City of Gardner, Massachusetts
Office of the City Council

CALENDAR FOR THE MEETING
of
MONDAY, NOVEMBER 2, 2020

REMTELY*
7:30 P.M.

ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

III. OPENING PRAYER

IV. PLEDGE OF ALLEGIANCE

V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS
Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

VI. READING OF MINUTES OF PRIOR MEETING(S)
Reading and Approval of the Minutes of Prior Meetings.

VII. PUBLIC HEARINGS

10356—A Petition by National Grid and Verizon New England, Inc. to relocate one (1) JO Pole on Pearl Street beginning at a point approx. 295’ west of the centerline of the intersection of Pearl Street and Smith Street and continuing approx. 30’ in a northerly direction. Relocating P36 for UG Service for new elementary school.

VIII. COMMUNICATIONS FROM THE MAYOR

ORDINANCE


IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10358 A Measure Approving the City Clerk Position Description and Advertisement (Finance Committee).
X. REPORTS OF STANDING COMMITTEES

PUBLIC SERVICE COMMITTEE

10356—A Petition by National Grid and Verizon New England, Inc. to relocate one (1) JO Pole on Pearl Street beginning at a point approx. 295’ west of the centerline of the intersection of Pearl Street and Smith Street and continuing approx. 30’ in a northerly direction. Relocating P36 for UG Service for new elementary school (In City Council and Referred to Public Service Committee, 10/19/2020).

PUBLIC WELFARE COMMITTEE

10305—A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1 (In City Council and Referred to Public Welfare Committee, 8/3/2020).

FINANCE COMMITTEE

10326—An Order Appropriating $75,000.00 from Free Cash to Pool Filtration System (In City Council and Referred to Finance, 9/8/2020).

COMMITTEE OF THE WHOLE

10342—A Measure Declaring Surplus for Purpose of Disposition a parcel of land off Woodland Avenue (Parcel R27-2-8B) (In City Council and Referred to Committee of the Whole, 10/5/2020).

10343—A Measure Authorizing the Mayor to lift the Deed Restrictions to land deeded to Henry Heywood Hospital recorded on March 26, 1998 (In City Council and Referred to Committee of the Whole, 10/5/2020).

XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

10305—A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1 (In City Council and Referred to Planning Board for Recommendation, 8/3/2020; Planning Board Recommendation Received, 9/8/2020; Joint Public Hearing held and suspended, 10/3/2020; Hearing continued to 11/16/2020 at 6:00 p.m.).

10327—An Ordinance to Amend the Code of the City of Gardner by adding a New Chapter 565, to be Entitled “Stormwater Management.” (Cal. #10328 "Illicit Connections and Discharges to the Storm Drain System" consolidated with #10327)(In City Council and Referred to Public Service Committee, 9/8/2020; Discharged from Committee and Referred to Committee of the Whole, 10/5/2020; Ordered to 1st Printing, 10/14/2020; 1st Printing, 10/23/2020).

XII. NEW BUSINESS

XIII. CLOSING PRAYER

XIV. 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.

*Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Gardner City Council will be conducted via remote participation and broadcast live on Gardner Educational Television, Channel 8, and on the City’s YouTube Channel. The audio or video recording, transcript, or other comprehensive record of proceedings will be posted on the City’s website as soon as possible after the meeting.
NOTICE TO ABUTTERS

October 22, 2020

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 via remote participation* on MONDAY, NOVEMBER 2, 2020 at 7:30 o'clock P.M. on the petition of Massachusetts Electric Company, d/b/a NATIONAL GRID and Verizon New England, Inc. for permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, under along and across the following public way:

PEARL STREET – National Grid to relocate one (1) JO Pole on Pearl Street beginning at a point approximately 295’ west of the centerline of the intersection of Pearl Street and Smith Street and continuing approximately 30’ in a northerly direction. Relocating P36 for UG Service for new elementary school.

A sketch of the proposed pole location is attached for your edification.

*The Public Hearing will be conducted via Zoom Video Conferencing and broadcast live on Gardner Educational Television Channel 8 and on the City’s YouTube Channel. Parties interested in testifying before the City Council are requested to contact City Clerk Alan Agnelli by calling 978-630-4058 or by e-mail at aagnelli@gardner-ma.gov to register and to obtain participation/call-in instructions.

CITY COUNCIL OF GARDNER

By: ALAN L. AGNELLI
City Clerk
Questions contact – Robert Williams 774-437-9206

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

North Andover, Massachusetts

To the City Council
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Pearl St - National Grid to relocate 1 JO Pole on Pearl St beginning at a point approximately 295 feet west of the centerline of the intersection of Pearl St and Smith St and continuing approximately 30 feet in a north direction. Relocating P36 for UG service of new elementary school.

Location approximately as shown on plan attached

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

No. 29551036 September 16, 2020

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

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

Massachusetts Electric Company d/b/a National Grid

BY ___________________________
Pat Cody
Engineering Department

VERIZON NEW ENGLAND, INC.

BY ___________________________
Manager / Right of Way
EXHIBIT 'A' NOT TO SCALE
THE EXACT LOCATION OF SAID FACILITIES TO BE ERECTED BY AND UPON THE INSTALLATION AND ERECTION OF THE FACILITIES THEREOF.
October 28, 2020

The Honorable Elizabeth J. Kazinskas, President
And City Councilors
Gardner City Hall, Rm 121
95 Pleasant St.
Gardner, MA 01440

RE: Amended Compensation Schedule

Dear President Kazinskas and Councilors,

Attached, please find the Compensation Schedule the formatting and substantive amendments recommended by the Finance Committee.

Respectfully Submitted,

[Signature]

Michael J. Nicholson
Mayor, City of Gardner
City of Gardner, Executive Department

Michael J. Nicholson, Mayor

October 26, 2020

The Honorable Elizabeth J. Kazinskas, President
And City Councilors
Gardner City Hall, Rm 121
95 Pleasant St.
Gardner, MA 01440

RE: FY2021 Compensation Schedule Ordinance Proposal

Dear President Kazinskas and Councilors,

Attached, please find the FY2021 Proposed Amendments to the Compensation Schedule Ordinance.

As was stated during the budget process, the majority of increases listed in the proposed schedule are cost of living adjustments of two percent (2%) on the hourly rate of the employees who hold these positions. However, there are some other adjustments being made that can be seen here:

The position of Fire Chief has a proposed salary correction to help bring the position more in line with other comparable fire chief positions. This is also being done to make the position more marketable as we advertise to fill the position.

The Director of Public Health position is seeing an additional step added to the existing scale that is in the middle of the existing two steps. This is being added in consideration of the fact that our current director only has one year (seven collegiate credits) left toward obtaining her Registered Sanitarian (RS) designation as required in her employment agreement and in recognition of the extra work she has taken on as part of the ongoing pandemic. The City has traditionally budgeted this salary as if she was at the top step, which she will not receive until she completes her RS Certification.

There are also new positions that are being added to the ordinance this year from our school department. These positions are our coaches, bus monitors, crossing guards, and extended day program staff. While the pay rate for these positions are set by the School Committee, we currently do not have these rates codified anywhere like we do with our other positions.

Respectfully submitted,

Michael J. Nicholson
Mayor, City of Gardner
**ORDINANCE**

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED "PERSONNEL" TO CHANGE COMPENSATION SCHEDULE EXHIBIT E.

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

Section 1. Section 171-68 of Chapter 171, Personnel, of the Code of the City of Gardner is hereby amended by deleting and repealing Compensation Schedule Exhibit E and inserting in place thereof, the following:

**Exhibit E**
Non-Union Employees
Effective Date: 07/01/2020

A. DEPARTMENT HEADS

<table>
<thead>
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<th>Position</th>
<th>Grade</th>
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</tr>
</thead>
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<td>G-10</td>
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<td>MGL c. 32, §20(6)</td>
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<td>Fire Chief</td>
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<td>Golf Course Driving</td>
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<td>Range/Superintendent</td>
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<td>Human Resources Director</td>
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### A. DEPARTMENT HEADS (Cont.)

