CITY OF GARDNER IN CITY COUNCIL

REGULAR MEETING OF MARCH 2, 2020

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 2, 2020.

CALL TO ORDER

Council President James Walsh called the meeting to order at 7:30 o'clock p.m.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

OPENING PRAYER

President Walsh led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

President Walsh led the Council in reciting the "Pledge of Allegiance".

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

READING & ACCEPTANCE OF MINUTES

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the February 18, 2020 Joint Convention and Regular Meeting, as printed.

COMMUNICATIONS FROM THE ACTING MAYOR

ORDERS

#10250

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer the following Order to the Finance Committee for study and report:

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2019 ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Fifty-Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 ($52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

#10251

On a motion by Councillor Elizabeth Kazinskas and seconded by Councillor Ronald Cormier, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer the following Order to the Finance Committee for study and report:

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Fifty-four Thousand Eight Hundred Eighteen and 67/100 ($54,818.67) from Free Cash to the Firefighters Salary and Wages Account.

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

#10252

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Judy Mack, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer *A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1* to the Public Welfare Committee for study and report and to the Planning Board for Report.

REPORTS OF STANDING COMMITTEES

PUBLIC SAFETY COMMITTEE

#10216

Councillor Craig Cormier, Chairman of the Public Safety Committee, reported that the Committee met recently with Public Health Director Saunders and discussed the City's contract with Waste Management. He said that the contract prices were predicated on China's acceptance of the City's recyclables, but since China no longer accepts recyclables, a fee increase is necessary. He said that the Health Director sought an increase of $10 per quarter; however, the Committee suggested an increase of $7.00 per quarter for the first year and an additional dollar per quarter for each year thereafter. He added that the Committee was mindful of trash collection costs, in light of the recent increase in sewer user fees.

Councillor Craig Cormier moved to order the following revised Ordinance amendment to First Printing:

> AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560 THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE COLLECTION.
>
> Be it ordained by the City Council of the City of Gardner as follows:
>
> Section 1. Section 560-3 B. of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be, as follows:
>
> | | |
> |---|---|
> | Effective July 1, 2020 | $228.00 |
> | Effective July 1, 2021 | $232.00 |
> | Effective July 1, 2022 | $236.00 |
> | Effective July 1, 2023 | $240.00 |
>
> Section 2. Effective date.
> This ordinance shall become effective upon passage and publication as required by law.

Councillor George Tyros seconded the motion.

On the motion, Councillor Scott Graves stated that the spreadsheet proposes variations in increases and projected increases in costs. He said that the spreadsheet shows that for Fiscal Year 2017-18, there was a 10% increase in expenses and the next year, a 6% increase and for the year after that, a 7% increase. Continuing, he said that on the spreadsheet, "we're using 3% increases for the next several years." "So," he said, "what I don't understand is, I don't want to run out of money sooner that we think we're going to run out of money." "10% increases, 6% increases, 7% increases. Why are we using 3% increases for future years?" he added.

In response, Councillor Craig Cormier stated that Ms. Saunders was seeking a single increase of $10.00 per quarter; however, based on her recommendation, the Committee was able to break down implementation to 7 dollars per quarter per year and then one dollar per quarter each year thereafter.

Councillor Graves responded, "I am not talking about the proposed increase to the taxpayers in their bills. I am talking about trying to extrapolate into the future when we are going to run out of money. If we don't do anything, we are going to run out of money in 2022, so we need to do an increase so we don't run out of money." "So," he continued, "the proposals were $30 per year and $40 per year for the taxpayers. But, the spreadsheet is showing that the cost

of solid waste disposal over the years is increasing, not to the taxpayers, but increasing to the City - 10% in 2017, 6% in 2018, and 7% in 2019." "And, he said, "We are anticipating 3% increases. I just don't know why we're anticipating 3% increases in the cost of rubbish, when for the last three years that we know about were 10%, 6%, and 7%. I just think using 3% doesn't sound feasible, unless the Director is telling you that the cost of rubbish is going to go down?"

Councillor Craig Cormier responded, saying that in 2018, China started to reject recyclable materials, so the existing contract did not take into account that recyclable materials would be rejected; therefore, it costs the City more to dispose. "And," he added, "I believe that we are in the process or have finished negotiating the waste management contract and that this will be a far more stable projection."

Responding to Councillor Cormier's remarks, Councillor Graves stated, "I assume that the Law Department didn't look at this because the new language says $230 per each unit of apartment buildings containing eight or fewer units in the City." "That phrase," he said, "is just legally untenable. First of all, we don't know what a unit of apartment buildings means. Because the word apartment is already defined in the Ordinance, all it needs to say is '$230 per household and $230 per apartment'. It's simple as that.'" "So," he said, "I hope this goes to the Law Department between printings before it's going to pass. And, we also need definitions in this Ordinance. Apartment unit isn't defined if you leave it in there - you have to define apartment unit. Unit is not defined, household is not defined, and apartment building is not defined. So, you need those definitions."

Continuing, Councillor Graves said, "So, substantively, I'm in favor of the $10 a quarter increase. Mayor Hawke's letter is actually inaccurate. He [Hawke] says something like … 'would grow retained earnings at a rapid rate,' which is incorrect. If we do the $10 per quarter increase up to $240 a year, we'll run out of money, using the 3% cost increases as opposed to what I think is much higher than that - use the 3%, we would run out of money by 2028." "So," he continued, "that will give us 6 years without screwing around with money. I just think that $10 per quarter – I know it's not good, nobody wants to pay an increase of $10 – but I just think that that is what I would be in favor of. And that takes us to 2028."

Concluding, Councillor Graves stated that under General Laws Chapter 44, section 28C, and Chapter 560-3A of the Code, the Mayor and City Council must approve changes to the rates." "I don't know if that's an issue or not," he said, "I know the Waste Management Contract runs out June 30, so I think you could make the argument or the City could make the argument that as a 'matter not admitting of delay,' I think it's an issue that we can look at or maybe the Law Department did look at it – that it need the Mayor and the City Council to approve it. We can approve anything we want, but the Mayor still has to –but we don't have a Mayor. So again, maybe the Acting Mayor can do it. I don't know."

On the motion, Councillor Elizabeth Kazinskas stated that the issue could be revisited each year and that fees can be changed.

Councillor Aleksander Dernalowicz questioned the dialogue concerning the percentage fee increase in the first year, suggesting that it represents 14%, while discussion noted 3%.

President Walsh stated that the 3% cited represents the projected costs to the City and the proposed fee increase is to the ratepayer for rubbish service.

On the motion, it was voted viva voce, nine (9) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros; one (1) nay, Councillor Scott Joseph Graves, to Order the following Ordinance to First Printing:

> AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560 THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE COLLECTION.
>
> Be it ordained by the City Council of the City of Gardner as follows:
>
> Section 1. Section 560-3 B. of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be, as follows:
>
> | | |
> |---|---|
> | Effective July 1, 2020 | $228.00 |
> | Effective July 1, 2021 | $232.00 |
> | Effective July 1, 2022 | $236.00 |
> | Effective July 1, 2023 | $240.00 |
>
> Section 2. Effective date.
> This ordinance shall become effective upon passage and publication as required by law.

FIRST PRINTING – MARCH 6, 2020

PUBLIC WELFARE COMMITTEE

#10207

Councillor Scott Graves, Chairman of the Public Welfare Committee, reported that the Committee initially discussed the Ordinance amendment, then followed by the public hearing where Mr. Chris Pera provided good recommendations. The Planning Board then made some of the changes suggested by Mr. Pera. The Committee then met earlier in the evening and a majority decided in favor of the Planning Board's revisions.

Councillor Graves moved that the Ordinance be ordered to First Printing with Sections 1 and 2 of the amendment be revised to read, as follows:

> Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:
>
> > Within an area formed by the curb lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.
>
> Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:
>
> > Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting curb lines and straight line joining the point of said curb line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Councillor Judy Mack seconded the motion.

On the motion by Councillor Graves and seconded by Councillor Mack, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to Order the following Ordinance to First Printing:

> AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO REVISE ARTICLE VI, DENSITY AND DIMENSIONAL REGULATIONS, AND ARTICLE X, SUPPLEMENTAL REGULATIONS.
>
> Be it ordained by the City Council of the City of Gardner, as follows:
>
> Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:
>
> > Within an area formed by the curb lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.

Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:

> Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting curb lines and straight line joining the point of said curb line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

FIRST PRINTING – MARCH 6, 2020

NEW BUSINESS

On a motion by Councillor Nathan Boudreau and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to consider New Business.

Councillor Karen Hardern reminded voters to cast their ballots on Tuesday.

President Walsh informed the Council that the information that he requested from the City Solicitor and Human Resources Director regarding the two Orders before the Finance Committee would be distributed to the Councillors when it is received.

CLOSING PRAYER

President Walsh led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Scott Joseph Graves and seconded by Councillor George Tyros, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to adjourn at 7:49 p.m.

Accepted by the City Council: ***March 16, 2020***

City of Gardner, Massachusetts
Office of the City Council

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CALENDAR FOR THE MEETING
of
MONDAY, MARCH 2, 2020
COUNCIL CHAMBER
7:30 P.M.

ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

III. OPENING PRAYER

IV. PLEDGE OF ALLEGIANCE

V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

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

VI. READING OF MINUTES OF PRIOR MEETING(S)

Reading and Approval of the Minutes of the February 18, 2020 Joint Convention and the Regular Meeting.

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE ACTING MAYOR

10250 – An Order Appropriating $52,788.00 from Free Cash to FY2019 Firefighters Salary and Wages Account *(Finance Committee).*

10251 – An Order Appropriating $54,818.67 from Free Cash to the Firefighters Salary and Wages Account *(Finance Committee).*

IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10252 – A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1 *(Public Welfare Committee and Planning Board).*

X. REPORTS OF STANDING COMMITTEES

PUBLIC SAFETY COMMITTEE

10216 – An Ordinance to Amend the Code of the City of Gardner, Chapter 560 Thereof, Entitled "Solid Waste," to Change Solid Waste Program Fees *(In City Council and Referred to Public Safety, 12/2/2019).*
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X. REPORTS OF STANDING COMMITTEES

PUBLIC WELFARE COMMITTEE

10207 – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled "Zoning," to Amend Section 675-610, General Requirements, Sec. F and Section 675-1050, Fences and Hedgerows *(In City Council and Referred to Public Welfare for study and report and to the Planning Board for Report, 11/18/2019; Public Hearing, 1/21/2020; Planning Board Final Report filed, 2/3/2020).*

XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

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.

CITY OF GARDNER IN CITY COUNCIL

JOINT CONVENTION OF FEBRUARY 18, 2020

Tuesday evening, February 18, 2020. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President James Walsh at 7:00 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee for four years.

City Clerk Alan L. Agnelli called the Roll of Convention. Present were:

Members of the City Council (10)

James M. Walsh, President
James S. Boone
Nathan R. Boudreau
Craig R. Cormier
Ronald F. Cormier
Aleksander Dernalowicz
Scott Joseph Graves
Karen G. Hardern
Elizabeth J. Kazinskas
George C. Tyros

Members of the School Committee (6)

James R. Abare
Rachel A. Cormier
Anne F. Hurst
John M. LaFreniere
Jennifer Z. Pelavin
Robert J. Swartz

Councillor Judy A. Mack was absent.

Council President James Walsh called for nominations from the floor.

Councillor Scott Joseph Graves nominated Councillor James S. Boone. Councillor Nathan Boudreau seconded the nomination.

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Karen Hardern, it was voted viva voce to close nominations.

The City Clerk called the roll.

On Call of the Roll:

Councillor James S. Boone voting for James S. Boone
Councillor Nathan R. Boudreau voting for James S. Boone
Councillor Craig R. Cormier voting for James S. Boone
Councillor Ronald F. Cormier voting for James S. Boone
Councillor Scott Joseph Graves voting for James S. Boone
Councillor Karen G. Hardern voting for James S. Boone
Councillor Elizabeth J. Kazinskas voting for James S. Boone

UNACCEPTED/UNCORRECTED

James R. Abare voting for James S. Boone
Rachel A. Cormier voting for James S. Boone
Anne F. Hurst voting for James S. Boone
John M. LaFreniere voting for James S. Boone
Jennifer Z. Pelavin voting for James S. Boone
Robert J. Swartz voting for James S. Boone

Having received sixteen (16) votes, James S. Boone was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 18, 2024.

On a motion by Councillor Scott Graves and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce to adjourn at 7:03 p.m.

Accepted by the City Council:

UNACCEPTED/UNCORRECTED PROOF

CITY OF GARDNER IN CITY COUNCIL

REGULAR MEETING OF FEBRUARY 18, 2020

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Tuesday evening, February 18, 2020.

CALL TO ORDER

Council President James Walsh called the meeting to order at 7:30 o'clock p.m.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros. Councillor Judy Mack was absent.

OPENING PRAYER

President Walsh led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

President Walsh led the Council in reciting the "Pledge of Allegiance".

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

READING & ACCEPTANCE OF MINUTES

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to waive reading and to accept the Minutes of the February 3, 2020 Informal and Regular Meetings, as printed.

COMMUNICATIONS FROM THE ACTING MAYOR

ORDER

#10249

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Committee discussed the matter with the parties involved and that it represents the City's

UNACCEPTED/UNCORRECTED PROOF

share of Phase 1 design and Phase 1 construction. He said that in the past, the Council voted to accept the land along Bailey Brook and that studies have shown that the area has grown to a point where a recreational area is needed and that the money must be spent by June 1 for the design portion. He added that former Mayor Hawke designated this item be taken from Free Cash and that the Committee voted unanimously to recommend the Order.

Councillor Ronald Cormier moved to adopt the following Order:

> AN ORDER APPROPRIATING FROM FREE CASH TO PARC BAILEY BROOK CAPITAL PROJECT.
>
> ORDERED: That there be and is hereby appropriated the sum of One Hundred Seventy-Five Thousand Dollars and No Cents ($175,000.00) from Free Cash to PARC Bailey Brook Capital Project.

Councillor Elizabeth Kazinskas seconded the motion.

On the motion, Councillor Scott Graves stated that he noticed that the Order came down from Acting Mayor James Walsh and in his letter, "the word 'urgency' was used." "I just want to say that I want to be consistent with the Charter. I believe this issue is a matter not admitting of delay, so I will support this," he added.

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, on recommendation of the Finance Committee, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to adopt the following Order:

> AN ORDER APPROPRIATING FROM FREE CASH TO PARC BAILEY BROOK CAPITAL PROJECT.
>
> ORDERED: That there be and is hereby appropriated the sum of One Hundred Seventy-Five Thousand Dollars and No Cents ($175,000.00) from Free Cash to PARC Bailey Brook Capital Project.

Presented to the Acting Mayor for Approval – February 19, 2020
Approved – February 19, 2020
JAMES M. WALSH, Acting Mayor

UNACCEPTED/UNCORRECTED PROOF

REPORTS OF STANDING COMMITTEES

PUBLIC SAFETY COMMITTEE

#10216

Councillor Craig Cormier, Chairman of the Public Safety Committee, reported that the Committee plans to meet in the following weeks, so that more time is needed.

There being no objections, the Public Safety Committee was granted more time to study and report on the following Ordinance:

> AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560 THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE COLLECTION.
>
> Be it ordained by the City Council of the City of Gardner as follows:
>
> Section 1. Section 560-3 of the Code of the City of Gardner, is hereby amended by striking the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the sentence: "Effective July 1, 2020, the annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $230 per household and each unit of apartment buildings containing eight or fewer units in the City.
>
> Section 2. Effective date.
>
> This ordinance shall become effective upon passage and publication as required by law.

PUBLIC WELFARE COMMITTEE

#10207

There being no objections, the Public Welfare Committee was granted more time to study and report on the following Ordinance:

> AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO REVISE ARTICLE VI, DENSITY AND DIMENSIONAL REGULATIONS, AND ARTICLE X, SUPPLEMENTAL REGULATIONS.
>
> Be it ordained by the City Council of the City of Gardner, as follows:
>
> Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:

UNACCEPTED/UNCORRECTED PROOF

Within an area formed by the side lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.

Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

FINANCE COMMITTEE

#10237

Reporting for the Finance Committee, Councillor Elizabeth Kazinskas informed the Council that the Committee voted to recommend that the Ordinance be returned to the Executive Department so that it may be considered with the new fiscal years' budget by the new Mayor and that it be removed from the Calendar.

Councillor Elizabeth Kazinskas then moved to return the Ordinance to the Executive Department and to remove it from the Calendar.

Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Scott Graves said that he has a letter in front of him dated February 13, 2020 from Acting Mayor James M. Walsh. "So my question is for the Acting Mayor, 'Is this a matter not admitting of delay?', because it doesn't seem like it is to me."

In response, Council President Walsh said that in his letter, he stated that it should best be addressed by the newly-elected Mayor.

Councillor Graves responded, "So, is this a matter not admitting of delay?"

UNACCEPTED/UNCORRECTED PROOF

In response, President Walsh stated, "I am not sure I understand your question."

Councillor Graves remarked, "The Acting Mayor took action on this issue." "So if the Acting Mayor took action, I'd assume that the Acting Mayor believes that it's a matter not admitting of delay. Maybe I'm wrong?"

President Walsh responded, "I believe that it is admitting of delay, and that is part of why I recommended that it be deferred to the newly-elected Mayor."

Councillor Graves responded, "You answered my question that you believe this is an emergency matter."

President Walsh responded, "No, I believe that this is not an emergency, and that is why it should be delayed to the new Mayor."

Councillor Graves remarked, "You took action on this matter. That means that you believe it's a matter not admitting of delay; otherwise, you would not have taken action as Acting Mayor. This isn't signed by the Council President, it's signed by the Acting Mayor."

President Walsh responded, "Correct. I believe it is a matter admitting of delay and what I based my recommendation on."

Councillor Graves responded, "Yes, it's a matter not admitting of delay. You think. I don't think. You think."

President Walsh responded, "I think it is admitting of delay and should be delayed."

Councillor Graves responded, "And yet you took action anyway."

President Walsh replied, "I sent a letter saying that I shouldn't take action."

Councillor Graves responded, "Nobody asked you to take action on it. This is a City Council matter."

Councillor Ronald Cormier stated that the City Council Finance Committee, of which Council President Walsh is a member, chose to discuss it and take the action that it did. "I don't see what the discussion is here. Our item is before the Council to vote on to refer it to the Executive Department," he added.

Councillor Graves remarked, "To be clear, I don't take quarrel with anything that the Finance Committee did. My question is this letter from the Acting Mayor…That's it."

UNACCEPTED/UNCORRECTED PROOF

On the motion, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to return *An Ordinance Amending the Code of the City of Gardner, Chapter 171 Thereof, Entitled "Personnel" to Change Article IX. Vacations for City Officers and Employees, Section 171-36, Other full-time officers and employees; and, by adding new Section 171-37 (a) Conservation/Planning Agent, providing for additional vacation leave* to the Executive Department and to remove it from the Calendar.

#10238

Councillor Elizabeth Kazinskas moved to return the Ordinance to the Executive Department and to remove it from the Calendar.

Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Graves said, "I don't believe that this is not a matter which is not admitting of delay; otherwise, it's not an emergency which could sit there for quite a while."

On the motion, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to return *An Ordinance Amending the Code of the City of Gardner, Chapter 171 Thereof, Entitled "Personnel" to change Article XIII. Department Head Benefit Time and Longevity Pay, Section 171-53, Vacation, providing for additional vacation leave* to the Executive Department and to remove it from the Calendar.

NEW BUSINESS

On a motion by Councillor Craig Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to consider New Business.

Councillor Nathan Boudreau announced the upcoming Rotary Club Auction.

Councillor James Boone thanked his colleagues and the School Committee for reappointing him to the Monty Tech School Committee.

UNACCEPTED/UNCORRECTED PROOF

Councillor Scott Graves stated that in the PARC Grant measure, there is interesting phraseology called "Environmental Justice" and encouraged everyone to look into "an incredible bit of bureaucracy."

Councillor Elizabeth Kazinskas announced the upcoming Annual Book Sale sponsored by the Friends of the Library. Councillor Ronald Cormier cited uses for the funds derived from the sale.

CLOSING PRAYER

President Walsh led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Nathan Boudreau and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, and George Tyros, to adjourn at 7:45 p.m.

Accepted by the City Council:

UNACCEPTED/UNCORRECTED PROOF

/0250

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2019 ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 ($52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

RECEIVED
2020 FEB 26 PM 2:57
CITY CLERK'S OFFICE
GARDNER, MA

February 26, 2020

City Council
Gardner City Hall
95 Pleasant Street
Gardner, MA 01440

RE: Firefighters Contract Funding

Dear Council Members,

With this correspondence, I am submitting a money order in the amount of $107,607.00 from Free Cash to fund the recently negotiated contract between the City and the Firefighter's Union through June 30, 2020. Also included is correspondence from the City Auditor identifying the specific amount necessary to fund the contract.

This contract was negotiated and entered into in mid-December. I have asked the City's negotiating team, which included the City Solicitor and the Human Resources Director, to provide me with additional information about the negotiations that led to the contract as well as legal and factual justification which would authorize me, as Acting Mayor, to finalize the deal. I have also enclosed a copy of my correspondence to the team requesting that information.

Until such time I receive that additional information and am satisfied of my authority to act further, I recommend that the money order be referred to the Finance Committee.

Please feel free to contact me, if you have further questions about this topic.

Very truly yours,

James M. Walsh

James M. Walsh
Acting Mayor

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

10250-10251

Mayor

From: John Richard
Sent: Wednesday, February 19, 2020 3:13 PM
To: Mayor
Subject: RE: Funding for Firefighters Contract

Hi Jim

Here is the total estimated funding amount needed to satisfy the Firefighters contract. This amount includes the pay increase from now until 6/30/20.

ACTUAL FY19 RETRO	FY20 ESTIMATE RETRO AND REMAINDER OF YR AMT	TOTAL
$ 52,788.33	$ 54,818.65	$107,606.98

I will be out of the office the next two days. We can discuss this further on Monday on the game plan.

Thank you

JR

10250-10251

Rachel Stephano (Mayor's Office)

From: John Flick <jflick@flicklawgroup.com>
Sent: Wednesday, February 26, 2020 1:17 PM
To: Mayor
Subject: Firefighters July 1, 2018 to June 30, 2021 Contract

Acting Mayor Walsh,

In light of the legal issues pertaining to the MOA negotiated in December 2019 and the resulting Collective Bargaining Agreement (CBA) with the Firefighters, and now that the amount of the supplemental appropriation needed to fund the CBA is known, the Law Department recommends that a money order be submitted to the City Council for consideration at its March 2, 2020 meeting. Specifically, the City is required by M.G.L. c. 150E, sec. 7 to submit a money order to the appropriate legislative body for consideration of any appropriation needed to fund the contract within thirty (30) days of the execution of the agreement. Whereas the Agreement was signed by the Union on February 20, 2020, and in order to comply with M.G.L. c. 150E, it is appropriate to submit the required money order at this time.

Regards,
John Flick

****
John M. Flick, Esq., City Solicitor
City of Gardner Law Department
144 Central Street, Suite 201
Gardner, MA 01440
978-632-7948, Ext. 301 Voice
978-630-3703 Fax
****

WIRE FRAUD ALERT: If you receive an e-mail from this office requesting that you wire or otherwise transfer funds, you must confirm the request and any corresponding instructions by telephone with this office before you initiate any transfer.

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10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

February 24, 2020

Attorney John Flick, City Solicitor &
Debra Pond, Director of Personnel
144 Central Street
Gardner, MA 01440

Good Morning,

I have been asked, as Acting Mayor, to sign off on the recently negotiated contract with the Firefighters Union. Since I have not been involved with negotiating that contract and am limited in my authority, I ask that you provide me with the following:

1. As I understand it, the proposed contract covers the period from July 1, 2018 through June 30, 2021. Please provide me with a history of contract negotiations. Please also include a summary of any material changes from the existing contract, and of any state agency involvement and the binding effect, if any, of that involvement. I'd also appreciate a listing of all participants in each negotiating team.

2. As you know, as Acting Mayor, my authority is limited to matters "not admitting of delay". Please provide any factual basis which would justify my execution of this contract rather than deferring it to evaluation and consideration by the newly elected Mayor in mid-May 2020.

Depending on the content of your reply, I may have additional questions.

Thank you for your prompt consideration of this request.

