

ORDINANCE NO. 2871

AN ORDINANCE AMENDING CHAPTERS 17.01, 17.02, AND 17.03 OF THE GARDNER MUNICIPAL (GMC) CODE RELATED TO GENERAL PROVISIONS, DEFINITIONS, AND APPLICATIONS AND PROCEDURES OF THE LAND DEVELOPMENT CODE.

WHEREAS, from time to time it is necessary to review and amend certain sections of Title 17, the Land Development Code of the Gardner Municipal Code; and

WHEREAS, at the November 18, 2025, meeting of the Gardner Planning Commission, staff presented the proposed amendments to Title 17, the Land Development Code of the Gardner Municipal Code; and

WHEREAS, on January 26, 2026, the Gardner Planning Commission held a public hearing and recommended approval of the proposed amendments to the Land Development Code of the Gardner Municipal Code, as reflected in the minutes of said meetings.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: Title 17 of the Gardner Municipal Code, Section 17.01.020 (C.3.), shall be amended to read as follows:

C. **Computation of Time.** The following rules apply to any computation of time, unless a specific section of these regulations indicates otherwise:

3. Whenever any time period is expressed for a formal submittal to the City, the time period shall end at noon on the last day of that time period.

SECTION TWO: Title 17 of the Gardner Municipal Code, Section 17.01.030 (C.1.), shall be amended to read as follows:

C. Annexed Land

1. *Zoning Classification at the Time of Annexation.* Upon annexation, the City shall initiate a petition to rezone an annexed property to the zoning district most similar to the zoning classification in effect under the prior jurisdiction. Alternatively, an annexed property owner may request that the aforementioned City-initiated rezoning petition be deferred and the property shall retain the prior zoning jurisdiction regulations at the time of annexation until initiation of an application, by the property owner or the City, to rezone an annexed property to an appropriate City district(s). Such action may be associated with but not limited to improvements to the property requiring a permit or intensification of the use of the property or a development plan/plat for the property. See GMC 17.01.060 (E) regarding nonconformances created by the application of a corresponding City zoning district at the time of annexation.

SECTION THREE: Title 17 of the Gardner Municipal Code, Section 17.01.040 (D.2.), shall be amended to read as follows:

D. **Board of Zoning Appeals.** The Board of Zoning Appeals of the City of Gardner, Kansas, is hereby continued in accordance with the provisions of K.S.A. 12-759.

2. *Officers.* The Chairperson and Vice-Chairperson as elected by the Planning Commission shall serve as officers of the Board of Zoning Appeals. The Director of the Community Development Department or his/her designee serves as the Secretary of the Board.

SECTION FOUR: The following definitions found within Title 17 of the Gardner Municipal Code, Section 17.02.010, shall be amended to read as follows:

A

Accessory building means a detached building incidental and subordinate in area and purpose to the principal building, located on the same lot as the principal building. A building having an accessory use is considered an integral part of the principal building when it has any part of a wall in common with the main building or is under an extension of the main roof and designed as an integral part of the principal building.

Accessory use means a use incidental to and customarily associated with a specific principal use located on the same lot or premises as the principal use. Accessory uses generally contribute to the comfort, convenience, or necessity of the principal use.

Annexation means the process used by the City of Gardner to expand the city's geographic boundaries by incorporating land into the city.

D

Development Plan means a type of plan that becomes part of the zoning of the property. Documents contained within a development plan depict site characteristics, development information, and provide guidance for the site development, building architecture, and landscape design of the specific property.

Deviation refers to the allowance of an adjustment to a certain code requirement(s) based upon consideration of a proposed development plan in its entirety as part of a planned district zoning process.

L

Land Use means the type of activity or use proposed by a developer on a parcel of land, or a type of activity or use occurring on a parcel of land or within a building situated upon a parcel of land, or the use that is permitted on the land by the adopted land development code or the potential future use of land based upon the adopted comprehensive plan.

P

Parcel means a tract or plot of land of any size that may or may not be subdivided or improved.

Parking block means a grouping of parking spaces with defined outer edges that may be defined by landscape areas, sidewalks, roadways, buildings, etc. Parking blocks may include a variety of different configurations of parking rows and circulation aisles (per Table 9-6, GMC 17.09.040 (B)).

Principal Use means the primary or predominant use of any lot, building, or structure.

