec 1(B)

## Chapter 75 Emergency Management

Commented [MN26]: Ch6, Sec 9(F)

~~[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]~~

**GENERAL REFERENCES**

Fire Department — See Ch. 87.

Police Department — See Ch. 193.

Hazardous materials — See Ch. 432.

Article I  
Response to Calls for Aid

~~{Adopted 4-2-1928 by Ord. No. 25; amended its entirety 11-3-1973 by Ord. No. 600}~~

**§ 75-1 Authority of Police Chief and Fire Chief.**

The Chief of the Police Department and the Chief of the Fire Department or, during their absence, the officer in charge of either Department be and hereby is authorized to go to another city, town or district for the purpose of aiding its police and fire departments with police vehicles and/or fire apparatus with personnel, and while in the performance of their duties in extending such aid, the members of each Department shall have the same immunities and privileges as if performing the same within the City of Gardner.

Article II  
Mutual Aid Agreements

~~{Adopted 10-1-1979 by Ord. No. 709}~~

**§ 75-2 Mutual aid programs for police purposes.**

~~{Amended 11-18-2013 by Ord. No. 1563}~~

The Mayor is hereby authorized under the authority granted by ~~MGL c. 40, § 4A (which allows for agreements between local governmental units)~~the General Laws of the Commonwealth, to enter into agreement between the City and any other city or town, or combination of other cities and towns, to provide mutual aid programs for police purposes in order to increase the capability of the City's Police Department to protect the lives, safety and property of the citizens of the City of Gardner and those of said other cities and towns which may be a party to such agreement.

**§ 75-3 Contents of agreements.**

~~{Amended 11-18-2013 by Ord. No. 1563}~~

Such mutual aid agreements as authorized hereunder may provide for the furnishing of personal services, supplies, materials, contractual services and equipment when the resources normally available to either the City or the other municipality which is a party to such agreement are not sufficient to cope with a situation which requires police action.

Article III  
Civil Defense Department

~~{Adopted 3-19-2007 by Ord. No. 1456}~~

**§ 75-4 Department established; Director.**

- A. ~~Pursuant to the Acts and Resolves of Massachusetts 1950, Chapter 639, Section 13, t~~here shall be established in the City of Gardner a Civil Defense Department to be administered by a Director.
- B. ~~The Civil Defense 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~~ Chief of Police and shall appear before the City Council whenever requested to do so.

Commented [MN27]: Ch 3, Sec 2

**§ 75-5 Duties of Director.**

~~The duties of the Director shall be as follows. The Director shall:~~

- A. Be responsible for the organization, administration and operation of the Civil Defense Department.
- B. Prepare the appropriate disaster response plans and ensure that the City is fully prepared to respond in the event of a disaster.
- C. Ensure that the City is in full compliance with any state or federal mandates, guidelines or policies related to the civil defense and disaster response, such as the Homeland Security Act.
- D. Be responsible for the preparation and the carrying out of all emergency functions, other than functions for which military forces other than the National Guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes; said functions shall include specifically, but without limiting the generality of the foregoing, fire fighting and police services, medical and health services, rescue, engineering and air raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions.
- E. In the event of a proclamation of a disaster or a state of extreme emergency by the Governor, Mayor or the State Director of Civil Defense, the Director may request of the appropriate authority all necessary assistance, requisition the necessary personnel or materials from any City department or other source; control and direct all City personnel and equipment, obtain vital supplies and such other properties found lacking and needed for the protection of life and property of the people and commandeer immediately such property, equipment and personnel necessary for the public use during the term of the emergency.
- F. Attend City events such as a parade or fireworks display to direct and assist on the side lines, prepared and ready to help in whatever capacity needed.
- G. Remain in touch with City, state, and federal officials and with weather agencies.
- H. Assist the Police Department with evacuations, road closures and detours and help transport people during severe storms and with missing persons searches.
- I. In collaboration with other public and private agencies within the commonwealth, develop or cause to be developed mutual aid agreements for reciprocal civil defense aid and assistance in case of a disaster too great to be dealt with unassisted.
- J. Work in an advisory capacity to the Mayor on all civil defense related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.

**§ 75-6 Revision of duties.**

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.

Commented [MN28]: Ch 3, Sec 6

**§ 75-7 Compensation.**

The salary of the Director and other employees of the Civil Defense Department shall be established in the ordinances designating salaries and wages for the City employees.

Commented [MN29]: Ch3, Sec 3

## Chapter 87

# Fire Department

Commented [MN30]: Ch6, Sec 6

~~[HISTORY: Adopted by the City Council of the City of Gardner 6-16-2014 by Ord. No. 1570. Amendments noted where applicable.]~~

## GENERAL REFERENCES

Formatted: Body Text

~~Officers and employees — See Ch. 160.~~

Formatted: Space After: 14.15 pt

~~Personnel — See Ch. 171.~~

~~Fire prevention — See Ch. 396.~~

### § 87-1 Personnel.

The Fire Department of the City of Gardner shall consist of a Fire Chief, ~~a Fire Captain, six Lieutenants, and such fire privates and other support and other such~~ personnel as the Mayor, with the approval of the City Council, shall from time to time deem necessary, subject to appropriation.

### § 87-2 Appointments.

Subject to the following, all appointments to the Fire Department shall be made by the Fire Chief ~~and shall not be subject to confirmation by the City Council.~~

### § 87-3 Fire Chief.

~~A. 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.~~

Commented [MN31]: Ch3, Sec 2

~~B. The Chief of the Fire Department or, during their absence, the officer in charge of the Department hereby is authorized to go to another city, town or district for the purpose of aiding fire departments fire apparatus with personnel, and while in the performance of their duties in extending such aid, the members of the Department shall have the same immunities and privileges as if performing the same within the City of Gardner.~~

Formatted

~~C.~~

Commented [MN32]: Moved from emergency management section

~~D. 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.~~

Commented [MN33]: Ch 3, Sec 2

### ~~§ 87-4 Fire Chief compensation:~~

~~The compensation for the position of Fire Chief shall be as set forth in the Code of the City of Gardner as from time to time amended.~~

Commented [MN34]: Ch3, Sec 3

## Chapter 92



## Flags

Commented [MN35]: Ch2, Section 5

~~[HISTORY: Adopted by the City Council of the City of Gardner 5-1-1939 by Ord. No. 52; amended in its entirety 4-20-1982 by Ord. No. 776. Subsequent amendments noted where applicable.]~~

### § 92-1 Flag at half mast following death of veteran.

The flag of the United States of America shall be flown at half mast on all buildings owned or controlled by the City of Gardner after the death of a veteran who has served honorably in the Armed Forces of the United States and shall continue to be flown at half mast every day until the burial of said veteran.

### § 92-2 Authority of Mayor.

The Mayor of the City of Gardner shall have the authority to have the flag of the United States flown at half mast by virtue of a state and/or federal proclamation.

## Chapter 106 Historical Commission

Commented [MN36]: Ch7, Sec 11

~~[HISTORY: Adopted by the City Council of the City of Gardner 3-4-1974 by Ord. No. 554. Amendments noted where applicable.]~~

### § 106-1 Commission established; membership.

There is hereby established, under the provisions of ~~MGL c. 40, § 8D~~ the General Laws of the Commonwealth, an 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 no more than eleven (11) 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.~~

Commented [MN37]: Ch 3, Sec 2

## Chapter 110 Holidays

Commented [MN38]: Chapt 2, Sec 4

~~[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]~~

### Article I Colonel Thomas Gardner Day

~~[Adopted 8-7-2000 by Ord. No. 1334]~~

#### § 110-1 Designation.

Whereas history is prologue, and it is important that our children be cognizant of our past, especially the early sacrifices that established the freedom and democracy we enjoy today, annually, on or before the 19th of April, the Mayor shall officially designate Patriots Day as Colonel Thomas Gardner Day in the City of Gardner and shall cause a proclamation to be issued and read in all the schools of Gardner, to honor this patriot who died of wounds received during the Battle of Bunker Hill and for whom our beloved community was named.



## Chapter 113

# Human Resources Department

Commented [MN39]: Ch6, Sec7

~~[HISTORY: Adopted by the City Council of the City of Gardner 1-7-1985 by Ord. No. 855; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]~~

#### GENERAL REFERENCES

~~Personnel — See Ch. 171.~~

#### § 113-1 Department established; Director.

- A. There shall be established in the City of Gardner a Human Resources 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. 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.~~

Commented [MN40]: Ch 3, Sec 2

Commented [MN41]: Ch6, Sec1

#### § 113-2 Duties of Director.

~~The duties of the Director shall be as follows. The Director shall:~~

- A. ~~Originate, interpret, apply, and implement various human resources policies, changes and regulating guidelines for the City consistent with the needs and objectives of the City, including but not limited to the Harassment Prevention Policy, Family and Medical Leave Act Policy, Small Necessities Leave Policy, Drug-Free Workplace Policy and the Equal Employment Opportunity Policy.~~
- B. ~~Develop and implement a performance evaluation program.~~
- C. ~~Act as a liaison for and extend technical guidance to department heads and employees on work performance and appraisal problems.~~
- D. ~~Assist the Mayor and/or his/her bargaining agents in collective bargaining, grievance matters and discipline situations.~~
- E. ~~Oversee and administer all employee benefit programs, wage and salary programs, indoctrinations and terminations.~~
- F. ~~Advise all departments and employees relative to staffing, benefits, recruitments, appointments, career development and promotions.~~
- G. ~~Administer and maintain records of the City unemployment compensation program, workers' compensation program and employee assistance programs.~~
- H. ~~Serve as and perform all functions of the Labor Service Director for the City and administer all civil service personnel transactions.~~
- I. ~~Be appointed as City representative to the Disability Commission and manage all duties and responsibilities required of said appointment.~~
- J. ~~Serve as ADA Coordinator for the City and perform all duties and responsibilities required of said position.~~

~~K. Maintain confidential personnel, medical and personnel-related files for all City personnel.~~

~~L. Serve and perform all functions of Ethics Liaison for the City.~~

~~M. Serve as City Harassment Grievance Officer and perform all duties and responsibilities required of said position.~~

~~N. Work in an advisory capacity to the Mayor on all employee-related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.~~

~~O. Employ and supervise, from time to time, such full-time or part-time assistance as may be required to accomplish the above duties; subject, however, to proper appropriations being made therefor.~~

~~§ 113-3 Revision of duties:~~

~~The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.~~

Commented [MN42]: Ch 3, Sec 6

~~§ 113-4 Compensation:~~

~~The salary of the Director and other employees of the Human Resources Department shall be established in the ordinances designating salaries and wages for the City employees.~~

Commented [MN43]: Ch3, Sec 3

## Chapter 118 Information Technology Department

Commented [MN44]: Ch6, Sec 8

~~{HISTORY: Adopted by the City Council of the City of Gardner 2-21-2012 by Ord. No. 1537. Amendments noted where applicable.}~~

**§ 118-1 Department established; Director.**

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

B. ~~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.~~

Commented [MN45]: Ch3, Sec 2

Commented [MN46]: Ch6, Sec1

~~§ 118-2 Duties of Director:~~

~~The duties of the Director shall be as follows. The Director shall:~~

~~A. Be responsible for the organization, administration and operation of the Information Technology Department and develop, manage and monitor the annual operating budget and capital improvement plan, including City-wide information technology and systems' acquisition and maintenance.~~

~~B. Develop and implement a long range plan for information technology.~~

~~C. Plan, manage, and maintain the City's information technology and systems, including hardware, software, networks, system installations, backups, upgrades, and implementation and support of applications.~~

~~D. Maintain access to the network resources and undertake software updates and corrections.~~

- E. Act as a technical expert to assist City employees with complex desktop computer hardware and software problems and prepare training courses and provide user support and training in the use of available hardware, software, and utilities, including GIS systems.
- F. Manage the City's wide area network, including the development and maintenance of user accounts, print queues, storage requirements and bandwidth needs; maintain VoIP telephone systems; maintain VoIP hardware and infrastructure; and perform maintenance, user configuration and software configuration changes.
- G. Maintain an annual inventory of computers and related equipment; order and set up new computers, printers, scanners, hardware, software, and other network devices; and manage vendor relationships and arrange for vendor support and repair services.
- H. Maintain assorted peripheral technology such as printers and projectors.
- I. Develop protocols and implement security measures to protect the City's networks against viruses, intrusion, and other potential hazards and establish disaster recovery plans.
- J. Develop applications, as needed.
- K. Be responsible for the operation and management of Internet or intranet website, including the updating and maintenance of the City's website and web presence.
- L. Evaluate information technology needs and work with department heads and other staff to define needs, explore system solutions, and provide business systems consulting services to recommend the effective use of technology to improve efficiency and service.
- M. Maintain relationships with vendors, consultants, and technology groups and networks.
- N. Research hardware/software developments and trends, recommend information technology purchases to the City Administrator, develop request for proposals and purchase specifications, and meet with vendors and consultants.
- O. Coordinate licensing of software and the identification of hardware assets.
- P. Work closely with the GIS/AutoCAD Technician on the planning, management, implementation, evaluation and establishment of policies and procedures for the City's geographic information systems.
- Q. Design databases, develop applications, establish standards and procedures for database management, maintain data dictionaries, and maintain system documentation.
- R. Coordinate with the GIS/AutoCAD Technician on the planning, implementation and administration of the integration, consolidation, development, security and integrity of City-wide GIS databases.
- S. Supervise employees in such position titles as systems manager and departmental liaisons involved in computer hardware/software support and user support. Requires matrix management of staff involved in the use and maintenance of the GIS system. Supervisory activities include responsibility for performance management, hiring, conducting employee orientation, scheduling work hours/granting time off, providing training and development and assigning/reviewing work.
- T. Work in an advisory capacity to the Mayor on all information technology related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.



**§ 118-3 Revision of duties.**

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.

Commented [MN47]: Ch 3, Sec 6

**§ 118-4 Compensation.**

The salary of the Director and other employees of the Information Technology Department shall be established in the ordinances designating salaries and wages for the City employees.

Commented [MN48]: Ch3, Sec 3

## Chapter 140

# Law Department

Commented [MN49]: Ch 6, Sec 9

~~[HISTORY: Adopted by the City Council of the City of Gardner 12-15-1986 by Ord. No. 908. Amendments noted where applicable.]~~

**§ 140-1 Department established.**

A. ~~A.~~ 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.

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.58"

B. ~~Both~~ said officers shall be members of the Bar of the Commonwealth of Massachusetts in good standing.

~~B. 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. Amended 9-8-1987 by Ord. No. 932]~~

Formatted: Space Before: 0 pt, After: 0 pt, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.58"

C. ~~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.~~

**NEW: 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.~~

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Body Text

**§ 140-2 Duties of Solicitor and Assistant Solicitor.**

~~The duties of the City Solicitor and Assistant City Solicitor shall be as follows. They shall:~~

A. ~~Approve contracts, give legal advice and furnish written opinions when so requested by the Mayor, City Council, the chairperson of a City committee or the head of any City department.~~

- ~~B. Prosecute or defend all cases and proceedings to which the City is a party.~~
- ~~C. Prepare or approve all deeds or other legal instruments relating to the City, consider claims against the City and make recommendation for their resolution to the Mayor or appropriate committee of the City Council, as the case may be, and generally handle all legal affairs pertaining to the City.~~
- ~~D. Employ and supervise, from time to time, such full or part-time assistance as may be required to accomplish the above duties, subject, however, to proper appropriations being made therefor.~~

Commented [MN50]: Ch3, Sec 6

~~§ 140-3 Compensation.~~

~~The salaries of the City Solicitor, Assistant City Solicitor and other employees of the Law Department shall be as set forth from time to time in the ordinances designating salaries and wages for the City employees.~~

Commented [MN51]: Ch 3, Sec 1

## Chapter 152

# Municipal Golf Course Commission

[HISTORY: Adopted by the City Council of the City of Gardner 8-2-1965 by Ord. No. 325. Amendments noted where applicable.]

§ 152-1 Commission established.

A Municipal Golf Course Commission is hereby established.

§ 152-2 Membership; terms of office.

- A. The Municipal Golf Course Commission shall consist of not less than five (5) members, but no more than seven (7) 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. [Amended 3-19-1990 by Ord. No. 1038]~~
- B. 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. ~~[Added 3-1-1976 by Ord. No. 609; amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN52]: Ch3, Sec 2 (Appointment)  
Ch3, Sec 8 (Vacancies)

- ~~C. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.~~

Commented [MN53]: Ch3, Sec 3

§ 152-3 Meetings.

~~[Amended 11-4-1968 by Ord. No. 398]~~

~~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.~~

Commented [MN54]: Ch7, Sec1(c)

§ 152-4 Duties.

~~[Amended 11-18-2013 by Ord. No. 1563]~~

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 in manners generally used in practice by the City,~~ upon their being determined, prior to the date the same are to take effect.

**§ 152-5 Appointees.**

- A. 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.
- B. The appointees shall perform such duties as shall be required of them by said Commission.

~~§ 152-6 Compensation.~~

~~{Added 11-18-2013 by Ord. No. 1563}~~

~~The salary of the superintendent and other employees of the Golf Course Commission shall be established in the ordinances designating salaries and wages for the City employees.~~

Commented [MN55]: Ch3, Sec 1

## Chapter 156 Municipal Grounds Commission

~~{HISTORY: Adopted by the City Council of the City of Gardner 3-7-1983 by Ord. No. 800; amended 11-7-1988 by Ord. No. 983; 8-6-2012 by Ord. No. 1551. Subsequent amendments noted where applicable.}~~

**§ 156-1 Commission established; membership; terms of office.**

There shall be established a Municipal Grounds Commission for the City of Gardner consisting of six members, legal voters of said City, five of whom shall be appointed by the Mayor, subject to confirmation by the City Council, as follows:

- A. The Mayor shall immediately appoint one person to serve 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 April 1983 and thereafter annually shall appoint the appropriate number of persons (either one or two) to serve for the term of three years from the first day of April 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. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.
- B. The sixth member shall be the Director of Public Works, who shall be a nonvoting member of the Commission during his term of office. **[Amended 11-18-2013 by Ord. No. 1563]**

**§ 156-2 Meetings.**

The Commission shall meet annually in April of each year to organize and elect a Chairperson and Secretary. The Commission shall hold meetings no less than ~~once a month~~ quarterly during the course of the year. The Secretary shall keep accurate minutes and records of all meetings of the Commission. The Director of Public Works shall not hold office within the Commission.

**§ 156-3 Duties; Community Bandstand Committee.**

- A. The Commission shall be an advisory body and shall advise the Director of Public Works, Mayor and City Council on matters relating to the Municipal Grounds Division.
- B. 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.

The Community Bandstand Committee shall consist of no less than three (3) members, one of whom shall be a member of the Municipal Grounds Commission, to carry out the purposes of this ~~§ 156-3B. All members shall be appointed in accordance with § 156-1A. [Added 3-18-2019 by Ord. No. 1618]section.~~

- C. 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 ~~§ 156-3B 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 ~~§ 156-3B. [Added 3-18-2019 by Ord. No. 1618] this section.~~
- D. ~~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. The duties, powers and responsibilities of the Commission may be broadened or diminished at any time by ordinance consistent with prevailing General Laws or City ordinances.~~

Commented [MN56]: Ch7, Sec 3

~~§ 156-4 Compensation.~~

~~Members of said Commission shall receive for their services such compensation as the Mayor and City Council may prescribe.~~

Commented [MN57]: Ch3, Sec 1

**§ 156-5 Transfer of personnel.**

All necessary persons employed by and under the supervision of the named Municipal Grounds Department, boards and commissions shall, upon the effective date of this chapter, be transferred to the Department of Public Works. All such transfers of personnel shall be made without loss of pay and without change in rating, seniority, retirement or pension rights, or any other privileges under the provisions of this chapter.

## ~~Chapter 160~~ ~~Officers and Employees~~

~~[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]~~

**GENERAL REFERENCES**

~~Personnel — See Ch. 171.~~

Commented [MN58]: Positions that are no longer in existence are deleted. Positions that are still in existence are moved to their respective department section.

Most aspects of this chapter are covered through Chapt 3, Section 6

~~Article 1~~

## Measurers of Lumber

~~[Adopted 3-5-1923 by Ord. No. 7]~~

### ~~§ 160-1 Appointment.~~

~~The Mayor shall annually in March or whenever vacancies occur appoint one or more Measurers of Lumber.~~

## Article II

### Assistant City Clerk

Commented [MN59]: Chapter 3, Section 1 (b)

~~[Adopted 4-2-1923 by Ord. No. 11; amended in its entirety 3-6-2017 by Ord. No. 1599]~~

### § 160-2 Appointment; term; powers and duties.

~~The Office of Assistant City Clerk is established.~~ The City Clerk may appoint up to two (2) 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. Nothing contained herein shall be construed to prevent the reappointment of an Assistant City Clerk upon the expiration of the term of office.

### ~~§ 160-3 Compensation.~~

~~The salary of Assistant City Clerk shall be included in the ordinances designating salaries and wages for the City employees.~~

Commented [MN60]: Ch3, Sec 1

## Article III

### Vacancies in City Positions

Commented [MN61]: Ch3, Sec 8

~~[Adopted 7-1-1935 by Ord. No. 41]~~

### § 160-4 Temporary appointment.

~~[Amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN62]: Ch3, Sec 4

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 60 days, and no temporary appointee shall succeed himself as a temporary appointee.

### § 160-5 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.

Commented [MN63]: Ch3, Sec 5

### § 160-6 Vacancies in City departments.

~~[Added 12-15-1975 by Ord. No. 605; amended 4-21-1998 by Ord. No. 1271; 9-7-2010 by Ord. No. 1521]~~

Commented [MN64]: Ch3, Sec 8

Except for seasonal employees, whenever a vacancy shall occur in any position in any City department (other than a department head), the vacancy shall not be filled by the Mayor until approval is secured from the City Council if the position's job description is to be changed.

## Article IV

### ~~Forester~~

~~[Adopted 2-5-1945 by Ord. No. 89]~~

~~§ 160-7 Position created.~~

~~[Amended 8-6-2012 by Ord. No. 1545]~~

~~The position of City Forester, also known as the "City Tree Warden," is hereby created.~~

~~§ 160-8 Appointment; term of office; compensation.~~

~~[Amended 9-17-1979 by Ord. No. 706; 11-18-2013 by Ord. No. 1563]~~

~~The City Forester shall be appointed by the Mayor, subject to confirmation by the City Council. He shall hold office for three years from the date of his appointment. He may also be the superintendent for the supervision of gypsy and brown tail moths. The salary of the Forester shall be established in the ordinances designating salaries and wages for the City employees.~~

~~§ 160-9 Forester to exercise powers and duties of tree warden.~~

~~The City Forester shall have and exercise all the powers and duties conferred and imposed upon tree wardens by MGL c. 87 and amendments thereof.~~

**Commented [MN65]:** Position included in DPW Association Collective Bargaining Agreement

### Article V

#### ~~Senior Citizens' Director~~

**Commented [MN66]:** Ch6, Sec 13

~~[Adopted 5-7-1979 by Ord. No. 689]~~

~~§ 160-10 Position established.~~

~~The position of Senior Citizens' Director is hereby established.~~

~~§ 160-11 Appointment; term of office.~~

~~[Amended 11-18-2013 by Ord. No. 1563]~~

~~On or before the first Monday of July, the Mayor shall appoint a Senior Citizens' Director for a term of three years beginning with the first Monday of July, subject to confirmation of the City Council.~~

~~§ 160-12 Position to be full time; compensation.~~

~~The Senior Citizens' Director position shall be full time, consisting of 40 hours or its equivalent per week, and the salary for said position shall be included in the salary and wage ordinance of the City.~~

~~§ 160-13 Duties.~~

~~[Amended 11-18-2013 by Ord. No. 1563]~~

~~The Senior Citizens' Director shall report directly to the Mayor Gardner Council on Aging 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.~~

### ~~Article VI (Reserved)~~

~~§ 160-14 through § 160-17. (Reserved)~~

### ~~Article VII~~



### ~~Agent for the Conservation Commission~~

~~[Adopted 3-2-1998 by Ord. No. 1262]~~

#### ~~§ 160-18 Appointment and compensation.~~

~~[Amended 11-18-2013 by Ord. No. 1563; 2-6-2017 by Ord. No. 1597]~~

~~The position of Agent for the Conservation Commission shall be appointed for three years by the Mayor, subject to confirmation by the City Council. The salary of the Agent for the Conservation Commission shall be established in the ordinances designating salaries and wages for the City employees.~~

#### ~~§ 160-19 Reporting.~~

~~The Agent for the Conservation Commission shall report to the Director of Community Development and Planning.~~

#### ~~§ 160-20 Duties.~~

~~Duties will consist of the following. The Agent:~~

- ~~A. Executes Conservation Commission decisions and policies.~~
- ~~B. Serves as the Commission's agent for the purposes of the Wetlands Protection Act.~~
- ~~C. Represents the Commission at non-Commission meetings and on committees.~~
- ~~D. Enforces applicable City and state laws and regulations, in particular the Massachusetts Wetlands Protection Act.~~
- ~~E. Prepares and distributes agendas and minutes.~~
- ~~F. Maintains files, records, and attendance of the Commission.~~
- ~~G. Administers operating budget and submits budgets requests.~~
- ~~H. Attends Commission meetings.~~
- ~~I. Provides advice to the Commission on wetland filings, enforcement, and related matters.~~
- ~~J. Establishes the work schedule of subordinate staff and supervises their work.~~
- ~~K. Participates in the site plan review process with the Community Development and Planning Department.  
[Amended 11-18-2013 by Ord. No. 1563]~~
- ~~L. Reviews and administers state and local permit applications received by the Commission.~~
- ~~M. Makes site inspections of properties and makes recommendations to the Commission on applications and enforcement.~~
- ~~N. Acts as advisor and technical assistant to the Commission.~~
- ~~O. Advises applicants about submitting appropriate filings and documentation.~~
- ~~P. Answer queries and complaints from the public, business, industry, and other City departments and other public agencies.~~
- ~~Q. Participates in and supports other environmental programs and projects which are relevant to the City.~~



~~R. Performs other related duties as required.~~

Commented [MN67]: Ch3, Sec 6

## Article VIII

### Building Commissioner

Commented [MN68]: Ch6, Sec 3

[Adopted 8-5-2002 by Ord. No. 1373]

#### § 160-21 Position established.

~~[Amended 11-18-2013 by Ord. No. 1563]~~

The position of Building Commissioner is hereby established and shall be a full-time position.

#### ~~§ 160-22 Appointment; term of office.~~

~~[Amended 11-18-2013 by Ord. No. 1563]~~

~~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.~~

Commented [MN69]: Ch3, Sec 2

#### § 160-23 Duties.

The duties of said Building Commissioner shall be those set forth in ~~MGL c. 143~~ the General Laws of the Commonwealth and Code of the City of Gardner

#### ~~§ 160-24 Compensation.~~

~~[Amended 11-18-2013 by Ord. No. 1563]~~

~~The salary of said position of Building Commissioner shall be included in the ordinances designating salaries and wages for the City employees.~~

Commented [MN70]: Ch3, Sec 1

## Article IX

### Inspector of Gas Piping and Gas Appliances

Commented [MN71]: Ch5, Sec2(C)

[Adopted 6-2-2003 by Ord. No. 1388; amended 8-6-2012 by Ord. No. 1546]

#### § 160-25 Position created.

~~The position(s) of Inspector of Gas Piping and Gas Appliances is hereby created. 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.~~

#### § 160-26 Duties.

The ~~Inspector of Gas Piping and Gas Appliances~~ 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.