Very truly yours,

James M. Walsh
Acting Mayor

JMW/rjs

cc: John Richard

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

10250-10251

CITY of GARDNER

Office of the City Auditor

John Richard, City Auditor
95 Pleasant Street, Room 126
Gardner, MA 01440
Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778
Email: jrichard@gardner-ma.gov

To: City Council

Re: Money Orders for consideration on March 02, 2020

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

These balances are as of February 27, 2020:

		Money Order	Balance
Free Cash	10000-35400		$1,368,995.00
to Fire Dept for Contract Renewal Retro Pay FY19	12220-510**	52,788.33	$1,316,206.67
to Fire Dept for Contract Renewal Retro Pay FY20	12220-510**	54,818.67	$1,261,388.00

The Snow & Ice account currently has available ($189,818.22)
14421-52210

Sincerely

John Richard
City Auditor

copies: Acting Mayor
City Clerk

10251

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty-four Thousand Eight Hundred Eighteen and 67/100 ($54,818.67) from Free Cash to the Firefighters Salary and Wages Account.

10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

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/0250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

February 24, 2020

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Debra Pond, Director of Personnel
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Gardner, MA 01440

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10250-10251

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14421-52210

Sincerely

John Richard
City Auditor

copies: Acting Mayor
City Clerk

10252

McCARTY Engineering, Inc.
Civil Engineers

RECEIVED
2020 FEB 19 AM 8:56
CITY CLERK'S OFFICE
GARDNER, MA

February 19, 2020

James M. Walsh, Esq., 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 7.5 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.

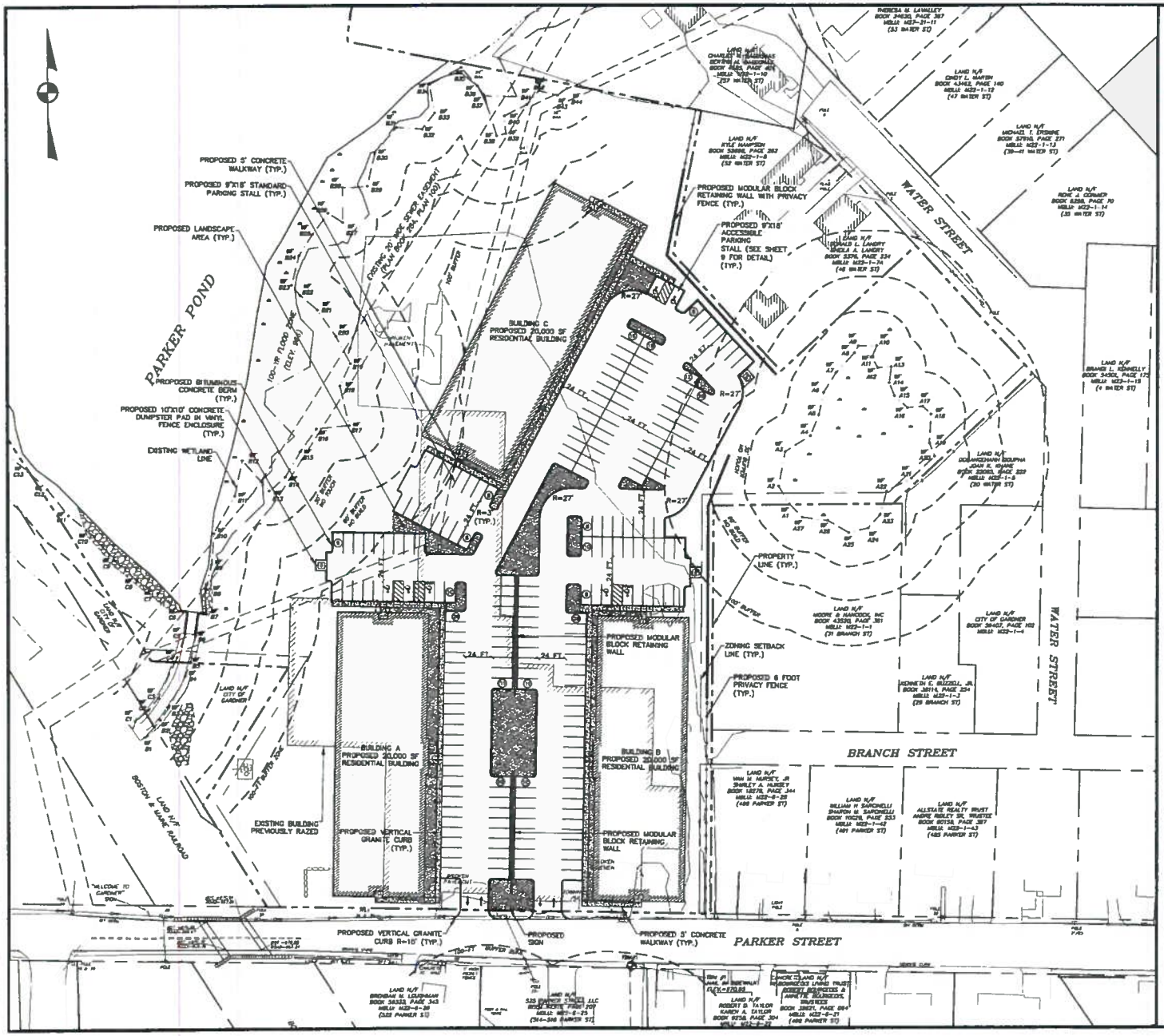
The site has been configured such that the access into the site will be off of Parker Street. The parking lots have been located within the interior of the site with the buildings positioned alongside the edge of the parking. This configuration allows for the buildings to buffer the parking areas to 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.

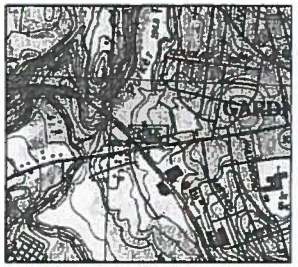
This request to amend the Overlay district is the first step in the permitting process. This project will require the filing for a Special Permit and Site Plan Review from the Planning Board and a Notice of Intent with the local Conservation Commission and DEP.

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,

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





LOCUS PLAN

1"=1,000 FT.±

NOTES:

1. EXISTING CONDITIONS INFORMATION SHOWN WAS RECEIVED ELECTRONICALLY FROM HANNIGAN ENGINEERING, INC. DATED NOVEMBER 14, 2019.
2. THE WETLANDS WERE DELINEATED BY ECOTEC, INC. ON OCTOBER 30, 2019. FLAGS WERE FIELD LOCATED BY HANNIGAN ENGINEERING, INC. IN NOVEMBER 2019.
3. A PORTION OF THIS PARCEL IS LOCATED WITHIN THE LIMITS OF THE 100-YEAR FLOODPLAIN BASED ON A REVIEW OF THE MASS GIS ONLINE DATA VIEWER.

ZONING SUMMARY-EAST PARCEL

DISTRICT: INDUSTRIAL 1/DEVELOPMENT OVERLAY DISTRICT 1*

DIMENSIONAL REQUIREMENTS:

	REQUIRED:	PROVIDED:	CONFORMANCE:
MIN. LOT AREA:	5,000 S.F.	708,849 S.F	Y
MAX. LOT COVERAGE:	85%	20.7%	Y**
FRONTAGE:	NONE	380.5 FT.	Y
MIN. SIDE YARD:	10 FT.	21 FT.	Y
MIN. FRONT YARD:	NONE	10 FT.	Y
MIN. REAR YARD:	20 FT.	561 FT.	Y
MAX. HEIGHT:	50 FT.	52 FT.	Y
MAX. STORIES:	5	3	Y

*PER SECTION 5300(2) OF THE ZONING BYLAW THIS PROJECT WILL REQUIRE A SPECIAL PERMIT BY THE CITY OF GARDNER PLANNING BOARD. THIS SITE HAS BEEN PREVIOUSLY APPROVED FOR A DEVELOPMENT OVERLAY DISTRICT 1 BY THE CITY COUNCIL ON APRIL 18, 2006 AND APPROVED BY MAYOR GERALD E. ST. HILAIRE ON APRIL 19, 2006.

**MAX LOT COVERAGE WITHIN THE USABLE AREA IS 44.8%

PARKING SUMMARY:

REQUIREMENTS:
RESIDENTIAL 2 BEDROOM: 2 SPACE/UNIT
RESIDENTIAL 1 BEDROOM: 1 SPACE/UNIT

PROPOSED:
RESIDENTIAL: 90 2 BEDROOM UNITS
RESIDENTIAL: 33 1 BEDROOM UNITS

PARKING REQUIRED:
RESIDENTIAL: 90 UNITS X 2 SP/UNIT= 180 SPACES
RESIDENTIAL: 33 UNITS X 1 SP/UNIT= 33 SPACES

TOTAL SPACES REQUIRED: 213 SPACES
PARKING PROVIDED: 218 SPACES

TOTAL ACCESSIBLE REQUIRED: 7 SPACES
ACCESSIBLE PARKING REQUIRED: 7 SPACES

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.