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<th>Position</th>
<th>Grade</th>
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<th>Weekly</th>
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<td>City</td>
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<td>School</td>
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<td>Public Works Director</td>
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<td>Purchasing Agent/Civil Enforcement Director</td>
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<td>MGL c. 148A, §5</td>
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<td>Veterans' Director</td>
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### B. NON-UNION DIRECT AND SUPERVISORY STAFF POSITIONS

<table>
<thead>
<tr>
<th>Position</th>
<th>Grade</th>
<th>Annual</th>
<th>Weekly</th>
<th>Hourly</th>
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<tbody>
<tr>
<td>Assistant City Clerk</td>
<td>G-3</td>
<td>$43,620.93</td>
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<td>Assistant City Engineer</td>
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<tr>
<td>Assistant City Solicitor</td>
<td>G-3</td>
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<td>Assistant City Treasurer/Collector</td>
<td>G-5</td>
<td>$54,438.26</td>
<td>$1,046.89</td>
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<tr>
<td>Assistant Director of Community Development**</td>
<td>G-7</td>
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<td>$1,311.41</td>
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<td>Assistant Director of Public Health</td>
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<td>Assistant Director of Public Works</td>
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<td>Assistant Library Director</td>
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<td>Conservation/Planning Agent</td>
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<td>Deputy Chief of Police</td>
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<td>Director of Public Safety Regional Dispatch Center</td>
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<td>$75,770.25</td>
<td>$1,457.12</td>
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<td>Economic Development Coordinator**</td>
<td>G-7</td>
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<td>Executive Secretary</td>
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<td>GIS Coordinator</td>
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<td>Golf Professional</td>
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<td>Golf Pro Manager</td>
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<td>Local Inspector</td>
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<td>Producer</td>
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<td>Senior Animal Control Officer</td>
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<td>Systems Manager</td>
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<td>Electrical Inspector</td>
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<td>Plumbing Inspector</td>
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### B. NON-UNION DIRECT AND SUPERVISORY STAFF POSITIONS (Cont.)

<table>
<thead>
<tr>
<th>Position</th>
<th>Grade</th>
<th>07/01/20</th>
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</thead>
<tbody>
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<td></td>
<td></td>
<td>Annual</td>
<td>Weekly</td>
<td>Hourly</td>
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<tr>
<td>Transfer Station Supervisor</td>
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<td>Executive Aide</td>
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<td>$50,000.00</td>
<td>$961.54</td>
<td>$25.99</td>
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<td>Civil Defense Director</td>
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<td>Sealer of Weights &amp; Measures</td>
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### C. NON-UNION STAFF POSITIONS

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<td>Animal Control Officer</td>
<td>G-1</td>
<td>Step 1</td>
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<td>$34,226.51</td>
<td>$658.20</td>
<td>$16.46</td>
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<td>Step 2 (5 Years)</td>
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<td>$671.37</td>
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<tr>
<td></td>
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<td>Step 3 (10 Years)</td>
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<td>Prevention Coordinator</td>
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#### 07/01/20 (Hourly)

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<tr>
<th>Position</th>
<th>Step 1</th>
<th>Step 2</th>
<th>Step 3</th>
<th>Step 4 (5 Yrs)</th>
<th>Step 5 (10 Yrs)</th>
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<td>Administrative Assistant</td>
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<td>$13.50</td>
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<td>Budget/Project Manager**</td>
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<td>GRA</td>
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<td>Parking Meter Clerk</td>
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<td>Production Assistant</td>
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<td><strong>Golf Course Positions</strong></td>
<td>Golf</td>
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<td>Pro Shop Supervisor</td>
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<td>$14.91</td>
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<td>$18.58</td>
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<td>Motor Equipment Repairman</td>
<td>GC-8</td>
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<td>$18.58</td>
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<tr>
<td>Maintenance Man</td>
<td>GC-9</td>
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<td>Working Foreman - Motor</td>
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<td><strong>Equipment Repairman, Library</strong></td>
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<td>Staff</td>
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<td>Librarian</td>
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<td>01/01/21</td>
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<td>Alternate Animal Control Officer</td>
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<td>Certified Pool Operator</td>
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<td>Election Inspector</td>
<td>$12.75</td>
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<tr>
<td>Election Clerk</td>
<td>$13.75</td>
<td>$14.50</td>
<td></td>
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<tr>
<td>Golf Course Laborer/Pro Shop</td>
<td></td>
<td></td>
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<tr>
<td>Assistant</td>
<td>GC-4</td>
<td>$13.00</td>
<td>$13.50</td>
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<td>GC-5</td>
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<td>Golf Course Ranger</td>
<td>GC-6</td>
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<tr>
<td>Head Life Guard</td>
<td></td>
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<td>$17.06</td>
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<td>Lifeguard</td>
<td>S-6</td>
<td>$13.00</td>
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<tr>
<td>Recreation Season Coach</td>
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<td>Recreational Playground Supervisor</td>
<td>(T-5)</td>
<td>$15.61</td>
<td>$17.06</td>
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<td>Temporary Seasonal Laborer</td>
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<tr>
<td>Temporary Seasonal Technical</td>
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<td>$14.65</td>
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</tbody>
</table>

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

%Community Development & Planning Administrative Coordinator Wages paid for by City, CDBG and GRA in the following approximate percentages: City - 84.5%, GRA 10.5% and CDBG 5%.

Section 2. Effective date.

This ordinance shall become effective upon passage and publication as required by law.
Position Purpose:
Performs professional, administrative and supervisory work in conducting all elections, registering voters, recording and issuing vital records, maintaining official municipal records, issuing various licenses and documents and serving as a source of public information on a wide variety of subjects relating to the City. Serves as the Clerk to the City Council. Performs all other related work as required.

Supervision:
Supervision Scope: Exercises independent judgment and initiative in the planning, administration and execution of services, and in the interpretation and application of laws, regulations and procedures. Performs a variety of responsible functions in accordance with state statutes and local ordinances.

Supervision Received: Supervised by the City Council President.

Supervision Given: Provides supervision to two full time employees, as well as 60 – 80 Poll Officials during elections.

Job Environment:
Work is performed under typical office conditions; work environment is moderately noisy. Incumbent is frequently required to work outside of normal working hours.

Operates computer, telephone, facsimile machine, copier, calculator, and other standard office equipment.

Employee has frequent contact with the public, the Mayor, City Councilors, state legislators and staff members, municipal department heads and employees and varied state agencies. Contacts are primarily in person, by telephone, in writing and by email. Contacts generally involve providing information in proper format or verbally in a technical or factual nature.

Errors could result in monetary loss, reduced levels of service, delay in the provision of services and could have legal and/or financial repercussions for the City.

Essential Functions:
(The essential functions or duties listed below are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

Manages all services and activities of the City Clerk’s Office and its divisions.
Manages and participates in the development and implementation of goals, objectives, policies, and priorities for assigned programs; recommends and administers policies and procedures.

Monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; recommends appropriate service and staffing levels.

Plans, directs, coordinates and reviews the work plan for staff; assigns work activities, projects and programs; reviews and evaluates work products, methods and procedures and meets with staff to identify and resolve problems.

Selects, trains, motivates and evaluates personnel; provides or coordinates staff training; works with employees to correct deficiencies and implements discipline and termination proceedings.

Serves as the Clerk of the City Council; reviews legislative petitions; prepares and distributes the Calendar and support materials as well as agendas and supporting materials for the standing committees.

Attends and records all sessions of the City Council and the Finance committee; transcribes Council and Committee minutes for approval, recording and posting.

Records all votes of the City Council, certifies and distributes as required; transmits Acts accepted by the City to the Secretary of State.

Records ordinances passed by the City Council for inclusion in City code; oversees publication of Code Supplementation. Transmits Zoning Ordinance amendments to the Attorney General’s Office.

Develops the Annual Report for the City Clerk, City Council, and Elections and Registrations.

Plans, supervises and coordinates activities required for the issuance and keeping of records of licenses and permits (e.g. dog licenses, raffle permits, business certificates) and official documents (i.e. birth, death and marriages).

Administers the oath of office to all municipal elected and appointed officials. Maintains a list of elected and appointed officials as required by law.

Develops and administers the annual budget for the City Clerk, City Council and Elections and Registrations; forecasts funds needed for staffing, equipment, materials and supplies; monitors and approves expenditures and implements adjustments.

Receives and transmits lawsuits/claims to the Insurance Company and/or Law Department.

Administers the Annual Census and publishes the street list.

Certifies documents for municipal and legal purposes
Administers campaign and political finance reporting program.

Certifies yearly to DOR (REAP Program) all licenses granted by the City Council, Board of Health, License, Commission, and Police Department.

Conducts all federal, state and local elections in the City.

Interviews and recommends for appointment all poll workers; conducts training sessions and supervises from 60 – 80 poll workers including Wardens, Clerks and Inspectors.

Contracts for polling facilities and supervises the arrangement of each polling site for Election Day activities; delivers absentee ballots to polling places.