#### ~~§ 160-27 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.~~

~~§ 160-28 Appointment, term of office, compensation.  
{Amended 11-18-2013 by Ord. No. 1563}~~

~~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. The salary of the Inspector shall be established in the ordinances designating salaries and wages for the City employees.~~

Commented [MN72]: Ch3, Sec8

~~Article X  
Agent for the Planning Board~~

~~{Adopted 10-2-2006 by Ord. No. 1442}~~

~~§ 160-29 Appointment and compensation.  
{Amended 11-18-2013 by Ord. No. 1563}~~

~~The position of Agent for the Planning Board shall be appointed for one year by the Mayor, subject to confirmation by the City Council. The salary of the Agent shall be established in the ordinances designating salaries and wages for the City employees.~~

Commented [MN73]: Ch3, Sec 3  
Ch3, Sec 1

~~§ 160-30 Reporting.~~

~~The Agent for the Planning Board shall report to the Director of Community Development and Planning.~~

~~§ 160-31 Duties.~~

~~Duties shall consist of the following. The Agent for the Planning Board shall:~~

- ~~A. Assist in the preparation of meeting agenda and minutes for the Planning Board and Development Review Committee and the maintenance of files, records and decisions.~~
- ~~B. Assist in the preparation and maintenance of land use, growth management, housing, open space and other relevant plans for the City of Gardner.~~
- ~~C. Evaluate land use proposals for conformity with established plans, regulations and ordinances, evaluate proposals' development impacts and make recommendations based on said evaluations.~~
- ~~D. Evaluate environmental information and recommend mitigation measures to reduce adverse impacts of development.~~
- ~~E. Make site inspections, monitor approved projects and make recommendations to the Director and Planning Board regarding compliance with approved plans and conditions of approval, as well as local, state and federal land use regulations and laws.~~
- ~~F. Respond to inquiries from the public and businesses about land use regulations and advise applicants about filing requirements.~~
- ~~G. Perform other related duties as required by the Director.~~

Commented [MN74]: Ch3, Sec 6

## Chapter 171 Personnel

### Article I

#### Physical Examination of City Employees

##### *§ 171-1 Examination required.*

Any new full-time or permanent part-time employee that has been offered a position in the City of Gardner ~~will~~may be required to submit to a physical examination prior to beginning work.

##### *§ 171-2 Conduct of examination.*

- A. A City-designated physician shall conduct all preemployment examinations. The Human Resources Department ~~or the department head~~ will be responsible for setting up the appointment. ~~[Amended 11-18-2013 by Ord. No. 1563]~~

~~Section 3: If required to undertake a preemployment examination, 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.~~

- ~~B. At the time of the exam, the City-designated physician will be provided with all the necessary information to be able to make an informed judgment as to the employee's current fitness to perform the required duties.~~

##### *§ 171-3 Report.*

The employee must bring in the original copy of the preemployment screening report prior to the employee's first day on the job.

##### *§ 171-4 Costs.*

The City will be billed for all costs associated with the physical.

##### *§ 171-5 Exemption for elected officials.*

This article shall not apply to elected officials.

### Article II

#### ~~Compensation for Blasting Services~~

~~[Adopted 6-30-1975 by Ord. No. 593]~~

##### ~~§ 171-6 Additional compensation established.~~

~~Any employee in the Public Works Department who performs dynamite blasting services for the City of Gardner under the direction of the Director of Public Works shall, in addition to his regular compensation, be paid an amount of \$10 per day for any day or fraction thereof on which such services are performed.~~

Formatted: Heading 3, Centered

Formatted: Normal

### Article III Civic Duty Leave

**[Adopted 2-7-2000 by Ord. No. 1314]**

*§ 171-7 Grant of leave.*

Regular full-time City employees, not covered by a collective bargaining agreement, who have summons to appear in court shall be granted civic duty leave.

*§ 171-8 Summons to be presented to department head.*

Official summons to jury duty or witness appearance must be presented in advance to the appropriate department head to receive authorized leave. 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.

*§ 171-9 Employee to report to work if discharged from service.*

An employee on authorized civic duty leave who is discharged from court service for the day or a major portion thereof during regular work hours must report to work.

*§ 171-10 Personal litigation excluded.*

Civic duty leave shall not be authorized for an employee who is involved in personal litigation.

*§ 171-11 Effect on other benefits.*

Absence due to authorized civic duty leave shall not affect an employee's eligibility for longevity or benefits eligibility.

*§ 171-12 Compensation.*

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.

~~During such time as the employee is unable to perform the usual work required of him or her because of civic duty leave, the employee's wages or salary shall be suspended; provided, however, that the City may, on submission of proper vouchers to the City Auditor, authorize payment and pay to 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 in the regular performance of his or her duties.~~

*§ 171-13 Effect on vacation.*

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.~~

~~An employee summoned for jury duty service prior to taking his or her annual vacation, and the jury service does not terminate prior to the end of the year, shall be entitled to take his or her vacation during the first months of the next year but shall not have two annual vacation periods run concurrently.~~

#### Article IV Paid Holidays

**[Adopted 2-7-2000 by Ord. No. 1315]**

*§ 171-14 Holidays designated.*

A. All full-time and regular part-time City employees, not covered by a collective bargaining agreement, except the Police and Fire Department personnel, shall be granted holidays with pay at the rate fixed for such employees respectively on each of the following ~~twelve (12)~~ ~~12~~ legal holidays:

- (1) New Year's Day.
- (2) Martin Luther King Day.
- (3) Presidents Day.
- (4) Patriots Day.
- (5) Memorial Day.
- ~~(6) Juneteenth~~
- ~~(67)~~ Independence Day.
- ~~(78)~~ Labor Day.
- ~~(98)~~ Columbus Day.
- ~~(109)~~ Veterans Day.
- ~~(110)~~ Thanksgiving Day.
- ~~(124)~~ Christmas Day.

B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.



A. 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.

B. 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.

*§ 171-15 Compensation for working on holiday.*

In the event that a nonexempt employee shall be required to work on said holiday, his or her compensation shall be at ~~1-1/2~~ times his or her 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. ~~At the direction of the department head, the employee may elect to earn compensatory time for the time worked on the holiday.~~

## Article V Nonoccupational Sick Leave

**[Adopted 2-7-2000 by Ord. No. 1316]**

*§ 171-16 Grant of sick days.*

All full-time and regular part-time employees shall be granted a maximum of ~~15~~ twenty (20) nonoccupational sick days per calendar year at the employee's normal straight-time pay for normally scheduled hours.

*§ 171-17 Credit and use of sick days.*

Sick days shall credited to employees on January 1 of each year. Employees may carry an unlimited number sick days. Sick time shall not be used in less than one ~~half-day~~ hour increments.

*§ 171-18 Doctor's certificate.*

~~[Amended 11-18-2013 by Ord. No. 1563]~~

An employee that has been absent from work due to the use of nonoccupational sick leave three ~~(3)~~ consecutive days or more at one time must present a doctor's certificate to ~~his or her~~ their department ~~head~~ director. ~~This certificate~~ This note shall be attached to the weekly time reports. A doctor's ~~certificate~~ note may also be required if a department head and/or the Director Human Resources has reasonable cause to believe that the employee may be abusing his or her nonoccupational sick leave.

*§ 171-19 Payment for accumulated sick leave upon retirement.*

Employees hired before October 17, 1995, upon retirement from employment with the City of Gardner, if the employee has accumulated sick leave, shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and the above first 50 days, not to exceed a total of 130 days paid.

*§ 171-20 Payment for accumulated sick leave upon voluntary termination of employment.*

Employees hired before October 17, 1995, upon voluntary termination of employment, if an employee has an accumulated sick leave balance, shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.

*§ 171-21 Payment for accumulated sick leave upon death of employee.*

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.

~~any accrued sick days shall be paid to the estate of said deceased employee.~~

*§ 171-22 New employees.*

Newly hired employees shall be granted nonoccupational sick leave at the rate of 1 1/4 days per month worked. Newly hired employees shall earn nonoccupational sick leave in this manner until January 1 after their date of hire.

*§ 171-23 Sick leave incentive time.*

~~{Amended 6-1-2009 by Ord. No. 1494}~~

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.

~~Commencing effective July 1, 2009, employees that do not use sick leave in a calendar month shall earn 1/2 day off not to be charged to sick leave or vacation leave. Any days earned as sick leave will be counted as personal time subject to the approval of the department head. Days must be used within one year period of being earned.~~

*§ 171-24 Annual report; notification of absence due to illness.*

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.

~~On the first day of each year, each department head shall submit to the Mayor and City Auditor an accurate accounting of all sick leave accumulated and used during his/her period of employment with the City. In addition to the aforementioned, each employee will notify his or~~

her department head each morning by 8:30 a.m. when he or she is going to absent from work due to illness. Each department head will contact the Mayor's office each morning by 8:30 a.m. when he or she is going to be absent from work due to illness.

## Article VI Bereavement Leave

[Adopted 2-7-2000 by Ord. No. 1317]

### § 171-25 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.

A. All full-time and regularly employed 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, not to exceed three consecutive days, on the account of a death in the immediate family of the employee. "Immediate family" shall include spouse, parent, stepparent, parent of spouse, children, brother, sister, grandparents, grandchildren, or a person living in the immediate household of the employee.

B. Bereavement leave of one day without loss of regular straight-time pay for normally scheduled working hours may be granted per occurrence for the death of an employee's niece, nephew, brother in-law, sister in-law, son in-law, daughter in-law, aunt or uncle.

## Article VII Longevity Pay

[Adopted 2-7-2000 by Ord. No. 1318]

*§ 171-26 Full-time employees.*

- A. Any full-time regular 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 has been employed for at least five continuous full-time years of service shall receive, in addition to his or her regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter.
- B. Such employees shall receive an additional \$30 per year for each additional year of full-time continuous service with the City, ~~but in no event shall longevity pay for any such employee exceed \$1,050 in any fiscal year.~~

*§ 171-27 Part-time employees.*

- A. Any part-time regular 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 has been employed for at least five continuous years of service and has worked at least 1,000 hours each year of service shall receive, in addition to ~~his or her~~ ~~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 service with the City, ~~but in no event shall longevity pay for part-time employees exceed \$525 in any fiscal year.~~

*§ 171-28 Payment date.*

Payment of longevity pay shall be made on June 30 to all employees who are entitled during the fiscal year preceding such date, except that an employee whose is terminated, except involuntarily for cause, shall receive payment on the date of termination of such longevity pay for which the employee was eligible in such fiscal year prior to the date of termination.

*§ 171-29 Calculation of pay.*

For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.

## Article VIII Personal Leave

~~{Adopted 2-7-2000 by Ord. No. 1319}~~

*§ 171-30 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 ~~three-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 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 from the date the

employee's employment ends, as follows: ~~[Added 12-21-2020 by Ord. No. 1634]~~

(1) January 1 to ~~April 30~~ March 31st: ~~two~~ <sup>Three</sup> (3) days.

(2) ~~April~~ <sup>May</sup> 1 to ~~August 31~~ June 30<sup>th</sup>: ~~two~~ (3) <sup>one</sup> days.

Formatted: Superscript

~~(3) July 1<sup>st</sup> to Sept 30<sup>th</sup>: One (1) day~~

Formatted: Superscript

Formatted: Superscript

*§ 171-31 Use of personal days.*

A. Use of personal days is upon the approval of the department head, who has been given 24 hours' notice, except in an emergency.

B. Personal time shall not be used in less than ~~half day~~ <sup>one (1) hour</sup> increments.

*§ 171-32 Crediting of personal days.*

Personal days shall be credited to employees on January 1 of each year. Personal leave is not cumulative and must be used in the calendar year that it is granted. ~~Personal Time cannot be carried over from year to year.~~

*§ 171-33 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               | <del>3</del> <sup>4</sup> |
| April 1 to June 30                  | <del>3</del> <sup>2</sup> |
| July 1 to September 30              | <del>2</del> <sup>1</sup> |
| <del>October 1 to December 31</del> | <del>1</del>              |

Article IX

Vacations for ~~City Officers and Employees~~

[Adopted 2-7-2000 by Ord. No. 1320]

~~§ 171-34 Police officers~~ *Deputy Chief of Police.*

~~All police officers~~ <sup>The Deputy Chief of Police</sup> of the City of Gardner, ~~not 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 to four years shall be entitled to two weeks (14 calendar days).
- B. Regularly employed from five to nine years shall be entitled to three weeks (21 calendar days).

Commented [MN1]: All other non-department head staff of the Gardner Police Department, besides the Deputy Chief, are union employees covered by the collective bargaining agreement and not the city ordinances



- C. Regularly employed from 10 to 14 years shall be entitled to four weeks (28 calendar days).
- D. Regularly employed for over 15 years shall be entitled to 31 calendar days.
- E. Employees shall have two consecutive days off with each five days of vacation. Each two-week vacation period shall consist of 10 paid vacation days and four regular days off. One vacation week shall consist of five working days plus two days off.

~~§ 171-35 Firefighters.~~

~~All firefighters of the City of Gardner, not 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 to four years shall be entitled to two weeks (14 calendar days).~~
- ~~B. Regularly employed from five to nine years shall be entitled to three weeks (21 calendar days).~~
- ~~C. Regularly employed from 10 to 14 years shall be entitled to four weeks (28 calendar days).~~
- ~~D. Regularly employed for 15 years or more shall be entitled to 31 calendar days.~~

**Commented [MN2]:** All firefighters are now union employees covered by the collective bargaining agreement and not the city ordinances

~~§ 171-36 Other full-time officers and employees-Full-Time Employees~~

~~[Amended 6-1-2009 by Ord. No. 1492]~~

~~All other employees or officers, 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 ~~two-three (3)~~ weeks or ~~10-fifteen (15)~~ working days.~~
- ~~B. Regularly employed from five (5) to nine (9) years shall be entitled to ~~three-four (4)~~ weeks or ~~15-twenty (20)~~ working days.~~
- ~~C. Regularly employed from ~~10-ten (10)~~ years to ~~fourteen (14)~~ years shall be entitled to ~~four five (5)~~ weeks or ~~20-twenty-five (25)~~ working days.~~
- ~~D. Regularly employed for ~~fifteen (-15)~~ years to ~~nineteen (19)~~ years shall be entitled to ~~five-six (6)~~ weeks or ~~25-thirty (30)~~ working days. ~~[Amended 12-21-2020 by Ord. No. 1634]~~~~
- ~~E. Regularly employed ~~twenty (20)~~ years or more shall be entitled to ~~28-seven (7)~~ weeks or ~~thirty-five (35)~~ working days. ~~[Added 12-21-2020 by Ord. No. 1634]~~~~

~~§ 171-37 Other part-time officers and employees-Part-Time Employees~~

~~[Amended 6-1-2009 by Ord. No. 1492]~~

All ~~other employees or officers~~, except those provided for by law and those covered by a

collective bargaining agreement, regularly employed part time by the City shall be granted an annual vacation without loss of pay as follows:

- A. To be eligible a part-time worker must have worked 27 weeks in the aggregate during the 12 months preceding the first day of June in each year and must meet the eligibility requirements of part-time employees as defined in Article XII, § 171-50A.
- B. They shall be entitled to the same vacation increments as full-time employees as defined in § 171-36 based upon an eligible part-time employee's specific work hour schedule. One day will be equivalent to the total number of hours worked per week divided by five days (i.e., one day for 25 hours per week will be equivalent to five hours).

*§ 171-38 Vacations to be granted by department heads.*

Such vacations shall be granted by the heads of each department, as such time as in their opinion will cause the least interference with the performance of the regular work of the City.

*§ 171-39 Determination of regular employment.*

A person shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.

*§ 171-40 New employees.*

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.

~~January 1 of the year following his/her anniversary date of benefited employment. This vacation will only be allowed upon the completion of a probationary period of six months. In no event shall a new employee be eligible for more than 10 days of vacation per calendar year.~~

*§ 171-41 Accumulation of vacation time.*

Employees that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any employee who has excess of that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.

*§ 171-42 Minimum increments.*

Vacation time may not be taken in less than one-~~hour~~half-day increments.

*§ 171-43 Payment for accumulated vacation time.*

[Amended 12-21-2020 by Ord. No. 1634; 6-7-2021 by Ord. No. 1637]

- A. Upon termination, resignation or retirement, the annual allotment of vacation time for the

year in which the employee's employment ends shall be prorated monthly from the date the employee's employment ends.

- B. In the event that an employee terminates employment with the City, any vacation accrued will be paid to the employee. If an employee dies, any accrued vacation days shall be paid to the estate of said deceased employee.

**Article X**  
**Salaries of Police and Fire Personnel**

~~{Adopted 2-7-2000 by Ord. No. 1321}~~

~~§ 171-44 Compensation in lieu of paid holidays:~~

~~{Amended 3-21-2022 by Ord. No. 1646; 9-7-2022 by Ord. No. 1656}~~

~~In order to make uniform a policy of paid holidays for certain officers and employees of the City of Gardner, not covered under a collective bargaining agreement, who have not been otherwise provided for, there shall be paid to the following persons, for the 11 holidays per year, in addition to their regular and maximum compensation as follows: 10.15% of the yearly salary in lieu of the 11 paid holidays to each of the persons in the following groups according to his present pay schedule as said schedule may hereafter be in force:~~

~~A. Fire Department: Chief:~~

**Commented [MN3]:** Now covered in Compensation Schedule Ordinance

**Article XI**  
**Clothing/Uniform Allowance**

~~{Adopted 9-15-2003 by Ord. No. 1392; amended in its entirety 10-16-2006 by Ord. No. 1443}~~

~~§ 171-45 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 ~~\$1,045~~\$1,250.00 for the upkeep and purchase of uniforms, equipment and footwear. ~~{Amended 12-21-2020 by Ord. No. 1634}~~
- B. The Chief of Police and Deputy Chief of Police shall receive ~~\$1,045~~\$1,250.00 for the upkeep and purchase of uniforms, equipment and footwear.
- C. The following shall receive ~~\$350~~\$500.00 for the upkeep and purchase of clothing, gear and/or footwear: ~~{Amended 8-6-2012 by Ord. No. 1552; 5-18-2015 by Ord. No. 1577; 12-21-2020 by Ord. No. 1634}~~
- (1) Building Commissioner.
- ~~(2) Local Building Inspector.~~

~~(3) Plumbing and Gas Inspector.~~

~~(4) Animal Control Officer.~~

~~(5) Senior Animal Control Officer.~~

(6) Director of Public Health.

**Commented [MN4]:** Now a Union Employee Covered by Collective Bargaining Agreement and not the Ordinances

~~(7) Assistant Director of Public Health.~~

(8) Director of Public Works.

**Commented [MN5]:** Now a Union Employee Covered by Collective Bargaining Agreement and not the Ordinances

~~(9) Assistant Director of Public Works.~~

(10) Golf Course Superintendent.

**Commented [MN6]:** Position was discontinued for budget purposes in previous fiscal year and never removed from the ordinances

(11) Transfer Station Supervisor.

~~(12) Transfer Station Monitor~~

~~(13) Public Safety Dispatch Center Director.~~

~~(14) Golf Grounds Maintenance Staff~~

~~(15) Golf Grounds Maintenance Working Foreman~~

D.

The following shall receive \$650.00 annually for the upkeep and purchase of clothing, gear, and/or footwear:

**Formatted:** Indent: Left: 0.5", No bullets or numbering

- Golf Motor Equipment Working Foreman
- Golf Motor Equipment Repairmen

~~Golf Department working foremen/grounds maintenance men shall receive \$500 and Golf Department working foremen motor equipment repairmen and Electrical (Wire) Inspectors shall receive \$650 for the upkeep and purchase of clothing, gear and/or footwear. [Amended 5-18-2015 by Ord. No. 1577]~~

*§ 171-46 Payment.*

Payment shall be made on an annual basis, the last pay day in July.

*§ 171-47 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. a prorated amount of the clothing/uniform allowance for the balance of the remaining fiscal year at the time of his/her appointment.~~

**Article XII**  
**Full-Time, Part-Time and Seasonal Employment Status**

~~[Adopted 10-2-2006 by Ord. No. 1440]~~

*§ 171-48 Purpose.*

For the purpose of the calculation of benefit time and the provision of insurance benefits for employees who are not covered by a collective bargaining agreement, the following standards shall apply.

*§ 171-49 Full-time employees.*

Full-time employees are defined as employees who are regularly scheduled to work 37 or more hours per week. Full-time employees are eligible for benefit time and longevity pay as described in Articles **III, IV, V, VI, VII, VIII** and **IX** of this chapter. Full-time employees are also eligible to elect health, dental, life insurance and/or other optional insurance benefits.

*§ 171-50 Part-time employees.*

Part-time employees are defined as employees who work less than 37 hours per week. Part-time employees are eligible for benefit time, longevity, insurance and/or other optional insurance benefits as follows:

- A. Part-time employees who are regularly scheduled to work 20 or more hours per week are eligible for benefit time as described in Articles **III, IV, V, VI, VII, VIII** and **IX** of this chapter.
- B. Part-time employees hired on or after July 1, 2006, and who are regularly scheduled to work less than 20 hours per week are not eligible for benefit time as described in Articles **III, IV, V, VI, VII, VIII** and **IX** of this chapter. They shall receive three days of personal time to be used upon the approval of the department head, who has been given 24 hours' notice, except in an emergency. A day shall be defined as 1/5 of the employee's regular work week. This personal time must be used in the same calendar year in which it was credited to the employee.
- C. Part-time employees who are regularly scheduled to work less than 20 hours per week are not eligible to receive longevity pay or to elect health, dental, life insurance or other optional insurance benefits.

*§ 171-51 Temporary and seasonal employees.*

Temporary and seasonal employees are not eligible for benefit time, insurance benefits or longevity pay.

**Article XIII**  
**Department Head Benefit Time and Longevity Pay**

~~[Adopted 10-2-2006 by Ord. No. 1441]~~



*§ 171-52 Department heads.*

~~[Amended 3-19-2007 by Ord. No. 1457; 8-6-2012 by Ord. No. 1553; 11-18-2013 by Ord. No. 1563; 12-21-2020 by Ord. No. 1634]~~

Department heads for the purposes of this article shall be:

City Assessor

Building Commissioner

Chief of Police

City Auditor

City Clerk

City Engineer

City Collector/Treasurer

~~Council on Aging Senior Center Director~~

Formatted: Spanish (Nicaragua)

~~Director of Cable Operations~~

Formatted: Spanish (Nicaragua)

Director of Community Development and Planning

Director of Information Technology

Director of Human Resources

Director of Public Health

Fire Chief

Golf Course Superintendent

Library Director

Public Works Director

Purchasing Agent/Civil Enforcement Director

Veterans' Director

*§ 171-53 Vacation.*

~~A. The Police Chief and Fire Chief shall be granted an annual vacation without loss of pay as~~

follows:

- ~~(1) Employed for one to four years shall be entitled to two weeks (14 calendar days).~~
- ~~(2) Regularly employed five to nine years shall be entitled to three weeks (21 calendar days).~~
- ~~(3) Regularly employed 10 to 14 years shall be entitled to four weeks (28 calendar days).~~
- ~~(4) Regularly employed for over 15 years shall be entitled to 31 calendar days.~~

**Commented [MN7]:** Rolls Police and Fire Chief in on par with all other department heads

B.

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.

— All other department heads as defined in § 171-52 shall be granted an annual vacation without loss of pay as follows:

- ~~(1) Employed for one to nine years of regular employment shall be entitled to three weeks or 15 working days.~~
- ~~(2) Regularly employed from 10 years to 14 years shall be entitled to four weeks or 20 working days.~~
- ~~(3) Regularly employed for 15 years to 19 years shall be entitled to five weeks or 25 working days. [Amended 12-21-2020 by Ord. No. 1634]~~
- ~~(4) Regularly employed 20 years or more shall be entitled to 28 working days. [Added 12-21-2020 by Ord. No. 1634]~~

- C. A department head shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.
- D. Department heads that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any department head who exceeds that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.
- E. Newly hired department heads shall be granted vacation time according to the following

schedule:

| First Day of Employment    | Number of Vacation Days |                                                       |
|----------------------------|-------------------------|-------------------------------------------------------|
|                            | Police/Fire             | All Other Department Heads<br>Number of Vacation Days |
| January 1 to April 30      | 4                       | 20 Days                                               |
| May 1 to August 31         | 4                       | 15 Days                                               |
| September 1 to December 31 | 5                       | 10 Days                                               |

Formatted Table

- F. In the event that a department head terminates employment with the City, any vacation accrued will be paid to the department head. If a department head dies, any accrued vacation days shall be paid to the estate of said deceased department head.
- G. Upon termination, resignation or retirement, the annual allotment of vacation time for the year in which the department head's employment ends shall be prorated monthly from the date the department head's employment ends. ~~Added 12-21-2020 by Ord. No. 1634~~

*§ 171-54 Personal time.*

A. Department heads shall be granted ~~three~~ 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:

Formatted: Normal, Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering  
Formatted: Font: (Default) Times New Roman

- 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

~~from the date the department head's employment ends as follows:~~ ~~Added 12-21-2020 by Ord. No. 1634~~

Formatted: Font: (Default) Times New Roman  
Formatted: Normal, No bullets or numbering

~~(1) January 1 to April 30: two days.~~

- ~~(2) May 1 to August 31: one day.~~
- 

Formatted: Font: (Default) Times New Roman

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                       |

Formatted: Font: (Default) Times New Roman

Formatted: Normal, Indent: Left: 0.25", No bullets or numbering

*§ 171-55 Sick leave.*

- A. Department heads shall be granted a maximum of ~~45~~ 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.
- B. A department head that has been absent from work due to the use of nonoccupational sick leave three (3) consecutive days or more at one time must present a doctor's ~~certificate~~ note to the ~~Mayor~~ Director of Human Resources. A doctor's certificate may also be required if the Mayor has reasonable cause to believe that the department head may be abusing his/her nonoccupational sick leave.
- C. A department head will contact the Mayor's office and Director of Human Resources each morning by 8:30 a.m. when ~~he/she is~~ they are going to be absent from work due to illness.
- D. Department heads may donate sick leave to another employee of the City of Gardner who is in serious need (due to a serious illness or injury and that employee has utilized all of his/her available sick, personal, compensatory and vacation time). The donated time shall be paid to the employee in need at that employee's rate of pay. Authorization of the donation of this time shall be at the sole discretion of the Mayor.

*§ 171-56 Sick leave incentive time.*

~~Amended 6-1-2009 by Ord. No. 1493~~

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."

~~Commencing effective July 1, 2009, department heads that do not use sick leave in a calendar month shall earn 1/2 day off not to be charged to sick leave or vacation leave. Time earned in this manner shall be referred to as "sick leave incentive time."~~

*§ 171-57 Sick leave buy back.*

- A. For all employees hired as department heads prior to or on February 1, 1979, upon retirement, if a department head has an accumulated sick leave balance, the department

head shall be granted pay for such accumulation upon retirement at a rate of one full day's pay for each such day of accumulated sick leave, not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days that remain. Upon voluntary termination or layoff of employment of a department head, if such department head has an accumulated sick leave balance, the department head shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave that remains.

B.