NOT FOR CONSTRUCTION

THESE PLANS WERE PREPARED FOR THE PURPOSE OF OBTAINING STATE AND LOCAL PERMITS AND ARE NOT INTENDED TO BE USED AS CONSTRUCTION DOCUMENTS.

No.	Date	Revision

Drawn By: JJ. Designed By: JJ. Checked By:

McCarty Engineering, Inc.
Civil Engineers
42 Jungle Road, Leominster, MA 01453
phone(978) 534-1318 fax: (978) 840-6907
www.mccartyeng.com

Project Name
Parker Estates
Parker Street
Gardner, MA

Sheet Title
City Council
Graphic

Job No: 223
File Name: 223P-Graphic
Date: February 19, 2020
Scale: 1"=40'

Sheet No. 1

10352

10216

ORDINANCE

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

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

Section 1. Section 560-3 of the Code of the City of Gardner, is hereby amended by striking the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the sentence: "Effective July 1, 2020, the annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $230 per household and each unit of apartment buildings containing eight or fewer units in the City.

Public Safety Committee recommended Amendment:

Section 1. Section 560-3 B. of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be, as follows:

Effective July 1, 2020	$228.00
Effective July 1, 2021	$232.00
Effective July 1, 2022	$236.00
Effective July 1, 2023	$240.00

Section 2. Effective date.

This ordinance shall become effective upon passage and publication as required by law.

	Number of Units	*6399*	*6460*	*6353*	*6500*	*6567*	*6567*	*6567*			
	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00
$0 per		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**	**2024**	**2025**	**2025**
quarter	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,313,400.00	$ 1,313,400.00	$ 1,313,400.00	$ 1,313,400.00	$ 1,313,400.00	$ 1,313,400.00
increase	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
	Total Revenue	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,498,400.00	$ 1,498,400.00	$ 1,498,400.00	$ 1,498,400.00	$ 1,498,400.00	$ 1,498,400.00
	Solid Waste Expenses	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03	$ 1,772,676.38	$ 1,825,856.67	$ 1,880,632.37
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 204,819.00	$ 32,301.50	$ (190,343.53)	$ (464,619.90)	$ (792,076.57)	$ (1,174,308.93)

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 220.00	$ 224.00	$ 228.00	$ 232.00	$ 236.00	$ 240.00
$5 per		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
initial	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,444,740.00	$ 1,471,008.00	$ 1,497,276.00	$ 1,523,544.00	$ 1,549,812.00	$ 1,576,080.00
increase	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
$1/qt after	**Total Revenue**	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,629,740.00	$ 1,656,008.00	$ 1,682,276.00	$ 1,708,544.00	$ 1,734,812.00	$ 1,761,080.00
($4/yr - up to	**Solid Waste Expenses**	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03	$ 1,772,676.38	$ 1,825,856.67	$ 1,880,632.37
$240/yr max)	**EOY Retained Earnings**			$ 418,098.00	$ 328,669.00	$ 336,159.00	$ 321,249.50	$ 282,480.48	$ 218,348.10	$ 127,303.43	$ 7,751.07

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 228.00	$ 232.00	$ 236.00	$ 240.00	$ 240.00	$ 240.00
$7.00 per qt		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
initial increase	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,497,276.00	$ 1,523,544.00	$ 1,549,812.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00
$1/qt after	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
($4/yr - up to	**Total Revenue**	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,682,276.00	$ 1,708,544.00	$ 1,734,812.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00
$240/yr max)	**Solid Waste Expenses**	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03	$ 1,772,676.38	$ 1,825,856.67	$ 1,880,632.37
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 388,695.00	$ 426,321.50	$ 440,088.48	$ 428,492.10	$ 363,715.43	$ 244,163.07

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 240.00	$ 240.00	$ 240.00	$ 240.00	$ 240.00	$ 240.00
$10 per		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
quarter	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00
increase	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
effective	**Total Revenue**	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00
FY21	**Solid Waste Expenses**	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03	$ 1,772,676.38	$ 1,825,856.67	$ 1,880,632.37
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 467,499.00	$ 557,661.50	$ 597,696.48	$ 586,100.10	$ 521,323.43	$ 401,771.07

10216

TRASH RECYCLING TRACKER FROM FY 2017 TO 2020

CURBSIDE TRASH TONS	FY17	FY18	FY19	FY20
JULY	319.47	319.33	345.04	371.71
AUG	350.55	389.24	396.52	360.38
SEPT	343.45	342.47	324.74	319.52
OCT	352.7	340.15	363.16	375.41
NOV	352.7	365.97	361.32	336.32
DEC	330.62	302.6	310.53	340.62
JAN	335.78	347.28	351.74	340
FEB	266.49	297.04	282.6	280
MAR	342.69	345.6	313.14	320
APR	317.44	318.62	334.79	320
MAY	354.73	388.41	384.42	375
JUNE	353.39	339.97	327.23	340
TONS	4020.01	4096.68	4095.23	4078.96
COST/TON	$73.00	$74.00	$75.00	$76.00
ANNUAL TON	$293,460.73	$303,154.32	$307,142.25	$310,000.96
FLAT FEE/MONTH	$33,330.00	$33,696.43	$34,673.63	$35,783.19
FLAT FEE/YR COST	$399,960.00	$404,357.16	$416,083.56	$429,398.28
TOTAL TRASH	$693,420.73	$707,511.48	$723,225.81	$739,399.24
INCREASE		$14,090.75	$15,714.33	$16,173.43

CURBSIDE RECYCLE TONS	FY17	FY18	FY19	FY20
JULY	123.81	128.8	131.64	125.95
AUG	139.2	153.94	130.78	120.1
SEPT	136.72	135.31	111.64	111.37
OCT	114.85	128.5	131.36	123.23
NOV	257.4	130.53	123.2	119.5
DEC	150.03	133.06	103.54	119.13
JAN	140.28	129.9	134.48	130
FEB	105.03	110.98	105.87	106
MAR	122.6	130.18	114.58	122
APR	124.51	119.84	118.41	119
MAY	136.86	144.64	126.25	135
JUNE	122.77	128.45	113.52	121
TONS	1674.06	1574.13	1445.27	1452.28
FLAT FEE/MONTH	$15,228.85	$15,396.28	$15,396.28	$16,349.74
FLAT FEE/YR	$182,746.20	$184,755.36	$184,755.36	$196,196.88
REC. PROCESSING	$27,489.65	$74,154.55	$136,337.25	$68,998.50
TOTAL RECYCLE	$210,235.85	$258,909.91	$321,092.61	$265,195.38
INCREASE		$48,674.06	$62,182.70	

10216

TRASH RECYCLING TRACKER FROM FY 2017 TO 2020

REC. PROCESSING	FY17	FY18	FY19	FY20
JULY	$3,095.25	$1,288.00	$12,505.80	$12,014.65
AUG	$2,784.00	$1,539.40	$12,424.10	$11,463.65
SEPT	$2,734.40	$2,029.65	$10,577.30	$10,732.15
OCT	$2,297.00	$4,497.50	$12,479.20	$11,829.40
NOV	$2,841.00	$4,568.55	$11,704.00	$11,423.75
DEC	$3,000.60	$4,657.10	$9,318.60	$11,534.90
JAN	$2,104.20	$4,546.50	$12,103.20	
FEB	$580.85	$3,884.30	$10,223.90	
MAR	($367.80)	$10,414.40	$10,979.15	
APR	$1,245.10	$10,785.60	$11,348.70	
MAY	$4,105.80	$13,740.80	$12,156.20	
JUNE	$3,069.25	$12,202.75	$10,847.10	
TOTAL	$27,489.65	$74,154.55	$136,667.25	$68,998.50

CONTAMINATED	FY19	FY20
JULY	$0.00	$0.00
AUG	$0.00	$0.00
SEPT	$0.00	$0.00
OCT	$902.25	$0.00
NOV	$1,775.25	$0.00
DEC	$1,910.25	$0.00
JAN	$2,835.00	
FEB	$130.50	
MAR	$0.00	
APR	$0.00	
MAY	$218.25	
JUNE	$0.00	
TOTAL	$7,771.50	$0.00

10216

City of Gardner, *Executive Department*

Mark Hawke, Mayor

RECEIVED
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GARDNER, MA

November 20, 2019

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Trash Fee Ordinance Change

Dear President Graves and Councilors,

In February of 2013, we presented the attached spreadsheet #1 demonstrating the need to increase the annual fee for solid waste enterprise fund. At the meeting I stated that I felt confident the rate increase would suffice for the next five (5) years. I was wrong. We were able to expertly manage the budget to make that rate increase last for seven (7) years.