Develops municipal election ballots; contracts for printing of ballots; tests voting equipment; procures elections supplies and publishes all legal notices.

Tally returns of votes from primaries and general elections and records results, transmits to the Secretary of State after each election a list of officials elected and certification of votes cast. Retains custody of ballot boxes.

Performs duties of Member and Clerk of the Board of Registrars of Voters; provides administrative support to the Board, including agenda preparation, distribution and transcribing meeting proceedings, posts agendas and minutes.

Serves as the liaison for the City Clerk’s Office, Board of Registrars of Voters and City Council with other departments and agencies.

Provides responsible assistance to the Mayor, City Council, Law Department and others in matters of legislative action, the Charter, City Code, Council Rules and procedures.

Develops and oversees the department’s records management program.

Files ZBA decisions on variances, accepts and files subdivision plans and notifies the Planning Board of any appeal.

Files, records and registers statutorily mandated transactions (e.g. conflict of interest disclosures, flammables storage, physician, optometrist and podiatrist registrations.

Performs similar or related work as required, directed or as situation dictates.

**Recommended Minimum Qualifications:**

**Education and Experience:**
Bachelor's degree in Business, Public Administration, Political Science, or related field; five years' experience in performing responsible duties in a City Clerk's Office or related field; experience working with computers; or any equivalent combinations of education and experience, however since this is an elected position, no standard can be set.

Special Requirements:
Must be a registered voter.
City resident preferred.
Possession of a valid driver's license
Certified Municipal Clerk, preferred
Notary Public, desirable

Knowledge, Ability and Skill:
Knowledge: Thorough knowledge of local, state and federal laws, regulations and procedures relating to the duties and responsibilities of a City Clerk. General knowledge of the organization, operations and procedures of local government. Working knowledge of office administration, record keeping and automated office systems and procedures.

Ability: Ability to establish and maintain effective and harmonious working relationships with city officials and departments, state agencies and the general public. Ability to communicate effectively in written and oral form. Ability to establish and maintain record keeping systems.

Skill: Excellent oral communication skills. Proficiency in Microsoft Office, VRIS (Voter Registration Information System), MUNIS, website management, SoftRight, software and all associated technology for Clerks. Excellent customer service skills.

Physical Requirements:
The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Regularly required to walk, stand, sit, talk, and hear; operate objects, tools, or controls; pick up paper, files and other common office objects. Ability to view computer screens and work with details for extended periods of time. Must be able to communicate.

(This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.)
The City of Gardner seeking a Full Time City Clerk

Under general supervision of the City Council and in accordance with the Commonwealth of Massachusetts statutes and City Ordinances, the City Clerk plans, controls and directs the function of the City Clerk's Department. This position is responsible for routine and complex administrative, coordination, procedural, supervisory and training duties in the management, direction, and operation of the functions in the Office of the City Clerk, City Council, Elections, and Registrars of Voters; accountable for the reliable and timely implementation of services relating to duties involving Public Information, Records, Licensing, and Legislative Administrator; Chief Election, Census/Voter Registration Administrator; and Local Registrar of Vital Records and Statistics. For full job description please visit www.gardner-ma.gov.

Requirements: Must possess a Bachelor’s degree in Business Administration or Accounting or any equivalent combination of education and experience. Experience in finance, cash management, data processing and administration. Demonstrated knowledge of MUNIS and Microsoft Word and Excel are required. Must be bondable; possess valid driver’s license, or ability to obtain one. City of Gardner resident preferred.

If you are interested and qualified, please submit a letter of interest and resume no later than 4:30 PM on Wednesday, November 25, 2020 to Debra A. Pond, Director of Human Resources, City of Gardner, 95 Pleasant Street, Rm 14, Gardner, MA 01440 or via e-mail to dpond@gardner-ma.gov.

Annual Salary: $83,764.63
EOC/M/F/V/D
Pursuant to G.L. c. 40A, § 5, notice is hereby given that the continued Joint Public Hearing of the City Council and Planning Board will be conducted on **Monday, November 16, 2020 at 6:00 P.M.** to consider designating 2 parcels of land at 525 Parker Street as a Development Overlay District 1. The Hearing will be held via Zoom and broadcast on the City of Gardner YouTube Channel. Interested parties desiring to offer testimony are encouraged to submit their comments in writing and e-mailed to the City Clerk at aagnelli@gardner-ma.gov or mailed to **City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440.** Parties desiring to address their comments via Zoom are required to pre-register in advance of the hearing by contacting the City Clerk by e-mail. The proposed Amendment is available for viewing on the City Council's webpage – [www.gardner-ma.gov/324/City-Council](http://www.gardner-ma.gov/324/City-Council) under **Informational Documents.**

 ALAN L. AGNELLI  
 CITY CLERK
July 13, 2020

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

Via: Hand Delivery

Ref.: Parker Place
525 Parker Place
Development Overlay District 1
Gardner, Massachusetts

Dear Council President and Members:

On behalf of Traven Development LLC, McCarty Engineering, Inc. (MEI) is hereby requesting that under section 675-530 of the City of Gardner Zoning Ordinance that the designation of the Development Overlay District 1, that was voted into action on April 18, 2006 and approved by Mayor Gerald E. St. Hilaire on April 19, 2006 continue to apply to the property situated at 525 Parker Street. Associated with this designation we are also hereby requesting that the approved use be amended from three- and four-unit condominiums to multi-unit residential buildings.

525 Parker Street consists of two parcels totaling approximately 16.2 acres. The properties are depicted on the City of Gardner Assessors Maps as parcels M22-1-6 and M22-6-27 both of which are zoned Industrial 1 and are configured such that they have frontage along Parker Street, Water Street and Parker Pond.

This parcel is the former location of one of Gardner’s premier furniture manufactures Gem Industries who specialized in the creation of dormitory furniture. The factory and parking areas were situated to the interior portions of the site while the perimeter was marked with undulating topography and wetland systems. In the early 2000s the factory was demolished and the site has remained vacant.

In harmony with the previously approved project and the City-wide growth and development policies, the applicant proposes to redevelop this parcel and construct three multi-family residential buildings, totaling 123 units.
The site has been configured such that the main access into the site will be off of Parker Street with an emergency access provided off of Water Street. The parking lots have been located within the interior of the site with the buildings positioned alongside the edge of the parking. This configuration allows for the buildings to buffer the parking areas to the abutting residences. Linked to this properties’ revitalization, an extensive landscape plan is proposed which will aid in accenting the building architecture, complimenting the natural elements while also providing buffering and screening. A traffic-assessment memorandum has been submitted with this cover letter detailing the potential impact this project would have on the surrounding area.

This request to amend the Overlay district is the first step in the permitting process. This project will require the filing for a Special Permit and Site Plan Review from the Planning Board and a Notice of Intent with the local Conservation Commission and DEP.

We feel this proposed development is consistent with the intent of the Development Overlay District 1 and we look forward to working with City Council on this matter. If you have any questions of comments, please feel free to contact our office.

Sincerely,

[Signature]

Lar Greene, RLA
P:\MEI\223-Olson\City Council\Docs\Revised Development 1 Overlay Requestletter.docx
INTRODUCTION

TEPP LLC to prepare this traffic-assessment memorandum (TAM) regarding the proposed Parker Estates apartment development in the City of Gardner, Massachusetts.

This TAM concludes that:

- relevant sight distances for the Parker Street/proposed driveway intersection provide for greater than the Parker Street speed limit
- the project is anticipated to have no significant impact on area traffic operations
- further traffic-impact analysis is not warranted

PROJECT DESCRIPTION

The existing site:

- has an area of about 706,849 square feet
- was previously developed as an industrial use
- fronts on the north side of Parker Street
- has residential development to the north and east
- has Parker Pond and a railroad to the west

The project:

- provides a total of 123 dwelling units in three three-story buildings
- includes a proposed driveway intersecting the north side of Parker Street about 700 feet (ft) west of Rock Street
• includes a proposed emergency-access driveway intersecting the west side of Water Street about 180 ft south of the end of the street

PARKER STREET

Parker Street:

• functions as arterial street
• connects the City central business district, to the east, and the Town of Templeton, to the west
• is under the jurisdiction of the City and is signed as Massachusetts Route 101

Parker Street near the site:

• is oriented about east-west
• has a tangent horizontal alignment
• includes a minor westbound downgrade
• has a marked travelway with one lane per direction
• has curb and sidewalk on the south side
• has asphaltic-cement-concrete pavement in poor-to-fair condition
• includes utility poles on the west side, some with luminaires
• provides access for residential development
• underpasses a railroad about 300 ft west of the proposed driveway location

WATER STREET

Water Street:

• functions as local street
• is oriented roughly north-south
• extends from Branch Street, to the south, to the end of the street, to the south, a length of about 650 ft
• is under the jurisdiction of the City

Water Street near the site:
• has tangent alignment that includes a turn about 140 ft south of the proposed driveway location
• included minor grades
• has an unmarked travelway providing one lane per direction
• has curb and sidewalk on the east side
• has asphaltic-cement-concrete pavement in fair-to-good condition
• includes utility poles on the north side, some with luminaires
• provides access for residential development

SIGHT DISTANCES

The American Association of State Highway and Transportation Officials (AASHTO) has established authoritative policy for sight distances at unsignalized intersections in terms of:

• stopping sight distance (SSD)
• optional intersection sight distance (ISD)

SSD:

• provides for safety
• enables a driver, on the major road, to perceive and react accordingly to a vehicle entering the major road from a minor road
• is conservative because it encompasses a wide range of brake-reaction times and deceleration rates

Optional ISD:

• is ordinarily greater than SSD and may enhance traffic operations
• is not required for safety

Table 1 shows relevant available sight distances for the Parker Street/proposed driveway intersection. Stopping sight distances are available for greater than the Parker Street speed limit.