For all department heads hired after February 1, 1979, and prior to October 17, 1995, upon retirement of employment, if the department head has an accumulated sick leave balance, he or she shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days, but not to exceed 130 days. (equivalent of 90 days of full pay total- 50 full days and 80 days at 50%) Upon voluntary termination or layoff of employment, a department head with an accumulated sick leave balance shall be granted pay for such accumulation at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.

Formatted: Normal, Indent: Left: 0.56", First line: 0", Space Before: 0 pt, After: 0 pt, Tab stops: 6.5", Left

- C. Department heads hired on or after October 17, 1995, shall not be entitled to the sick leave buy back provision granted in Subsections A and B of this section.
- D. In the event that a department head hired before October 17, 1995, shall die prior to retirement, any accrued sick days shall be paid to the estate of said deceased department head.

Formatted: Font: (Default) Times New Roman

*§ 171-58 Bereavement leave.*

A. A.

B. 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.

~~Department heads shall be granted bereavement leave without loss of pay for normally scheduled working hours, not to exceed three consecutive days, on the account of a death in the immediate family of the department head. "Immediate family" shall include spouse, parent, stepparent, parent of spouse, children, brother, sister, grandparents, grandchildren, or a person living in the immediate household of the department head.~~

~~B. Bereavement leave of one day without loss of pay for normally scheduled working hours may be granted per occurrence for the death of a department head's niece, nephew, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt or uncle.~~

*§ 171-59 Civic duty leave.*

See Article III of this chapter.

*§ 171-60 Holidays with pay.*

A. ~~Department heads, with the exception of the Police Chief and Fire Chief (see Article X of this chapter), shall be granted holidays with pay on each of the following 12 holidays:~~

- (1) New Year's Day.
- (2) Martin Luther King Day.
- (3) Presidents Day.
- (4) Patriots Day.
- (5) Memorial Day.

(6) Juneteenth

~~(67) Independence Day.~~

~~(87) Labor Day.~~

~~(89) Columbus Day.~~

~~(109) Veterans Day.~~

~~(116) Thanksgiving Day.~~

~~(11) The day after Thanksgiving.~~

~~(122) Christmas Day.~~

B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.

C. Department Heads shall have the Friday after Thanksgiving off (not defined as a holiday).

*§ 171-61 Longevity pay.*

- A. Department heads who have been employed for at least five continuous full-time years of service shall receive, in addition to their regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter. Such department heads shall receive an additional \$30 per year for each additional year of full-time continuous service with the City.
- B. Payment of longevity pay shall be made on the third pay date in June to all department heads who are entitled during the fiscal year preceding such date, except that a department head who is terminated, except involuntarily for cause, shall receive payment on the date of termination for such longevity pay for which the department head was eligible in such fiscal year prior to the date of termination.
- C. For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.

**Article XIV**  
**Compensation for College Credits**

~~[Adopted 1-7-2008 by Ord. No. 1465]~~

*§ 171-62 Additional compensation.*

In addition to the provisions of the salary ordinance for personnel for the Police and Fire Departments, compensation shall be paid annually as follows.

*§ 171-63 Fire Chief.*

**[Amended 6-7-2021 by Ord. No. 1636]**

- A. A Fire Chief hired before July 1, 2024, who has completed courses in a degree-granting program toward a degree in fire science offered by a college which is certified by any state agency for such certification shall receive the following additional compensation annually:
  - (1) Associate's degree: \$2,000 per year.
  - (2) Bachelor's degree: \$4,000 per year.
  - (3) Master's degree: \$6,000 per year.
- B. The maximum amount of additional compensation shall not exceed \$6,000 per year.

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.

~~§ 171-64 Chief of Police and Deputy Chief of Police.  
[Amended 11-19-2012 by Ord. No. 1555]~~

~~A. Effective July 1, 2012, a Police Chief or Deputy Police Chief who has completed courses in a degree-granting program towards a degree in criminal justice or law enforcement offered by a college which is certified by any state agency for such certification, however, under no circumstances shall said state agency certify any program which grants credits for the following: life experience, courses taught by instructors lacking appropriate educational degrees by said agency, and courses lacking appropriate concentration on academic and scholarly research, will receive the following educational incentive compensation:~~

- ~~(1) Upon attaining an associate degree in law enforcement or criminal justice a bargaining unit member will receive 5% of his/her base salary.~~
- ~~(2) Upon attaining a baccalaureate degree in law enforcement or criminal justice a bargaining unit member will receive 10% of his/her base salary.~~
- ~~(3) Upon attaining a master's degree in law enforcement or criminal justice a bargaining unit member will receive 12.5% of his/her base salary.~~

~~B. Effective July 1, 2012, a Police Chief and/or Deputy Police Chief who has received a degree in criminal justice or law enforcement from an educational institution accredited by the New England Association of Colleges and Secondary Schools or by the Board of Higher Education, however, under no circumstances shall said agency or board certify any program which grants credits for the following: life experience, courses taught by instructors lacking appropriate educational degrees by said board or agency, and courses lacking appropriate concentration on academic and scholarly research, shall be eligible to receive the following educational incentive:~~

- ~~(1) Upon attaining an associate degree in law enforcement or criminal justice a bargaining unit member will receive 5% of his/her base salary.~~
- ~~(2) Upon attaining a baccalaureate degree in law enforcement or criminal justice a bargaining unit member will receive 10% of his/her base salary.~~
- ~~(3) Upon attaining a master's degree in law enforcement or criminal justice a bargaining unit member will receive 12.5% of his/her base salary.~~

**Commented [MN8]:** Now included in Compensation Schedule Ordinance

~~§ 171-65 Payment.~~

~~Payment shall be made to the employee in a lump on the second pay date in July.~~

**Article XV**  
**Yearly Salaries for Various Positions**

[Adopted 9-21-1987 by Ord. No. 935; last amended 8-6-2012 by Ord. No. 1542]

*§ 171-66 Yearly salaries established.*

The yearly salaries for the Mayor, Council President, City Councilors and various other positions shall be as set forth in Schedule 1 included at the end of this chapter. On or after January 1 of each odd-numbered year beginning in 2007, the Finance Committee of the City Council shall report to the Council, as a Committee of the Whole, its recommendations for adjustment, if any, to the salaries of the Mayor and City Councilors.

**Article XVI**  
**Classification and Compensation**

**[Adopted 8-5-2013 by Ord. No. 1560]**

*§ 171-67 Classification plan established.*

- A. A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.
- B. 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. **[Amended 7-5-2016 by Ord. No. 1594]**

**Classification Class Title**

| <b>Pay Grade</b> | <b>Class/Title</b>                                                          |
|------------------|-----------------------------------------------------------------------------|
| S-4              | Certified Pool Operator (seasonal)                                          |
| S-5              | Head Lifeguard                                                              |
| S-6              | Lifeguard (includes seasonal employees)                                     |
| T-4              | Temporary Seasonal Employees<br>(Department of Public Works)                |
| T-5              | Temporary Seasonal Recreational<br>Playground Supervisor                    |
| T-6              | Temporary Seasonal Technical                                                |
| GC-4             | Golf Course Laborers/Pro-Shop Assistants -<br>temporary seasonal employment |
| GC-5             | Golf Course Groundsman                                                      |

**Classification Class Title**

| <b>Pay Grade</b> | <b>Class/Title</b>                                                                         |
|------------------|--------------------------------------------------------------------------------------------|
| GC-6             | Golf Course Ranger                                                                         |
| GC-8             | Grounds Maintenance Man or Motor<br>Equipment Repairman                                    |
| GC-9             | Working Foreman Grounds Maintenance<br>Man or Working Foreman Motor Equipment<br>Repairman |

*§ 171-68 Compensation schedule.***[Amended 9-28-2017 by Ord. No. 1604]**

- A. A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.
- B. All appointive officers and all positions in the City of Gardner, including those filled by popular election, except those under the direction and control of the School Committee and those classified and organized under a collective bargaining agreement, shall be classed into positions, groups and grades according to their duties pertaining to each as herein provided.
- C. The officers, positions, officials and classifications are hereby allocated and fixed into salary grades in accordance with the following schedule.

*§ 171-69 Union and contract personnel.*

- A. Compensation for union and contract personnel is located in the individual union contract documents, individual employee contracts and the City Employee Handbook.
- B. Whenever personnel with a "Grade" classification covered by this article are promoted to a higher grade, such personnel shall initially upon being so promoted be paid at that step level on their new grade which is the next highest in wage or salary from the step level or salary they were receiving in their former grade.
- C. Whenever personnel with a "Position" classification covered by this article are promoted or appointed to a higher salaried position, such personnel shall initially upon being so promoted or appointed be paid at the step level in their new position which will provide them with a salary which is the next highest from the step level salary they were receiving in their position, but in no event shall said increase in salary be less than \$250.
- D. When a person is first hired by the City, such personnel shall always start his employment on the first and minimum wage or salary applicable to the grade or position for which the person has been hired. The City Council, upon the recommendation of the appointing authority and with the approval of the Mayor, may, due to special reasons and exceptional



circumstances, allow or permit a person to be hired at a rate greater than the minimum rate prescribed for the particular group by the compensation schedule.

- E. After six months of continual service, a new City employee shall be elevated to the next step in his/her salary schedule; thereafter he/she shall be elevated to the next succeeding step after 12 months of service.

## Chapter 182

# Planning Board

Commented [MN74]: Ch7, Sec12

~~[HISTORY: Adopted by the City Council of the City of Gardner 12-15-1952 by Ord. No. 139. Amendments noted where applicable.]~~

### GENERAL REFERENCES

Community Development and Planning Department — See Ch. 50.  
Agent for the Planning Board — See Ch. 160, Art. X.

Zoning — See Ch. 675.

### § 182-1 Board established; membership.

A Planning Board is hereby established. ~~The Planning Board, hereinafter called the "Board," shall consist, consisting of no less than of five (5) persons members, no more than nine (9) members, who are residents of Gardner and shall be appointed by the Mayor, subject to confirmation by the City Council. All members of the Board shall be sworn to the faithful discharge of the duties incumbent upon them.~~

Commented [MN75]: Ch3, sec2

Commented [MN76]: Ch3, sec3

### § 182-2 Powers and duties.

[Amended 11-18-2013 by Ord. No. 1563]

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.

### ~~§ 182-3 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 as follows: the Mayor shall on or before January 1, 1953, appoint one person to serve until the 31st day of December 1953, one person to serve until the 31st day of December 1954, one person to serve until the 31st day of December 1955, one person to serve until the 31st day of December 1956, and one person to serve until the 31st day of December 1957, or until their successors are duly appointed, confirmed and sworn. Between the first and 31st day of December 1953, the first and 31st day of December 1954, the first and 31st day of December 1955, the first and 31st day of December 1956 and the first and 31st day of December of each year after 1956, the Mayor shall appoint a successor to serve a term of five 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.~~

~~D. The members of the Board shall receive for their duties such compensation as the City Council may prescribe.~~

Commented [MN77]: Ch3, Sec2 (Appointment)  
Ch3, Sec 8 (vacancies)

### § 182-4 Zoning Board of Appeals.

[Amended 11-18-2013 by Ord. No. 1563]

Commented [MN78]: Ch6, Sec13

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.~~

~~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.~~

~~§ 182-5 Effective date.~~

~~This chapter shall go into effect on January 1, 1953. It shall not affect any act done, any right accrued, any penalty incurred, or any suit, prosecution or proceeding pending.~~

## Chapter 193

# Police Department

Commented [MN79]: Ch6, Sec 9

~~{HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.}~~

GENERAL REFERENCES

~~Emergency management — See Ch. 75.~~

~~Purchasing/Civil Enforcement Department — See Ch. 221.~~

~~Traffic Commission — See Ch. 275.~~

~~Alarm systems — See Ch. 302.~~

### Article I

#### Special Police Officers

~~{Adopted 4-4-1977 by Ord. No. 633}~~

**§ 193-1 Special police officers for City service.**

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.

~~Special Police Officers will be compensated at the current collective bargaining rate for patrol/superior officers.~~

**§ 193-2 Special police officers for private service.**

~~A.— The corporation, club or person applying for an appointment under this article shall be liable for the official misconduct of the officer appointed on such application and for the torts of any servant or agent in the employ of such club, corporation or person. When any such application is made by or in behalf of more than one person, it will not be considered unless all applicants sign it, nor when made by a corporation or club, unless it is signed by a duly authorized agent and accompanied by a certified copy of a vote authorizing such application to be made by such agent. All applicants shall be required to state the nature of their interest in the property or locality for which the officer is to be appointed, that is to say, whether as owners, lessees, agents or managers.~~

~~B.—Applications shall be turned in the first of February of each year, accompanied by a resume of police experience, to the Police Chief for recommendation, then to the Mayor for appointment, then to the Council for acceptance.~~

## Article II Organization of Police Department

~~{Adopted 8-3-1992 by Ord. No. 1101}~~

~~§ 193-3 Official Table of Organization.~~

~~{Amended 8-2-1993 by Ord. No. 1132; 11-21-1994 by Ord. No. 1175}~~

~~The Police Department of the City of Gardner shall consist of a Chief of Police, a Deputy Police Chief, two Lieutenants, at least four 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 MGL c. 147, §§ 11, 12 and 13.~~

**Commented [MN80]:** Covered under Collective Bargaining Agreements

~~§ 193-4 Appointments.~~

~~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. All appointments to the Police Department shall be made by the Mayor, subject to approval of the City Council.~~

~~§ 193-5 Chief of Police; Deputy Chief of Police.~~

~~{Amended 9-6-1994 by Ord. No. 1170; 11-18-2013 by Ord. No. 1563}~~

~~A. A—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.~~

**Formatted:** Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.58"

~~B. The Chief of Police shall be the Keeper of the Lockup in compliance with MGL c. 40, § 35.~~

~~B. 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. {Added 12-2-2013 by Ord. No. 1566}~~

**Commented [MN81]:** Ch3, Sec2

~~§ 193-6 Compensation.~~

~~{Added 11-18-2013 by Ord. No. 1563}~~

~~The salary of the Chief of Police and other employees of the Police Department shall be established in the ordinances designating salaries and wages for the City employees.~~

**Commented [MN82]:** Ch3, Sec1

## Article III

### Civilian Police Dispatchers

[Adopted 2-7-1994 by Ord. No. 1154; amended in its entirety 4-19-1994 by Ord. No. 1159]

#### § 193-7 Appointment.

The Mayor may, upon the recommendation of the Chief of Police and subject to confirmation of the City Council, appoint full- or part-time civilian dispatchers, as needed by the City of Gardner.

#### § 193-8 Supervision.

All civilian dispatchers shall be subject to the authority of the Mayor and the Chief of Police.

#### § 193-9 Powers and duties.

- 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. No civilian dispatcher shall exercise police power or authority. Said dispatchers shall be under the direction and control of the Chief of Police and be subject to all rules, regulations, policies, procedures, orders or directions prescribed by the Chief of Police.

#### § 193-10 Compensation

Said dispatchers shall receive such compensation as the Mayor, with the approval of the City Council, shall from time to time determine.

Commented [MN83]: Ch3, Sec1

## Chapter 217 Public Works, Department of

Commented [MN84]: Ch6, Sec10

[HISTORY: Adopted by the City Council of the City of Gardner 3-20-1972 by Ord. No. 501. Amendments noted where applicable.]

#### § 217-1 Department established; duties of Director.

A. A- There shall be established in the City of Gardner a Department of Public Works administered by a Director.

- i. 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

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.58"



sections and over each member of each section. The Director shall sign all vouchers for the Department of Public Works.

B. 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.

Formatted: Indent: Left: 0.58", First line: 0"

~~B. The Director shall:~~

- ~~(1) Be responsible for and carry out the supervision of the following divisions: Highway, Water, Sewer, Wastewater Treatment Plant, Municipal Garage and Municipal Grounds (inclusive of Parks, Recreation, Cemetery, Forestry, and Plant and Pest Commission). 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. [Amended 12-2-1974 by Ord. No. 576; 9-17-1979 by Ord. No. 708, 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]~~
- ~~(2) Meet when requested by the City Council Public Service Committee. 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. 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. [Amended 10-7-1974 by Ord. No. 570; 9-20-1976 by Ord. No. 620, 2-19-1985 by Ord. No. 858; 11-18-2013 by Ord. No. 1563]~~
- ~~(3) Appoint on merit and fitness alone and remove all personnel of said divisions contained herein, subject to prevailing General Laws and ordinances. [Amended 8-6-2012 by Ord. No. 1549]~~
- ~~(4) Attend meetings of the City Council and recommend to the City Council for adoption such measures requiring action by it as he may determine necessary or expedient, with approval of the City Council and Mayor.~~
- ~~(5) Keep full and complete records of his office and render to the Mayor and the City Council, as often as may be required by them, a full report of all operations under his control. [Amended 11-18-2013 by Ord. No. 1563]~~
- ~~(6) Keep the Mayor and the City Council fully advised as to the needs of the City within the scope of his duties and furnish the Mayor and the City Council, on or before the first day of December of each year, a detailed list of appropriations required during the next ensuing fiscal year for the proper conduct of all departments under his control and make and furnish also a master plan for all major public works for the City, giving priority to the projects in accordance with their necessity and importance, and establish long-range planning as may be determined for the best interest of the City.~~
- ~~(7) Cause to be performed all of the work of all construction, reconstruction, alteration, repair, maintenance, and upkeep and all other work incidental thereto of the present Department of Public Works, including the following divisions: Highway, Water, Sewer, Wastewater Treatment Plant, Municipal Garage and Municipal Grounds, inclusive of work incidental thereto of the former Board of Cemetery Commissioners and Park Departments. Such work shall be performed in accordance with the policy of long-range plans and priorities of major projects and capital outlay requirements as may be authorized and established by the Department of Public Works. [Amended 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]~~
- ~~(8) Have and exercise all the supervisory powers over the work force pertaining to the assessments of betterments and their abatements vested immediately prior to his appointment and from time to time by~~

general or special law or by City ordinance in the following boards and offices of the City: Highway, Water, Sewer, Cemetery, Forestry, and Plant Pest Control and Park Departments, said commissions being abolished upon the appointment of a permanent director. **[Amended 9-17-1979 by Ord. No. 708; 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549]**

- (9) Coordinate with the City Engineer the direction and supervision of all types of construction and planning relating to divisions herein. Knowledge of the provisions of the General Laws of the commonwealth relating to the operation of the Park and Cemetery Divisions; knowledge of contract procedures; ability to prepare specifications in the procurement of new equipment; ability to train and plan, assign and supervise the work of Department personnel; and ability to establish effective working relationships with employees, engineering personnel, City officials, contractors and the general public shall be required. **[Added 8-6-2012 by Ord. No. 1549]**
- (10) Have all the duties and powers vested in the separate boards and commissions of the Park, Recreation and Cemetery and Recreation Commission, except that the Cemetery Commission shall have sole control and responsibility for the management of perpetual care funds pursuant to MGL c. 114, § 19, and MGL c. 44, § 54. Except as already provided for herein, the Director shall succeed to all the rights, privileges, duties and liabilities of the above mentioned boards and commissions. **[Added 8-6-2012 by Ord. No. 1549]**

C. Each petition submitted to the City Council and referred to the Director shall be returned to the City Council with the recommendation of the Director or the reason for the absence of such recommendation within 13 days of the submission of each petition to the Director.

D. The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance by a two-thirds vote of the City Council consistent with prevailing General Laws or ordinances.

Commented [MN85]: Ch3, Sec6

#### § 217-2 Appointment of Director of Public Works.

A. The Mayor shall appoint, subject to the confirmation of the City Council, a Director of Public Works for a term of three years. The Director of Public Works shall be especially fitted by training and experience to perform the duties of said office. Said Director shall hold office until his successor is appointed. **[Amended 12-2-1974 by Ord. No. 576; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]**

B. Said Director may be removed from office in the same manner as department heads as provided by Section 8 of the City Charter.

Commented [MN86]: Ch3, Sec 2

#### § 217-3 Compensation.

**[Added 11-18-2013 by Ord. No. 1563]**

The salary of the Director and other employees of the Department of Public Works shall be established in the ordinances designating salaries and wages for the City employees.

Commented [MN87]: Ch3, Sec 1

#### § 217-4 Transfer of personnel.

**[Amended 9-20-1976 by Ord. No. 620; 8-6-2012 by Ord. No. 1549]**

All persons employed by and under the supervision of the named divisions, boards and commissions shall, upon the effective date of this chapter, be transferred to the Department of Public Works. All such transfers of personnel shall be made without loss of pay and without change of rating, seniority, retirement or pension rights, or any other privileges under any provisions of this chapter. The incumbent working foremen of the aforementioned divisions and offices affected by this chapter, when transferred to the Department of Public Works as hereinbefore provided, shall become working foremen of the corresponding divisions of said Department of Public Works.

Commented [MN88]: In Collective Bargaining Agreement

## Chapter 221

# Purchasing/Civil Enforcement Department

~~[HISTORY: Adopted by the City Council of the City of Gardner 9-6-2011 by Ord. No. 1530. Amendments noted where applicable.]~~

### § 221-1 Purpose.

There is hereby established in the administrative service of the City of Gardner the Purchasing/Civil Enforcement Department and, in said Department, the office of City Purchasing Agent/Civil Enforcement Director, hereinafter referred to as "Director."

### § 221-2 General authority of Director.

The Purchasing Agent/Civil Enforcement Director shall direct, supervise and have control of the Purchasing/Civil Enforcement Department.

The Purchasing Agent/Civil Enforcement Director shall have all powers and duties prescribed by this chapter and shall serve as the City's Chief Procurement Officer (CPO) and Affirmative Marketing Construction Officer.

The Purchasing Agent/Civil Enforcement Director shall be responsible for all purchases and contractual services and all sales of property.

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.

The Purchasing Agent/Civil Enforcement Director shall serve as the City's Municipal Hearing Officer.

### § 221-3 Appointment and compensation of Director; employees.

~~A. The Purchasing Agent/Civil Enforcement Director shall be appointed by the Mayor for a term of three years, subject to confirmation by the City Council.~~

Commented [MN89]: Ch3, Sec2

~~B. The salary of the Purchasing Agent/Civil Enforcement Director shall be included in the salary and wage ordinance of the City.~~

Commented [MN90]: Ch3, Sec1

~~C. Persons employed in the Purchasing/Civil Enforcement Department shall be under the direct supervision of the Purchasing Agent/Civil Enforcement Director.~~

Commented [MN91]: Ch3, Sec6

### § 221-4 Powers and duties of Director.

~~A. The Purchasing Agent shall:~~

- ~~(1) Apply the provisions of Massachusetts Uniform Public Procurement Laws to all purchases, orders and contracts for the City of Gardner, utilizing rules of procedure established by the Purchasing Agent as necessary to conform to all aspects of state and federal procurement laws and regulations. Such purchases, orders and contracts shall include procurement of supplies, services, construction and repairs to public buildings, public works projects, design and engineering services, and the acquisition and disposition of real property and personal property.~~
- ~~(2) Ensure that all specifications be definite and certain and shall permit open and fair competition; provided, however, that the provisions of this subsection shall not apply to noncompetitive purchases or contracts.~~



- ~~(3) Act to procure for the City the highest quality supplies and contractual services, incurring the least expense to the City.~~
- ~~(4) Endeavor to obtain as full and open competition as possible on all purchases and sales.~~
- ~~(5) Serve as the City's Affirmative Marketing Construction Officer in cooperation with the Massachusetts Supplier Diversity Office. [Amended 11-18-2013 by Ord. No. 1563]~~
- ~~B. The Purchasing Agent is authorized to promulgate regulations, policies and procedures consistent with the intent of this chapter, subject to prevailing general laws.~~
- ~~C. The Purchasing Agent/Civil Enforcement Director shall~~
- ~~(1) Serve as the Parking Clerk in accordance with MGL c. 90, §§ 20A 1/2 to 20E. The Parking Clerk shall be responsible for the supervision and processing of parking violations, conducting informal hearings for violation appeals, and reporting overdue violations to the Registry of Motor Vehicles. The Parking Clerk shall be responsible for contracting with a state approved vendor for coordination with the Registry of Motor Vehicles.~~
- ~~(2) Oversee the input, computerized tracking, management and reporting of all noncriminal fines and penalties from initial imposition through collection.~~
- ~~(3) Serve as the City's Municipal Hearing Officer in accordance with MGL c. 148A, Code Enforcement Officer. The Municipal Hearing Officer shall conduct requested hearings of code violations pursuant to this chapter and shall be compensated as provided under MGL c. 148A, § 5. [Amended 11-18-2013 by Ord. No. 1563]~~

Commented [MN92]: Ch3, Sec 6

#### § 221-5 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.

#### § 221-6 Sale, ~~alienation or~~ disposal of personal or real property.

- A. ~~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. Personal property shall be declared scrap or surplus by the functional department head. No tangible personal property, whether the same is controlled by any department, board or otherwise, shall be sold, alienated or otherwise disposed of except upon the written approval of the City Council committee having charge of matters concerning such department, board or otherwise and with the written approval of the Mayor.~~
- B. 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, alienated or otherwise disposed of except with the approval of the City Council and Mayor.

#### § 221-7 Award of contract.

- A. 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.

- B. 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.

**§ 221-8 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.

**§ 221-9 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:

- A. 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
- B. Uphold the bid protest on grounds the protest proves a violation of the Massachusetts Uniform Procurement Act and conduct a new procurement.

**§ 221-10 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.

**§ 221-11 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.

**§ 221-12 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.

**§ 221-13 Affirmative Marketing Construction Officer.**

~~Amended 11-18-2013 by Ord. No. 1563~~

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.

**§ 221-14 Municipal Hearing Officer.**

~~Amended 11-18-2013 by Ord. No. 1563~~

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.

## Chapter 252



## Seal

Commented [MN93]: Ch2, Section 1

~~[HISTORY: Adopted by the City Council of the City of Gardner 4-2-1923 by Ord. No. 12. Amendments noted where applicable.]~~

### § 252-1 Description.

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.

[\[Image\]](#)

### § 252-2 Deeds.

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.

### § 252-3 Use of Seal.

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.