Until recently, the majority of recyclable material collected by Massachusetts municipalities was purchased by China for processing. Many municipalities paid low fees to have their recycling hauled, and some even earned money from haulers for the materials.

Over time, the in-state market for processing recyclables such as paper and glass declined, as these businesses could not compete with the Chinese market.

On Jan. 1, 2018, the recycling market in Massachusetts and across the country experienced a massive disruption as China announced that it would no longer import 24 types of materials, including mixed paper and several types of plastic. Citing the increasing rate of impurities in the U.S. recycling stream, China, under its new National Sword policy, now will only accept materials with a contamination rate of one-half of 1 percent or less.

This Sword policy has decimated the recycling market and municipal solid waste budgets. On top of this is the impending expiration of a five (5) year contract with Waste Management. Needless to say, Waste Management did not accurately predict the markets of today when the contract was negotiated last. There will be an increase in rates in our next contract. Director of Public Health, Lauren Saunders and I have been meeting with Waste Management for the past few months trying to hammer out a new contract.

According to the attached spreadsheet #2, in fiscal year 2020, we are anticipating having to use approximately $90,000 in retained earnings in order to balance the budget. This is sustainable because we have the cushion of the retained earnings in order to deal with the projected shortfall.

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

However, as you can see from the first box, if we do nothing, we anticipate depleting our retained earnings near the end FY 2022.

In the second, third and fourth box we demonstrate the effect a $5 per quarter ($20 per year), $7.50 per quarter ($30 per year), and $10 per quarter ($40 per year) increase would have on future budgets. The $5 per quarter ($20 per year) increase would stabilize the fund for approximately one (1) year before beginning to deplete the retained earnings. The $7.50 per quarter ($30 per year) increase would seem to carry us through FY 2023. The $10 per quarter ($40 per year) increase seems too large and would grow retained earnings at a rapid rate.

Given that the object of an enterprise fund is to be a self-sufficient entity, the Director of Public Health, City Auditor and I all agree that a $7.50 per quarter ($30 per year) increase in the annual fee would allow the Solid Waste Enterprise Fund adequate revenue to sustain a proper amount of retained earnings and cover the actual expected costs associated with the Fund.

Respectfully,

Mark Hawke
Mayor, City of Gardner

10216

ORDINANCE

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

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

Section 1. Section 560-3 of the Code of the City of Gardner, is hereby amended by striking the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the sentence: "Effective July 1, 2020, the annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $230 per household and each unit of apartment buildings containing eight or fewer units in the City.

Section 2. Effective date.

This ordinance shall become effective upon passage and publication as required by law.

#1

			$200/yr total $20/yr increase						
		2013	2014	2015	2016	2017	2018	2019	2020
51010	Department Head	$17,850.00	$18,385.50	$18,937.07	$19,505.18	$20,090.33	$20,693.04	$21,313.83	$21,953.25
51011	Transfer Station Foreman	$20,272.00	$20,880.16	$21,506.56	$22,151.76	$22,816.31	$23,500.80	$24,205.83	$24,932.00
51013	Account Clerk	$32,159.00	$33,123.77	$34,117.48	$35,141.01	$36,195.24	$37,281.09	$38,399.53	$39,551.51
51018	Transfer Station Monitors	$15,200.00	$15,656.00	$16,125.68	$16,609.45	$17,107.73	$17,620.97	$18,149.59	$18,694.08
51030	Overtime	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00
51090	Clothing Allowance	$700.00	$700.00	$700.00	$700.00	$700.00	$700.00	$700.00	$700.00
51460	Longevity	$745.00	$1,300.00	$1,390.00	$1,480.00	$1,570.00	$1,660.00	$1,750.00	$1,840.00
52030	Repairs & Maint	$30,000.00	$10,000.00	$10,300.00	$10,609.00	$10,927.27	$11,255.09	$11,592.74	$11,940.52
52050	Minor Equipment	$4,000.00	$4,120.00	$4,243.60	$4,370.91	$4,502.04	$4,637.10	$4,776.21	$4,919.50
52110	Energy & Utilities	$6,000.00	$6,180.00	$6,365.40	$6,556.36	$6,753.05	$6,955.64	$7,164.31	$7,379.24
52150	Communications	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00
52170	Prof. Dev & Travel	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00
52190	Professional Svc	$15,000.00	$15,450.00	$15,913.50	$16,390.91	$16,882.63	$17,389.11	$17,910.78	$18,448.11
52230	Office Supplies	$2,000.00	$2,060.00	$2,121.80	$2,185.45	$2,251.02	$2,318.55	$2,388.10	$2,459.75
52232	Trash Bags	$15,000.00	$0.00	$15,000.00	$0.00	$15,000.00	$0.00	$15,000.00	$0.00
52240	Vehicle Supplies	$3,000.00	$3,090.00	$3,182.70	$3,278.18	$3,376.53	$3,477.82	$3,582.16	$3,689.62
52361	Trash Disposal	$365,000.00	$375,950.00	$387,228.50	$398,845.36	$410,810.72	$423,135.04	$435,829.09	$448,903.96
52362	Recycling Processing	$25,000.00	$25,750.00	$26,522.50	$27,318.18	$28,137.72	$28,981.85	$29,851.31	$30,746.85
52380	Indirect Costs	$65,000.00	$66,950.00	$68,958.50	$71,027.26	$73,158.07	$75,352.81	$77,613.40	$79,941.80
55126	Curbside Recycl.	$176,000.00	$181,280.00	$186,718.40	$192,319.95	$198,089.55	$204,032.24	$210,153.20	$216,457.80
55361	Curbside Trash	$399,000.00	$410,970.00	$423,299.10	$435,998.07	$449,078.02	$462,550.36	$476,426.87	$490,719.67
55363	Yard Waste	$57,500.00	$59,225.00	$61,001.75	$62,831.80	$64,716.76	$66,658.26	$68,658.01	$70,717.75
55365	Hou Haz Waste	$15,500.00	$15,965.00	$16,443.95	$16,937.27	$17,445.39	$17,968.75	$18,507.81	$19,063.04
	Debt Service	106,000.00	106,000.00	106,000.00	106,000.00	0.00	0.00	0.00	0.00
Totals		$1,372,426.00	$1,374,535.43	$1,427,576.49	$1,451,756.09	$1,401,108.37	$1,427,668.52	$1,485,472.78	$1,514,558.46
6600	Household Fee Revenue	$1,125,000.00	$1,250,000.00	$1,250,000.00	$1,250,000.00	$1,250,000.00	$1,250,000.00	$1,250,000.00	$1,250,000.00
	Other Revenue	$165,000.00	$165,000.00	$165,000.00	$165,000.00	$165,000.00	$165,000.00	$165,000.00	$165,000.00
	Net Balance	-$82,426.00	$40,464.57	-$12,576.49	-$36,756.09	$13,891.63	-$12,668.52	-$70,472.78	-$99,558.46
	Surplus Balance $307,000	$224,574.00	$ 265,038.57	$ 252,462.08	$ 215,705.99	$ 229,597.62	$ 216,929.10	$ 146,456.32	$ 46,897.86

Assumes a 3% increase in expenses
Assumes no new growth in houshold fee revenue (6250 Customers)
Assumes no new growth in other revenue

#2

	Number of Units	6399	6460	6353	6500	6567	6567	6567
	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00
$0 per quarter increase		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**
	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,313,400.00	$ 1,313,400.00	$ 1,313,400.00
	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
	Total Revenue	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,498,400.00	$ 1,498,400.00	$ 1,498,400.00
	Solid Waste Expenses	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 204,819.00	$ 32,301.50	$ (190,343.53)

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 220.00	$ 220.00	$ 220.00
$5 per quarter increase		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**
	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,444,740.00	$ 1,444,740.00	$ 1,444,740.00
	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
	Total Revenue	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,629,740.00	$ 1,629,740.00	$ 1,629,740.00
	Solid Waste Expenses	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 336,159.00	$ 294,981.50	$ 203,676.48

