

# **HOUSE . . . . . No. 3688**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 16, 2019.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, House, No. 2801) of Jonathan D. Zlotnik and Dean A. Tran that the city of Gardner be authorized to exchange certain parcels of land located in said city with the Department of Conservation and Recreation for conservation and recreation purposes, reports recommending that the accompanying bill (House, No. 3688) ought to pass.

For the committee,

DANIELLE W. GREGOIRE.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act relative to Gardner Heritage State Park.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Notwithstanding any general or special law to the contrary, the city of  
2 Gardner may convey to the division of capital asset management and maintenance the parcel of  
3 land known as Stump pond which is identified on the city of Gardner’s assessors’ maps as parcel  
4 W27-11-2. The parcel contains 6.0 acres, more or less. The commissioner of capital asset  
5 management and maintenance, in consultation with the commissioner of conservation and  
6 recreation, shall determine the exact boundaries of the parcel after completion of a survey. The  
7 parcel shall be placed under the care, custody and control of the department of conservation and  
8 recreation and shall be used for conservation and recreation purposes.

9           SECTION 2. Notwithstanding sections 32 to 37 of chapter 7C of the General Laws or  
10 any other general or special law to the contrary and in consideration for the conveyance  
11 authorized in section 1, the division of capital asset management and maintenance, in  
12 consultation with the department of conservation and recreation, may convey to the city of  
13 Gardner for general municipal purposes, the parcels of land and building thereon, being part of  
14 the Gardner Heritage State Park under the care and control of the department, which are

15 identified on the city of Gardner's assessors' maps as parcels M27-25-6 and M27-25-10. The  
16 commissioner of capital asset management and maintenance, in consultation with the  
17 commissioner of conservation and recreation, shall determine the exact boundaries of the parcels.

18 SECTION 3. Independent appraisals of the fair market value and value in use of the  
19 parcels described in sections 1 and 2 shall be prepared in accordance with the usual and  
20 customary professional appraisal practices by a qualified appraiser commissioned by the  
21 commissioner of capital asset management and maintenance. The commissioner of capital asset  
22 management and maintenance shall establish the value of the properties for both the highest and  
23 best use as currently encumbered and for the purposes described. The commissioner of capital  
24 asset management and maintenance shall submit any appraisals to the inspector general for  
25 review and comment. The inspector general shall review and approve the appraisals and the  
26 review shall include an examination of the methodology utilized for the appraisals. The inspector  
27 general shall prepare a report of the review and file the report with the commissioner of capital  
28 asset management and maintenance. The commissioner shall submit copies of the appraisals and  
29 the inspector general's review and approval and comments, if any, to the house and senate  
30 committees on ways and means and the joint committee on state administration and regulatory  
31 oversight at least 15 days prior to the execution of any documents effectuating the transfers  
32 described in this section.

33 SECTION 4. Notwithstanding any general or special law to the contrary, the city of  
34 Gardner shall be responsible for all costs and expenses of the transaction authorized in this act as  
35 determined by the commissioner of capital asset management and maintenance including, but not  
36 limited to, the costs of any engineering, surveys, appraisals, recording fees and deed preparation

37 related to the conveyance of the parcels and all costs, liabilities and expenses of any nature and  
38 kind for its ownership.

39 SECTION 5. If the appraised value of the parcels identified in section 2 exceed the  
40 appraised value of the parcel identified in section 1, the commissioner of capital asset  
41 management and maintenance, on behalf of the department of conservation and recreation, shall,  
42 as consideration for the excess value of the parcels described in said section 2, also acquire from  
43 the city of Gardner payment in an amount equal to the difference in the appraised values through  
44 the transfer to the department of conservation and recreation of land or an interest in land or  
45 funding for the acquisition of land or an interest therein equal to or greater than the resource  
46 value difference in the appraised values. The fair market value of any land or interest in land  
47 proposed to be conveyed to the department shall be included within the appraisal prepared  
48 pursuant to section 3. The land, interest in land or funding shall be acceptable to the department  
49 of conservation and recreation and any land or interest in land, whether conveyed to or acquired  
50 by the department, shall be permanently held and managed for conservation and recreation  
51 purposes by the department. If the appraised value of the parcel identified in said section 1  
52 exceeds the appraised value of the parcels identified in said section 2, the commonwealth shall  
53 have no obligation to pay the difference to the city. All payments made to the commonwealth as  
54 a result of the conveyances authorized in this act shall be deposited in the Conservation Trust  
55 established in section 1 of chapter 132A of the General Laws.