## Chapter 264

Commented [MN94]: Ch5, Sec4

## Survey Engineering Department

~~[HISTORY: Adopted by the City Council of the City of Gardner 12-2-1974 by Ord. No. 577. Amendments noted where applicable.]~~

### § 264-1 Department established; appointment of City Engineer.

~~A Survey~~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.~~

Commented [MN95]: Ch3, Sec2

### § 264-2 Duties of City Engineer.

~~The duties of the City Engineer shall be as follows:~~

~~A. The City Engineer shall:~~

- ~~(1) Make plans for and have supervision of all City engineering structures.~~
- ~~(2) Perform all services which properly come under the direction of a certified civil engineer.~~
- ~~(3) Give advice to all City officials authorized to consult with him on matters relating to public improvements of every kind where the advice of a civil engineer would be of service.~~
- ~~(4) Make regular inspections of all dams, bridges, and other public works belonging to the City.~~

~~(5) In consultation with the Mayor, determine which outside engineering firms shall be selected for service on City projects. [Amended 11-18-2013 by Ord. No. 1563]~~

~~(6) Coordinate his activities with the Director of the Public Works Department. [Amended 3-7-1983 by Ord. No. 803; 11-18-2013 by Ord. No. 1563]~~

~~(7) Administer the Survey Department.~~

~~B. The City Engineer may employ, from time to time, such full time or part time assistance as may be required, subject, however, to proper appropriations being made therefor.~~

~~§ 264-3 Survey Department Coordinator.  
[Added 9-15-1997 by Ord. No. 1251]~~

~~A. There shall be established in the Survey Department the position of Survey Department Coordinator. The Coordinator shall be appointed by and directly report to the City Engineer, subject to confirmation by the City Council, for a term of three years.~~

~~B. The duties of the Survey Department Coordinator shall be as follows:~~

~~(1) GIS Coordinator. Develop and maintain a GIS System for use of various City departments, including Survey, Public Works, Community Development and Planning, Assessing and Building. Initially, research existing data files which can be used to develop the database. Select software which will be compatible with existing hardware available in various City Hall offices. Make recommendations regarding new hardware or upgrades required, including cost estimates. [Amended 11-18-2013 by Ord. No. 1563]~~

~~(2) CADD and information systems implementation in the Survey Department.~~

~~(a) Review files of data maintained by Survey Department and recommend which are suitable for storage and retrieval via computer. Recommend and prioritize software and hardware (scanner, digitizer, etc.) acquisition. Estimate time requirements for data input and skill level for persons to perform this task.~~

~~(b) Review tasks normally performed by Survey Department drafts persons and recommend which tasks can be better or more efficiently performed with a CADD system.~~

~~(c) Implement computer based construction specifications and contract document assembly.~~

~~(3) 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:~~

~~(a) 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.~~

~~(b) Inspect subdivision infrastructure (drainage, sanitary sewers, water mains, roads and sidewalks) during construction and submit periodic reports to the Planning Board.~~

~~(c) Develop stormwater management practices and policies for subdrainage basins within the City.~~

~~(4) Zoning Board of Appeals/Conservation Commission Coordinator. Review all 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.~~

~~(5) 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.~~

~~(6) Construction administration. Oversee construction contracts being performed directly for the Department of Public Works, based on plans and specifications prepared by the Survey Department. This task will include construction inspection and field documentation of as-built quantities and locations. This task will involve supervision of up to two other Survey Department employees.~~

~~(7) Any and all other duties as assigned by the City Engineer.~~

Commented [MN96]: Ch3, Sec6

#### § 264-4 Department responsibilities.

The Survey-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 Survey-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 Survey-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. ~~{Amended 11-18-2013 by Ord. No. 1563}~~

##### A. 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.

B. 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.

C. 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.

D. 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.

§ 264-5 Compensation.

The salary of the City Engineer and other employees within the Survey Department shall be established in the ordinances designating salaries and wages for the City employees.

Commented [MN97]: Ch3, S1

## Chapter 275 Traffic Commission

~~{HISTORY: Adopted by the City Council of the City of Gardner 10-3-1988 by Ord. No. 981. Amendments noted where applicable.}~~

~~GENERAL REFERENCES~~

~~Parking—See Ch. 512.~~

~~Vehicles and traffic—See Ch. 600.~~

**§ 275-1 Commission established; membership.**

- A. There shall be established in the City of Gardner a Traffic Commission.
- B. 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 full voting members. ~~{Amended 11-18-2013 by Ord. No. 1563; 8-5-2019 by Ord. No. 1624}~~

**§ 275-2 Placement of official traffic signs and signals.**

~~{Amended 11-18-2013 by Ord. No. 1563}~~

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.

**§ 275-3 Meetings; duties.**

- A. The Traffic Commission shall meet regularly, not less often than quarterly.
- B. Among its duties the Traffic Commission shall:
- (1) Make recommendations to the City Council, supported by engineering studies and reports when necessary, regarding changes required to the ~~Chapter 600 Code of the City of Gardner, Vehicles and Traffic, of this Code.~~
  - (2) Monitor all traffic-related issues, from signs to major project proposals.
  - (3) Actively pursue state or federal grants for street improvements (including curbing, pedestrian crossings, and signalization).
  - (4) Improve traffic on a regional basis, working with and supporting endeavors of the ~~Massachusetts Regional Planning Commission (MRPC), with an active member (appointed by Mayor for a three-year term) to be part of the MRPC. The local Regional Planning Commission.~~

## Chapter 290 Youth Commission

Commented [MN98]: Ch7, Sec15

~~{HISTORY: Adopted by the City Council of the City of Gardner 5-5-1986 by Ord. No. 884. Amendments noted where applicable.}~~

**§ 290-1 Commission established; membership.**

- A. 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.~~

~~one of whom shall be a currently elected City Councillor, who shall be appointed by the Mayor, subject to confirmation by the City Council. [Amended 5-16-1994 by Ord. No. 1161; 12-18-2006 by Ord. No. 1446; 9-2-2008 by Ord. No. 1477]~~

- 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.~~

Commented [MN99]: Ch3, Sec 2(appointment)  
Ch3, Sec8 (vacancies)  
City Charter procedure for removal

Commented [MN100]: Ch3, Sec3

**§ 290-2 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.

Commented [MN101]: Ch7, Sec1(c)



**§ 290-3 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.~~

Commented [MN102]: Ch7, Sec1(B)

**Amendment  
Proposal  
Administrative  
Ordinances**  
***Clean Copy***

# Part I: Administrative Legislation

## Chapter 1 General Provisions

### Article I Enforcement

#### *§ 1-1 Criminal complaint.*

Any person who violates the provisions of any ordinance of the City of Gardner may be penalized by indictment or on complaint brought in District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the penalty for each violation or offense shall be not less than \$25 nor more than \$300.

#### *§ 1-2 Noncriminal disposition.*

Any person who violates the provisions of any ordinance of the City of Gardner, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances, rules or regulations are to be included within the scope of this section, that the specific penalties as listed hereunder shall apply in such cases, and that the municipal official listed for each ordinance, rule or regulation shall be the enforcing person for such ordinance, rule or regulation. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or regulation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

- A. Violation of any provision of Chapters 1 through 10 of the State Sanitary Code (105 CMR 400.000 to 105 CMR 590.000) or Title 5 of the State Environmental Code (310 CMR 15.00).
  - (1) Enforcing person: Director of Public Health.
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.
- B. Violation of any regulation adopted by the Board of Health under MGL c. 111, § 31, 31B, 122, 127 or 155.
  - (1) Enforcing person: Director of Public Health.

(2) Penalty.

(a) First offense: \$25.

(b) Second and subsequent offenses: \$50.

C. Violation of any regulation from the Massachusetts State Building Code.

(1) Enforcing person: Building Commissioner.

(2) Penalty.

(a) First offense: \$25.

(b) Second and subsequent offenses: \$50.

D. Violation of any provision of Chapter **675**, Zoning, of this Code.

(1) Enforcing person: Building Commissioner.

(2) Penalty: \$300.

E. Violation of any regulation from the Uniform State Plumbing Code and Massachusetts Fuel Code, 248 CMR 3 to 11.

(1) Enforcing person: Plumbing Inspector.

(2) Penalty.

(a) First offense: \$25.

(b) Second and subsequent offenses: \$50.

F. Violation of any regulation from the Massachusetts Electrical Code, 527 CMR 12.00.

(1) Enforcing person: Wire Inspector.

(2) Penalty.

(a) First offense: \$25.

(b) Second and subsequent offenses: \$50.

G. Violation of any provision of Chapter **390**, Fees, Article **VII**, Wiring Permits, of this Code.

(1) Enforcing person: Wire Inspector.

(2) Penalty.

(a) First offense: \$25.

- (b) Second and subsequent offenses: \$50.
- H. Violation of MGL c. 148, §§ 26C and 26E, as accepted by the City Council on April 5, 1982.
  - (1) Enforcing person: Fire Chief or legal designee of Fire Chief.
  - (2) Penalty: \$25.
- I. Violation of any regulation from the Air Pollution Control Regulations, 310 CMR 7.00, in which specific reference to 310 CMR 7.52 is cited. **[Amended 4-6-1992 by Ord. No. 1092]**
  - (1) Enforcing person: Fire Chief or legal designee of Fire Chief, Director of Public Health, or any police officer. **[Amended 11-18-2013 by Ord. No. 1563]**
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.
- J. Violation of any provision of Chapter **567**, Streets and Sidewalks, Article **VII**, Driveway Permits, of this Code.
  - (1) Enforcing person: City Engineer.
  - (2) Penalty: \$50.
- K. Violation of any provision of Chapter **553**, Sewers, of this Code.
  - (1) Enforcing person: Public Works Director.
  - (2) Penalty: \$50.
- L. Violation of any provision of Chapter **625**, Water, of this Code.
  - (1) Enforcing person: Public Works Director.
  - (2) Penalty: \$50.
- M. Violation of any provision of Chapter **312**, Animals, Article **I**, Dog Control, of this Code. **[Added 12-17-1990 by Ord. No. 1062]**
  - (1) Enforcing person: Dog Officer or any police officer.
  - (2) Penalty. **[Amended 11-18-2013 by Ord. No. 1563]**
    - (a) First offense: \$25.



- (b) Second offense: \$50.
  - (c) Third offense: \$100.
  - (d) Fourth offense: \$200.
  - (e) Fifth and each subsequent offense: \$300.
- N. Violation of any provision of Chapter **610**, Vehicles, Wrecked and Abandoned, of this Code.
- (1) Enforcing person: any police officer.
  - (2) Penalty: \$50 a day for each day's violation beyond a fourteen-day period after notice, not to exceed \$300.
- O. Violation of any provision of the Wetland Protection Act, MGL c. 131, § 40.
- (1) Enforcing person: legal designee of Conservation Commission.
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.
- P. Violation of MGL c. 111, § 123 (abatement of nuisance by owner).
- (1) Enforcing person: Director of Public Health.
  - (2) Penalty: \$20.
- Q. Violation of any provision of Chapter **567**, Streets and Sidewalks, Article **VI**, Street Excavations and Obstructions, of this Code.
- (1) Enforcing person: Public Works Director.
  - (2) Penalty, each offense and each day: \$100.
- R. Violation of any provision of Chapter **330**, Bicycles and Play Vehicles, Article **I**, Bicycles, § **330-3A**, of this Code.
- (1) Enforcing person: any police officer.
  - (2) Penalty, any offense: \$20.
- S. Violation of any provision of Chapter **330**, Bicycles and Play Vehicles, Article **II**, Roller Skates, Skateboards and Toy Vehicles, of this Code.

- (1) Enforcing person: any police officer.
  - (2) Penalty, any offense: \$5.
- T. Violation of any provision of Chapter **636**, Water Use Restrictions, of this Code.
- (1) Enforcing person: Public Works Director.
  - (2) Penalty.
    - (a) First offense: \$50.
    - (b) Each subsequent offense: \$100.

*§ 1-3 Purchasing/Civil Enforcement Department.*

There is hereby established in the administrative service of the City of Gardner a Civil Enforcement Department to be included with the duties and responsibilities of the Purchasing Department, and this Department shall be titled the "Purchasing/Civil Enforcement Department." The duties and responsibilities of said Department and the Purchasing Agent/Civil Enforcement Director shall include the input, computerized tracking, management, and reporting of various noncriminal violation fines and penalties from imposition through collection. These duties and responsibilities are further defined by Chapter **221**, Purchasing/Civil Enforcement Department, of this Code.

## Article II Adoption of Code

*§ 4 Adoption of Code.*

The ordinances of the City of Gardner of a general and permanent nature adopted by the City Council of the City of Gardner, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters **1** through **675**, are hereby approved, adopted, ordained and enacted as the "Code of the City of Gardner," hereinafter referred to as the "Code."

*§ 1-5 Code superseded prior ordinances.*

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

*§ 1-6 Continuation of existing provisions.*

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

*§ 1-7 Copy of Code on file.*

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use

and examination by the public until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the City Clerk, and such certified copy shall remain on file in the office of said City Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

#### *§ 1-8 Amendments to Code.*

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Gardner" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

#### *§ 1-9 Publication; filing.*

The Clerk of the City of Gardner shall cause this ordinance to be published in the manner required by law. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

#### *§ 1-10 Code to be kept up-to-date.*

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

#### *§ 1-11 Sale of Code.*

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

#### *§ 1-12 Altering or tampering with Code; penalties for violation.*

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Gardner to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to the penalties as set forth in § 1-1 of the Code.

#### *§ 1-13 Severability of Code provisions.*

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a 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. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

*§ 1-14 Severability of ordinance provisions.*

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.

*§ 1-15 Repealer.*

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

*§ 1-16 Ordinances saved from repeal.*

The adoption of this Code and the repeal of ordinances provided for in § 1-15 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to August 5, 2013.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.

- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any ordinance or portion of an ordinance pertaining to the rate and manner of payment of salaries and compensation of municipal officers and employees or establishing or classifying positions.
- N. Any ordinance or portion of an ordinance establishing traffic or parking regulations.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance accepting or adopting the provisions of any general law or special act of the commonwealth.

*§ 1-17 Changes in previously adopted ordinances.*

- A. In compiling and preparing the ordinances for publication as the Code of the City of Gardner, no changes in the meaning or intent of such ordinances have been made except as provided for in Subsections **B** and **C** hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. Nomenclature. The following titles are updated throughout the Code:
  - (1) "Chairman" to "Chairperson."
  - (2) "Building Inspector" to "Building Commissioner."
  - (3) "Department of Public Safety" to "Police Department."
  - (4) "Commissioner of Public Safety" to "Chief of Police."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

*§ 1-18 When effective.*

This ordinance shall take effect upon passage and publication as required by law.



## Chapter 2

### Seal and Other Emblems of the City

#### **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 4: Colonel Thomas Gardner Day**

Whereas history is prologue, and it is important that our children be cognizant of our past, especially the early sacrifices that established the freedom and democracy we enjoy today, annually, on or before the 19th of April, the Mayor shall officially designate Patriots Day as Colonel Thomas Gardner Day in the City of Gardner and shall cause a proclamation to be issued and read in all the schools of Gardner, to honor this patriot who died of wounds received during the Battle of Bunker Hill and for whom our beloved community was named.

**Section 5: Flags**

**A. Flag at Half-Mast following death of Veteran**

The flag of the United States of America shall be flown at half-mast on all buildings owned or controlled by the City of Gardner after the death of a

veteran who has served honorably in the Armed Forces of the United States and shall continue to be flown at half-mast every day until the burial of said veteran.

B. Authority of the Mayor

- i. The Mayor of the City of Gardner shall have the authority to have the flag of the United States flown at half-mast by virtue of a state and/or federal proclamation.
- ii. The Mayor of the City of Gardner shall have the authority to have the flag of the City of Gardner flown at half-mast by proclamation by the Mayor.

## Chapter 3

### Personnel, Appointments, and Employment

#### **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.

## Part II: Legislative Branch

### Chapter 4 City Council

#### **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  $\frac{2}{3}$  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.

## Chapter 5

### 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.

## Part III: Executive Branch

### Chapter 6

## Executive Departments

#### **Section 1. Miscellaneous**

Unless appointed by means other than those listed in Section 2 of Chapter 3 of the Code of the City of Gardner, all Department Heads, Officers, Employees, Boards, and Commissions shall report to the Mayor and shall appear before the City Council whenever requested to do so, in writing by majority vote of the City Council.

#### **Section 2: 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 3: 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 4: 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.

**Section 5: 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 6: 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 of the Fire Department or, during their absence, the officer in charge of the Department hereby is authorized to go to another city, town or district for the purpose of aiding fire departments fire apparatus with personnel, and while in the performance of their duties in extending such aid, the members of the Department shall have the same immunities and privileges as if performing the same within the City of Gardner.
- iii. 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 7: 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 8: 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 9: 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 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 10: 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.

#### F. Emergency Management Division

##### Article I: Response to Calls for Mutual Aid

##### i. Authority of Police Chief

The Chief of the Police Department during their absence, the officer in charge of the Department and hereby is authorized to go to another city, town or district for the purpose of aiding its police department with police vehicles with personnel, and while in the performance of their duties in extending such aid, the members of each Department shall have the same immunities and privileges as if performing the same

within the City of Gardner.

## Article II: Mutual Aid Agreements

### ii. Mutual Aid Programs for Police Purposes

The Mayor is hereby authorized under the authority granted by the General Laws of the Commonwealth, to enter into agreement between the City and any other city or town, or combination of other cities and towns, to provide mutual aid programs for police purposes in order to increase the capability of the City's Police Department to protect the lives, safety and property of the citizens of the City of Gardner and those of said other cities and towns which may be a party to such agreement.

### iii. Contents of Agreements

Such mutual aid agreements as authorized hereunder may provide for the furnishing of personal services, supplies, materials, contractual services and equipment when the resources normally available to either the City or the other municipality which is a party to such agreement are not sufficient to cope with a situation which requires police action.

## Article III: Civil Defense Division

### iv. Division Established

- A. There shall be established in the City of Gardner a Civil Defense Department to be administered by a Director.
- B. The Director shall report to the Mayor and Chief of Police and shall appear before the City Council whenever requested to do so.

## **Section 11: 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 12: 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 13: 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.

## Chapter 7

### Boards and Commissions

#### **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.

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) members. 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. Meetings and records.

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 seven (7) 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 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 the General Laws of the Commonwealth, 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: Municipal Grounds Commission**



- i. Commission established; membership; terms of office.
  - i. There shall be established a Municipal Grounds Commission for the City of Gardner consisting of at least six (6), but not more than eight (8) members
  - ii. The Director of Public Works, who shall be a of the Commission during his term of office but may only vote to break a tie in a vote of the other members.
- ii. Meetings.

The Commission shall hold meetings no less than quarterly during the course of the year. The Secretary shall keep accurate minutes and records of all meetings of the Commission. The Director of Public Works shall not hold office within the Commission.

- iii. Duties

The Commission shall be an advisory body and shall advise the Director of Public Works, Mayor and City Council on matters relating to the Municipal Grounds Division.

### **Section 13: 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 14: 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 15: 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 Code of the City of Gardner
- 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 16: 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.

# Chapter 8

## Personnel

### Article I

#### Physical Examination of City Employees

##### *§ 1 Examination required.*

Any new full-time or permanent part-time employee that has been offered a position in the City of Gardner may be required to submit to a physical examination prior to beginning work.

##### *§ 2 Conduct of examination.*

- A. A City-designated physician shall conduct all preemployment examinations. The Human Resources Department will be responsible for setting up the appointment.

Section 3: If required to undertake a preemployment examination, 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.

##### *§ 3 Report.*

The employee must bring in the original copy of the preemployment screening report prior to the employee's first day on the job.

##### *§ 4 Costs.*

The City will be billed for all costs associated with the physical.

##### *§ 5 Exemption for elected officials.*

This article shall not apply to elected officials.

### Article III

#### Civic Duty Leave

##### *§ 7 Grant of leave.*

Regular full-time City employees, not covered by a collective bargaining agreement, who have summons to appear in court shall be granted civic duty leave.

##### *§ 8 Summons to be presented to department head.*

Official summons to jury duty or witness appearance must be presented in advance to the appropriate department head to receive authorized leave. 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.

*§ 9 Employee to report to work if discharged from service.*

An employee on authorized civic duty leave who is discharged from court service for the day or a major portion thereof during regular work hours must report to work.

*§ 10 Personal litigation excluded.*

Civic duty leave shall not be authorized for an employee who is involved in personal litigation.

*§ 11 Effect on other benefits.*

Absence due to authorized civic duty leave shall not affect an employee's eligibility for longevity or benefits eligibility.

*§12 Compensation.*

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.

*§ 13 Effect on vacation.*

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.

## Article IV Paid Holidays

*§ 14 Holidays designated.*

- A. All full-time and regular part-time City employees, not covered by a collective bargaining agreement, except the Police and Fire Department personnel, 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) Columbus Day.
  - (10) Veterans Day.
  - (11) Thanksgiving Day.
  - (12) Christmas Day.
- B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.
- A. 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.
  - B. 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.

*§15 Compensation for working on holiday.*

In the event that a nonexempt employee shall be required to work on said holiday, his or her compensation shall be at 2 times his or her 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.

## Article V

### Nonoccupational Sick Leave

*§ 16 Grant of sick days.*

All full-time and regular part-time employees shall be granted a maximum of twenty (20) nonoccupational sick days per calendar year at the employee's normal straight-time pay for



normally scheduled hours.

*§ 17 Credit and use of sick days.*

Sick days shall be credited to employees on January 1 of each year. Employees may carry an unlimited number of sick days. Sick time shall not be used in less than one-hour increments.

*§ 18 Doctor's certificate.*

An employee that has been absent from work due to the use of nonoccupational sick leave three (3) consecutive days or more at one time must present a doctor's certificate to their department director. This note shall be attached to the weekly time reports. A doctor's note may also be required if a department head and/or the Director Human Resources has reasonable cause to believe that the employee may be abusing his or her nonoccupational sick leave.

*§ 19 Payment for accumulated sick leave upon retirement.*

Employees hired before October 17, 1995, upon retirement from employment with the City of Gardner, if the employee has accumulated sick leave, shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days, not to exceed a total of 130 days paid.

*§ 20 Payment for accumulated sick leave upon voluntary termination of employment.*

Employees hired before October 17, 1995, upon voluntary termination of employment, if an employee has an accumulated sick leave balance, shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.

*§ 21 Payment for accumulated sick leave upon death of employee.*

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.

*§ 22 New employees.*

Newly hired employees shall be granted nonoccupational sick leave at the rate of 1 1/4 days per month worked. Newly hired employees shall earn nonoccupational sick leave in this manner until January 1 after their date of hire.

*§ 23 Sick leave incentive time.*

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.

*§ 24 Annual report; notification of absence due to illness.*

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.

## Article VI Bereavement Leave

*§ 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.

## Article VII Longevity Pay

### *§ 26 Full-time employees.*

- A. Any full-time regular 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 has been employed for at least five continuous full-time years of service shall receive, in addition to his or her regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter.
- B. Such employees shall receive an additional \$30 per year for each additional year of full-time continuous service with the City.

### *§ 27 Part-time employees.*

- A. Any part-time regular 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 has been employed for at least five continuous 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 service with the City.

### *§ 28 Payment date.*

Payment of longevity pay shall be made on June 30 to all employees who are entitled during the fiscal year preceding such date, except that an employee whose is terminated, except involuntarily for cause, shall receive payment on the date of termination of such longevity pay for which the employee was eligible in such fiscal year prior to the date of termination.

### *§ 29 Calculation of pay.*

For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.

## Article VIII Personal Leave

### *§ 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 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 from the date the employee's employment ends, as follows:

- (1) January 1 to March 31st: Three (3) days.
- (2) April 1 to June 30<sup>th</sup> : two (3) days.
- (3) July 1<sup>st</sup> to Sept 30<sup>th</sup>: One (1) day

*§ 31 Use of personal days.*

- A. Use of personal days is upon the approval of the department head, who has been given 24 hours' notice, except in an emergency.
- B. Personal time shall not be used in less than one (1) hour increments.

*§ 32 Crediting of personal days.*

Personal days shall be credited to employees on January 1 of each year. Personal leave is not cumulative and must be used in the calendar year that it is granted. Personal Time cannot be carried over from year to year.

*§ 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                       |

## Article IX Vacations for Employees

*§ 34 Deputy Chief of Police .*

The Deputy Chief of Police of the City of Gardner, regularly employed full time by the City shall be granted an annual vacation without loss of pay as follows:

- A. Regularly employed for one to four years shall be entitled to two weeks (14 calendar days).
- B. Regularly employed from five to nine years shall be entitled to three weeks (21 calendar days).

- C. Regularly employed from 10 to 14 years shall be entitled to four weeks (28 calendar days).
- D. Regularly employed for over 15 years shall be entitled to 31 calendar days.
- E. Employees shall have two consecutive days off with each five days of vacation. Each two-week vacation period shall consist of 10 paid vacation days and four regular days off. One vacation week shall consist of five working days plus two days off.

### *§ 36 Full-Time Employees*

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 fifteen (15) working days.
- B. Regularly employed from five (5) to nine (9) years shall be entitled to four (4) weeks or twenty (20) working days.
- C. Regularly employed from ten (10) years to fourteen (14) years shall be entitled to five (5) weeks or twenty-five (25) working days.
- D. Regularly employed for fifteen (15) years to nineteen (19) years shall be entitled to six (6) weeks or thirty (30) working days.
- E. Regularly employed twenty (20) years or more shall be entitled to seven(7) weeks or thirty-five (35) working days.

### *§ 37 Part-Time Employees*

All employees, except those provided for by law and those covered by a collective bargaining agreement, regularly employed part time by the City shall be granted an annual vacation without loss of pay as follows:

- A. To be eligible a part-time worker must have worked 27 weeks in the aggregate during the 12 months preceding the first day of June in each year and must meet the eligibility requirements of part-time employees as defined in Article XII, § 171-50A.
- B. They shall be entitled to the same vacation increments as full-time employees as defined in § 171-36 based upon an eligible part-time employee's specific work hour schedule. One day will be equivalent to the total number of hours worked per week divided by five days (i.e., one day for 25 hours per week will be equivalent to five hours).

### *§ 38 Vacations to be granted by department heads.*

Such vacations shall be granted by the heads of each department, as such time as in their opinion will cause the least interference with the performance of the regular work of the City.

*§ 39 Determination of regular employment.*

A person shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.

*§ 40 New employees.*

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 10 days of vacation per calendar year.

*§ 41 Accumulation of vacation time.*

Employees that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any employee who has excess of that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.

*§ 42 Minimum increments.*

Vacation time may not be taken in less than one-hour-day increments.

*§ 43 Payment for accumulated vacation time.*

- A. Upon termination, resignation or retirement, the annual allotment of vacation time for the year in which the employee's employment ends shall be prorated monthly from the date the employee's employment ends.
- B. In the event that an employee terminates employment with the City, any vacation accrued will be paid to the employee. If an employee dies, any accrued vacation days shall be paid to the estate of said deceased employee.

## Article XI

### Clothing/Uniform Allowance

*§ 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 \$1250.00 for the upkeep and purchase of uniforms, equipment and footwear.
- C. The following shall receive \$500.00 for the upkeep and purchase of clothing, gear and/or footwear:
- (1) Building Commissioner.
  - (6) Director of Public Health.
  - (8) Director of Public Works.
  - (10) Golf Course Superintendent.
  - (11) Transfer Station Supervisor.
  - (12) Transfer Station Monitor
  - (13) Public Safety Dispatch Center Director.
  - (14) Golf Grounds Maintenance Staff
  - (15) 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

*§ 46 Payment.*

Payment shall be made on an annual basis, the last pay day in July.

*§47 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.

## Article XII

### Full-Time, Part-Time and Seasonal Employment Status

#### *§ 48 Purpose.*

For the purpose of the calculation of benefit time and the provision of insurance benefits for employees who are not covered by a collective bargaining agreement, the following standards shall apply.

#### *§ 49 Full-time employees.*

Full-time employees are defined as employees who are regularly scheduled to work 37 or more hours per week. Full-time employees are eligible for benefit time and longevity pay as described in Articles **III**, **IV**, **V**, **VI**, **VII**, **VIII** and **IX** of this chapter. Full-time employees are also eligible to elect health, dental, life insurance and/or other optional insurance benefits.