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 230.00	$ 230.00	$ 230.00
$7.50 per quarter increase		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**
	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,510,410.00	$ 1,510,410.00	$ 1,510,410.00
	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
	Total Revenue	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,695,410.00	$ 1,695,410.00	$ 1,695,410.00
	Solid Waste Expenses	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 401,829.00	$ 426,321.50	$ 400,686.48

	Annual Fee per Unit	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 240.00	$ 240.00	$ 240.00
$10 per quarter increase		**2017**	**2018**	**2019**	**2020 (Budget)**	**2021**	**2022**	**2023**
	Per Unit Fee	$ 1,279,986.00	$ 1,292,057.00	$ 1,270,664.00	$ 1,300,000.00	$ 1,576,080.00	$ 1,576,080.00	$ 1,576,080.00
	All Other Fees	$ 144,216.00	$ 156,071.00	$ 182,090.00	$ 185,571.00	$ 185,000.00	$ 185,000.00	$ 185,000.00
	Total Revenue	$ 1,424,202.00	$ 1,448,128.00	$ 1,452,754.00	$ 1,485,571.00	$ 1,761,080.00	$ 1,761,080.00	$ 1,761,080.00
	Solid Waste Expenses	$ 1,258,000.00	$ 1,385,000.00	$ 1,471,000.00	$ 1,575,000.00	$ 1,622,250.00	$ 1,670,917.50	$ 1,721,045.03
	EOY Retained Earnings			$ 418,098.00	$ 328,669.00	$ 467,499.00	$ 557,661.50	$ 597,696.48

City of Gardner, MA
Monday, November 25, 2019

Chapter 560. Solid Waste

Article I. Collection and Disposal

§ 560-3. Solid waste collection program.

Under the authority of MGL c. 44, § 28C, the following system of fees, charges and exemptions is established to cover all of the costs of operating the City's municipal solid waste programs:

A. An annual fee for the collection and handling of rubbish, garbage, ashes, and source-separated materials shall be established on all households and apartment buildings with eight apartments or fewer in the City, and said fee shall be paid by the property owner. The fee shall be assessed at an amount the Mayor and City Council deem appropriate to cover all of the fixed costs of such collection. The City shall make this system self-sufficient, utilizing an enterprise fund established under MGL c. 44, § 53F 1/2.

B. The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013. The City of Gardner trash bag fee is set at $3.50 per bag. Every collection day as of October 1, 2010, each single-family household, or single-family apartment unit in a building with eight apartments or fewer, may place a single approved rubbish container, with a tight-fitting cover securely in place, out for collection. Said rubbish container must be clearly labeled with the unit identification and identifying City logo. Any additional rubbish that does not fit within said container must be placed in a valid City of Gardner trash bag.
[Amended 6-16-2008 by Ord. No. 1474; 9-7-2010 by Ord. No. 1519; 3-18-2013 by Ord. No. 1558]

C. An owner of any residential property in the City with eight apartments or fewer may be exempted from participating in the mandatory program (including payment of the annual fee and use of the City trash bags) by contracting with a solid waste hauling company duly licensed to operate in the City of Gardner for the removal and disposal of all rubbish, garbage, ashes, source-separated recyclable materials, household appliances, furniture and consumer electronic materials. Any property owner seeking this exemption must annually provide the Director of Public Health with a copy of an acceptable signed contract from a properly licensed hauler.

D. An owner of any residential property in the City with nine apartments or more situated on a public way may voluntarily participate in the solid

waste collection program. Any property owner seeking such participation must annually provide the Director of Public Health with written notice of intent to participate on a form provided by the Health Department. Such participation renders the property subject to the fees as outlined in Subsection **A** above.

E. Exemptions from the payment of the annual fee may be approved by the Director of Public Health with the approval of the Public Safety Committee of the City Council for apartment units in apartment buildings that are vacant and that the owner intends to maintain in a vacant state. Any property owner seeking this exemption must submit documentation of the status of the vacant unit and a letter certifying his or her intent to maintain the unit in the vacant state for the next year and have the unit inspected by the Director of Public Health or his designee. Occupation of the apartment unit makes the exemption null and void. It is the owner's responsibility to inform the City of the occupation of the unit; failure to do so renders the unit subject to the full amount of the annual fee for the time period covered by the exemption. This exemption is subject to written guidelines and limitations on file in the Board of Health office. Persons aggrieved by findings by the Director of Public Health under this section may appeal such finding to Public Safety Committee of the City Council.

F. Unpaid solid waste collection program fees will become a lien on a homeowner's property tax account as provided in the Massachusetts General Laws. Failure to make payment when due in any year, unless an exemption is granted, shall result in the assessment of interest, penalties, and charges or termination of services as authorized by state statute. [Amended 6-16-2008 by Ord. No. 1474]

10207

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO REVISE ARTICLE VI, DENSITY AND DIMENSIONAL REGULATIONS, AND ARTICLE X, SUPPLEMENTAL REGULATIONS.

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

Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:

> Within an area formed by the side lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.

Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:

> Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

10207

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

RECEIVED
2020 FEB -3 PM 4:14
CITY CLERK'S OFFICE
GARDNER, MA

RECEIVED
2020 FEB -3 PM 3:28
CITY CLERK'S OFFICE
GARDNER, MA

February 3, 2020

President James M. Walsh
C/o Alan Agnelli, City Clerk
City Hall
Gardner, MA 01440

Re: **Re: Proposed Zoning Amendment for Corner Clearance, and Fence and Hedgerows Clearance**

Dear President Walsh:

At its meeting on January 21, 2020, The Planning Board voted unanimously to recommend that the City Council approve the proposed amendment noted above with the minor modification from the City Engineer and Planning Director as follows:

1. **Section 675 – 610 General Requirements, Section F:**

   Currently reads as:

   F. Corner clearance

   Within an area formed by the side lines of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 ½ feet and a height of eight feet above the plane through their curb grades.

   Initial Proposed Change presented at Public Hearing (proposed changes are in bold and underlined):

   F. Corner clearance

   Within an area formed by the side lines of intersecting streets and a line joining points on such lines **30** feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of **3** feet and a height of eight feet above the plane through their **street** grades.

City Hall Annex, 115 Pleasant Street, Room 201, Gardner, Massachusetts 01440
Telephone: (978) 630-4011 ◊ Facsimile: (978) 632-1905 ◊ CDBG (978) 632-3800

Proposed Change as a result of Public Hearing (proposed changes are in bold and underlined):

F. Corner clearance

Within an area formed by the **curb** lines of intersecting streets and a line joining points on such lines **30** feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of **3** feet and a height of eight feet above the plane through their **street** grades.

Explanation: Change "side lines" to "curb lines" to address Public Hearing comments and remain consistent with Chapter 675-1050.

1. **Chapter 675 – 1050 Fences and hedgerows:**

Currently reads as:

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 2 ½ feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 20 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the sidewalks shall not be allowed to block vision over 2 1/2 feet above the sidewalk grade for a distance of 15 feet along driveways immediate in location.

Initial Proposed Change presented at Public Hearing (proposed changes are in bold and underlined):

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over **3** feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line **30** feet back from their points of intersection. Fencing and hedgerows running perpendicular to the **streets** shall not be allowed to block vision over **3** feet above the **street** grade for a distance of 15 feet along driveways immediate in location.

Proposed Change as a result of Public Hearing (proposed changes are in bold and underlined):

> Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over **3** feet above the street grade within an area formed by the intersecting **curb** lines and straight line joining the point of said **curb** lines **30** feet back from their points of intersection. Fencing and hedgerows running perpendicular to the **streets** shall not be allowed to block vision over **3** feet above the **street** grade for a distance of 15 feet along driveways immediate in location.

Explanation: Change "street lines" to "curb lines" to address Public Hearing comments and be consistent with Chapter 675-610.

These proposed minor changes take into consideration comments received at the Joint Public Hearing held on January 21, 2020. The Planning Board respectfully requests that the City Council move forward with approving the proposed zoning amendment as submitted herein. Please contact Trevor Beauregard if you have any questions, concerns, or need additional information.

Sincerely,

Mark M. Schafron
Chairman

10207

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

November 4, 2019

President Scott J. Graves, Esq.
Gardner City Council
C/o Alan Agnelli, City Clerk
Gardner, MA 01440

Re: Proposed Zoning Amendment for Corner Clearance, and Fence and Hedgerows Clearance

Dear President Graves:

At its meeting on October 7, 2019, the Planning Board voted unanimously, 4-0, to recommend that the City Council consider amending the City Zoning Code Chapter 675 – 610 General Requirements, Section F; and Chapter 675 – 1050 Fences and hedgerows as follows:

1. **Section 675 – 610 General Requirements, Section F:**

   Currently reads as:

   F. Corner clearance

   Within an area formed by the side lines of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 ½ feet and a height of eight feet above the plane through their curb grades.

