

The City of Gardner
City Council

PRESENTED BY

George Tyros

AN ORDINANCE TO STRENGTHEN OVERSIGHT AND TRANSPARENCY OF CAPITAL
IMPROVEMENT PLANNING AND PROJECTS

Be it ordained by the City Council:

SECTION 1: Chapter 7, § 7-8A(2) is hereby amended by striking in its entirety and replacing therewith the following:

“Members shall consist of the Council President or their designee, two members of the City Council to be appointed by the Council President, the Vice Chair of the School Committee or their designee who shall be a School Committee Member, the City Treasurer, the City Auditor, the City Purchasing Agent, the Mayor or their designee, and one member appointed by the Mayor.

Members serving in ex officio capacity shall be full voting members for the duration of their service. Other appointed members shall serve at the pleasure of their above stated appointing authority.”

SECTION 2: Chapter 7, § 7-8C is hereby amended by adding the following:

“The City Council may reduce, add to, or in any other way amend the capital plan prior to acceptance.”

SECTION 3:

Section 1: Part IV of the City Code is hereby amended by adding the following new chapter:

Chapter 676 - Capital Improvement Planning and Execution

§676-1 Purpose and Intent

These regulations are enacted to ensure proper planning and execution of capital improvement projects with appropriate oversight, transparency, and public awareness.

§676-2 Final Project Plan Approval

Prior to the advertisement or solicitation of bids for any capital improvement project with an estimated cost exceeding \$150,000, the Mayor shall submit the final project plan to the City Council for approval.

- a. The final project plan shall include:
 - i. the project scope;
 - ii. site plans, renderings, or construction drawings sufficient to describe the proposed improvements;
 - iii. the estimated project cost and funding sources;
 - iv. the anticipated project schedule; and
 - v. any material changes from the project concept or design previously presented to the City Council.
 - vi. the individual, employee, or official designated by the Mayor to act as Project Lead.
- b. No invitation for bids, request for proposals, or other procurement process for construction of the project shall be issued until either the approval is granted in a manner to be determined by the City Council or thirty (30) days have elapsed following the aforementioned submittal.

§676-3 Capital Project Advisory Committee

A. Establishment

For any capital improvement project authorized by the City Council with a total estimated cost exceeding \$500,000, or such other amount as may be established by ordinance, a Capital Project Advisory Committee shall be established prior to the commencement of procurement activities.

B. Purpose

The purpose of the Capital Project Advisory Committee shall be to review project plans, provide public input, monitor project progress, and make recommendations regarding project scope, design, schedule, budget, and community impacts. The Committee shall serve in an advisory capacity only and shall possess no authority to direct City employees, contractors, consultants, or project expenditures.

C. Membership

The Capital Project Advisory Committee shall consist of at least three (3) voting members appointed where not less than one third of members shall be appointed by the Council President and the remaining members appointed by the Mayor. The Mayor shall designate one member to serve as chair.

D. Duties

The Committee at their discretion may:

1. Review and comment on project plans and design concepts;
2. Receive periodic reports from project managers, consultants, and City officials;
3. Conduct public meetings to solicit community feedback;
4. Issue written recommendations concerning significant changes to project scope, design, or budget; and
5. Submit advisory reports to the Mayor and City Council at such intervals as the Committee deems appropriate.

E. Final Report

The Committee may submit a final advisory report to the Mayor and City Council summarizing its findings and recommendations regarding the proposed project.

F. Sunset

The Committee shall automatically dissolve upon substantial completion of the project unless extended by joint action of the Mayor and City Council.

§ 676-4. Enforcement of City Charter Section 40

A. Purpose.

The purpose of this section is to establish procedures documenting compliance with Section 40 of the City Charter and to ensure transparency regarding school capital improvements.

B. Required Documentation.

Before plans are accepted or work begins on any construction or alteration of a school building requiring approval under Section 40 of the City Charter, the School Department shall prepare a written project summary including:

1. A description of the proposed work;
2. The location of the work;
3. The estimated total project cost;
4. The proposed source of funding;

5. A statement explaining why the project constitutes construction or alteration rather than ordinary repair, or, if claimed to be an ordinary repair, the basis for that determination.
6. A statement explaining why the project is necessary and what are the potential costs or lost opportunities if the project is not approved.

C. Record of Approval.

Compliance with Section 40 shall be demonstrated by written evidence of approval by the School Committee and the Mayor. Such documentation shall identify the project approved and shall be maintained as a public record.

D. Notification to the City Council.

Within ten business days following the approvals required by Section 40, the School Department shall transmit the project summary and documentation of approval to the City Council.

§676- 5 Exemptions and Emergencies

A. Exempt Projects

The requirements of §§676-2 and 676-3 shall not apply to the following capital improvement projects:

1. Roadway Paving and Resurfacing
Projects consisting primarily of routine roadway paving, milling, resurfacing, or similar surface maintenance, provided that the project is not part of a larger capital improvement project and does not include substantial subsurface infrastructure improvements, or other material alterations beyond work ordinarily associated with roadway paving or resurfacing.
2. Community Development Block Grant Projects
Projects for which more than fifty percent (50%) of the total project cost is funded through the Community Development Block Grant (CDBG) program and is a City project.
3. School Department Projects.
Capital improvement projects undertaken by or under the direction and control of the School Committee involving school buildings, grounds, facilities, or other property under the jurisdiction of the School Department.

B. Emergency Projects

The requirements of §§676-2 and 676-3 may be waived when the Mayor determines that an emergency condition requires immediate action to protect public health or safety, prevent substantial damage to public property, restore an essential public service, or otherwise address

circumstances in which compliance with the ordinary review process would result in an unreasonable risk to the City or the public.

When an emergency exemption is exercised, the Mayor shall provide written notice to the City Council as soon as practicable, but no later than five (5) business days after the determination is made. Such notice shall include:

1. A description of the emergency condition;
2. The capital work proposed or undertaken in response;
3. The estimated cost and identified funding source;
4. The reason compliance with the ordinary requirements of this Chapter was not practicable; and
5. To the extent known, the anticipated schedule for completion.

An emergency exemption shall apply only to work reasonably necessary to address the emergency condition. Any additional improvements or expansion of the project beyond that reasonably necessary to address the emergency shall remain subject to the applicable requirements of this Chapter.

§676- 6 Implementation

A. Effective Date

This Chapter shall take effect July 1, 2027 following passage and publication as required by law.

Capital improvement projects for which an invitation for bids, request for proposals, or other formal procurement process has been issued prior to the effective date of this Chapter shall not be subject to the requirements of §§676-2 or 676-3.

Nothing in this subsection shall prevent the Mayor from voluntarily submitting such a project for review by the City Council or establishing a Capital Project Advisory Committee consistent with this Chapter.

B. Administration

The Mayor, through the appropriate City departments, officers, and employees, shall take such administrative actions as are reasonably necessary to implement the requirements of this Chapter.

C. Severability

If any provision of this Chapter or its application to any person, project, or circumstance is determined to be invalid or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions or applications of this Chapter.