#### *§ 50 Part-time employees.*

Part-time employees are defined as employees who work less than 37 hours per week. Part-time employees are eligible for benefit time, longevity, insurance and/or other optional insurance benefits as follows:

- A. Part-time employees who are regularly scheduled to work 20 or more hours per week are eligible for benefit time as described in Articles **III**, **IV**, **V**, **VI**, **VII**, **VIII** and **IX** of this chapter.
- B. Part-time employees hired on or after July 1, 2006, and who are regularly scheduled to work less than 20 hours per week are not eligible for benefit time as described in Articles **III**, **IV**, **V**, **VI**, **VII**, **VIII** and **IX** of this chapter. They shall receive three days of personal time to be used upon the approval of the department head, who has been given 24 hours' notice, except in an emergency. A day shall be defined as 1/5 of the employee's regular work week. This personal time must be used in the same calendar year in which it was credited to the employee.
- C. Part-time employees who are regularly scheduled to work less than 20 hours per week are not eligible to receive longevity pay or to elect health, dental, life insurance or other optional insurance benefits.

#### *§ 51 Temporary and seasonal employees.*

Temporary and seasonal employees are not eligible for benefit time, insurance benefits or longevity pay.

## Article XIII

### Department Head Benefit Time and Longevity Pay

#### *§ 52 Department heads.*

Department heads for the purposes of this article shall be:

City Assessor

Building Commissioner

Chief of Police

City Auditor

City Clerk

City Engineer

City Collector/Treasurer

Senior Center Director

Director of Cable Operations

Director of Community Development and Planning

Director of Information Technology

Director of Human Resources

Director of Public Health

Fire Chief

Golf Course Superintendent

Library Director

Public Works Director

Purchasing Agent/Civil Enforcement Director

Veterans' Director

*§ 53 Vacation.*

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.
- C. A department head shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.
- D. Department heads that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any department head who exceeds that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.
- E. Newly hired department heads shall be granted vacation time according to the following schedule:

| <b>Number of Vacation Days</b> |                                |
|--------------------------------|--------------------------------|
| <b>First Day of Employment</b> | <b>Number of Vacation Days</b> |
| January 1 to April 30          | 20 Days                        |
| May 1 to August 31             | 15 Days                        |
| September 1 to December 31     | 10 Days                        |

- F. In the event that a department head terminates employment with the City, any vacation accrued will be paid to the department head. If a department head dies, any accrued vacation days shall be paid to the estate of said deceased department head.
- G. Upon termination, resignation or retirement, the annual allotment of vacation time for the year in which the department head's employment ends shall be prorated monthly from the date the department head's employment ends.

***§ 54 Personal time.***

- 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                       |

*§ 55 Sick leave.*

- A. 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.
- B. A department head that has been absent from work due to the use of nonoccupational sick leave three (3) consecutive days or more at one time must present a doctor's note to the Director of Human Resources. A doctor's certificate may also be required if the Mayor has reasonable cause to believe that the department head may be abusing his/her nonoccupational sick leave.
- C. A department head will contact the Mayor's office and Director of Human Resources each morning by 8:30 a.m. when they are going to be absent from work due to illness.
- D. Department heads may donate sick leave to another employee of the City of Gardner who is in serious need (due to a serious illness or injury and that employee has utilized all of his/her available sick, personal, compensatory and vacation time). The donated time shall be paid to the employee in need at that employee's rate of pay. Authorization of the donation of this time shall be at the sole discretion of the Mayor.

*§ 56 Sick leave incentive time.*

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.”

*§ 57 Sick leave buy back.*

A. For all employees hired as department heads prior to or on February 1, 1979, upon retirement, if a department head has an accumulated sick leave balance, the department head shall be granted pay for such accumulation upon retirement at a rate of one full day's pay for each such day of accumulated sick leave, not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days that remain. Upon voluntary termination or layoff of employment of a department head, if such department head has an accumulated sick leave balance, the department head shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave that remains.

B.

For all department heads hired after February 1, 1979, and prior to October 17, 1995, upon retirement of employment, if the department head has an accumulated sick leave balance, he or she shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days, but not to exceed 130 days. (equivalent of 90 days of full pay total- 50 full days and 80 days at 50%) Upon voluntary termination or layoff of employment, a department head with an accumulated sick leave balance shall be granted pay for such accumulation at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.

- C. Department heads hired on or after October 17, 1995, shall not be entitled to the sick leave buy back provision granted in Subsections **A** and **B** of this section.
- D. In the event that a department head hired before October 17, 1995, shall die prior to retirement, any accrued sick days shall be paid to the estate of said deceased department head.

*§ 58 Bereavement leave.*

A. A.

B. 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.

*§ 59 Civic duty leave.*

See Article III of this chapter.

*§ 60 Holidays with pay.*

A. Department heads shall be granted holidays with pay on each of the following 12 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) Columbus Day.

(10) Veterans Day.

(11) Thanksgiving Day.

(12) Christmas Day.

B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.

C. Department Heads shall have the Friday after Thanksgiving off (not defined as a holiday).

*§ 61 Longevity pay.*

- A. Department heads who have been employed for at least five continuous full-time years of service shall receive, in addition to their regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter. Such department heads shall receive an additional \$30 per year for each additional year of full-time continuous service with the City.
- B. Payment of longevity pay shall be made on the third pay date in June to all department heads who are entitled during the fiscal year preceding such date, except that a department head who is terminated, except involuntarily for cause, shall receive payment on the date of termination for such longevity pay for which the department head was eligible in such fiscal year prior to the date of termination.
- C. For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.

## Article XIV

### Compensation for College Credits

*§ 62 Additional compensation.*

In addition to the provisions of the salary ordinance for personnel for the Police and Fire Departments, compensation shall be paid annually as follows.

*§ 63 Fire Chief.*

- A. A Fire Chief, hired before July 1, 2024, who has completed courses in a degree-granting program toward a degree in fire science offered by a college which is certified by any state agency for such certification shall receive the following additional compensation annually:
  - (1) Associate's degree: \$2,000 per year.
  - (2) Bachelor's degree: \$4,000 per year.
  - (3) Master's degree: \$6,000 per year.
- B. The maximum amount of additional compensation shall not exceed \$6,000 per year.
  - 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.

*§65 Payment.*

Payment shall be made to the employee in a lump on the second pay date in July.

## Article XV Yearly Salaries for Various Positions

*§66 Yearly salaries established.*

The yearly salaries for the Mayor, Council President, City Councilors and various other positions shall be as set forth in Schedule 1 included at the end of this chapter. On or after January 1 of each odd-numbered year beginning in 2007, the Finance Committee of the City Council shall report to the Council, as a Committee of the Whole, its recommendations for adjustment, if any, to the salaries of the Mayor and City Councilors.

## Article XVI Classification and Compensation

*§67 Classification plan established.*

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

| <b>Pay Grade</b> | <b>Class/Title</b>                                           |
|------------------|--------------------------------------------------------------|
| S-4              | Certified Pool Operator (seasonal)                           |
| S-5              | Head Lifeguard                                               |
| S-6              | Lifeguard (includes seasonal employees)                      |
| T-4              | Temporary Seasonal Employees<br>(Department of Public Works) |
| T-5              | Temporary Seasonal Recreational<br>Playground Supervisor     |
| T-6              | Temporary Seasonal Technical                                 |

**Classification Class Title**

| <b>Pay Grade</b> | <b>Class/Title</b>                                                                   |
|------------------|--------------------------------------------------------------------------------------|
| 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 |

*§68 Compensation schedule.*

- A. A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.
- B. All appointive officers and all positions in the City of Gardner, including those filled by popular election, except those under the direction and control of the School Committee and those classified and organized under a collective bargaining agreement, shall be classed into positions, groups and grades according to their duties pertaining to each as herein provided.
- C. The officers, positions, officials and classifications are hereby allocated and fixed into salary grades in accordance with the following schedule.

*§ 69 Union and contract personnel.*

- A. Compensation for union and contract personnel is located in the individual union contract documents, individual employee contracts and the City Employee Handbook.
- B. Whenever personnel with a "Grade" classification covered by this article are promoted to a higher grade, such personnel shall initially upon being so promoted be paid at that step level on their new grade which is the next highest in wage or salary from the step level or salary they were receiving in their former grade.
- C. Whenever personnel with a "Position" classification covered by this article are promoted or appointed to a higher salaried position, such personnel shall initially upon being so promoted or appointed be paid at the step level in their new position which will provide them with a salary which is the next highest from the step level salary they were receiving in their position, but in no event shall said increase in salary be less than \$250.

- D. When a person is first hired by the City, such personnel shall always start his employment on the first and minimum wage or salary applicable to the grade or position for which the person has been hired. The City Council, upon the recommendation of the appointing authority and with the approval of the Mayor, may, due to special reasons and exceptional circumstances, allow or permit a person to be hired at a rate greater than the minimum rate prescribed for the particular group by the compensation schedule.
- E. After six months of continual service, a new City employee shall be elevated to the next step in his/her salary schedule; thereafter he/she shall be elevated to the next succeeding step after 12 months of service.

**Administrative  
Ordinances  
As Currently Printed  
In the City Code**



City of Gardner, MA  
Wednesday, October 2, 2024

## Part I: Administrative Legislation

### Chapter 1. General Provisions

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories.  
Amendments noted where applicable.]

#### Article I. Enforcement

[Adopted 5-21-1990 by Ord. No. 1046]

##### § 1-1. Criminal complaint.

Any person who violates the provisions of any ordinance of the City of Gardner may be penalized by indictment or on complaint brought in District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the penalty for each violation or offense shall be not less than \$25 nor more than \$300.

##### § 1-2. Noncriminal disposition.

Any person who violates the provisions of any ordinance of the City of Gardner, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances, rules or regulations are to be included within the scope of this section, that the specific penalties as listed hereunder shall apply in such cases, and that the municipal official listed for each ordinance, rule or regulation shall be the enforcing person for such ordinance, rule or regulation. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or regulation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

- A. Violation of any provision of Chapters 1 through 10 of the State Sanitary Code (105 CMR 400.000 to 105 CMR 590.000) or Title 5 of the State Environmental Code (310 CMR 15.00).  
[Amended 4-6-1992 by Ord. No. 1092]
- (1) Enforcing person: Director of Public Health.  
[Amended 11-18-2013 by Ord. No. 1563]
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.
- B. Violation of any regulation adopted by the Board of Health under MGL c. 111, § 31, 31B, 122, 127 or 155.
- (1) Enforcing person: Director of Public Health.

[Amended 11-18-2013 by Ord. No. 1563]

- (2) Penalty.
  - (a) First offense: \$25.
  - (b) Second and subsequent offenses: \$50.
- C. Violation of any regulation from the Massachusetts State Building Code.  
[Amended 11-18-2013 by Ord. No. 1563]
  - (1) Enforcing person: Building Commissioner.
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.<sup>[1]</sup>
      - [1] *Editor's Note: Original § 2.4, which immediately followed this subsection, was repealed 11-18-2013 by Ord. No. 1563. Section 2.4 referenced portions of the Building Code Ordinance that was repealed in 2002.*
- D. Violation of any provision of Chapter **675, Zoning**, of this Code.
  - (1) Enforcing person: Building Commissioner.
  - (2) Penalty: \$300.  
[Amended 11-18-2013 by Ord. No. 1563]
- E. Violation of any regulation from the Uniform State Plumbing Code and Massachusetts Fuel Code, 248 CMR 3 to 11.  
[Amended 11-18-2013 by Ord. No. 1563]
  - (1) Enforcing person: Plumbing Inspector.
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.<sup>[2]</sup>
      - [2] *Editor's Note: Original § 2.7, which immediately followed this subsection, was repealed 11-18-2013 by Ord. No. 1563. Section 2.7 referenced portions of the Building Code Ordinance that was repealed in 2002.*
- F. Violation of any regulation from the Massachusetts Electrical Code, 527 CMR 12.00.
  - (1) Enforcing person: Wire Inspector.
  - (2) Penalty.
    - (a) First offense: \$25.
    - (b) Second and subsequent offenses: \$50.<sup>[3]</sup>
      - [3] *Editor's Note: Original § 2.9, which immediately followed this subsection, was repealed 11-18-2013 by Ord. No. 1563. Section 2.9 referenced portions of the Building Code Ordinance that was repealed in 2002.*
- G. Violation of any provision of Chapter **390, Fees**, Article **VII, Wiring Permits**, of this Code.
  - (1) Enforcing person: Wire Inspector.
  - (2) Penalty.
    - (a) First offense: \$25.

- (b) Second and subsequent offenses: \$50.
- H. Violation of MGL c. 148, §§ 26C and 26E, as accepted by the City Council on April 5, 1982.
- (1) Enforcing person: Fire Chief or legal designee of Fire Chief.
- (2) Penalty: \$25.
- I. Violation of any regulation from the Air Pollution Control Regulations, 310 CMR 7.00, in which specific reference to 310 CMR 7.52 is cited.  
[Amended 4-6-1992 by Ord. No. 1092]
- (1) Enforcing person: Fire Chief or legal designee of Fire Chief, Director of Public Health, or any police officer.  
[Amended 11-18-2013 by Ord. No. 1563]
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.<sup>[4]</sup>
- [4] *Editor's Note: Original § 2.13, which immediately followed this subsection and referenced the Fire Alarm Ordinance, was repealed 11-18-2013 by Ord. No. 1563.*
- J. Violation of any provision of Chapter **567**, Streets and Sidewalks, Article **VII**, Driveway Permits, of this Code.
- (1) Enforcing person: City Engineer.
- (2) Penalty: \$50.
- K. Violation of any provision of Chapter **553**, Sewers, of this Code.
- (1) Enforcing person: Public Works Director.
- (2) Penalty: \$50.
- L. Violation of any provision of Chapter **625**, Water, of this Code.
- (1) Enforcing person: Public Works Director.
- (2) Penalty: \$50.
- M. Violation of any provision of Chapter **312**, Animals, Article **I**, Dog Control, of this Code.  
[Added 12-17-1990 by Ord. No. 1062]
- (1) Enforcing person: Dog Officer or any police officer.
- (2) Penalty.  
[Amended 11-18-2013 by Ord. No. 1563]
- (a) First offense: \$25.
- (b) Second offense: \$50.
- (c) Third offense: \$100.
- (d) Fourth offense: \$200.
- (e) Fifth and each subsequent offense: \$300.
- N. Violation of any provision of Chapter **610**, Vehicles, Wrecked and Abandoned, of this Code.  
[Added 6-15-1992 by Ord. No. 1096]
- (1) Enforcing person: any police officer.

- (2) Penalty: \$50 a day for each day's violation beyond a fourteen-day period after notice, <sup>11289</sup> not to exceed \$300.
- O. Violation of any provision of the Wetland Protection Act, MGL c. 131, § 40.  
[Added 4-6-1992 by Ord. No. 1092]
- (1) Enforcing person: legal designee of Conservation Commission.
- (2) Penalty.
- (a) First offense: \$25.
- (b) Second and subsequent offenses: \$50.
- P. Violation of MGL c. 111, § 123 (abatement of nuisance by owner).  
[Added 4-6-1992 by Ord. No. 1092]
- (1) Enforcing person: Director of Public Health.  
[Amended 11-18-2013 by Ord. No. 1563]
- (2) Penalty: \$20.
- Q. Violation of any provision of Chapter **567**, Streets and Sidewalks, Article **VI**, Street Excavations and Obstructions, of this Code.  
[Added 6-5-1995 by Ord. No. 1188]
- (1) Enforcing person: Public Works Director.
- (2) Penalty, each offense and each day: \$100.
- R. Violation of any provision of Chapter **330**, Bicycles and Play Vehicles, Article **I**, Bicycles, § **330-3A**, of this Code.  
[Amended 11-18-2013 by Ord. No. 1563]
- (1) Enforcing person: any police officer.
- (2) Penalty, any offense: \$20.
- S. Violation of any provision of Chapter **330**, Bicycles and Play Vehicles, Article **II**, Roller Skates, Skateboards and Toy Vehicles, of this Code.  
[Added 6-19-1995 by Ord. No. 1190]
- (1) Enforcing person: any police officer.
- (2) Penalty, any offense: \$5.
- T. Violation of any provision of Chapter **636**, Water Use Restrictions, of this Code.  
[Added 9-20-1999 by Ord. No. 1309]
- (1) Enforcing person: Public Works Director.
- (2) Penalty.
- (a) First offense: \$50.
- (b) Each subsequent offense: \$100.

### § 1-3. Purchasing/Civil Enforcement Department.

[Added 7-6-2004 by Ord. No. 1409; amended 11-18-2013 by Ord. No. 1563]

There is hereby established in the administrative service of the City of Gardner a Civil Enforcement Department to be included with the duties and responsibilities of the Purchasing Department, and this Department shall be titled the "Purchasing/Civil Enforcement Department." The duties and responsibilities

of said Department and the Purchasing Agent/Civil Enforcement Director shall include the <sup>11289</sup>input, computerized tracking, management, and reporting of various noncriminal violation fines and penalties from imposition through collection. These duties and responsibilities are further defined by Chapter 221, Purchasing/Civil Enforcement Department, of this Code.

## Article II. Adoption of Code

[Adopted 11-18-2013 by Ord. No. 1563]

### § 1-4. Adoption of Code.

The ordinances of the City of Gardner of a general and permanent nature adopted by the City Council of the City of Gardner, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 675, are hereby approved, adopted, ordained and enacted as the "Code of the City of Gardner," hereinafter referred to as the "Code."

### § 1-5. Code superseded prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

### § 1-6. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

### § 1-7. Copy of Code on file.

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the City Clerk, and such certified copy shall remain on file in the office of said City Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

### § 1-8. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Gardner" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

### § 1-9. Publication; filing.

The Clerk of the City of Gardner shall cause this ordinance to be published in the manner required by law. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the

availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes. <sup>11289</sup>

## § 1-10. Code to be kept up-to-date.

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

## § 1-11. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

## § 1-12. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Gardner to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to the penalties as set forth in § 1-1 of the Code.

## § 1-13. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a 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. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

## § 1-14. Severability of ordinance provisions.

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.

## § 1-15. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

## § 1-16. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-15 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to August 5, 2013.



- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any ordinance or portion of an ordinance pertaining to the rate and manner of payment of salaries and compensation of municipal officers and employees or establishing or classifying positions.
- N. Any ordinance or portion of an ordinance establishing traffic or parking regulations.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance accepting or adopting the provisions of any general law or special act of the commonwealth.

## § 1-17. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the City of Gardner, no changes in the meaning or intent of such ordinances have been made except as provided for in Subsections **B** and **C** hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. Nomenclature. The following titles are updated throughout the Code:
  - (1) "Chairman" to "Chairperson."
  - (2) "Building Inspector" to "Building Commissioner."
  - (3) "Department of Public Safety" to "Police Department."
  - (4) "Commissioner of Public Safety" to "Chief of Police."

- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)<sup>[1]</sup>

[1] *Editor's Note: Schedule A is on file at the office of the City Clerk.*

## § 1-18. When effective.

This ordinance shall take effect upon passage and publication as required by law.

## Chapter 13. Aging, Council on

[HISTORY: Adopted by the City Council of the City of Gardner 6-5-1961 by Ord. No. 237; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]

### § 13-1. Council established.

A Council on Aging is hereby established.

### § 13-2. Membership; terms of office.

[Amended 3-6-2023 by Ord. No. 1662]

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.

### § 13-3. 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.

### § 13-4. 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.

## Chapter 22. Assessing Department

[HISTORY: Adopted by the City of Gardner at the City election (initiative petition) 11-5-1957 by Ord. No. 186; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]

### § 22-1. Department established.

An Assessing Department in the City of Gardner is hereby established under the charge of a board of three Assessors.

## § 22-2. Board of Assessors.

- A. 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 the City Council. 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. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.  
[Amended 3-6-2023 by Ord. No. 1663]
- B. Each year at its first meeting the Board shall organize and elect a Chairperson.
- C. 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. The City Assessor shall serve full time as an Assessor, while the other two members shall be part-time Assessors.  
[Amended 3-6-2023 by Ord. No. 1663]
- E. The Board shall meet with any person filing an application for abatement or his attorney upon request for such a meeting.

## § 22-3. Compensation.

The salary of the Assessors and other employees of the Assessing Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 31. Building Department

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Building Commissioner — See Ch. 160, Art. VIII.

Fees — See Ch. 390.

## Article I. Inspection of Wires Division

[Adopted 9-2-2003 by Ord. No. 1389; amended 8-6-2012 by Ord. No. 1544]

### § 31-1. 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.

### § 31-2. Inspector of Wires.

[Amended 11-18-2013 by Ord. No. 1563]

- A. 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.
- B. The salary of said position of Inspector of Wires shall be included in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 34. Capital Improvement Planning Committee

[HISTORY: Adopted by the City Council of the City of Gardner 9-5-2006 by Ord. No. 1434. Amendments noted where applicable.]

### § 34-1. Committee established; membership.

[Amended 11-18-2013 by Ord. No. 1563]

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.

### § 34-2. Review of projects.

- A. 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.
- 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.

### § 34-3. 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.

### § 34-4. 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.

## § 34-5. 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.

## Chapter 39. Cemetery Commission

[HISTORY: Adopted by the City Council of the City of Gardner 9-17-1979 by Ord. No. 707. Amendments noted where applicable.]

### § 39-1. Commission established; membership; appointment.

- A. There shall be established a Cemetery Commission for the City of Gardner consisting of three 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.
- B. 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.
- C. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.

### § 39-2. Meetings, minutes and records.

- A. 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.
- B. The Secretary shall keep accurate minutes and records of all meetings of the Commission.

### § 39-3. Duties; perpetual care funds.

- A. 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.
- B. 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.
- C. 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.  
[Amended 3-7-1983 by Ord. No. 805; 8-6-2012 by Ord. No. 1550]

## § 39-4. Compensation.

Members of said Commission shall receive for their services such compensation as the City Council may prescribe.

## Chapter 45. City Council

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

## Article I. Meetings

[Adopted 1-29-1923 by Ord. No. 2]

### § 45-1. 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. 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.  
[Amended 3-1-1926 by Ord. No. 20; 1-15-1940 by Ord. No. 61; 3-15-2010 by Ord. No. 1512; 11-18-2013 by Ord. No. 1563]
- 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.  
[Amended 3-15-2010 by Ord. No. 1512]
- 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 he may deem necessary and shall cause the same to be printed and 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.  
[Added 11-6-1933 by Ord. No. 34; amended 11-18-2013 by Ord. No. 1563]

### § 45-2. Special meetings.

- A. Special meetings of the City Council may be called by the President and 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.  
[Added 11-6-1933 by Ord. No. 34]

## Article II. Legal Counsel



[Adopted 5-21-2018 by Ord. No. 1612]

## § 45-3. 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 § 140-2 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.

## Chapter 50. Community Development and Planning Department

[HISTORY: Adopted by the City Council of the City of Gardner 9-11-1979 by Ord. No. 702. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Planning Board — See Ch. 182.

Zoning — See Ch. 675.

## § 50-1. 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.  
[Amended 11-18-2013 by Ord. No. 1563]

## § 50-2. Duties of Director.

The duties of the Director shall be as follows:

- A. Administer Gardner's Community Development Block Grant and Section 312 Loan Program and any and all appropriate federal or state grants to the City of Gardner.
- B. Write future Community Development Block Grant preapplications and applications.
- C. Prepare an annual budget for the Community Development and Planning Department.
- D. Plan and coordinate activities in:
  - (1) Industrial financing.
  - (2) Housing development planning and financing.
  - (3) Subdivision review and approval.
  - (4) Capital improvement programming.
  - (5) Land use, zoning and environmental impact.

- (6) Long-range physical planning.
  - (7) Social and human services planning.
  - (8) Downtown revitalization.
  - (9) Park, recreation and open space planning.
- E. Coordinate and upgrade code enforcement in the City of Gardner.
  - F. Assist in developer selection.
  - G. Attend public meetings relevant to community development.
  - H. Provide staff and technical assistance to independent authorities, boards, commissions and committees.
  - I. Coordinate activities between independent authorities, boards, commissions and committees.
  - J. Work with other City department heads and elected officials to undertake community development activities.
  - K. Administer the Community Development and Planning Department.
  - L. Investigate and pursue possibilities of federal, state and private capital or other outside financial aid in support of community development programs.
  - M. Coordinate the planning of Gardner's Heritage State Park.
  - N. Employ and supervise, from time to time, such full-time or part-time assistance as may be required to accomplish the above duties, subject, however, to proper appropriations being made therefor.

### § 50-3. Revision of duties.

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance by a two-thirds vote of the City Council consistent with prevailing General Laws, City ordinances and the City Charter.

### § 50-4. Compensation.

The salary of the Director and other employees within the Community Development and Planning Department shall be as established in the ordinances designating salaries and wages for City employees.

[1]

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI. Original Sec. 5, which immediately followed this section and required reaffirmation of this ordinance after two years, was deleted 5-2-1983 by Ord. No. 815.*

## Chapter 62. Disability Commission

[HISTORY: Adopted by the City Council of the City of Gardner 11-17-2003 by Ord. No. 1395. Amendments noted where applicable.]

### § 62-1. Commission established; membership; terms of office.

- A. 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.

[Amended 11-18-2013 by Ord. No. 1563]

- B. 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.

[Amended 11-18-2013 by Ord. No. 1563]

- C. Before entering the discharge of their duties, the members shall be sworn to the faithful discharge thereof.

## § 62-2. 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.

## § 62-3. 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 the disabled of the City and in conjunction with 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 said Commission for the purposes of this section.

## Chapter 75. Emergency Management

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Fire Department — See Ch. 87.

Police Department — See Ch. 193.

Hazardous materials — See Ch. 432.

## Article I. Response to Calls for Aid

[Adopted 4-2-1928 by Ord. No. 25; amended its entirety 11-3-1973 by Ord. No. 600]

### § 75-1. Authority of Police Chief and Fire Chief.

The Chief of the Police Department and the Chief of the Fire Department or, during their absence, the officer in charge of either Department be and hereby is authorized to go to another city, town or district for the purpose of aiding its police and fire departments with police vehicles and/or fire apparatus with

personnel, and while in the performance of their duties in extending such aid, the members of each Department shall have the same immunities and privileges as if performing the same within the City of Gardner.

## Article II. Mutual Aid Agreements

[Adopted 10-1-1979 by Ord. No. 709]

### § 75-2. Mutual aid programs for police purposes.

[Amended 11-18-2013 by Ord. No. 1563]

The Mayor is hereby authorized under the authority granted by MGL c. 40, § 4A (which allows for agreements between local governmental units), to enter into agreement between the City and any other city or town, or combination of other cities and towns, to provide mutual aid programs for police purposes in order to increase the capability of the City's Police Department to protect the lives, safety and property of the citizens of the City of Gardner and those of said other cities and towns which may be a party to such agreement.

### § 75-3. Contents of agreements.

[Amended 11-18-2013 by Ord. No. 1563]

Such mutual aid agreements as authorized hereunder may provide for the furnishing of personal services, supplies, materials, contractual services and equipment when the resources normally available to either the City or the other municipality which is a party to such agreement are not sufficient to cope with a situation which requires police action.

## Article III. Civil Defense Department

[Adopted 3-19-2007 by Ord. No. 1456]

### § 75-4. Department established; Director.

- A. Pursuant to the Acts and Resolves of Massachusetts 1950, Chapter 639, Section 13, there shall be established in the City of Gardner a Civil Defense Department to be administered by a Director.
- B. The Civil Defense 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.

### § 75-5. Duties of Director.

The duties of the Director shall be as follows. The Director shall:

- A. Be responsible for the organization, administration and operation of the Civil Defense Department.
- B. Prepare the appropriate disaster response plans and ensure that the City is fully prepared to respond in the event of a disaster.
- C. Ensure that the City is in full compliance with any state or federal mandates, guidelines or policies related to the civil defense and disaster response, such as the Homeland Security Act.