   Change to (proposed changes are in bold and underlined):

   F. Corner clearance

   Within an area formed by the side lines of intersecting streets and a line joining points on such lines **30** feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of **3** feet and a height of eight feet above the plane through their **street** grades.

Explanation: The Zoning Code shows a diagram in this section that depicts the corner clearance as 30 feet. Based on input from the Building Commissioner, City Engineer, and Director of the Department of Public Works, the Planning Board requests the narrative for corner clearance be consistent with the diagram at 30 feet. Changing 3 ½ feet to 3 feet, and curb plane to street plane makes this Section consistent with Section 675-1050 below.

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2. **Chapter 675 – 1050 Fences and hedgerows:**

Currently reads as:

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 2 ½ feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 20 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the sidewalks shall not be allowed to block vision over 2 1/2 feet above the sidewalk grade for a distance of 15 feet along driveways immediate in location.

Change to (proposed changes are in bold and underlined):

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over **3** feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line **30** feet back from their points of intersection. Fencing and hedgerows running perpendicular to the **streets** shall not be allowed to block vision over **3** feet above the **street** grade for a distance of 15 feet along driveways immediate in location.

Explanation: Based on input from the Building Commissioner, City Engineer, and Director of the Department of Public Works, the Planning Board requests the narrative for fences and hedgerows be consistent with Section 675-610 in order effectively and consistently enforce the City's Zoning Code. Correspondence from the Building Commissioner requesting said changes is attached hereto.

The Planning Board respectfully requests a joint public hearing with the City Council in order to present this information and address any questions and concerns that arise. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron
Chairman

Cc: Mayor
Planning Board
Building Commissioner
City Engineer
Director DPW

/0207

City of Gardner

Department of Inspectional Services
115 Pleasant Street, Room 101
Gardner, MA 01440
Tel. (978) 630-4007 Fax: (978) 632-3313

October 2, 2019

Dear Planning Board:

I would like to request a zoning change be made to the following City Code Chapters in order to make the code more consistent and better understandable:

- Zoning: Chapter 675 – 610 General Requirements, Section F
  - Reads as: "Corner clearance. Within an area formed by the side lines of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 ½ feet and a height of eight feet above the plane through their curb grades.
  - Change to: "Corner clearance. Within an area formed by the side lines of intersecting streets and a line joining points on such lines **30** feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of **3** feet and a height of eight feet above the plane through their curb grades.
- Zoning: Chapter 675 – 1050 Fences and hedgerows
  - Reads as: "Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 2 ½ feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 20 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the sidewalks shall not be allowed to block vision over 2 1/2 feet above the sidewalk grade for a distance of 15 feet along driveways immediate in location.
  - Change to: "Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over **3** feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over **3** feet above the street grade for a distance of 15 feet along driveways immediate in location.

Please let me know if you have any questions or concerns.

Respectfully,

Roland Jean Jr.

Roland Jean Jr. C.B.O.
Building Commissioner
115 Pleasant St.-Rm. 101
City Hall Annex
Gardner, MA 01440
(978) 632-1900 Ext. 8050
rjean@gardner-ma.gov

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

10217

City of Gardner, MA
Thursday, November 14, 2019

Chapter 675. Zoning

Article VI. Density and Dimensional Regulations

§ 675-610. General requirements.

(See the Table of Lot, Area, Frontage, Yard and Height Requirements included at the end of this chapter)

A. A dwelling, building or any structure hereafter erected in any district shall not be located on a lot having less than the minimum requirements.

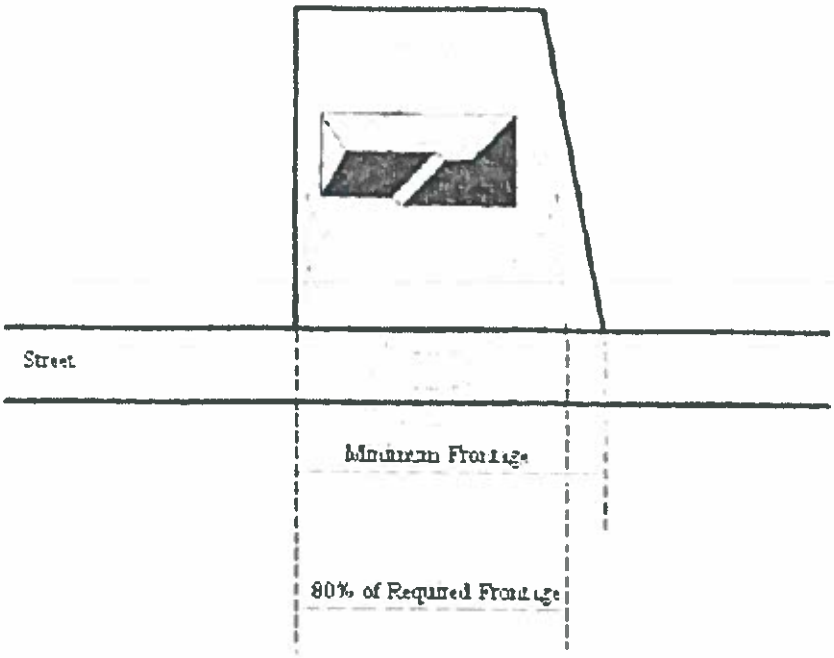
B. A lot or parcel of land having an area or a frontage of lesser amounts than required in the following schedule may be considered as coming within the area and frontage requirements of this section, provided that, at the time of building, such lot has an area of more than 5,000 square feet, has a frontage of 50 feet or more and is in a district zoned for residential use, and provided further that such lot or parcel of land was shown on a parcel or described in a deed duly recorded or registered at the time of the adoption of this chapter and did not at the time of such adoption adjoin other land of the same owner available for use in connection with such lot or parcel.

C. All minimum yard dimensions required in the following schedule are to be measured from the relevant lot line.

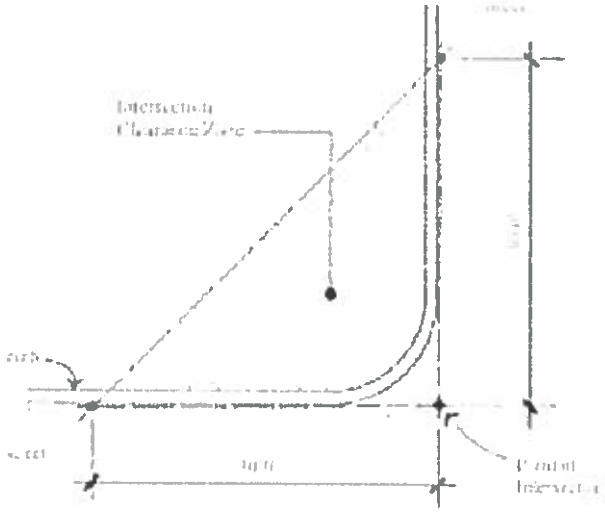
D. The limitation of height of buildings and structures in the following schedule shall not apply in any district to chimneys, ventilators, towers, spires, or other ornamental features of buildings, which features are in no way used for living purposes.

E. All lots shall have a lot width such that the center of a circle having a minimum diameter of at least 80% of the required frontage of the lot can be passed along a continuous line from the lot line along which the frontage is measured to any and all points of the principal structure or proposed principal structure without the circumference intersecting any side lot line.

10207



F. Corner clearance. Within an area formed by the side lines of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 1/2 feet and a height of eight feet above the plane through their curb grades.



§ 675-620. Table of lot, area, frontage, yard and height requirements.

The Table of Lot, Area, Frontage, Yard and Height Requirements is included at the end of this chapter.

§ 675-630. Infill development.

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City of Gardner, MA
Thursday, November 14, 2019

Chapter 675. Zoning

Article X. Supplemental Regulations

§ 675-1050. Fences and hedgerows.

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 2 1/2 feet above the street grade within an area formed by the intersecting street lines and a straight line joining the points of said street line 20 feet back from their points of intersection. Fencing and hedgerows running perpendicular to sidewalks shall not be allowed to block vision over 2 1/2 feet above the sidewalk grade for a distance of 15 feet along driveways immediate in location.