Public Realm means the spaces between buildings that are designed to shape the character and appearance of the area and influence the experience of the public or people using and accessing sites and buildings. This area is primarily made up of public, common or private lands intended for use by the people and rights-of-way, common areas serving as extensions of the public lands, and private lands that serve as transitions from these areas.

S

Shrub means any self-supporting, woody plant of a species which normally grows to an overall mature height of 8 feet or less in this region.

Site Plan means a scaled drawing showing proposed structures and site improvements for a parcel of land as required by this code.

Subdivision Plat means a document, prepared by a registered surveyor or engineer, that delineates property lines and shows monuments and other landmarks for the purpose of identifying and/or dividing land.

T

Tree, Large means a tree that typically grows to an overall mature height of 50 feet or more in this region.

Tree, Medium means a tree that typically grows to an overall mature height between 30 and 50 feet in this region.

Tree, Small means a tree that typically grows to an overall mature height between 8 and 30 feet in this region.

V

Variance means an adjustment from strict compliance of the regulations of this code considered and potentially granted by the Board of Zoning Appeals to a specific piece of property due to circumstances unique to the property, as opposed to a mere inconvenience, that deprive such property of privileges commonly enjoyed by other properties in the vicinity that are under identical zoning.

SECTION FIVE: Title 17 of the Gardner Municipal Code, Section 17.03.010, Table 3-1, shall be amended to read as follows:

	Eligible Applicants			Pre-Application Meeting	Notice			Review Body			
	Owner	PC	GB		Posted	Published	Mailed	Staff	PC	GB	BZA
Text Amendment		■	■			☑		R	R/PH	D	
Subdivision – Administrative Plat	■			☑				D	A		
Subdivision – Preliminary Plat	■			☑				R	D	A	
Subdivision – Final Plat	■			☑				R	D	A*	
Zoning Map Amendment	■	■	■	☑	☑	☑	☑	R	R/PH	D	
Planned Development – Preliminary Plan	■	■	■	☑	☑	☑	☑	R	R/PH	D	
Planned Development – Final Plan	■			☑				R	D	A	
Conditional Use Permit	■			☑	☑	☑	☑	R	R/PH	D	
Site Plan and Design Review	■			☑	☑			R	D	A	
Administrative Site Plan	■			☑				D	A		
Administrative Adjustments	■			☑				D/R	A/D		
Variance	■			☑	☑	☑	☑	R			D/PH
Appeal of Administrative Decision	■	■	■			☑	☑				D/PH
	☑ = required				R = Review and recommending authority						

Table 3-1: Procedures Summary

	Eligible Applicants			Pre-Application	Notice			Review Body			
	Owner	PC	GB	Meeting	Posted	Published	Mailed	Staff	PC	GB	BZA
	■ = authorized PC = Planning Commission GB = Governing Body BZA = Board of Zoning Appeals				D = Decision making authority PH = Public hearing required (distinguished from a public meeting generally open to the public) A = Appeal of decision A* = Appeal/Acceptance of public property						

SECTION SIX: Title 17 of the Gardner Municipal Code, Section 17.03.010 (C - J.), shall be amended to read as follows:

C. Discovery Meeting. Discovery meetings allow an applicant to become acquainted with the City's requirements and are strongly recommended at the initial/conceptual stage of a development proposal. The meeting with City staff provides an opportunity to describe the development proposal, understand the physical context of the location and parameters related to the infrastructure provisions, seek direction related to zoning and other planning/permitting requirements, learn of potential problems/issues that may be encountered, or if any specific technical studies will be required before resources are spent on detailed design work. The discovery meeting is for informational purposes and is not a substitute for the applicant becoming familiar with applicable regulations and ordinances or intended as a replacement for the pre-application meeting.

D. Pre-Application Meeting. Pre-application meetings may be requested for any application and shall be required as indicated in Table 3-1. Where required, the applicant shall confer with the Director and other City officials designated by the Director. The purpose of the pre-application meeting is to discuss the general nature of the proposal, including:

1. Classification of the application.
2. Procedure and submittal requirements for the application.
3. Criteria for processing and decisions on the application.
4. Notification requirements, timing and other procedural prerequisites, or whether any special community outreach may be important.
5. Planning and infrastructure impacts, including the need for any additional technical studies or outside agency coordination and review.
6. The relationship to the Comprehensive Plan, and whether any specific plans, policies or other design, development or economic development initiatives impact the application.
7. Zoning requirements for the property in question and adjacent property.