- D. Be responsible for the preparation and the carrying out of all emergency functions, other than functions for which military forces other than the National Guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes; said functions shall include specifically, but without limiting the generality of the foregoing, fire-fighting and police services, medical and health services, rescue, engineering and air-raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions.
- E. In the event of a proclamation of a disaster or a state of extreme emergency by the Governor, Mayor or the State Director of Civil Defense, the Director may request of the appropriate authority all necessary assistance, requisition the necessary personnel or materials from any City department or other source, control and direct all City personnel and equipment, obtain vital supplies and such other properties found lacking and needed for the protection of life and property of the people and commandeer immediately such property, equipment and personnel necessary for the public use during the term of the emergency.
- F. Attend City events such as a parade or fireworks display to direct and assist on the side lines, prepared and ready to help in whatever capacity needed.
- G. Remain in touch with City, state, and federal officials and with weather agencies.
- H. Assist the Police Department with evacuations, road closures and detours and help transport people during severe storms and with missing persons searches.
- I. In collaboration with other public and private agencies within the commonwealth, develop or cause to be developed mutual aid agreements for reciprocal civil defense aid and assistance in case of a disaster too great to be dealt with unassisted.
- J. Work in an advisory capacity to the Mayor on all civil defense related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.

## § 75-6. Revision of duties.

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.

## § 75-7. Compensation.

The salary of the Director and other employees of the Civil Defense Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 87. Fire Department

[HISTORY: Adopted by the City Council of the City of Gardner 6-16-2014 by Ord. No. 1570.<sup>[1]</sup>  
Amendments noted where applicable.]

### GENERAL REFERENCES

Officers and employees — See Ch. 160.

Personnel — See Ch. 171.

Fire prevention — See Ch. 396.

[1] *Editor's Note: This ordinance also repealed former Ch. 87, Fire Department, Art. I, Hours of Duty of Permanent Firefighters, adopted 4-21-1970 by Ord. No. 453, as amended.*

## § 87-1. Personnel.

The Fire Department of the City of Gardner shall consist of a Fire Chief, a Fire Captain, six 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.

## § 87-2. Appointments.

Subject to the following, all appointments to the Fire Department shall be made by the Fire Chief.

## § 87-3. 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.

## § 87-4. Fire Chief compensation.

The compensation for the position of Fire Chief shall be as set forth in the Code of the City of Gardner as from time to time amended.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Art. XVI, Classification and Compensation.*

## Chapter 92. Flags

[HISTORY: Adopted by the City Council of the City of Gardner 5-1-1939 by Ord. No. 52; amended in its entirety 4-20-1982 by Ord. No. 776. Subsequent amendments noted where applicable.]

## § 92-1. Flag at half mast following death of veteran.

The flag of the United States of America shall be flown at half mast on all buildings owned or controlled by the City of Gardner after the death of a veteran who has served honorably in the Armed Forces of the United States and shall continue to be flown at half mast every day until the burial of said veteran.

## § 92-2. Authority of Mayor.

The Mayor of the City of Gardner shall have the authority to have the flag of the United States flown at half mast by virtue of a state and/or federal proclamation.

## Chapter 106. Historical Commission

[HISTORY: Adopted by the City Council of the City of Gardner 3-4-1974 by Ord. No. 554. Amendments noted where applicable.]



## § 106-1. Commission established; membership.

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.

## Chapter 110. Holidays

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

## Article I. Colonel Thomas Gardner Day

[Adopted 8-7-2000 by Ord. No. 1334]

## § 110-1. Designation.

Whereas history is prologue, and it is important that our children be cognizant of our past, especially the early sacrifices that established the freedom and democracy we enjoy today, annually, on or before the 19th of April, the Mayor shall officially designate Patriots Day as Colonel Thomas Gardner Day in the City of Gardner and shall cause a proclamation to be issued and read in all the schools of Gardner, to honor this patriot who died of wounds received during the Battle of Bunker Hill and for whom our beloved community was named.

## Chapter 113. Human Resources Department

[HISTORY: Adopted by the City Council of the City of Gardner 1-7-1985 by Ord. No. 855; amended in its entirety 11-18-2013 by Ord. No. 1563. Subsequent amendments noted where applicable.]

### **GENERAL REFERENCES**

Personnel — See Ch. 171.

## § 113-1. Department established; Director.

- A. There shall be established in the City of Gardner a Human Resources 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 at 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.

## § 113-2. Duties of Director.

The duties of the Director shall be as follows. The Director shall:

- A. Originate, interpret, apply, and implement various human resources policies, changes and regulating guidelines for the City consistent with the needs and objectives of the City, including but not limited to the Harassment Prevention Policy, Family and Medical Leave Act Policy, Small Necessities Leave Policy, Drug-Free Workplace Policy and the Equal Employment Opportunity Policy.

- B. Develop and implement a performance evaluation program.
- C. Act as a liaison for and extend technical guidance to department heads and employees on work performance and appraisal problems.
- D. Assist the Mayor and/or his/her bargaining agents in collective bargaining, grievance matters and discipline situations.
- E. Oversee and administer all employee benefit programs, wage and salary programs, indoctrinations and terminations.
- F. Advise all departments and employees relative to staffing, benefits, recruitments, appointments, career development and promotions.
- G. Administer and maintain records of the City unemployment compensation program, workers' compensation program and employee assistance programs.
- H. Serve as and perform all functions of the Labor Service Director for the City and administer all civil service personnel transactions.
- I. Be appointed as City representative to the Disability Commission and manage all duties and responsibilities required of said appointment.
- J. Serve as ADA Coordinator for the City and perform all duties and responsibilities required of said position.
- K. Maintain confidential personnel, medical and personnel-related files for all City personnel.
- L. Serve and perform all functions of Ethics Liaison for the City.
- M. Serve as City Harassment Grievance Officer and perform all duties and responsibilities required of said position.
- N. Work in an advisory capacity to the Mayor on all employee-related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.
- O. Employ and supervise, from time to time, such full-time or part-time assistance as may be required to accomplish the above duties; subject, however, to proper appropriations being made therefor.

### § 113-3. Revision of duties.

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.

### § 113-4. Compensation.

The salary of the Director and other employees of the Human Resources Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 118. Information Technology Department

[HISTORY: Adopted by the City Council of the City of Gardner 2-21-2012 by Ord. No. 1537. Amendments noted where applicable.]

### § 118-1. Department established; Director.

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

## § 118-2. Duties of Director.

The duties of the Director shall be as follows. The Director shall:

- A. Be responsible for the organization, administration and operation of the Information Technology Department and develop, manage and monitor the annual operating budget and capital improvement plan, including City-wide information technology and systems' acquisition and maintenance.
- B. Develop and implement a long-range plan for information technology.
- C. Plan, manage, and maintain the City's information technology and systems, including hardware, software, networks, system installations, backups, upgrades, and implementation and support of applications.
- D. Maintain access to the network resources and undertake software updates and corrections.
- E. Act as a technical expert to assist City employees with complex desktop computer hardware and software problems and prepare training courses and provide user support and training in the use of available hardware, software, and utilities, including GIS systems.
- F. Manage the City's wide area network, including the development and maintenance of user accounts, print queues, storage requirements and bandwidth needs; maintain VoIP telephone systems; maintain VoIP hardware and infrastructure; and perform maintenance, user configuration and software configuration changes.
- G. Maintain an annual inventory of computers and related equipment; order and set up new computers, printers, scanners, hardware, software, and other network devices; and manage vendor relationships and arrange for vendor support and repair services.
- H. Maintain assorted peripheral technology such as printers and projectors.
- I. Develop protocols and implement security measures to protect the City's networks against viruses, intrusion, and other potential hazards and establish disaster recovery plans.
- J. Develop applications, as needed.
- K. Be responsible for the operation and management of Internet or intranet website, including the updating and maintenance of the City's website and web presence.
- L. Evaluate information technology needs and work with department heads and other staff to define needs, explore system solutions, and provide business systems consulting services to recommend the effective use of technology to improve efficiency and service.
- M. Maintain relationships with vendors, consultants, and technology groups and networks.
- N. Research hardware/software developments and trends, recommend information technology purchases to the City Administrator, develop request for proposals and purchase specifications, and meet with vendors and consultants.
- O. Coordinate licensing of software and the identification of hardware assets.

- P. Work closely with the GIS/AutoCAD Technician on the planning, management, implementation, evaluation and establishment of policies and procedures for the City's geographic information systems.
- Q. Design databases, develop applications, establish standards and procedures for database management, maintain data dictionaries, and maintain system documentation.
- R. Coordinate with the GIS/AutoCAD Technician on the planning, implementation and administration of the integration, consolidation, development, security and integrity of City-wide GIS databases.
- S. Supervise employees in such position titles as systems manager and departmental liaisons involved in computer hardware/software support and user support. Requires matrix management of staff involved in the use and maintenance of the GIS system. Supervisory activities include responsibility for performance management, hiring, conducting employee orientation, scheduling work hours/granting time off, providing training and development and assigning/reviewing work.
- T. Work in an advisory capacity to the Mayor on all information technology related matters and, in addition to those stated herein, perform those miscellaneous duties and responsibilities as assigned by the Mayor.

### § 118-3. Revision of duties.

The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance.

### § 118-4. Compensation.

The salary of the Director and other employees of the Information Technology Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 140. Law Department

[HISTORY: Adopted by the City Council of the City of Gardner 12-15-1986 by Ord. No. 908. Amendments noted where applicable.]

### § 140-1. Department established.

- A. 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. Both said officers shall be members of the Bar of the Commonwealth of Massachusetts in good standing.
- B. 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.  
[Amended 9-8-1987 by Ord. No. 932]

### § 140-2. Duties of Solicitor and Assistant Solicitor.

The duties of the City Solicitor and Assistant City Solicitor shall be as follows. They shall:

- A. Approve contracts, give legal advice and furnish written opinions when so requested by the Mayor, City Council, the chairperson of a City committee or the head of any City department.

- B. Prosecute or defend all cases and proceedings to which the City is a party.
- C. Prepare or approve all deeds or other legal instruments relating to the City, consider claims against the City and make recommendation for their resolution to the Mayor or appropriate committee of the City Council, as the case may be, and generally handle all legal affairs pertaining to the City.
- D. Employ and supervise, from time to time, such full- or part-time assistance as may be required to accomplish the above duties, subject, however, to proper appropriations being made therefor.

## § 140-3. Compensation.

The salaries of the City Solicitor, Assistant City Solicitor and other employees of the Law Department shall be as set forth from time to time in the ordinances designating salaries and wages for the City employees.

[1]

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 152. Municipal Golf Course Commission

[HISTORY: Adopted by the City Council of the City of Gardner 8-2-1965 by Ord. No. 325. Amendments noted where applicable.]

### § 152-1. Commission established.

A Municipal Golf Course Commission is hereby established.

### § 152-2. Membership; terms of office.

- A. The Municipal Golf Course Commission shall consist of five 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.  
[Amended 3-19-1990 by Ord. No. 1038]
- B. 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.  
[Added 3-1-1976 by Ord. No. 609; amended 11-18-2013 by Ord. No. 1563]
- C. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.

### § 152-3. Meetings.

[Amended 11-4-1968 by Ord. No. 398]

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.

### § 152-4. Duties.

[Amended 11-18-2013 by Ord. No. 1563]

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.

## § 152-5. Appointees.

- A. 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.
- B. The appointees shall perform such duties as shall be required of them by said Commission.

## § 152-6. Compensation.

[Added 11-18-2013 by Ord. No. 1563]

The salary of the superintendent and other employees of the Golf Course Commission shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 156. Municipal Grounds Commission

[HISTORY: Adopted by the City Council of the City of Gardner 3-7-1983 by Ord. No. 800; amended 11-7-1988 by Ord. No. 983; 8-6-2012 by Ord. No. 1551. Subsequent amendments noted where applicable.]

### § 156-1. Commission established; membership; terms of office.

There shall be established a Municipal Grounds Commission for the City of Gardner consisting of six members, legal voters of said City, five of whom shall be appointed by the Mayor, subject to confirmation by the City Council, as follows:

- A. The Mayor shall immediately appoint one person to serve 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 April 1983 and thereafter annually shall appoint the appropriate number of persons (either one or two) to serve for the term of three years from the first day of April 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. Before entering upon the discharge of their duties, the members shall be sworn to the faithful discharge thereof.
- B. The sixth member shall be the Director of Public Works, who shall be a nonvoting member of the Commission during his term of office.

[Amended 11-18-2013 by Ord. No. 1563]

### § 156-2. Meetings.

The Commission shall meet annually in April of each year to organize and elect a Chairperson and Secretary. The Commission shall hold meetings no less than once a month during the course of the year. The Secretary shall keep accurate minutes and records of all meetings of the Commission. The Director of Public Works shall not hold office within the Commission.



## § 156-3. Duties; Community Bandstand Committee.

- A. The Commission shall be an advisory body and shall advise the Director of Public Works, Mayor and City Council on matters relating to the Municipal Grounds Division.
- B. 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. The Community Bandstand Committee shall consist of no less than three members, one of whom shall be a member of the Municipal Grounds Commission, to carry out the purposes of this § 156-3B. All members shall be appointed in accordance with § 156-1A.

[Added 3-18-2019 by Ord. No. 1618<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also redesignated former Subsection B as Subsection D.*

- C. 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 § 156-3B. 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 § 156-3B.

[Added 3-18-2019 by Ord. No. 1618]

- D. The duties, powers and responsibilities of the Commission may be broadened or diminished at any time by ordinance consistent with prevailing General Laws or City ordinances.

## § 156-4. Compensation.

Members of said Commission shall receive for their services such compensation as the Mayor and City Council may prescribe.

## § 156-5. Transfer of personnel.

All necessary persons employed by and under the supervision of the named Municipal Grounds Department, boards and commissions shall, upon the effective date of this chapter, be transferred to the Department of Public Works. All such transfers of personnel shall be made without loss of pay and without change in rating, seniority, retirement or pension rights, or any other privileges under the provisions of this chapter.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 4 of Ord. No. 800, as amended 11-7-1988 by Ord. No. 983, regarding the transfer of personnel to the Municipal Grounds Department, which immediately followed this section, was repealed 11-18-2013 by Ord. No. 1563.*

## Chapter 160. Officers and Employees

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Personnel — See Ch. 171.

## Article I. Measurers of Lumber

[Adopted 3-5-1923 by Ord. No. 7]

## § 160-1. Appointment.

The Mayor shall annually in March or whenever vacancies occur appoint one or more Measurers of Lumber.

## Article II. Assistant City Clerk

[Adopted 4-2-1923 by Ord. No. 11; amended in its entirety 3-6-2017 by Ord. No. 1599]

## § 160-2. Appointment; term; powers and duties.

The Office of Assistant City Clerk is established. 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. Nothing contained herein shall be construed to prevent the reappointment of an Assistant City Clerk upon the expiration of the term of office.

## § 160-3. Compensation.

The salary of Assistant City Clerk shall be included in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Article III. Vacancies in City Positions

[Adopted 7-1-1935 by Ord. No. 41]

## § 160-4. Temporary appointment.

[Amended 11-18-2013 by Ord. No. 1563]

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 60 days, and no temporary appointee shall succeed himself as a temporary appointee.

## § 160-5. 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.

## § 160-6. Vacancies in City departments.

[Added 12-15-1975 by Ord. No. 605; amended 4-21-1998 by Ord. No. 1271; 9-7-2010 by Ord. No. 1521]

Except for seasonal employees, whenever a vacancy shall occur in any position in any City department (other than a department head), the vacancy shall not be filled by the Mayor until approval is secured from

the City Council if the position's job description is to be changed.

## Article IV. Forester

[Adopted 2-5-1945 by Ord. No. 89]

### § 160-7. Position created.

[Amended 8-6-2012 by Ord. No. 1545]

The position of City Forester, also known as the "City Tree Warden," is hereby created.

### § 160-8. Appointment; term of office; compensation.

[Amended 9-17-1979 by Ord. No. 706; 11-18-2013 by Ord. No. 1563]

The City Forester shall be appointed by the Mayor, subject to confirmation by the City Council. He shall hold office for three years from the date of his appointment. He may also be the superintendent for the supervision of gypsy and brown tail moths. The salary of the Forester shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

### § 160-9. Forester to exercise powers and duties of tree warden.

The City Forester shall have and exercise all the powers and duties conferred and imposed upon tree wardens by MGL c. 87 and amendments thereof.

## Article V. Senior Citizens' Director

[Adopted 5-7-1979 by Ord. No. 689]

### § 160-10. Position established.

The position of Senior Citizens' Director is hereby established.

### § 160-11. Appointment; term of office.

[Amended 11-18-2013 by Ord. No. 1563]

On or before the first Monday of July, the Mayor shall appoint a Senior Citizens' Director for a term of three years beginning with the first Monday of July, subject to confirmation of the City Council.

### § 160-12. Position to be full time; compensation.

The Senior Citizens' Director position shall be full time, consisting of 40 hours or its equivalent per week, and the salary for said position shall be included in the salary and wage ordinance of the City.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

### § 160-13. Duties.

[Amended 11-18-2013 by Ord. No. 1563]

The Senior Citizens' Director shall report directly to the Gardner Council on Aging and shall have the duty and responsibility of working with the Council 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.

## Article VI. (Reserved)

[1] *Editor's Note: Former Art. VI, Administrative Assistant, adopted 4-22-1986 by Ord. No. 881, as amended, was repealed 2-16-2016 by Ord. No. 1587.*

## § 160-14. through § 160-17. (Reserved)

## Article VII. Agent for the Conservation Commission

[Adopted 3-2-1998 by Ord. No. 1262]

## § 160-18. Appointment and compensation.

[Amended 11-18-2013 by Ord. No. 1563; 2-6-2017 by Ord. No. 1597]

The position of Agent for the Conservation Commission shall be appointed for three years by the Mayor, subject to confirmation by the City Council. The salary of the Agent for the Conservation Commission shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## § 160-19. Reporting.

The Agent for the Conservation Commission shall report to the Director of Community Development and Planning.

## § 160-20. Duties.

Duties will consist of the following. The Agent:

- A. Executes Conservation Commission decisions and policies.
- B. Serves as the Commission's agent for the purposes of the Wetlands Protection Act.<sup>[1]</sup>

[1] *Editor's Note: See MGL c. 131, § 40.*
- C. Represents the Commission at non-Commission meetings and on committees.
- D. Enforces applicable City and state laws and regulations, in particular the Massachusetts Wetlands Protection Act.
- E. Prepares and distributes agendas and minutes.
- F. Maintains files, records, and attendance of the Commission.
- G. Administers operating budget and submits budgets requests.
- H. Attends Commission meetings.
- I. Provides advice to the Commission on wetland filings, enforcement, and related matters.
- J. Establishes the work schedule of subordinate staff and supervises their work.

- K. Participates in the site plan review process with the Community Development and Planning Department.  
[Amended 11-18-2013 by Ord. No. 1563]
- L. Reviews and administers state and local permit applications received by the Commission.
- M. Makes site inspections of properties and makes recommendations to the Commission on applications and enforcement.
- N. Acts as advisor and technical assistant to the Commission.
- O. Advises applicants about submitting appropriate filings and documentation.
- P. Answer queries and complaints from the public, business, industry, and other City departments and other public agencies.
- Q. Participates in and supports other environmental programs and projects which are relevant to the City.
- R. Performs other related duties as required.

## Article VIII. Building Commissioner

[Adopted 8-5-2002 by Ord. No. 1373]

### § 160-21. Position established.

[Amended 11-18-2013 by Ord. No. 1563]

The position of Building Commissioner is hereby established and shall be a full-time position.

### § 160-22. Appointment; term of office.

[Amended 11-18-2013 by Ord. No. 1563]

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.

### § 160-23. Duties.

The duties of said Building Commissioner shall be those set forth in MGL c. 143.

### § 160-24. Compensation.

[Amended 11-18-2013 by Ord. No. 1563]

The salary of said position of Building Commissioner shall be included in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Article IX. Inspector of Gas Piping and Gas Appliances

[Adopted 6-2-2003 by Ord. No. 1388; amended 8-6-2012 by Ord. No. 1546]

### § 160-25. Position created.

The position(s) of Inspector of Gas Piping and Gas Appliances is hereby created.

## § 160-26. 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.

## § 160-27. 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.

## § 160-28. Appointment; term of office; compensation.

[Amended 11-18-2013 by Ord. No. 1563]

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. The salary of the Inspector shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Article X. Agent for the Planning Board

[Adopted 10-2-2006 by Ord. No. 1442]

## § 160-29. Appointment and compensation.

[Amended 11-18-2013 by Ord. No. 1563]

The position of Agent for the Planning Board shall be appointed for one year by the Mayor, subject to confirmation by the City Council. The salary of the Agent shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## § 160-30. Reporting.

The Agent for the Planning Board shall report to the Director of Community Development and Planning.

## § 160-31. Duties.

Duties shall consist of the following. The Agent for the Planning Board shall:

- A. Assist in the preparation of meeting agenda and minutes for the Planning Board and Development Review Committee and the maintenance of files, records and decisions.
- B. Assist in the preparation and maintenance of land use, growth management, housing, open space and other relevant plans for the City of Gardner.
- C. Evaluate land use proposals for conformity with established plans, regulations and ordinances, evaluate proposals' development impacts and make recommendations based on said evaluations.



- D. Evaluate environmental information and recommend mitigation measures to reduce adverse impacts of development.
- E. Make site inspections, monitor approved projects and make recommendations to the Director and Planning Board regarding compliance with approved plans and conditions of approval, as well as local, state and federal land use regulations and laws.
- F. Respond to inquiries from the public and businesses about land use regulations and advise applicants about filing requirements.
- G. Perform other related duties as required by the Director.

## Chapter 171. Personnel

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Human Resources Department — See Ch. 113.  
Officers and employees — See Ch. 160.

### ATTACHMENTS

Attachment 1 - Schedule 1, Yearly Salaries 

## Article I. Physical Examination of City Employees

[Adopted 11-4-1974 by Ord. No. 572; amended in its entirety 4-20-1999 by Ord. No. 1300]

### § 171-1. Examination required.

Any new full-time or permanent part-time employee that has been offered a position in the City of Gardner will be required to submit to a physical examination prior to beginning work.

### § 171-2. Conduct of examination.

- A. A City-designated physician shall conduct all preemployment examinations. The Human Resources Department or the department head will be responsible for setting up the appointment.  
[Amended 11-18-2013 by Ord. No. 1563]
- B. At the time of the exam, the City-designated physician will be provided with all the necessary information to be able to make an informed judgment as to the employee's current fitness to perform the required duties.

### § 171-3. Report.

The employee must bring in the original copy of the preemployment screening report prior to the employee's first day on the job.

### § 171-4. Costs.

The City will be billed for all costs associated with the physical.

### § 171-5. Exemption for elected officials.

This article shall not apply to elected officials.

## Article II. Compensation for Blasting Services

[Adopted 6-30-1975 by Ord. No. 593]

### § 171-6. Additional compensation established.

Any employee in the Public Works Department who performs dynamite blasting services for the City of Gardner under the direction of the Director of Public Works shall, in addition to his regular compensation, be paid an amount of \$10 per day for any day or fraction thereof on which such services are performed.

## Article III. Civic Duty Leave

[Adopted 2-7-2000 by Ord. No. 1314]

### § 171-7. Grant of leave.

Regular full-time City employees, not covered by a collective bargaining agreement, who have summons to appear in court shall be granted civic duty leave.

### § 171-8. Summons to be presented to department head.

Official summons to jury duty or witness appearance must be presented in advance to the appropriate department head to receive authorized leave.

### § 171-9. Employee to report to work if discharged from service.

An employee on authorized civic duty leave who is discharged from court service for the day or a major portion thereof during regular work hours must report to work.

### § 171-10. Personal litigation excluded.

Civic duty leave shall not be authorized for an employee who is involved in personal litigation.

### § 171-11. Effect on other benefits.

Absence due to authorized civic duty leave shall not affect an employee's eligibility for longevity or benefits eligibility.

### § 171-12. Compensation.

During such time as the employee is unable to perform the usual work required of him or her because of civic duty leave, the employee's wages or salary shall be suspended; provided, however, that the City may, on submission of proper vouchers to the City Auditor, authorize payment and pay to 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 in the regular performance of his or her duties.

### § 171-13. Effect on vacation.

An employee summoned for jury duty service prior to taking his or her annual vacation, and the jury service does not terminate prior to the end of the year, shall be entitled to take his or her vacation during the first months of the next year but shall not have two annual vacation periods run concurrently.

## Article IV. Paid Holidays

[Adopted 2-7-2000 by Ord. No. 1315]

### § 171-14. Holidays designated.

- A. All full-time and regular part-time City employees, not covered by a collective bargaining agreement, except the Police and Fire Department personnel, shall be granted holidays with pay at the rate fixed for such employees respectively on each of the following 11 legal holidays:
- (1) New Year's Day.
  - (2) Martin Luther King Day.
  - (3) Presidents Day.
  - (4) Patriots Day.
  - (5) Memorial Day.
  - (6) Independence Day.
  - (7) Labor Day.
  - (8) Columbus Day.
  - (9) Veterans Day.
  - (10) Thanksgiving Day.
  - (11) Christmas Day.
- B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.

### § 171-15. Compensation for working on holiday.

In the event that a nonexempt employee shall be required to work on said holiday, his or her compensation shall be at 1 1/2 times his or her regular straight-time pay for all hours worked on such holiday. At the direction of the department head, the employee may elect to earn compensatory time for the time worked on the holiday.

## Article V. Nonoccupational Sick Leave

[Adopted 2-7-2000 by Ord. No. 1316]

### § 171-16. Grant of sick days.

All full-time and regular part-time employees shall be granted a maximum of 15 nonoccupational sick days per calendar year at the employee's normal straight-time pay for normally scheduled hours.

### § 171-17. Credit and use of sick days.

Sick days shall be credited to employees on January 1 of each year. Employees may carry an unlimited number of sick days. Sick time shall not be used in less than one-half-day increments.

## § 171-18. Doctor's certificate.

[Amended 11-18-2013 by Ord. No. 1563]

An employee that has been absent from work due to the use of nonoccupational sick leave three consecutive days or more at one time must present a doctor's certificate to his or her department head. This certificate shall be attached to the weekly time reports. A doctor's certificate may also be required if a department head and/or the Director Human Resources has reasonable cause to believe that the employee may be abusing his or her nonoccupational sick leave.

## § 171-19. Payment for accumulated sick leave upon retirement.

Employees hired before October 17, 1995, upon retirement from employment with the City of Gardner, if the employee has accumulated sick leave, shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days, not to exceed a total of 130 days paid.

## § 171-20. Payment for accumulated sick leave upon voluntary termination of employment.

Employees hired before October 17, 1995, upon voluntary termination of employment, if an employee has an accumulated sick leave balance, shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.

## § 171-21. Payment for accumulated sick leave upon death of employee.

For employees hired before October 17, 1995, in the event that the employee shall die prior to retirement, any accrued sick days shall be paid to the estate of said deceased employee.

## § 171-22. New employees.

Newly hired employees shall be granted nonoccupational sick leave at the rate of 1 1/4 days per month worked. Newly hired employees shall earn nonoccupational sick leave in this manner until January 1 after their date of hire.