---

2 AASHTO, pages 9-28 to 9-29.
Table 1. Sight distances for Parker Street/proposed driveway intersection.

<table>
<thead>
<tr>
<th>Movement and View</th>
<th>Available Sight Distance (ft)(^a)</th>
<th>Speeds (mph)</th>
<th>Limit</th>
<th>SSD</th>
<th>ISD</th>
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</thead>
<tbody>
<tr>
<td>Movement—Left Turns from Proposed Driveway</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>View—To and from Parker Street East Leg</td>
<td>700</td>
<td>30</td>
<td>50+</td>
<td>50+</td>
<td></td>
</tr>
<tr>
<td>View—To and from Parker Street West Leg</td>
<td>700</td>
<td>30</td>
<td>50+</td>
<td>50+</td>
<td></td>
</tr>
<tr>
<td>Movement—Right Turns from Proposed Driveway</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>View—To and from Parker Street East Leg</td>
<td>700</td>
<td>30</td>
<td>50+</td>
<td>50+</td>
<td></td>
</tr>
<tr>
<td>Movement—Left Turns from Parker Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>View—To and from Parker Street East Leg</td>
<td>700</td>
<td>30</td>
<td>50+</td>
<td>50+</td>
<td></td>
</tr>
</tbody>
</table>

\(^a\) From field assessment on June 30, 2020.

For the Water Street/proposed emergency-access driveway intersection, sight distances extend from the horizontal turn, to the south, and the end of street, to the north.

TRIP GENERATION

The Institute of Transportation Engineers (ITE) publishes trip-generation information in the authoritative *Trip Generation Manual*.\(^3\) This information is based on empirical data for a variety of land uses including multifamily housing (mid-rise), land use 221, based on dwelling units\(^4\)

Table 2 shows calculated weekday vehicle-trips for the proposed 123-dwelling-unit development as:

Table 2. Calculated weekday vehicle-trip generation.

<table>
<thead>
<tr>
<th>Time Period and Direction</th>
<th>Vehicle-Trips(^a)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
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<tr>
<td>Daily</td>
<td>669</td>
</tr>
<tr>
<td>AM-Street-Peak Hour</td>
<td>42</td>
</tr>
<tr>
<td>PM-Street-Peak Hour</td>
<td>54</td>
</tr>
</tbody>
</table>

\(^a\) Based on ITE, multifamily housing (mid-rise), land use 221, 123 dwelling units.


• daily, 669 (total of in and out)
• AM-street-peak hour, 42 (11 in and 31 out)
• PM-street-peak hour, 54 (33 in and 21 out)

POTENTIAL TRAFFIC IMPACTS

ITE suggests that land developments generating at least 100 peak-hour vehicle trips, in the busier direction, are candidates for consideration of traffic impact analysis.\(^5\) Tabulated peak-hour trip generation due to the proposed redevelopment is well below this national ITE threshold.

The proposed redevelopment is calculated to generate 42 to 54 vehicle-trips during tabulated peak hours, split:

• in versus out of the site
• along Parker Street to and from the east
• along Parker Street to and from the west

This represents averages of about:

• 10 to 14 vehicles per hour per direction on Parker Street east or west of the site
• 1 vehicle per 4 to 6 minutes per direction on Parker Street east or west of the site

On this basis, the proposed development is anticipated to have no significant impact on area traffic operations.

CONCLUSION

This TAM concludes that:

• relevant sight distances for the Parker Street/proposed driveway intersection provide for greater than the Parker Street speed limit
• the project is anticipated to have no significant impact on area traffic operations
• further traffic-impact analysis is not warranted

August 24, 2020

President Elizabeth J. Kazinskas
C/o Alan Agnelli, City Clerk
City Hall
95 Pleasant Street
Gardner, MA 01440

Subject: Amendment to Development Overlay District 1 – 525 Parker Street

Dear President Kazinskas:

At the Planning Board meeting held on Monday, August 17, 2020, the Planning Board voted 4-1 to recommend approval of the amendment to Development Overlay District 1 referenced above. The parcel is zoned industrial, has long been vacant, and is surrounded by residential uses, therefore, the amendment will prove beneficial for future development of area by encouraging the change in use.

The Planning Board looks forward to joining the City Council at a joint public hearing scheduled at its earliest convenience. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

Trevor M. Beauregard
Director, Community Development and Planning
August 10, 2020

Mark M. Schafron, Chairman
Gardner Planning Board
City Hall Annex, Room 201
115 Pleasant Street
Gardner, MA 01440

Re:  Renewed Petition by Traven Development LLC to renew the designation
of two (2) parcels at 525 Parker Street as a Development Overlay District 1

Dear Mr. Schafron:

Pursuant to G.L. Chapter 40A, § 5, the City Council voted to transmit to the Planning
Board for review and report the enclosed renewed Petition by Traven Development LLC to
renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District
1.

Should you have any questions, please feel free to contact me.

Very truly yours,

[Signature]
ALAN L. AGNELLI
City Clerk

Enclosures (2)
October 28, 2020

The Honorable Elizabeth J. Kazinskas, President
And City Councilors
Gardner City Hall, Rm 121
95 Pleasant St.
Gardner, MA 01440

RE: Leave to Withdraw Council Item #10326

Dear President Kazinskas and Councilors,

Due to the need for further study and review officials in the Administration, I ask for unanimous consent for Leave to Withdraw Council Item 10326: An Order Appropriating $75,000.00 from Free Cash to Pool Filtration System.

Respectfully Submitted,

[Signature]

Michael J. Nicholson
Mayor, City of Gardner
AN ORDER APPROPRIATING A SUM OF MONEY FROM FREE CASH TO 
POOL FILTRATION SYSTEM ACCOUNT.

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 the Pool Filtration System 
Account:
October 9, 2020

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

RE: Update regarding Items #10342 and 10343

Dear President Kazinskas and Councilors,

I wanted to write to you to give you an update on the status of the agenda items related to the potential expansion of Heywood Hospital.

My office has received questions from two councilors that have been forwarded to both Heywood and the relative city departments that relate to the subject matters of the question. These answers are being compiled and will be submitted to the Council when completed. If any other councilors have questions on the matter, please feel free to send them to my office and we will provide you with the answers.

I also want to make sure that the Council ample opportunity to review the draft lease agreement for the land. As such, I plan to submit this document to the City Council at least a week in advance of the November 2nd Regular Meeting of the City Council.

Please let me know if you have any further questions on this matter.

Respectfully,

Michael J. Nicholson
Mayor, City of Gardner
DECLARING SURPLUS FOR PURPOSE OF DISPOSAL
LAND OFF WOODLAND AVENUE

VOTED: To declare land available for the purpose of a lease to be negotiated between the Mayor and Heywood Hospital, in accordance with prevailing General Laws, the land off Woodland Avenue, further identified on the City of Gardner Assessor’s Map as R27-2-8B, and upon such other terms as the mayor shall consider proper in accordance with this Vote.
City of Gardner, Executive Department

Michael J. Nicholson, Mayor

September 24, 2020

The Honorable Elizabeth J. Kazinskas, President
And City Councilors
Gardner City Hall
95 Pleasant St., Rm 121
Gardner, MA 01440

RE: Request for Declaration of Land Available for Disposition

Dear President Kazinskas and Councilors,

As part of Heywood Hospital’s long term planning, the Hospital is exploring a potential expansion to add a new surgical and perioperative wing onto their existing building. In order to accomplish this, Heywood Hospital would have to lease a portion of land currently owned by the City.