8. Opportunities to improve any preliminary design concepts and better relate project benefits or mitigate impacts to other public or private investments in the area.

A required pre-application meeting may be waived at the Director's discretion upon the applicant's request, for an application that is considered routine in nature and where the above topics can be addressed by general correspondence. The pre-application meeting is intended to provide initial feedback on a development proposal that is close to being formally submitted to the City, but results from the meeting shall not be considered as an indication of approval or disapproval of the proposal.

E. Staff Review. Upon receipt of an application, the Director shall take the following steps:

1. Determine if the application is complete within seven days of filing. If the Director determines that it is incomplete, the Director shall notify the applicant of the specific ways in which the application is deficient and no further processing of the application shall occur until the deficiencies are corrected. If the application is not completed within 30 days of the notice and the applicant has not requested in writing that the application be tabled until the deficiencies are corrected, the incomplete application is deemed withdrawn. If the applicant decides to pursue the development after it has been deemed withdrawn, a new application, including all necessary documents, plans and application fees shall be submitted.
2. Schedule complete applications for further review according to these regulations/
 - a. Applications that require a public hearing shall be scheduled for initial review within 60 days of a determination of a complete application.
 - b. Applications that do not require a public hearing but an official public meeting shall be scheduled for review within 30 days of a determination of a complete application or the recommendation from another required review body.

In the event that the regular meeting of the review body is beyond these time periods, or the required notice cannot be given within these time periods, the application shall be scheduled for the closest available meeting.

3. Prepare a staff report that reviews the application in light of the appropriate policies, plans and regulations. The Director shall provide a copy of the report to the review body and the applicant before the scheduled meeting.
4. Notwithstanding the above, applications for communication facilities shall follow the process contained in and be subject to the provisions, definitions and requirements of Chapter [17.11](#) GMC.

F. Notice. Notice shall be provided for each application as indicated in Table 3-1, which shall provide the time, place and general nature and location of the application. Required notice shall be based on the following requirements:

1. *Published.* Where published notice is required, at least 20 days prior to the public review, the city shall publish a notice in the official City publication.
2. *Posted.* Where posted notice is required, the applicant shall post notice on the property that is the subject of the application at least 20 days before the scheduled review. The City will furnish the sign(s) for posting, which shall be placed 5 feet beyond the sidewalk or 20 feet from the edge of pavement where there is no sidewalk, on a central portion of the site, or in any other manner so that it is visible without obstructions from public rights-of-way adjacent to the subject property. The City may determine the number of signs needed and the general location of the posting based on a site plan provided by the applicant. Property over five acres in size shall have at least one sign on each street abutting the property. The applicant shall be responsible for maintaining the sign and the sign shall remain on the property until final action is taken on the application. The applicant shall provide an affidavit with photographic proof to the Secretary of the Planning Commission at, or before, the Planning Commission meeting at which the application is reviewed verifying that posted notice has been maintained in accordance with these requirements.
3. *Mailed.* Where mailed notice is required, notice shall be mailed by the applicant to all owners of record within 200 feet, excluding existing rights-of-way, of the boundaries of the property that is the subject of the application at least 20 days prior to the public review. If the property is located adjacent to unincorporated property, then the notice shall extend to all unincorporated land within 1,000 feet of the subject property. Notice shall be sent by certified mail. The applicant shall provide a copy of the map showing the area required to be notified, a list of the addresses and property owners that were sent a notice, and the certified mail receipts to the Secretary of the Planning Commission at least 5 business days prior to the Planning Commission meeting at which the application is reviewed. In cases where a protest petition may be submitted, the notice shall contain a statement explaining the property owners' opportunity to file a protest petition with the City Clerk within 14 days after the conclusion of the public hearing. Notice shall be sent to the property owners, as provided by the Johnson County Records and Tax Administration Office or a private title company, and not to merely the occupants. When mailed notices have been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action.
4. *Constructive Notice.* Minor technical deviations from stated notice requirements shall not be deemed to impair notice where there is actual notice of the time, date and place of the public hearing.