## § 171-23. Sick leave incentive time.

[Amended 6-1-2009 by Ord. No. 1494]

Commencing effective July 1, 2009, employees that do not use sick leave in a calendar month shall earn 1/2 day off not to be charged to sick leave or vacation leave. Any days earned as sick leave will be counted as personal time subject to the approval of the department head. Days must be used within one-year period of being earned.

## § 171-24. Annual report; notification of absence due to illness.

On the first day of each year, each department head shall submit to the Mayor and City Auditor an accurate accounting of all sick leave accumulated and used during his/her period of employment with the

City. In addition to the aforementioned, each employee will notify his or her department head each morning by 8:30 a.m. when he or she is going to absent from work due to illness. Each department head will contact the Mayor's office each morning by 8:30 a.m. when he or she is going to be absent from work due to illness.

## Article VI. Bereavement Leave

[Adopted 2-7-2000 by Ord. No. 1317]

### § 171-25. Grant of leave.

- A. All full-time and regularly employed 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, not to exceed three consecutive days, on the account of a death in the immediate family of the employee. "Immediate family" shall include spouse, parent, stepparent, parent of spouse, children, brother, sister, grandparents, grandchildren, or a person living in the immediate household of the employee.
- B. Bereavement leave of one day without loss of regular straight-time pay for normally scheduled working hours may be granted per occurrence for the death of an employee's niece, nephew, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt or uncle.

## Article VII. Longevity Pay

[Adopted 2-7-2000 by Ord. No. 1318]

### § 171-26. Full-time employees.

- A. Any full-time regular 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 has been employed for at least five continuous full-time years of service shall receive, in addition to his or her regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter.
- B. Such employees shall receive an additional \$30 per year for each additional year of full-time continuous service with the City, but in no event shall longevity pay for any such employee exceed \$1,050 in any fiscal year.

### § 171-27. Part-time employees.

- A. Any part-time regular 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 has been employed for at least five continuous years of service and has worked at least 1,000 hours each year of service shall receive, in addition to his or her 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 service with the City, but in no event shall longevity pay for part-time employees exceed \$525 in any fiscal year.

### § 171-28. Payment date.

Payment of longevity pay shall be made on June 30 to all employees who are entitled during the fiscal year preceding such date, except that an employee whose is terminated, except involuntarily for cause, shall

receive payment on the date of termination of such longevity pay for which the employee was eligible in such fiscal year prior to the date of termination.

### § 171-29. Calculation of pay.

For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 5, which immediately followed this section and was added 6-1-2009 by Ord. No. 1495, was repealed 5-3-2010 by Ord. No. 1514.*

## Article VIII. Personal Leave

[Adopted 2-7-2000 by Ord. No. 1319]

### § 171-30. 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 three personal days 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 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 from the date the employee's employment ends, as follows:

[Added 12-21-2020 by Ord. No. 1634]

(1) January 1 to April 30: two days.

(2) May 1 to August 31: one day.

### § 171-31. Use of personal days.

A. Use of personal days is upon the approval of the department head, who has been given 24 hours' notice, except in an emergency.

B. Personal time shall not be used in less than half-day increments.

### § 171-32. Crediting of personal days.

Personal days shall be credited to employees on January 1 of each year. Personal leave is not cumulative and must be used in the calendar year that it is granted.

### § 171-33. 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   | 3                       |
| April 1 to June 30      | 2                       |
| July 1 to September 30  | 1                       |



## Article IX. Vacations for City Officers and Employees

[Adopted 2-7-2000 by Ord. No. 1320]

### § 171-34. Police officers.

All police officers of the City of Gardner, not 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 to four years shall be entitled to two weeks (14 calendar days).
- B. Regularly employed from five to nine years shall be entitled to three weeks (21 calendar days).
- C. Regularly employed from 10 to 14 years shall be entitled to four weeks (28 calendar days).
- D. Regularly employed for over 15 years shall be entitled to 31 calendar days.
- E. Employees shall have two consecutive days off with each five days of vacation. Each two-week vacation period shall consist of 10 paid vacation days and four regular days off. One vacation week shall consist of five working days plus two days off.

### § 171-35. Firefighters.

All firefighters of the City of Gardner, not 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 to four years shall be entitled to two weeks (14 calendar days).
- B. Regularly employed from five to nine years shall be entitled to three weeks (21 calendar days).
- C. Regularly employed from 10 to 14 years shall be entitled to four weeks (28 calendar days).
- D. Regularly employed for 15 years or more shall be entitled to 31 calendar days.

### § 171-36. Other full-time officers and employees.

[Amended 6-1-2009 by Ord. No. 1492]

All other employees or officers, 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 to four years shall be entitled to two weeks or 10 working days.
- B. Regularly employed from five to nine years shall be entitled to three weeks or 15 working days.
- C. Regularly employed from 10 years to 14 years shall be entitled to four weeks or 20 working days.
- D. Regularly employed for 15 years to 19 years shall be entitled to five weeks or 25 working days.  
[Amended 12-21-2020 by Ord. No. 1634]
- E. Regularly employed 20 years or more shall be entitled to 28 working days.  
[Added 12-21-2020 by Ord. No. 1634]

### § 171-37. Other part-time officers and employees.

[Amended 6-1-2009 by Ord. No. 1492]

All other employees or officers, except those provided for by law and those covered by a collective bargaining agreement, regularly employed part time by the City shall be granted an annual vacation without loss of pay as follows:

- A. To be eligible a part-time worker must have worked 27 weeks in the aggregate during the 12 months preceding the first day of June in each year and must meet the eligibility requirements of part-time employees as defined in Article XII, § 171-50A.
- B. They shall be entitled to the same vacation increments as full-time employees as defined in § 171-36 based upon an eligible part-time employee's specific work hour schedule. One day will be equivalent to the total number of hours worked per week divided by five days (i.e., one day for 25 hours per week will be equivalent to five hours).

### § 171-38. Vacations to be granted by department heads.

Such vacations shall be granted by the heads of each department, as such time as in their opinion will cause the least interference with the performance of the regular work of the City.

### § 171-39. Determination of regular employment.

A person shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.

### § 171-40. New employees.

New full-time employees will earn one day per month up to 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 January 1 of the year following his/her anniversary date of benefited employment. This vacation will only be allowed upon the completion of a probationary period of six months. In no event shall a new employee be eligible for more than 10 days of vacation per calendar year.

### § 171-41. Accumulation of vacation time.

Employees that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any employee who has excess of that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.

### § 171-42. Minimum increments.

Vacation time may not be taken in less than one-half-day increments.

### § 171-43. Payment for accumulated vacation time.

[Amended 12-21-2020 by Ord. No. 1634; 6-7-2021 by Ord. No. 1637]

- A. Upon termination, resignation or retirement, the annual allotment of vacation time for the year in which the employee's employment ends shall be prorated monthly from the date the employee's employment ends.
- B. In the event that an employee terminates employment with the City, any vacation accrued will be paid to the employee. If an employee dies, any accrued vacation days shall be paid to the estate of said

deceased employee.

## Article X. Salaries of Police and Fire Personnel

[Adopted 2-7-2000 by Ord. No. 1321]

### § 171-44. Compensation in lieu of paid holidays.

[Amended 3-21-2022 by Ord. No. 1646; 9-7-2022 by Ord. No. 1656]

In order to make uniform a policy of paid holidays for certain officers and employees of the City of Gardner, not covered under a collective bargaining agreement, who have not been otherwise provided for, there shall be paid to the following persons, for the 11 holidays per year, in addition to their regular and maximum compensation as follows: 10.15% of the yearly salary in lieu of the 11 paid holidays to each of the persons in the following groups according to his present pay schedule as said schedule may hereafter be in force:

- A. Fire Department: Chief.

## Article XI. Clothing/Uniform Allowance

[Adopted 9-15-2003 by Ord. No. 1392; amended in its entirety 10-16-2006 by Ord. No. 1443]

### § 171-45. Compensation established.

In addition to the provisions of the salary ordinance,<sup>[1]</sup> the following full-time personnel shall receive compensation to be paid annually as follows:

- A. The Fire Chief shall receive \$1,045 for the upkeep and purchase of uniforms, equipment and footwear.  
[Amended 12-21-2020 by Ord. No. 1634]
- B. The Chief of Police and Deputy Chief of Police shall receive \$1,045 for the upkeep and purchase of uniforms, equipment and footwear.
- C. The following shall receive \$350 for the upkeep and purchase of clothing, gear and/or footwear:  
[Amended 8-6-2012 by Ord. No. 1552; 5-18-2015 by Ord. No. 1577; 12-21-2020 by Ord. No. 1634]
  - (1) Building Commissioner.
  - (2) Local Building Inspector.
  - (3) Plumbing and Gas Inspector.
  - (4) Animal Control Officer.
  - (5) Senior Animal Control Officer.
  - (6) Director of Public Health.
  - (7) Assistant Director of Public Health.
  - (8) Director of Public Works.
  - (9) Assistant Director of Public Works.
  - (10) Golf Course Superintendent.
  - (11) Transfer Station Supervisor.
  - (12) Public Safety Dispatch Center Director.

- D. Golf Department working foremen/grounds maintenance men shall receive \$500 and Golf Department working foremen motor equipment repairmen and Electrical (Wire) Inspectors shall receive \$650 for the upkeep and purchase of clothing, gear and/or footwear.  
[Amended 5-18-2015 by Ord. No. 1577]

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## § 171-46. Payment.

Payment shall be made on an annual basis, the last pay day in July.

## § 171-47. New employees.

Any newly appointed full-time employee as referenced above shall receive a prorated amount of the clothing/uniform allowance for the balance of the remaining fiscal year at the time of his/her appointment.

## Article XII. Full-Time, Part-Time and Seasonal Employment Status

[Adopted 10-2-2006 by Ord. No. 1440]

## § 171-48. Purpose.

For the purpose of the calculation of benefit time and the provision of insurance benefits for employees who are not covered by a collective bargaining agreement, the following standards shall apply.

## § 171-49. Full-time employees.

Full-time employees are defined as employees who are regularly scheduled to work 37 or more hours per week. Full-time employees are eligible for benefit time and longevity pay as described in Articles III, IV, V, VI, VII, VIII and IX of this chapter. Full-time employees are also eligible to elect health, dental, life insurance and/or other optional insurance benefits.

## § 171-50. Part-time employees.

Part-time employees are defined as employees who work less than 37 hours per week. Part-time employees are eligible for benefit time, longevity, insurance and/or other optional insurance benefits as follows:

- A. Part-time employees who are regularly scheduled to work 20 or more hours per week are eligible for benefit time as described in Articles III, IV, V, VI, VII, VIII and IX of this chapter.
- B. Part-time employees hired on or after July 1, 2006, and who are regularly scheduled to work less than 20 hours per week are not eligible for benefit time as described in Articles III, IV, V, VI, VII, VIII and IX of this chapter. They shall receive three days of personal time to be used upon the approval of the department head, who has been given 24 hours' notice, except in an emergency. A day shall be defined as 1/5 of the employee's regular work week. This personal time must be used in the same calendar year in which it was credited to the employee.
- C. Part-time employees who are regularly scheduled to work less than 20 hours per week are not eligible to receive longevity pay or to elect health, dental, life insurance or other optional insurance benefits.

## § 171-51. Temporary and seasonal employees.

Temporary and seasonal employees are not eligible for benefit time, insurance benefits or longevity pay.

## Article XIII. Department Head Benefit Time and Longevity Pay

[Adopted 10-2-2006 by Ord. No. 1441]

### § 171-52. Department heads.

[Amended 3-19-2007 by Ord. No. 1457; 8-6-2012 by Ord. No. 1553; 11-18-2013 by Ord. No. 1563; 12-21-2020 by Ord. No. 1634]

Department heads for the purposes of this article shall be:

City Assessor  
Building Commissioner  
Chief of Police  
City Auditor  
City Clerk  
City Engineer  
City Collector/Treasurer  
Council on Aging Director  
Director of Community Development and Planning  
Director of Information Technology  
Director of Human Resources  
Director of Public Health  
Fire Chief  
Golf Course Superintendent  
Library Director  
Public Works Director  
Purchasing Agent/Civil Enforcement Director  
Veterans' Director

### § 171-53. Vacation.

- A. The Police Chief and Fire Chief shall be granted an annual vacation without loss of pay as follows:
- (1) Employed for one to four years shall be entitled to two weeks (14 calendar days).
  - (2) Regularly employed five to nine years shall be entitled to three weeks (21 calendar days).
  - (3) Regularly employed 10 to 14 years shall be entitled to four weeks (28 calendar days).
  - (4) Regularly employed for over 15 years shall be entitled to 31 calendar days.
- B. All other department heads as defined in § 171-52 shall be granted an annual vacation without loss of pay as follows:
- (1) Employed for one to nine years of regular employment shall be entitled to three weeks or 15 working days.
  - (2) Regularly employed from 10 years to 14 years shall be entitled to four weeks or 20 working days.
  - (3) Regularly employed for 15 years to 19 years shall be entitled to five weeks or 25 working days.

[Amended 12-21-2020 by Ord. No. 1634]

(4) Regularly employed 20 years or more shall be entitled to 28 working days.

[Added 12-21-2020 by Ord. No. 1634]

- C. A department head shall be deemed to be regularly employed within the meaning of this article if he or she has been actually employed for 27 weeks in the aggregate during the 12 months preceding the first day of June of the year in which the vacation is to be granted.
- D. Department heads that do not utilize all of their vacation time within the calendar year it was granted will be allowed to carry over into the next calendar year twice their annual vacation accrual. Any department head who exceeds that amount of vacation accumulation on December 31 shall forfeit any excess of the permitted accumulation.
- E. Newly hired department heads shall be granted vacation time according to the following schedule:

| First Day of Employment    | Number of Vacation Days |                            |
|----------------------------|-------------------------|----------------------------|
|                            | Police/Fire             | All Other Department Heads |
| January 1 to April 30      | 14                      | 15                         |
| May 1 to August 31         | 10                      | 10                         |
| September 1 to December 31 | 5                       | 5                          |

- F. In the event that a department head terminates employment with the City, any vacation accrued will be paid to the department head. If a department head dies, any accrued vacation days shall be paid to the estate of said deceased department head.
- G. Upon termination, resignation or retirement, the annual allotment of vacation time for the year in which the department head's employment ends shall be prorated monthly from the date the department head's employment ends.  
[Added 12-21-2020 by Ord. No. 1634]

### § 171-54. Personal time.

- A. Department heads shall be granted three personal days 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:  
[Added 12-21-2020 by Ord. No. 1634]
  - (1) January 1 to April 30: two days.
  - (2) May 1 to August 31: one day.

### § 171-55. Sick leave.

- A. Department heads shall be granted a maximum of 15 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.
- B. A department head that has been absent from work due to the use of nonoccupational sick leave three consecutive days or more at one time must present a doctor's certificate to the Mayor. A doctor's certificate may also be required if the Mayor has reasonable cause to believe that the department head may be abusing his/her nonoccupational sick leave.



- C. A department head will contact the Mayor's office each morning by 8:30 a.m. when he/she is going to be absent from work due to illness.
- D. Department heads may donate sick leave to another employee of the City of Gardner who is in serious need (due to a serious illness or injury and that employee has utilized all of his/her available sick, personal, compensatory and vacation time). The donated time shall be paid to the employee in need at that employee's rate of pay. Authorization of the donation of this time shall be at the sole discretion of the Mayor.

## § 171-56. Sick leave incentive time.

[Amended 6-1-2009 by Ord. No. 1493]

Commencing effective July 1, 2009, department heads that do not use sick leave in a calendar month shall earn 1/2 day off not to be charged to sick leave or vacation leave. Time earned in this manner shall be referred to as "sick leave incentive time."

## § 171-57. Sick leave buy back.

- A. For all employees hired as department heads prior to or on February 1, 1979, upon retirement, if a department head has an accumulated sick leave balance, the department head shall be granted pay for such accumulation upon retirement at a rate of one full day's pay for each such day of accumulated sick leave, not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days that remain. Upon voluntary termination or layoff of employment of a department head, if such department head has an accumulated sick leave balance, the department head shall be granted pay for such accumulation upon termination at a rate of 1/4 day's pay for each such day of accumulated sick leave that remains.
- B. For all department heads hired after February 1, 1979, and prior to October 17, 1995, upon retirement of employment, if the department head has an accumulated sick leave balance, he or she shall be granted pay for such accumulation not to exceed 50 days' pay, plus an additional 50% of the daily rate for accumulated days over and above the first 50 days, but not to exceed 130 days. Upon voluntary termination or layoff of employment, a department head with an accumulated sick leave balance shall be granted pay for such accumulation at a rate of 1/4 day's pay for each such day of accumulated sick leave, not to exceed 30 days paid.
- C. Department heads hired on or after October 17, 1995, shall not be entitled to the sick leave buy back provision granted in Subsections **A** and **B** of this section.
- D. In the event that a department head hired before October 17, 1995, shall die prior to retirement, any accrued sick days shall be paid to the estate of said deceased department head.

## § 171-58. Bereavement leave.

- A. Department heads shall be granted bereavement leave without loss of pay for normally scheduled working hours, not to exceed three consecutive days, on the account of a death in the immediate family of the department head. "Immediate family" shall include spouse, parent, stepparent, parent of spouse, children, brother, sister, grandparents, grandchildren, or a person living in the immediate household of the department head.
- B. Bereavement leave of one day without loss of pay for normally scheduled working hours may be granted per occurrence for the death of a department head's niece, nephew, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt or uncle.

## § 171-59. Civic duty leave.

See Article III of this chapter.

## § 171-60. Holidays with pay.

- A. Department heads, with the exception of the Police Chief and Fire Chief (see Article X of this chapter), shall be granted holidays with pay on each of the following 12 holidays:
- (1) New Year's Day.
  - (2) Martin Luther King Day.
  - (3) Presidents Day.
  - (4) Patriots Day.
  - (5) Memorial Day.
  - (6) Independence Day.
  - (7) Labor Day.
  - (8) Columbus Day.
  - (9) Veterans Day.
  - (10) Thanksgiving Day.
  - (11) The day after Thanksgiving.
  - (12) Christmas Day.
- B. Sunday holidays shall be celebrated on the following Monday. Saturday holidays shall be celebrated on the preceding Friday.

## § 171-61. Longevity pay.

- A. Department heads who have been employed for at least five continuous full-time years of service shall receive, in addition to their regular compensation, longevity pay of \$150 during the first year that such service is attained and each fiscal year thereafter. Such department heads shall receive an additional \$30 per year for each additional year of full-time continuous service with the City.
- B. Payment of longevity pay shall be made on the third pay date in June to all department heads who are entitled during the fiscal year preceding such date, except that a department head who is terminated, except involuntarily for cause, shall receive payment on the date of termination for such longevity pay for which the department head was eligible in such fiscal year prior to the date of termination.
- C. For the purpose of calculating longevity pay, a year of employment shall be 32 weeks in the aggregate during the fiscal year.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 10D, which immediately followed this subsection and was added 6-1-2009 by Ord. No. 1496, was repealed 5-3-2010 by Ord. No. 1515.*

## Article XIV. Compensation for College Credits

[Adopted 1-7-2008 by Ord. No. 1465]

## § 171-62. Additional compensation.

In addition to the provisions of the salary ordinance<sup>[1]</sup> for personnel for the Police and Fire Departments, compensation shall be paid annually as follows.

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## § 171-63. Fire Chief.

[Amended 6-7-2021 by Ord. No. 1636]

- A. A Fire Chief who has completed courses in a degree-granting program toward a degree in fire science offered by a college which is certified by any state agency for such certification shall receive the following additional compensation annually:
- (1) Associate's degree: \$2,000 per year.
  - (2) Bachelor's degree: \$4,000 per year.
  - (3) Master's degree: \$6,000 per year.
- B. The maximum amount of additional compensation shall not exceed \$6,000 per year.

## § 171-64. Chief of Police and Deputy Chief of Police.

[Amended 11-19-2012 by Ord. No. 1555]

- A. Effective July 1, 2012, a Police Chief or Deputy Police Chief who has completed courses in a degree-granting program towards a degree in criminal justice or law enforcement offered by a college which is certified by any state agency for such certification, however, under no circumstances shall said state agency certify any program which grants credits for the following: life experience, courses taught by instructors lacking appropriate educational degrees by said agency, and courses lacking appropriate concentration on academic and scholarly research, will receive the following educational incentive compensation:
- (1) Upon attaining an associate degree in law enforcement or criminal justice a bargaining unit member will receive 5% of his/her base salary.
  - (2) Upon attaining a baccalaureate degree in law enforcement or criminal justice a bargaining unit member will receive 10% of his/her base salary.
  - (3) Upon attaining a master's degree in law enforcement or criminal justice a bargaining unit member will receive 12.5% of his/her base salary.
- B. Effective July 1, 2012, a Police Chief and/or Deputy Police Chief who has received a degree in criminal justice or law enforcement from an educational institution accredited by the New England Association of Colleges and Secondary Schools or by the Board of Higher Education, however, under no circumstances shall said agency of board certify any program which grants credits for the following: life experience, courses taught by instructors lacking appropriate educational degrees by said board or agency, and courses lacking appropriate concentration on academic and scholarly research, shall be eligible to receive the following educational incentive:
- (1) Upon attaining an associate degree in law enforcement or criminal justice a bargaining unit member will receive 5% of his/her base salary.
  - (2) Upon attaining a baccalaureate degree in law enforcement or criminal justice a bargaining unit member will receive 10% of his/her base salary.
  - (3) Upon attaining a master's degree in law enforcement or criminal justice a bargaining unit member will receive 12.5% of his/her base salary.

## § 171-65. Payment.

Payment shall be made to the employee in a lump on the second pay date in July.

## Article XV. Yearly Salaries for Various Positions

[Adopted 9-21-1987 by Ord. No. 935; last amended 8-6-2012 by Ord. No. 1542]

### § 171-66. Yearly salaries established.

The yearly salaries for the Mayor, Council President, City Councilors and various other positions shall be as set forth in Schedule 1 included at the end of this chapter. On or after January 1 of each odd-numbered year beginning in 2007, the Finance Committee of the City Council shall report to the Council, as a Committee of the Whole, its recommendations for adjustment, if any, to the salaries of the Mayor and City Councilors.

## Article XVI. Classification and Compensation

[Adopted 8-5-2013 by Ord. No. 1560]

### § 171-67. Classification plan established.

- A. A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.
- B. 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.  
[Amended 7-5-2016 by Ord. No. 1594]

#### **Classification Class Title**

#### **Pay Grade**

#### **Class/Title**

|      |                                                                                      |
|------|--------------------------------------------------------------------------------------|
| S-4  | Certified Pool Operator (seasonal)                                                   |
| S-5  | Head Lifeguard                                                                       |
| S-6  | Lifeguard (includes seasonal employees)                                              |
| 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 |

### § 171-68. Compensation schedule.

[Amended 9-28-2017 by Ord. No. 1604]

- A. A classification plan is hereby established for offices and positions in the service of the City, and establishing compensation grades thereof.
- B. All appointive officers and all positions in the City of Gardner, including those filled by popular election, except those under the direction and control of the School Committee and those classified and organized under a collective bargaining agreement, shall be classed into positions, groups and grades according to their duties pertaining to each as herein provided.
- C. The officers, positions, officials and classifications are hereby allocated and fixed into salary grades in accordance with the following schedule.<sup>[1]</sup>

[1] *Editor's Note: The Compensation Schedule is included as an attachment to this chapter.*

## § 171-69. Union and contract personnel.

- A. Compensation for union and contract personnel is located in the individual union contract documents, individual employee contracts and the City Employee Handbook.
- B. Whenever personnel with a "Grade" classification covered by this article are promoted to a higher grade, such personnel shall initially upon being so promoted be paid at that step level on their new grade which is the next highest in wage or salary from the step level or salary they were receiving in their former grade.
- C. Whenever personnel with a "Position" classification covered by this article are promoted or appointed to a higher salaried position, such personnel shall initially upon being so promoted or appointed be paid at the step level in their new position which will provide them with a salary which is the next highest from the step level salary they were receiving in their position, but in no event shall said increase in salary be less than \$250.
- D. When a person is first hired by the City, such personnel shall always start his employment on the first and minimum wage or salary applicable to the grade or position for which the person has been hired. The City Council, upon the recommendation of the appointing authority and with the approval of the Mayor, may, due to special reasons and exceptional circumstances, allow or permit a person to be hired at a rate greater than the minimum rate prescribed for the particular group by the compensation schedule.
- E. After six months of continual service, a new City employee shall be elevated to the next step in his/her salary schedule; thereafter he/she shall be elevated to the next succeeding step after 12 months of service.

## Chapter 182. Planning Board

[HISTORY: Adopted by the City Council of the City of Gardner 12-15-1952 by Ord. No. 139. Amendments noted where applicable.]

### GENERAL REFERENCES

Community Development and Planning Department — See Ch. 50.

Agent for the Planning Board — See Ch. 160, Art. X.

Zoning — See Ch. 675.

## § 182-1. Board established; membership.

A Planning Board is hereby established. The Planning Board, hereinafter called the "Board," shall consist of five persons who are residents of Gardner and shall be appointed by the Mayor, subject to confirmation by the City Council. All members of the Board shall be sworn to the faithful discharge of the duties incumbent upon them.

## § 182-2. Powers and duties.

[Amended 11-18-2013 by Ord. No. 1563]

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.

## § 182-3. 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 as follows: the Mayor shall on or before January 1, 1953, appoint one person to serve until the 31st day of December 1953, one person to serve until the 31st day of December 1954, one person to serve until the 31st day of December 1955, one person to serve until the 31st day of December 1956, and one person to serve until the 31st day of December 1957, or until their successors are duly appointed, confirmed and sworn. Between the first and 31st day of December 1953, the first and 31st day of December 1954, the first and 31st day of December 1955, the first and 31st day of December 1956 and the first and 31st day of December of each year after 1956, the Mayor shall appoint a successor to serve a term of five 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.
- D. The members of the Board shall receive for their duties such compensation as the City Council may prescribe.

## § 182-4. Zoning Board of Appeals.

[Amended 11-18-2013 by Ord. No. 1563]

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.

## § 182-5. Effective date.

This chapter shall go into effect on January 1, 1953. It shall not affect any act done, any right accrued, any penalty incurred, or any suit, prosecution or proceeding pending.

## Chapter 193. Police Department

[HISTORY: Adopted by the City Council of the City of Gardner as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Emergency management — See Ch. **75**.

Purchasing/Civil Enforcement Department — See Ch. **221**.

Traffic Commission — See Ch. **275**.

Alarm systems — See Ch. **302**.

## Article I. Special Police Officers

[Adopted 4-4-1977 by Ord. No. 633]

## § 193-1. Special police officers for City service.



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. <sup>11289</sup>

## § 193-2. Special police officers for private service.

- A. The corporation, club or person applying for an appointment under this article shall be liable for the official misconduct of the officer appointed on such application and for the torts of any servant or agent in the employ of such club, corporation or person. When any such application is made by or in behalf of more than one person, it will not be considered unless all applicants sign it, nor when made by a corporation or club, unless it is signed by a duly authorized agent and accompanied by a certified copy of a vote authorizing such application to be made by such agent. All applicants shall be required to state the nature of their interest in the property or locality for which the officer is to be appointed, that is to say, whether as owners, lessees, agents or managers.
- B. Applications shall be turned in the first of February of each year, accompanied by a resume of police experience, to the Police Chief for recommendation, then to the Mayor for appointment, then to the Council for acceptance.