President Brown and other members of the Heywood Administration have met with several of our department heads to present their plan and go over what needs to be done to ensure that their proposal meets all of the legal and environmental requirements that need to be followed.

Chapter 30B of the General Laws state, “if a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.” Per the guidance issued by the Inspector General’s office. This declaration must be made prior to the City entering into any negotiations for the lease of the property.

The current Covid-19 Pandemic has truly highlighted how blessed we are as a City to have Heywood Hospital located here. The services they offer to our residents, the partnerships they create with our community organizations, and their commitment to improving the quality of life in our City are invaluable. I am very happy to see that they are interested in continuing to invest in our City and make it so that services that currently require patients to travel to Boston or Worcester could now be done here in Gardner.

As such, I kindly ask the Council to declare the requested parcel of land as available for disposition in order to allow my office to begin lease negotiations with the administration of Heywood Hospital as the first step toward their expected expansion. Following successful negotiations, the Hospital would then enter into conversations with the Conservation Commission, Planning Board, Zoning Board of Appeals and all other relevant state and local boards and commissions, but those discussions cannot be held until they have title to the land through a lease.

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner
September 23, 2020

Michael J. Nicholson, Mayor
City of Gardner
95 Pleasant Street
Gardner, MA 01440

Dear Mayor Nicholson,

Heywood Hospital respectfully requests to enter into a lease agreement for land identified as Parcel H, a certain parcel of land situated west of Woodland Avenue, in Gardner Worcester County Massachusetts, and shown on the attached Exhibit Plan.

See attachment – Exhibit Plan.

Respectfully Submitted,

[Signature]

Win Brown, President and CEO
Heywood Healthcare
**Supplemental Data**

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**Notes**

**Appraised Value Summary**

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**Building Permit Record**

**Visit/Change History**

**Land Line Valuation Section**

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**Total Card Land Units** | 2.100 | **Total Land Value** | 54,700 |
AUTHORIZE LIFTING DEED RESTRICTION

VOTED: To authorize the Mayor to lift the deed restrictions to land deeded by the City of Gardner to Henry Heywood Hospital, as shown in deed recorded on March 26, 1998, with the Worcester District Registry of Deeds, in Book 19750, Page 159, with regards to Parcels A, B and C and the limitation to vehicular parking, loading areas and access driveway, and that the Mayor is authorized to take any other action necessary or convenient to carry out this vote.
September 24, 2020

The Honorable Elizabeth J. Kazinskas, President
And City Councilors
Gardner City Hall
95 Pleasant St., Rm 121
Gardner, MA 01440

RE: Request from Heywood Hospital to Lift Deed Restriction

Dear President Kazinskas and Councilors,

As a part of their long term planning process, Heywood Hospital has reached out to my office to request that a deed restriction listed on land that the City deeded to the Hospital on January 26, 1998, limiting the use of the property to vehicular parking, loading area, and access driveways.

A copy of their request, as well as a copy of the deed are attached to this letter.

Heywood Hospital is a vital resource to our community and I am happy to see that they are looking to continue to invest in our City.

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner
September 24, 2020

Michael J. Nicholson, Mayor
City of Gardner
95 Pleasant Street
Gardner, MA 01440

Dear Mayor Nicholson,

Heywood Hospital respectfully requests removal of deed restrictions to land deeded by the City of Gardner to Henry Heywood Hospital, on January 26, 1998, as shown in Book 1950, page 160. Heywood Hospital requests removal of restrictions on Parcels A, B, and C, which are currently limited to vehicular parking, loading areas and access driveways.

See attached, exhibit A.

Respectfully Submitted,

Win Brown, President and CEO
Heywood Healthcare
The INHABITANTS of the CITY OF GARDNER, a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts;

for consideration paid, and in full consideration of TWENTY FOUR THOUSAND FIVE HUNDRED ($24,500.00) DOLLARS,

grant to HENRY HEYWOOD MEMORIAL HOSPITAL of 242 Green Street; Gardner, Worcester County, Massachusetts,

with Quitclaim Covenants, the land in the City of Gardner, County of Worcester, Commonwealth of Massachusetts, bounded and described as follows:

Parcel A

A certain parcel of land situated off the westerly side of Woodland Avenue, in Gardner, Worcester County, Massachusetts, bounded and described as follows:

BEGINNING at the northeasterly corner thereof, at a drill hole at the end of a stone wall at land of Henry Heywood Memorial Hospital, and at the southeasterly corner of other land of the City of Gardner, being shown as Parcel "B" on a plan hereinafter referred to, said drill hole being located North 85° 54' 42" West, along a line that divides two parcels of said Hospital land, a distance of 132.00 feet from an iron pin in the westerly line of Woodland Avenue;

THENCE South 03° 45' 46" West, by said Hospital land 82.48 feet to a drill hole at a corner of land of David H. Gill;

THENCE South 04° 26' 23" West, by said Gill land 76.50 feet to a corner of other land of the City of Gardner, the preceding two courses being by a stone wall;

THENCE North 80° 49' 58" West, by said city land 430.19 feet to an iron pin at a corner of land of the first mentioned City of Gardner and Parcel "B" on said plan;

THENCE North 78° 19' 58" East, by said City land and Parcel "B" 445.23 feet to a drill hole at land of the first mentioned Henry Heywood Memorial Hospital and the point of beginning.

Containing 0.782 acres or 34,096 square feet.

No Right of Way is herein granted, nor is any by necessity to be implied. The grantee herein has access to a public road over other adjoining land owned by them.


Being a portion of the premises granted to the City of Gardner by deed of Henry E. Heywood et al dated September 6, 1933 and recorded in Worcester District Registry of Deeds, Book 2590, Page 230.

Parcel B

A certain parcel of land situated off the westerly side of Woodland Avenue, in Gardner, Worcester County, Massachusetts, bounded and described as follows:

BEGINNING at the southeasterly corner thereof, at a drill hole at the end of a stone wall at land of Henry Heywood Memorial Hospital, and at the northeasterly corner of other land of the City of Gardner, being shown as Parcel "B" on a plan hereinafter referred to, said drill hole being located North 85° 54' 42" West, by a line that divides two parcels of said Hospital land, a distance of 132.00 feet from an iron pin in the westerly line of Woodland Avenue;

THENCE South 78° 19' 58" West, by said City land and Parcel "A", 445.23 feet to an iron pin at a corner of other land of the City of Gardner;

THENCE North 04° 22' 10" West, by said City land 190.00 feet to a drill hole in a stone wall at a corner of land of Henry Heywood Memorial Hospital;
THENCE South 88° 03' 32" East, partly by a stone wall, 456.77 feet;
THENCE South 04° 05' 18" West, 84.15 feet to a drill hole at the northeasterly corner of the aforementioned Parcel "A", and the point of BEGINNING, the preceding two courses being by said hospital land.
Containing 1.404 acres or 61,159 square feet.

No Right of Way is herein granted, nor is any by necessity to be implied. The grantee herein has access to a public road over other adjoining land owned by them.

Being shown as Parcel "B" on a plan entitled: Plan of Parcels Prepared For the City of Gardner, Gardner, MA, Scale: 1 inch = 60 feet, July 16, 1997, Szoc Surveyors, 32 Pleasant St., Gardner, MA, Tel (508) 632-0233, to be recorded herewith in Worcester District Registry of Deeds.

Being a portion of the premises granted to the City of Gardner by deed of Henry E. Heywood et al dated September 6, 1933 and recorded in Worcester District Registry of Deeds, Book 2590, Page 230.

Parcel C

A certain parcel of land situated at the southeasterly intersection of the easterly line of Green Street with the southerly line of Matthews Street, in Gardner, Worcester County, Massachusetts, bounded and described as follows:

BEGINNING at the southwesterly corner thereof, at a point in the easterly line of Green Street, at a corner of land of Ann H. Damon;
THENCE northerly by a curve to the left having a radius of 1934.86 feet, an arc length of 40.46 feet to a point of tangency;
THENCE North 21° 51' 05" West, 29.76 feet to a bound at a point of curvature of a curve that rounds the southeasterly intersection of the easterly line of Green Street with the southerly line of Matthews Street, the preceding two courses being by the said line of Green Street;
THENCE northerly and northeasterly by a curve to the right, having a radius of 35.00 feet, an arc length of 44.41 feet to a point of tangency in the southerly line of Matthews Street;
THENCE North 50° 50' 25" East, by said street line 345.12 feet to a corner of other land of the City of Gardner, the grantor herein;
THENCE South 10° 54' 46" East, partly by a stone wall 245.14 feet to a drill hole at a corner of stone walls at a corner of land of the first mentioned Ann H. Damon;
THENCE South 74° 31' 03" West, by said Damon land and partly by a stone wall 309.90 feet to the easterly line of Green Street and the point of beginning.
Containing 1.255 acres or 54,692 square feet.