G. **Public Hearings.** Where a public hearing is required by Table 3-1, the following procedures shall apply:

1. The hearing shall be conducted, and a record of the proceedings shall be preserved, as the specific review body may prescribe by rule.
2. Any interested person or party may appear and be heard in person, by agent, or by attorney.
3. The review body may request a report on the application from any government official or agency, or any other person, firm or corporation with information pertinent to the application. A copy of any requested report shall be made available to the applicant and interested parties and shall be available for review in the office of the Community Development Department at least three business days before the date of the hearing.
4. A public hearing for which property notice was given may be continued to a later date without again complying with the notice requirements of this chapter, provided, that the continuance is set for a specific date, time and location announced at the original public hearing.
5. To make a recommendation or a decision at a public hearing, the majority of the entire membership of the review body shall approve the motion.

H. **Action by Review Bodies.** Review bodies shall take the actions indicated in Table 3-1. A review body may take any action on the application consistent with notice given or criteria in this chapter, regardless of the presence of the applicant, including the following (or recommend the following when the review body is a recommending body):

1. Approve the application.
2. Approve the application with conditions or modifications to lessen or mitigate a potential impact from the proposed application.
3. Deny the application.
4. Continue the application to allow further analysis. The record shall indicate the reason the continuance was made and any stipulations or conditions placed upon the continuance. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.
5. Notwithstanding the above, actions by review bodies on applications for communication facilities shall follow the process and applicable time frames contained in Chapter [17.11](#) GMC.

I. **Appeals.** Where a review body is designated as the appellate body in Table 3-1, the following appeal procedures apply:

1. Appeals shall be filed with the Director within seven days of the decision by the decision-making body; provided that this section shall not apply to any person who avails themselves of the appeal provisions set forth under K.S.A. 66-2019(h)(6).
2. The following persons and entities shall have standing to appeal the action of the review body: the applicant; the Director, on behalf of any public official, department or agency; any owner of land directly impacted by the action or proposed action; and any person given the right of appeal by law.
3. The review body designated as the appellate body shall consider the application as a new matter, and within 60 days of the date that the appeal was filed may take action authorized by the decision-making review body. The procedure and required notice shall be the same as required for the original application.

J. **Technical Studies.** The Director, on behalf of any public official, department, or agency, the Planning Commission or the Governing Body may require applicants for development or permit approval to submit technical studies as may be necessary to evaluate the application. Technical review by outside entities with expertise or jurisdiction over some aspects of the application may be required in place of, in addition to, or in association with any studies. Examples of technical studies that may be required include, but are not limited to, traffic studies, engineering studies, geologic or hydrologic studies, environmental impact statements, noise studies, market studies or economic impacts. The person or firms preparing the studies shall be subject to the approval of the Director. The costs of all studies shall be borne by the applicant. Any application that is determined to require technical studies or review from entities outside of the City may require special schedules based on the reasonable time frames to conduct those studies or additional reviews. Technical studies reasonably required for applications for communication facilities for wireless services shall be subject to the applicable provisions of state and federal law and regulations, and shall be processed within the applicable time frames and tolling provisions set forth in GMC [17.11.040](#).

K. **Successive Applications.** In the event that the review body takes final action to deny an application, the same or a similar application shall not be refiled for one year from the advertised review date. The Director, upon petition by the applicant, may permit a refiling of the application no sooner than 180 days after the scheduled review date when it is determined that significant physical, economic or land use changes have taken place within the immediate vicinity or a significant Code text amendment has been adopted. There shall be no time limitation on a substantially different application.

SECTION SEVEN: Title 17 of the Gardner Municipal Code, Section 17.03.020 (C - E.), shall be amended to read as follows:

C. Administrative Plat. Administrative plats shall be processed according to the following criteria and procedures:

3. *Effect of Decision.* Approval of an administrative plat requires the applicant to record the plat with the Johnson County Register of Deeds. Any approval with conditions shall be clearly stated on the plat. Any plat not recorded within six months from the date signed by the Director shall be null and void. Upon recording of the plat, the applicant may proceed with applying for a building permit.

D. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures in addition to those identified in Table 3-1 and applicable in GMC 17.03.010:

3. *Term of Expiration.* The approval of the preliminary plat shall be effective for one year, except that any approval of a final plat for any phase specifically indicated on a preliminary plat shall renew the one year period. The Planning Commission may grant an extension of this period for up to one year, if the applicant demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.