## Article II. Organization of Police Department

[Adopted 8-3-1992 by Ord. No. 1101]

### § 193-3. Official Table of Organization.

[Amended 8-2-1993 by Ord. No. 1132; 11-21-1994 by Ord. No. 1175]

The Police Department of the City of Gardner shall consist of a Chief of Police, a Deputy Police Chief, two Lieutenants, at least four 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 MGL c. 147, §§ 11, 12 and 13.

### § 193-4. Appointments.

All appointments to the Police Department shall be made by the Mayor, subject to approval of the City Council.

### § 193-5. Chief of Police; Deputy Chief of Police.

[Amended 9-6-1994 by Ord. No. 1170; 11-18-2013 by Ord. No. 1563]

- A. 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.
- B. 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. <sup>11289</sup>  
 [Added 12-2-2013 by Ord. No. 1566]

## § 193-6. Compensation.

[Added 11-18-2013 by Ord. No. 1563]

The salary of the Chief of Police and other employees of the Police Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Article III. Civilian Police Dispatchers

[Adopted 2-7-1994 by Ord. No. 1154; amended in its entirety 4-19-1994 by Ord. No. 1159]

### § 193-7. Appointment.

The Mayor may, upon the recommendation of the Chief of Police and subject to confirmation of the City Council, appoint full- or part-time civilian dispatchers, as needed by the City of Gardner.

### § 193-8. Supervision.

All civilian dispatchers shall be subject to the authority of the Mayor and the Chief of Police.

### § 193-9. Powers and duties.

No civilian dispatcher shall exercise police power or authority. Said dispatchers shall be under the direction and control of the Chief of Police and be subject to all rules, regulations, policies, procedures, orders or directions prescribed by the Chief of Police.

### § 193-10. Compensation

Said dispatchers shall receive such compensation as the Mayor, with the approval of the City Council, shall from time to time determine.

## Chapter 217. Public Works, Department of

[HISTORY: Adopted by the City Council of the City of Gardner 3-20-1972 by Ord. No. 501. Amendments noted where applicable.]

### § 217-1. 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. The Director shall:
  - (1) Be responsible for and carry out the supervision of the following divisions: Highway, Water, Sewer, Wastewater Treatment Plant, Municipal Garage and Municipal Grounds (inclusive of Parks, Recreation, Cemetery, Forestry, and Plant and Pest Commission). 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.

[Amended 12-2-1974 by Ord. No. 576; 9-17-1979 by Ord. No. 708, 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]

- (2) Meet when requested by the City Council Public Service Committee. 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. 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.  
[Amended 10-7-1974 by Ord. No. 570; 9-20-1976 by Ord. No. 620, 2-19-1985 by Ord. No. 858; 11-18-2013 by Ord. No. 1563]
- (3) Appoint on merit and fitness alone and remove all personnel of said divisions contained herein, subject to prevailing General Laws and ordinances.  
[Amended 8-6-2012 by Ord. No. 1549]
- (4) Attend meetings of the City Council and recommend to the City Council for adoption such measures requiring action by it as he may determine necessary or expedient, with approval of the City Council and Mayor.
- (5) Keep full and complete records of his office and render to the Mayor and the City Council, as often as may be required by them, a full report of all operations under his control.  
[Amended 11-18-2013 by Ord. No. 1563]
- (6) Keep the Mayor and the City Council fully advised as to the needs of the City within the scope of his duties and furnish the Mayor and the City Council, on or before the first day of December of each year, a detailed list of appropriations required during the next ensuing fiscal year for the proper conduct of all departments under his control and make and furnish also a master plan for all major public works for the City, giving priority to the projects in accordance with their necessity and importance, and establish long-range planning as may be determined for the best interest of the City.
- (7) Cause to be performed all of the work of all construction, reconstruction, alteration, repair, maintenance, and upkeep and all other work incidental thereto of the present Department of Public Works, including the following divisions: Highway, Water, Sewer, Wastewater Treatment Plant, Municipal Garage and Municipal Grounds, inclusive of work incidental thereto of the former Board of Cemetery Commissioners and Park Departments. Such work shall be performed in accordance with the policy of long-range plans and priorities of major projects and capital outlay requirements as may be authorized and established by the Department of Public Works.  
[Amended 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]
- (8) Have and exercise all the supervisory powers over the work force pertaining to the assessments of betterments and their abatements vested immediately prior to his appointment and from time to time by general or special law or by City ordinance in the following boards and offices of the City: Highway, Water, Sewer, Cemetery, Forestry, and Plant Pest Control and Park Departments, said commissions being abolished upon the appointment of a permanent director.  
[Amended 9-17-1979 by Ord. No. 708; 3-7-1983 by Ord. No. 801; 8-6-2012 by Ord. No. 1549]
- (9) Coordinate with the City Engineer the direction and supervision of all types of construction and planning relating to divisions herein. Knowledge of the provisions of the General Laws of the commonwealth relating to the operation of the Park and Cemetery Divisions; knowledge of contract procedures; ability to prepare specifications in the procurement of new equipment; ability to train and plan, assign and supervise the work of Department personnel; and ability to establish effective working relationships with employees, engineering personnel, City officials, contractors and the general public shall be required.  
[Added 8-6-2012 by Ord. No. 1549]

(10) Have all the duties and powers vested in the separate boards and commissions of the Park, Recreation, Cemetery and Recreation Commission, except that the Cemetery Commission shall have sole control and responsibility for the management of perpetual care funds pursuant to MGL c. 114, § 19, and MGL c. 44, § 54. Except as already provided for herein, the Director shall succeed to all the rights, privileges, duties and liabilities of the above-mentioned boards and commissions.

[Added 8-6-2012 by Ord. No. 1549]

- C. Each petition submitted to the City Council and referred to the Director shall be returned to the City Council with the recommendation of the Director or the reason for the absence of such recommendation within 13 days of the submission of each petition to the Director.
- D. The duties, powers and responsibilities of said Director may be broadened or diminished at any time by ordinance by a two-thirds vote of the City Council consistent with prevailing General Laws or ordinances.

## § 217-2. Appointment of Director of Public Works.

A. The Mayor shall appoint, subject to the confirmation of the City Council, a Director of Public Works for a term of three years. The Director of Public Works shall be especially fitted by training and experience to perform the duties of said office. Said Director shall hold office until his successor is appointed.

[Amended 12-2-1974 by Ord. No. 576; 8-6-2012 by Ord. No. 1549; 11-18-2013 by Ord. No. 1563]

B. Said Director may be removed from office in the same manner as department heads as provided by Section 8 of the City Charter.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 3 of Ord. No. 501, which immediately followed this section and was amended 12-2-1974 by Ord. No. 576, was repealed 5-17-1976 by Ord. No. 616.*

## § 217-3. Compensation.

[Added 11-18-2013 by Ord. No. 1563]

The salary of the Director and other employees of the Department of Public Works shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## § 217-4. Transfer of personnel.

[Amended 9-20-1976 by Ord. No. 620; 8-6-2012 by Ord. No. 1549]

All persons employed by and under the supervision of the named divisions, boards and commissions shall, upon the effective date of this chapter, be transferred to the Department of Public Works. All such transfers of personnel shall be made without loss of pay and without change of rating, seniority, retirement or pension rights, or any other privileges under any provisions of this chapter. The incumbent working foremen of the aforementioned divisions and offices affected by this chapter, when transferred to the Department of Public Works as hereinbefore provided, shall become working foremen of the corresponding divisions of said Department of Public Works.

## Chapter 221. Purchasing/Civil Enforcement Department

[HISTORY: Adopted by the City Council of the City of Gardner 9-6-2011 by Ord. No. 1530. Amendments noted where applicable.]

### § 221-1. Purpose.

There is hereby established in the administrative service of the City of Gardner the Purchasing/Civil Enforcement Department and, in said Department, the office of City Purchasing Agent/Civil Enforcement Director, hereinafter referred to as "Director."

## § 221-2. General authority of Director.

The Purchasing Agent/Civil Enforcement Director shall direct, supervise and have control of the Purchasing/Civil Enforcement Department. The Purchasing Agent/Civil Enforcement Director shall have all powers and duties prescribed by this chapter and shall serve as the City's Chief Procurement Officer (CPO) and Affirmative Marketing Construction Officer. The Purchasing Agent/Civil Enforcement Director shall be responsible for all purchases and contractual services and all sales of property. 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. The Purchasing Agent/Civil Enforcement Director shall serve as the City's Municipal Hearing Officer.

## § 221-3. Appointment and compensation of Director; employees.

- A. The Purchasing Agent/Civil Enforcement Director shall be appointed by the Mayor for a term of three years, subject to confirmation by the City Council.
- B. The salary of the Purchasing Agent/Civil Enforcement Director shall be included in the salary and wage ordinance of the City.<sup>[1]</sup>
  - [1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*
- C. Persons employed in the Purchasing/Civil Enforcement Department shall be under the direct supervision of the Purchasing Agent/Civil Enforcement Director.

## § 221-4. Powers and duties of Director.

- A. The Purchasing Agent shall:
  - (1) Apply the provisions of Massachusetts Uniform Public Procurement Laws to all purchases, orders and contracts for the City of Gardner, utilizing rules of procedure established by the Purchasing Agent as necessary to conform to all aspects of state and federal procurement laws and regulations. Such purchases, orders and contracts shall include procurement of supplies, services, construction and repairs to public buildings, public works projects, design and engineering services, and the acquisition and disposition of real property and personal property.
  - (2) Ensure that all specifications be definite and certain and shall permit open and fair competition; provided, however, that the provisions of this subsection shall not apply to noncompetitive purchases or contracts.
  - (3) Act to procure for the City the highest quality supplies and contractual services, incurring the least expense to the City.
  - (4) Endeavor to obtain as full and open competition as possible on all purchases and sales.
  - (5) Serve as the City's Affirmative Marketing Construction Officer in cooperation with the Massachusetts Supplier Diversity Office.  
[Amended 11-18-2013 by Ord. No. 1563]
- B. The Purchasing Agent is authorized to promulgate regulations, policies and procedures consistent with the intent of this chapter, subject to prevailing general laws.
- C. The Purchasing Agent/Civil Enforcement Director shall

- (1) Serve as the Parking Clerk in accordance with MGL c. 90, §§ 20A 1/2 to 20E. The Parking Clerk shall be responsible for the supervision and processing of parking violations, conducting informal hearings for violation appeals, and reporting overdue violations to the Registry of Motor Vehicles. The Parking Clerk shall be responsible for contracting with a state-approved vendor for coordination with the Registry of Motor Vehicles.
- (2) Oversee the input, computerized tracking, management and reporting of all noncriminal fines and penalties from initial imposition through collection.
- (3) Serve as the City's Municipal Hearing Officer in accordance with MGL c. 148A, Code Enforcement Officer. The Municipal Hearing Officer shall conduct requested hearings of code violations pursuant to this chapter and shall be compensated as provided under MGL c. 148A, § 5.  
[Amended 11-18-2013 by Ord. No. 1563]

## § 221-5. 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.

## § 221-6. Sale, alienation or disposal of personal or real property.

- A. Personal property shall be declared scrap or surplus by the functional department head. No tangible personal property, whether the same is controlled by any department, board or otherwise, shall be sold, alienated or otherwise disposed of except upon the written approval of the City Council committee having charge of matters concerning such department, board or otherwise and with the written approval of the Mayor.
- B. Real property shall be declared surplus by a vote of the City Council with the approval of the Mayor. No real estate, whether the same is controlled by any department, board or otherwise, shall be sold, alienated or otherwise disposed of except with the approval of the City Council and Mayor.

## § 221-7. Award of contract.

- A. 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.
- B. 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.

## § 221-8. 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.

## § 221-9. 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:



- A. 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
- B. Uphold the bid protest on grounds the protest proves a violation of the Massachusetts Uniform Procurement Act and conduct a new procurement.

## § 221-10. 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.

## § 221-11. 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.

## § 221-12. 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.

## § 221-13. Affirmative Marketing Construction Officer.

[Amended 11-18-2013 by Ord. No. 1563]

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.

## § 221-14. Municipal Hearing Officer.

[Amended 11-18-2013 by Ord. No. 1563]

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.

## Chapter 252. Seal

[HISTORY: Adopted by the City Council of the City of Gardner 4-2-1923 by Ord. No. 12. Amendments noted where applicable.]

## § 252-1. Description.

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.



## § 252-2. Deeds.

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.

## § 252-3. Use of Seal.

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.

## Chapter 264. Survey Department

[HISTORY: Adopted by the City Council of the City of Gardner 12-2-1974 by Ord. No. 577. Amendments noted where applicable.]

## § 264-1. Department established; appointment of City Engineer.

A Survey 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.

## § 264-2. Duties of City Engineer.

The duties of the City Engineer shall be as follows:

A. The City Engineer shall:

- (1) Make plans for and have supervision of all City engineering structures.
- (2) Perform all services which properly come under the direction of a certified civil engineer.
- (3) Give advice to all City officials authorized to consult with him on matters relating to public improvements of every kind where the advice of a civil engineer would be of service.
- (4) Make regular inspections of all dams, bridges, and other public works belonging to the City.

- (5) In consultation with the Mayor, determine which outside engineering firms shall be selected for service on City projects.  
[Amended 11-18-2013 by Ord. No. 1563]
  - (6) Coordinate his activities with the Director of the Public Works Department.  
[Amended 3-7-1983 by Ord. No. 803; 11-18-2013 by Ord. No. 1563]
  - (7) Administer the Survey Department.
- B. The City Engineer may employ, from time to time, such full-time or part-time assistance as may be required, subject, however, to proper appropriations being made therefor.

## § 264-3. Survey Department Coordinator.

[Added 9-15-1997 by Ord. No. 1251]

- A. There shall be established in the Survey Department the position of Survey Department Coordinator. The Coordinator shall be appointed by and directly report to the City Engineer, subject to confirmation by the City Council, for a term of three years.
- B. The duties of the Survey Department Coordinator shall be as follows:
  - (1) GIS Coordinator. Develop and maintain a GIS System for use of various City departments, including Survey, Public Works, Community Development and Planning, Assessing and Building. Initially, research existing data files which can be used to develop the database. Select software which will be compatible with existing hardware available in various City Hall offices. Make recommendations regarding new hardware or upgrades required, including cost estimates.  
[Amended 11-18-2013 by Ord. No. 1563]
  - (2) CADD and information systems implementation in the Survey Department.
    - (a) Review files of data maintained by Survey Department and recommend which are suitable for storage and retrieval via computer. Recommend and prioritize software and hardware (scanner, digitizer, etc.) acquisition. Estimate time requirements for data input and skill level for persons to perform this task.
    - (b) Review tasks normally performed by Survey Department drafts persons and recommend which tasks can be better or more efficiently performed with a CADD system.
    - (c) Implement computer-based construction specifications and contract document assembly.
  - (3) 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:
    - (a) 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.
    - (b) Inspect subdivision infrastructure (drainage, sanitary sewers, water mains, roads and sidewalks) during construction and submit periodic reports to the Planning Board.
    - (c) Develop stormwater management practices and policies for subdrainage basins within the City.
  - (4) Zoning Board of Appeals/Conservation Commission Coordinator. Review all 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.
  - (5) 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.

- (6) Construction administration. Oversee construction contracts being performed directly for the Department of Public Works, based on plans and specifications prepared by the Survey Department. This task will include construction inspection and field documentation of as-built quantities and locations. This task will involve supervision of up to two other Survey Department employees.
- (7) Any and all other duties as assigned by the City Engineer.

## § 264-4. Department responsibilities.

The Survey 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 Survey 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 Survey 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<sup>[1]</sup> 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.<sup>[2]</sup>

[Amended 11-18-2013 by Ord. No. 1563]

[1] *Editor's Note: See MGL c. 41, §§ 81K to 81GG.*

[2] *Editor's Note: Original Secs. 4 and 5, which immediately followed this section and provided for the transfer of personnel and materials to the Survey Department, were repealed 11-18-2013 by Ord. No. 1563.*

## § 264-5. Compensation.

The salary of the City Engineer and other employees within the Survey Department shall be established in the ordinances designating salaries and wages for the City employees.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 171, Personnel, Arts. XV and XVI.*

## Chapter 275. Traffic Commission

[HISTORY: Adopted by the City Council of the City of Gardner 10-3-1988 by Ord. No. 981. Amendments noted where applicable.]

### GENERAL REFERENCES

Parking — See Ch. **512**.

Vehicles and traffic — See Ch. **600**.

### § 275-1. Commission established; membership.

- A. There shall be established in the City of Gardner a Traffic Commission.
- B. 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.  
[Amended 11-18-2013 by Ord. No. 1563; 8-5-2019 by Ord. No. 1624]

### § 275-2. Placement of official traffic signs and signals.

[Amended 11-18-2013 by Ord. No. 1563]

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.

### § 275-3. Meetings; duties.

- A. The Traffic Commission shall meet regularly, not less often than quarterly.
- B. Among its duties the Traffic Commission shall:
  - (1) 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.
  - (2) Monitor all traffic-related issues, from signs to major project proposals.
  - (3) Actively pursue state or federal grants for street improvements (including curbing, pedestrian crossings, and signalization).
  - (4) 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.

## Chapter 290. Youth Commission

[HISTORY: Adopted by the City Council of the City of Gardner 5-5-1986 by Ord. No. 884. Amendments noted where applicable.]

### § 290-1. Commission established; membership.

- A. 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.  
[Amended 5-16-1994 by Ord. No. 1161; 12-18-2006 by Ord. No. 1446; 9-2-2008 by Ord. No. 1477]
- 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.

## § 290-2. 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.

## § 290-3. 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.



## **City Council Rules Proposed Changes**

### **Rule 1**

The City Council shall hold regular meetings on the first and third Mondays of January, February, March, April, May, June, September, October, November and December and 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 and place. All regular meetings shall be called at 7:30 o'clock p.m. in the Council Chamber in the City Hall. An annual calendar of regular meetings shall be compiled, published, and distributed to Council members at the first regular meeting of the year. Special meetings of the City Council may be called by the President and shall be called at any time upon the written request therefore being made to the City Clerk by at least two members of the City Council.

### **Rule 2**

The President shall take the chair at the hour of the regular meeting of the Council or at the hour to which the Council has adjourned, whether in special or regular meeting, and call the members to order on the appearance of a quorum. They shall cause the minutes of the preceding meeting to be read, at which time errors or omissions, if any, shall be corrected. They shall preserve order and decorum and shall decide questions of order, subject to an appeal to the Council. They may call any member to the chair for a period of time not exceeding beyond an adjournment; and when out of the chair the President may participate in any debate; but shall not resume the chair while the same question is pending. They shall appoint all standing committees of the Council. In their absence a President Pro Tempore shall be chosen by roll call vote.

### **Rule 3**

The President may, at their discretion, appoint a Councillor to act as a Council liaison on a particular matter. The particular matter and the Councillor so appointed shall be communicated in writing to the Mayor and the Council at the time of appointment.

### **Rule 4**

All principal or main motions shall be reduced to writing if the Chair or any member requires it. When made and seconded, it shall be stated by the President, or, being written shall be read by the President or Clerk and may be withdrawn before decision or amendment or any disposition thereof has been made, or vote thereon.

### **Rule 5**

To obtain the floor, a member shall address themselves to the Chair, upon recognition by the Chair; they shall not speak more than twice on any one question without permission of the Council, nor more than five minutes at any time.

### **Rule 6**

On all questions and motions the President shall take a vote of the Council by voice vote of the yeas and nays, excepting those questions and motions so required by rule, ordinance, or law to require a roll call vote, or those that require more than a simple majority, or when so requested by any Councillor that a roll call vote be taken.

**Rule 7**

No ordinance shall be passed finally on the date on which it is introduced, except in case of special emergencies involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency measure unless the emergency is defined and declared in a preamble thereto separately voted on and receiving affirmative vote of two-thirds of the members of the Council.

No ordinance making a grant, renewal or extension whatever its kind or nature of any franchise or special privilege shall be passed as an emergency nature, except as provided in Sections 70 and 71 of Chapter 164 of the General Laws and in Chapter 166 thereof, no such grant, renewal or extension shall be made otherwise than by ordinance.

Every proposed ordinance, except emergency measures as hereinbefore defined, shall at least ten days before its passage, be published in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance.

After final passage, it shall in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinabove provided and which shall take effect on its passage, and shall so be published at the earliest practicable moment.

No appointment shall be acted on by the Council until at least ten days after it shall have been filed with the City Clerk, whose duty it will be forthwith to notify the members of the Council of the filing of said appointment. After an ordinance shall have been passed, a written or printed copy shall be prepared by or under the direction of the clerk, and, after having been compared by the Clerk with the original, the same shall be signed by the Mayor, or in the absence of the Mayor, by the President of the Council, and shall be thereupon preserved by the Clerk in a book provided for the purpose.

**Rule 8**

Amendments may be offered to all questions and motions before the Council and shall be in order until the vote to which the amendment is offered is called. A Councillor offering an amendment is exempt from Rule 5 floor access limitations and permission requirements. A Councillor in receipt of a newly offered amendment may request a 10 minute recess at any time prior to the vote being called on the question or motion to which the amendment is offered, and the President shall call the requested recess prior to the vote being called.

**Rule 9**

A motion to reconsider a motion shall only be in order at the same meeting, or at the next regular meeting, when a motion for reconsideration is decided, the decision shall not be reconsidered. No motion to reconsider shall be entertained unless made by a member voting on the prevailing side. For purposes of the application of Robert's Rules of Order, a session is defined as the two-year term in which the members of the Council were elected.

**Rule 10**

All papers addressed to the Council shall be presented by the President or by a member in their place and they shall lie on the table to be taken up in the order in which they are presented unless the Council otherwise directs. All by-laws passed by the City Council shall be termed "Ordinances" and the enacting style shall be: "Be it Ordained by the City Council of the City of Gardner."

**Rule 11**

The Clerk shall attend and keep the records of all meetings of the Council, shall have the care and custody of all records, of all documents, maps, plans and papers respecting the care and custody of which no other provision is made. They shall prepare for the Council a copy of the Orders of the Day, to which shall be added a list of matters laid on the table or postponed to a day certain, provided, however, that any matter may be admitted by a two-thirds vote of the Council.

**Rule 12**

Each Standing Committee of the City Council shall maintain records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions in a manner as determined by the Standing Committee. Said records shall be delivered to the City Clerk who shall maintain them as the Keeper of the Records.

**Rule 13**

The following Standing Committees shall be appointed by the President and the President shall be an ex-officio member without voting rights:

1. The Committee on Public Service, composed of three members, the first named member thereof to be Chairman; this Committee shall have oversight of legislative matters associated with the following: Cemetery Commission, Conservation Commission, Engineering & Survey, Flood Plain, Municipal Grounds Commission, and the Public Works Department
2. The Committee on Public Safety, composed of three members, the first named member thereof to be Chairman; this Committee shall have oversight of legislative matters associated with the following: Animal Control, Flammable Storage Licenses, Automobile Dealers Class I, II and III, Fruit/Vegetable Peddlers, Board of Health, License Commission, Bowling Alley/Billiard Table Licenses, Office of Emergency Management, Building and Inspectional Services, Police Department, Constables, Sealer of Weights & measures, Dealers in Second Hand Articles, Traffic Commission, Fire Department, and Transportation
3. The Committee on Public Welfare, composed of three members, the first named member thereof to be Chairman; this Committee shall have oversight of legislative matters associated with the following: Airport Commission, Library Trustees, Cable TV Commission, Montachusett Regional Vocational Technical School, Council on Aging, Planning Board, Cultural Council, Public School Department, Disability Commission, Recreation, Golf Course Commission, Severy School Trustees, Greenwood Memorial Pool Trustees, Veterans Agent, Historical Commission, Youth Commission, Housing Authority, Zoning, Industrial Development, and the Zoning Board of Appeals.
4. The Committee on Finance, composed of three members, the first named member thereof to be Chairman; this Committee shall have oversight of legislative matters associated with the

following: Board of Assessors, Human Resources, Budget, Information Technology, City Auditor, Law Department, City Clerk, Purchasing, City Collector/Treasurer, Redevelopment Authority, City Hall, Registrar of Voters, Civil Code Enforcement, Rules, Claims, Salary, Community Development and Planning, Vacancies, and the Contributory Retirement Board.

5. The Committee on Appointments, composed of three members, the first named member thereof to be Chairman; this Committee shall have oversight of legislative matters associated with the following: Appointments.

Every Council member must be appointed to a committee, unless they make a request, in writing, to the President that they not be appointed to any committee.

#### **Rule 14**

All items, complaints, applications, or referrals shall be made in writing to the Clerk. The Clerk in consultation with the President shall assign the matter to the proper Committee for study, report, and other action as determined by the Committee. No matter referred to a Committee may be taken up by the Council during a regular meeting absent a report of the Committee to which the item has been referred. An item may not appear on the Council Calendar without first being referred to a Committee unless such request is made in writing to the Clerk, and the Clerk attains the assent of the Council President and the Chair of the Committee to which the matter would have otherwise been referred.

#### **Rule 15**

The following order of business shall be adopted for Council meetings:

1. Roll call
2. Opening Prayer
3. Pledge of Allegiance
4. Reading of minutes of previous meeting
5. Public Hearings
6. Communications from the Mayor
7. Petitions, applications, remonstrances and memorials shall be called for and disposed of by reference or otherwise
8. Report of Standing Committees in the following order:
  - a. Public Service
  - b. Public Safety
  - c. Public Welfare
  - d. Finance
  - e. Appointments
9. Announcements and Recognitions
10. Unfinished Business and Matters for Reconsideration
11. New Business
12. Adjournment
13. Closing Prayer

**Rule 16**

Whenever an ordinance, resolution or vote is required by law to be presented to the Mayor, the City Clerk shall present the same without delay and shall enter upon the records of the City Council the date upon which it is presented and approved.

**Rule 17**

All officers not appointed shall be elected by a voice vote, each member who is present answering to their name when it is called by the Clerk or other proper officer, and stating the name of the person for whom they voted, or declining to vote, as the case may be; and the Clerk or other proper officer shall record every such vote.

**Rule 18**

In case of a vacancy which occurs for the position of City Clerk, City Treasurer, City Auditor and Collector of Taxes, which appointments are made by the City Council as provided by Section 9 of the City Charter; therefore, any qualified person who files an application for any one of the above mentioned positions shall be accorded the privilege of not having their application disclosed until the day of appointment.

**Rule 19**

These rules shall be the rules for all standing and special committees of the Council unless otherwise determined by the standing or special committee.

**Rule 20**

A rule may be suspended for a defined portion or entirety of a single meeting by majority vote of the Council on the motion of a Councillor. Motions to suspend a rule shall be prevailing, do not need a second, shall go into effect be there no objection, and in the event of an objection shall immediately be subject to a vote without discussion.

These rules shall be in force for the duration of the session unless suspended. A rule may be amended by a two-thirds vote of the Council after the proposed amendment has appeared on the Council agenda for two consecutive regular meetings. Any accepted amendment shall go into force at the next regular meeting following an affirmative vote unless otherwise determined by unanimous vote of the Council.

**Rule 21**

Robert's Rules of Order shall be the authority governing the conduct of business at all Council meetings, except as otherwise indicated in these rules.