Being shown as Parcel "C" on a plan entitled: Plan of Parcels Prepared For The City of Gardner, Gardner, MA, Scale: 1 inch = 60 feet, July 16, 1997, Szoc Surveyors, 32 Pleasant St., Gardner, MA, Tel (508) 632-0233, to be recorded herewith in Worcester District Registry of Deeds.

Being a portion of the premises granted to the City of Gardner by deed of Heywood Farm, Inc. dated July 29, 1937 and recorded in Worcester District Registry of Deeds, Book 2701, Page 9.

This grant is made with the restriction that the use of the above described Parcels A, B and C shall be limited to vehicular parking, loading area and access driveways.

This conveyance complies with Massachusetts General Laws Chapter 44 Section 63A.
Witness my hand and seal this 26th day of January, 1998

CITY OF GARDNER

By [Signature]
Mayor

COMMONWEALTH OF MASSACHUSETTS


Then personally appeared the above named Charles J. Manca, Mayor of the City of Gardner, and acknowledged the foregoing instrument to be the free act and deed of the Inhabitants of the City of Gardner and his own free act and deed, before me.

[Signature]
Notary Public

My Commission Expires: 8-3-01

Property Address: Land off Woodland Avenue; Green Street & Matthew Street in Gardner, Massachusetts

3/26/98

Gardner, MA 01440

Please Return To
John F. Bohman, Esq.
P.O. Box 429
Gardner, MA 01440

ATT: WORC, Anthony J. Viglietti, Register
Proposed Amendment to Ordinance 10327 & 10328

Section 565.16. Enforcement

Section F:

To be amended to read: All appeals will be decided by the Mayor, and shall be final. Further relief shall be to a court of jurisdiction.

Respectfully submitted.

Councillor Judy Mack
October 27, 2020
CITY OF GARDNER
FIRST PRINTING
OCTOBER 23, 2020

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING A NEW CHAPTER 565, TO BE ENTITLED "STORMWATER MANAGEMENT," WHICH CHAPTER PROVIDES FOR STORMWATER AND EROSION CONTROL MEASURES, ILLICIT CONNECTIONS AND DISCHARGES TO THE STORMWATER DRAIN SYSTEM, ENFORCEMENT, AND PENALTIES FOR VIOLATION OF THE CHAPTER.

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

Section 1.

The Code of the City of Gardner is hereby amended by adding thereto a new chapter, to be Chapter 565, Stormwater Management, to read as follows:

ARTICLE I
Stormwater and Erosion Control

§ 565-1. - Purpose and intent.

(A) The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare of the city by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This ordinance seeks to meet that purpose through the following objectives:

(1) Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of Phase II of the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable State and Federal mandates. Under the Phase II stormwater permit, the U.S. Environmental Protection Agency (EPA) required regulated municipalities to reduce the discharge of pollutants in stormwater to the maximum extent practicable and to adopt ordinances to address the control of sources of pollutants entering the municipal storm drain system.

(2) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.

Page 1 of 18
(3) Require that new development, redevelopment and other land alteration activities maintain the after-development runoff characteristics as equal to or better than the pre-development runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.

(4) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.

(5) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards.

(6) Encourage the use of nonstructural stormwater management, environmentally sensitive site design practices, and low-impact development practices, such as reducing impervious cover, increasing site-wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.

(7) Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.

(8) Establish provisions to ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

(9) Establish provisions for the long-term operation and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.

(10) Establish certain administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, the inspection of construction sites and approved active projects, and long-term monitoring.
(11) Ensure that construction and waste materials, toxic materials, hazardous materials, and other pollutants are prevented from mixing with stormwater runoff, which would degrade water quality.

(12) Establish the City of Gardner's legal authority and capacity to ensure compliance with the provisions of this ordinance through permitting, inspection, monitoring, and enforcement.

(B) Nothing in this ordinance is intended to replace the requirements of the City of Gardner Zoning Ordinance, the Massachusetts Wetlands Protection Act, the City of Gardner General Ordinance, any other ordinance that may be adopted by the City of Gardner, or any rules and regulations adopted there under.

§ 565-2. - Purpose and intent.
This ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

§ 565-3. - Definitions.
The following definitions shall apply in the interpretation, implementation, and enforcement of this ordinance:

Alter
Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land-disturbing activities".

Applicant
Any person, individual, partnership, association, organization, firm, company, trust, corporation, agency, authority, department, or political subdivision of the commonwealth or the federal government, to the extent permitted by law, any officer, employee, or agent of such person who has filed an application for a stormwater permit.

Development
The modification of land to accommodate a new use, revised use, or expansion of use, usually involving construction.

Discharge of pollutants
The addition of any pollutant or combination of pollutants into the MS4 or into the waters of the United States or the waters of the commonwealth, from any source.
Environmentally sensitive site design: Design that incorporates low impact development techniques to prevent the generation of stormwater and nonpoint source pollution by reducing impervious surfaces, disconnecting stormwater sheet flow paths and treating stormwater at its source, maximizing open space, minimizing disturbance, protecting natural features and processes, and/or enhancing wildlife habitat, as defined in 310 CMR 10.

Impervious cover (IC) or impervious area (IA): Any material or structure on, above or below the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: roads, paved surfaces (parking lots, sidewalks, and driveways), concrete, brick, stone, and roof tops.

Infiltration
The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a site.

Land disturbance
Any action that causes removal of vegetation (including tree cutting) or that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also "alter."

Land-disturbing activity
Any action that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to, clearing, clearing of trees, grubbing, filling and excavation.

Low impact development (LID) techniques
Innovative stormwater management systems that are modeled after natural hydrologic features. See 310 CMR 10 for further clarification.

Massachusetts Stormwater Management Standards
The latest version as may be amended from time to time of the stormwater management standards and accompanying Stormwater Handbook issued by the Massachusetts Department of Environmental Protection Agency pursuant to authority under the Wetlands Protection Act, M.G.L.A. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L.A. c. 21, § 26-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).
Municipal separate storm sewer system (MS4) or Municipal storm drain system: The conveyance or system of conveyances designed or used for collecting or conveying stormwater, which is not a combined sewer, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Gardner.
Nonpoint source

Any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff. Nonpoint source pollution emanates from many diffuse sources caused by rainfall, snowmelt, or other methods of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

Point source

The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture.

Pollutant

Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any storm drain system treatment works, ground water or surface water. Pollutants shall include, without limitation:

A. Paints, varnishes, and solvents;
B. Oil and other automotive fluids;
C. Non-hazardous liquid and solid wastes and yard wastes;
D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
E. Pesticides, herbicides, and fertilizers;
F. Hazardous materials and wastes; sewage, fecal coliform, and pathogens;
G. Dissolved and particulate metals;
H. Animal wastes;
I. Rock, sand, salt, soils, with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of the MS4 and stormwater management systems;
J. Construction wastes and residues; and
K. Noxious or offensive matter of any kind.

Post-development

The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

Pre-development

The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads, utilities, etc.) the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.
Recharge
The replenishment of underground water reserves.

Reconstruction
Any action causing complete removal and replacement of paved surfaces, such as driveways, parking areas and roads.

Redevelopment
Any construction, alteration, improvement, repaving, or resurfacing on a previously-developed site.

Runoff
Rainfall or snowmelt water flowing over the ground surface or other source that may result in transport of pollutants.

Site
Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

Stockpiling
The storage of unsecured material for future use, excluding the storage of materials ten cubic yards or less when secured utilizing erosion controls to prevent erosion of material.

Stormwater
Stormwater runoff, snow melt runoff, and surface water runoff or drainage.

Stormwater best management practice (BMP)
A structural or non-structural technique for managing stormwater to prevent or reduce nonpoint source pollutants from entering surface waters or ground waters, as defined in 310 CMR 10. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, filter, or other stormwater treatment practice or measure either alone or in combination including, without limitation, any overflow pipe, conduit, weir control structure that:
A. Is not naturally occurring;
B. Is not designed as a wetland replication area; and
C. Has been designated, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater.
Nonstructural stormwater best management practices include source control and pollution prevention measures.

Stormwater management permit (SMP)
A permit issued by the stormwater authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the city from the deleterious effects of uncontrolled and untreated stormwater runoff.

Surface waters
All water other than groundwater within the jurisdiction of the commonwealth including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, and coastal waters, as defined in 310 CMR 10.00.

Toxic material or hazardous material or waste

Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous material include any synthetic organic chemical, petroleum, product, heavy metal, radioactive or infectious waste, acid, and alkali, and any substance defined as toxic or hazardous under M.G.L.A. c. 21C and c. 21E, and the regulations at 310 CMR 30.300 and 310 CMR 40.0000.

§ 565-4. - Applicability.

(A) This ordinance shall be applicable to the following activities. Compliance with all provisions of this ordinance, to the maximum extent practicable as determined by the stormwater authority, shall be a requirement for issuance of a stormwater management permit.

(1) All subdivisions as defined in the Massachusetts Subdivision Control Law (M.G.L.A. c. 41 §§ 81K—81GG) requiring approval of a definitive subdivision plan;

(2) Any activity that will result in a land disturbance of ten thousand square feet or greater within the City of Gardner.

(B) This ordinance shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this ordinance, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in this ordinance. A development shall not be segmented or phased in a manner to avoid compliance with this ordinance. The building department shall review all building permits to determine if a storm water management permit will be required, and, if required, will direct the applicant or potential applicant to the designated contact person at the department of public works.

(C) Coordination with other city permits.

(1) No building permit, subdivision approval, special permit, variance, or finding shall constitute compliance with this ordinance. For a project or activity that meets the scope and applicability of this section of this ordinance, no work may commence until the site owner or his agent submits the required documentation, the stormwater authority issues a stormwater permit, and the site owner and responsible parties sign and certify that all land clearing, construction and development will be done pursuant to the approved plans and permit.
(2) The ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

(3) In case of conflicting requirements, applicable state and or federal statutes and regulations shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the City of Gardner's Stormwater and Erosion Control Ordinance and the rules and regulations promulgated thereunder. These state statutes and regulations include, but are not limited to the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, and the Massachusetts Stormwater Management Standards, as amended.

(4) In no instances shall a stormwater management permit constitute authorization for alteration of wetland resources subject to the jurisdiction of the Wetlands Protection Act.

§ 565-5. - Exemptions.

(A) Exemptions from this ordinance apply to the following activities, provided that a project is solely comprised of any one of these activities:

(1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 ("Agricultural"), M.G.L.A. c. 40A, § 3 and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of best management practices recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.

(2) Any work or projects for which all necessary approvals and permits were issued before the effective date of this ordinance. All applicable and relevant regulations must be met; city, state and federal. (This exemption does not apply to amendments or extensions of approved projects that have not started construction. In these cases, the applicant may need to re-design the project to comply with these requirements.)

(3) Routine maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling. Routine maintenance includes activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.
(4) Construction of any fence that will not alter existing terrain or drainage patterns.

(5) Construction, reconstruction, operation and maintenance of utilities (including but not limited to gas, city stormwater, water, sanitary sewer, road maintenance, electric, telephone, or cable television) excluding the construction of new MS4, where the surface vegetation and contours of the area shall be substantially restored.

(6) Emergency repairs to any existing utilities (gas, water, sanitary sewer, septic, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety, as deemed necessary by the department of public works. All reasonable efforts must be made to use proper stormwater erosion controls in all emergency repairs.

(7) Repair, replacement or expansion of septic systems. Note—Proper erosion controls must be used.

§ 565-6. – Administration and permitting process.

(A) Stormwater Authority. The Department of Public Works is hereby designated as the stormwater authority. The stormwater authority, or his/her agent, shall administer, implement, and enforce this ordinance. The Department of Public Works may delegate in writing another city department, commission or board to act as his/her agent to review application submittals and for site inspections and enforcement of this ordinance.

(B) Stormwater and Erosion Control Regulations ("Regulations"). The stormwater authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, delegation of authority, procedures and administration of this ordinance. Failure of the stormwater authority to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this ordinance.

(C) Stormwater Management Handbook. The stormwater authority will utilize the Massachusetts Stormwater Management Standards and the Massachusetts Stormwater Handbooks, as amended from time to time, for criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Handbook for the execution of the provisions of this ordinance. These include a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Unless specifically made more stringent in this ordinance and the rules and regulations promulgated hereunder, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Handbooks' design and sizing criteria shall be presumed by the stormwater authority to be protective of the Massachusetts Water Quality Standards.
(D) Stormwater Management Permit. The Stormwater Authority shall have the authority to issue a Stormwater Management Permit (SMP) for projects exceeding the thresholds defined in this Ordinance. Requirements of the SMP may be defined and included within the regulations promulgated pursuant to this Ordinance.

(E) Appeals of Actions by the Stormwater Authority. A decision by the stormwater authority made under this ordinance shall be final. Further relief shall be to the Superior Court in accordance with the provisions of M.G.L.A c. 249, § 4.

§ 565-7. – Enforcement.

(A) The stormwater authority, or an authorized agent of the stormwater authority, shall enforce this ordinance, and any regulations, permit orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for violations.

(B) If a person violates the provisions of this ordinance or its regulations, or a permit, notice or order issued there under, the stormwater authority may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.

(C) The stormwater authority, or an authorized agent of the stormwater authority, may issue a written order to enforce the provisions or this ordinance or the regulations, which may include requirements to:

1. Cease and desist from land-disturbing activity until there is compliance with the ordinance or provisions of an approved SMP;

2. Maintain, install or perform additional erosion and sediment control measures;

3. Perform monitoring, analyses, and reporting;

4. Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;

5. Comply with requirements in the SMP for operation and maintenance of stormwater management systems; and

6. Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems. If the stormwater authority or its authorized agent determines that abatement or remediation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

(D) Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the stormwater authority may elect to utilize the non-criminal disposition procedure set forth in
M.G.L.A c. 40, § 21D, in which case any police officer of the City of Gardner, the city engineer, and such other persons as are authorized by the stormwater authority shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this ordinance, regulation, order or permit issued thereunder, shall be punished as follows:

(1) First violation: Warning

(2) Second violation: one hundred dollars

(3) Third violation: two hundred dollars

(4) Fourth and subsequent violations: three hundred dollars.

(5) Each day a violation exists shall constitute a separate violation. Each day of noncompliance shall constitute a new and separate violation. The conservation agent, DPW personnel and any other city employee designated in writing by the Stormwater Authority, may as an alternative to initiating criminal proceedings, seek the noncriminal disposition of violations of the Storm Water Ordinance, by following the procedure set forth in M.G.L.A. c. 40, § 21D. Any person, corporation, company, or partnership that violates any provision of this ordinance shall be subject to a penalty of one hundred dollars for the second offense, two hundred dollars for the third offense, and three hundred dollars for the fourth and each additional offense.

(E) Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available to the stormwater authority or the city under any applicable federal, state or local law.

§ 565-8. - Severability.

(A) The invalidity of any section, provision, paragraph, sentence, or clause of this ordinance shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

ARTICLE II
Illicit Connections and Discharges to the Storm Drain System

§ 565-9. - Purpose and Authority.
(A) The purpose of this article is to regulate illicit connections and discharges to the storm drain system, which is necessary for the protection of Gardner's water bodies, groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this article are:

(1) To prevent pollutants from entering Gardner's municipal separate storm sewer system (MS4).

(2) To prohibit illicit connections and unauthorized discharges to the MS4.
(3) To require the removal of all such illicit connections.

(4) To comply with state and federal statutes and regulations relating to stormwater discharges.

(5) To establish the legal authority to ensure compliance with the provisions of this article through inspection, monitoring and enforcement.

(6) To prevent contamination of drinking water supplies.

(B) Authority. The Department of Public Works shall administer, implement and enforce this article.

§ 565-10. - Definitions.

For the purposes of this article, the following shall mean:

**Authorized enforcement agency**

The Department of Public Works, its employees or agents designated to enforce this article.

**Best management practice (BMP)**

An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improved the quality of stormwater runoff.

**Clean Water Act**

The Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.) as hereafter amended.

**Discharge of pollutants**

The addition from any source of any pollutant or combination of pollutants into the storm drain system or into the waters of the United States or Commonwealth from any source.

**Groundwater**

All water beneath the surface of the ground.

**Illegal discharge**

Any direct or indirect nonstormwater discharge to the storm drain system, except as specifically exempted in sections 5(4) and 5(5). The term does not include a discharge in compliance with an NPDES stormwater discharge permit.

**Illicit connection**

Any surface or subsurface drain or conveyance, which allows an illegal discharge into the storm drain system. Illicit connections include conveyances which allow a nonstormwater discharge to the storm drain system, including sewage, process wastewater or wash water and any connections
from indoor drains, sinks, or toilets, regardless of whether such connection was previously allowed, permitted, or approved before the effective date of this article.

**Impervious surface**

Any material or structure on or above the ground that prevents water from infiltrating the underlying soil.

**Municipal separate storm sewer system (MS4) or municipal storm drain system**

The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system; street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Gardner.

**National pollutant discharge elimination system (NPDES) storm water discharge permit**

A permit issued by United States Environmental Protection Agency or jointly with the state that authorized the discharge of pollutants to waters of the United States.

**Nonstormwater discharge**

Any discharge to the storm drain system, not composed entirely of stormwater.

**Person**

Any individual, partnership, association, firm, company, trust, corporation, and, any agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**Pollutant**

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include:

A. Paints, varnishes and solvents.
B. Oil and other automotive fluids.
C. Nonhazardous liquid and solid wastes and yard wastes.
D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables.
E. Pesticides, herbicides and fertilizers.
F. Hazardous materials and wastes; sewage, fecal coliform and pathogens.
G. Dissolved and particulate metals.
H. Animal wastes.
I. Rock, sand, salt, soils, with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of the MS4 and stormwater management systems;
J. Construction wastes and residues.
K. Noxious or offensive matter of any kind.
Process wastewater
Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Recharge
The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Storm drain system
The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system on public or private ways within the City of Gardner.

Stormwater
Runoff from precipitation or snow melt.

Toxic or hazardous material or waste
Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under G.L. chapters 21C and 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

Uncontaminated
Water containing no pollutants.

Wastewater
Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Waters of the commonwealth
All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

§ 565-11. - Applicability.
This article shall apply to flows entering the storm drain system on public or private ways with the City of Gardner.
§ 565-12. - Regulations.

The Department of Public Works may promulgate rules, regulations and a permitting process to effectuate the purposes of this article. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this article.

§ 565-13. – Prohibited activities.

(A) Illegal Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or nonstormwater discharge into the storm drain system, watercourse, or into the waters of the commonwealth.

(B) Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(C) Obstruction of Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater in or out of the storm drain system without prior approval from the Department of Public Works or its designated agent.

(D) Exemptions. This section shall not apply to any of the following nonstormwater discharges or flows provided that the source is not a significant contributor of a pollutant to the storm drain system:

(1) Municipal waterline flushing.

(2) Discharges from landscape irrigation or lawn watering.

(3) Water from individual residential car washing and temporary fund-raising car wash events.

(4) Discharges from dechlorinated swimming pool water, provided it is allowed to stand for one week prior to draining, or tested for chlorine levels with a pool test kit prior to draining (less than one part per million chlorine), and the pool is drained in such a way as not to cause a nuisance.

(5) Discharges from street sweepers of minor amounts of water during operations.

(6) Discharges or flows resulting from fire fighting activities.

(7) Nonstormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.

(E) Exemptions with Permit from Department of Public Works. This section shall not apply to any of the following nonstormwater discharges or flows, provided that the source is not a
significant contributor of a pollutant to the storm drain system, and provided that a permit is
approved by the Department of Public Works:

(1) Flows from potable water sources.

(2) Springs.

(3) Natural flows from riparian habitats and wetlands.

(4) Diverted stream flows.

(5) Rising groundwater.

(6) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or
uncontaminated pumped groundwater.

(7) Uncontaminated groundwater discharge from a sump pump, with a permit from the
Department of Public Works.

(8) Water from exterior foundation drains, footing drains (not including active
groundwater dewatering systems, such as dewatering excavations for foundation or
pipelines), crawl space pumps, or air conditioning condensation.

(9) Dye testing, provided verbal notification is given to the Department of Public
Works prior to the time of the test.

(10) Unforeseen sources, on a case by case basis
The Department of Public Works may develop criteria for issuing permits under this
section, based on the need to maintain capacity of the storm drain system and to protect
public health, safety, welfare of the environment.

§ 565-14. – Suspension of storm drain system access.

(A) The Department of Public Works may suspend storm drain system access to any person or
property without prior written notice when such suspension is necessary to stop an actual or
threatened illegal discharge that presents or may present imminent risk of harm to the public health,
safety, welfare or the environment. In the event, any person fails to comply with an emergency
suspension order, the authorized enforcement agency may take all reasonable steps to prevent or
minimize harm to the public health, safety, welfare or the environment.

(B) Any person in violation of this section may have their storm drain system access terminated,
if such termination would abate or reduce an illicit discharge. The Department of Public Works
will notify a violator of the proposed termination of storm drain system access. The violator may
petition the Department of Public Works for reconsideration and hearing. Any person who
reinstates storm drain system access to premises terminated pursuant to this section, without prior
approval from the Department of Public Works, shall be deemed to have violated this article.
§ 565-15. – Notification of spills.

(A) Notwithstanding any other requirements of local, state, or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility operation which is resulting or may result in illegal discharge of pollutants that person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Gardner Fire and Police departments. In the event of a release of nonhazardous material, such person shall notify the authorized enforcement agency not later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the authorized enforcement agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 565-16. - Enforcement.

(A) Enforcement. The Department of Public Works or its authorized agent shall enforce this article, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

(B) Civil Relief. If anyone violates the provisions of this article, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compel the person to abate or remediate the violation.

(C) Orders. The Department of Public Works may issue a written order to enforce the provisions of this article or the regulations thereunder, which may include: (1) elimination of illicit connections or discharges to the storm drain system; (2) termination of access to the storm drainage system; (3) performance of monitoring, analyses, and reporting; (4) cessation of unlawful discharges, practices, or operations; and (5) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation. Such order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the city may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.

Within thirty days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the city, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department of Public Works within thirty days following a decision of the receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty days following a decision of the Department of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of such costs. Interest shall begin
to accrue on any unpaid costs at the statutory rate provided in G.L. chapter 59, section 57 after the thirty-first day at which the costs first become due.

(D) Noncriminal Disposition. As an alternative to criminal prosecution or civil action, the City of Gardner may elect to utilize the noncriminal disposition procedure set forth in G.L. chapter 40, section 21D. The Department of Public Works shall be the enforcing entity. The penalty for the 1st violation shall be one hundred dollars. The penalty for the 2nd violation shall be two hundred dollars. The penalty for the 3rd and subsequent violations shall be three hundred dollars. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(E) Entry to Perform Duties under this Article. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this article and regulations and may make or cause to be made such examinations, surveys or sampling as the Department of Public Works deems reasonably necessary.

(F) Appeals. The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

(G) Remedies Not Exclusive. The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 565-17. - Severability.

(A) If any provision, paragraph, sentence, or clause, of this article shall be held invalid for any reason, all provisions shall continue in full force and effect.

A TRUE COPY, ATTEST:
ALAN L. AGNELLI, CITY CLERK

Oct 23 (it)
AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING A NEW CHAPTER 565, TO BE ENTITLED "STORMWATER MANAGEMENT," WHICH CHAPTER PROVIDES FOR STORMWATER AND EROSION CONTROL MEASURES, ILLICIT CONNECTIONS AND DISCHARGES TO THE STORMWATER DRAIN SYSTEM, ENFORCEMENT, AND PENALTIES FOR VIOLATION OF THE CHAPTER. The complete text is available in the City Clerk's Office and posted on the City of Gardner website at https://www.gardner-ma.gov/324/City-Council under INFORMATIONAL DOCUMENTS.

A TRUE COPY, ATTEST:
ALAN L. AGNELLI, CITY CLERK

Oct 23 (t)}
FIRST PRINTING OCTOBER 23, 2020 AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING A NEW CHAPTER 565, TO BE ENTITLED “STORMWATER MANAGEMENT,” WHICH CHAPTER PROVIDES FOR STORMWATER AND EROSION CONTROL MEASURES, ILLICIT CONNECTIONS AND DISCHARGES TO THE STORMWATER DRAIN SYSTEM, ENFORCEMENT, AND PENALTIES FOR VIOLATION OF THE CHAPTER. The complete text is available in the City Clerk’s Office and posted on the City of Gardner website at https://www.gardner-ma.gov/324/City-Council under INFORMATIONAL DOCUMENTS. A TRUE COPY, ATTEST: ALAN L. AGNELLI, CITY CLERK Oct23 -1t

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