E. Final Plat. After approval of the preliminary plat, the applicant may submit a final plat for all or portions of the preliminary plat area. A final plat shall be processed according to the following criteria and specific procedures in addition to those identified in Table 3-1 and applicable in GMC [17.03.010](#):

2. *Planning Commission Review.* If the Planning Commission approves or conditionally approves the final plat, the plat shall be forwarded to the Governing Body with a recommendation that they accept dedication of land for public purposes such as easements, rights-of-way and public facilities. Unless the applicant requests a continuance in writing to a date certain, the acceptance of land for public purposes shall be placed on the next regular meeting of the Governing Body,
4. *Effect of Decision.* The approval of the final plat, acceptance of the dedication of land for public purposes; finding that the construction plans for any utilities, infrastructure or public facilities meet all City technical specifications; and payment of the excise tax if applicable, authorized the filing of the plat with the Johnson County Register of Deeds. Any approval with conditions or exceptions to the rules shall be clearly stated on the plat. Any plat not recorded within two years from the date of acceptance of land by the Governing Body shall be null and void. Upon approval of the final plat, dedications, and construction plans and recording of the plat, the applicant may proceed with the construction of required improvements. No building permit shall be authorized until the completion, inspection and acceptance of all required improvements.

SECTION EIGHT: Title 17 of the Gardner Municipal Code, Section 17.03.030 (D.), shall be amended to read as follows:

D. Governing Body Review. The Governing Body shall not consider a request prior to the lapse of the 14-day protest period. The application shall be placed on the next regular meeting of the Governing Body after the 14-day protest period has passed unless the applicant requests a continuance in writing to a date certain. When the Planning Commission submits a recommendation of approval or disapproval of such amendments and the reasons thereof, the Governing Body may:

1. Adopt such recommendation by ordinance.
2. Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendation, the Governing Body by a simple majority may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

SECTION NINE: Title 17 of the Gardner Municipal Code, Section 17.03.040 (D - I.), shall be amended to read as follows:

D. Governing Body Review of Preliminary Development Plan. Unless the applicant requests a continuance in writing to a date certain, the preliminary development plan shall be placed on the next regular meeting of the Governing Body. When the Planning Commission submits a recommendation of approval or disapproval of such amendments and the reasons thereof, the Governing Body may:

1. Adopt such recommendation by ordinance.
2. Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon receipt of such recommendation, the Governing Body by a simple majority may adopt or may revise or amend

and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

- E. **Effect of Preliminary Development Plan Approval.** Approval of a preliminary development plan shall constitute acceptance of the overall planning concepts and development parameters. In reviewing and approving a preliminary development plan, the Planning Commission may recommend or the Governing Body may require conditions that must be met before an applicant submits a final development plan. An approved preliminary development plan shall lapse and be of no further force and effect if a final development plan (or final development plan for a designated phase of the preliminary development plan) has not been approved within one year of the date of approval of the preliminary development plan. The Planning Commission may grant an extension of this period for up to one year, if the applicant demonstrates substantial progress towards the design and engineering requirements necessary to submit a final development plan.
- F. **Designation on Official Zoning Map.** Sites governed by an approved preliminary development plan shall be designated on the official zoning map with the base zoning district plus "P" (planned) and a case file locator number for the final plan(s), on the final plan(s) is approved. (For example, where a portion of the development plan uses the R-2 and the C-2 base zoning districts for the preliminary development plan, the future zoning of each area shall be RP-2 and CP-2 respectively.)
- G. **Final Development Plan.** A final development plan is a detailed plan for implementing the preliminary development plan including technical information on building, site, open/civic space, and infrastructure development. A final development plan may include the entire area covered in the preliminary development plan or it may include one or more phases of the approved preliminary development plan. The plan shall include all necessary information to demonstrate that all applicable standards, requirements, and conditions of the preliminary development plan have been met.
- H. **Final Development Plan Review Criteria.** A final development plan shall be reviewed according to the criteria for site plan and design review in GMC [17.03.060](#), with the additional criteria that the final development plan is in substantial compliance with the approved preliminary development plan.

- I. **Effect of Final Development Plan Approval.** Approval of a final development plan shall be the same for that of site plan and design review in GMC [17.03.060](#).

SECTION TEN: Title 17 of the Gardner Municipal Code, Section 17.03.050 (C.), shall be amended to read as follows:

- C. **Governing Body Review.** Unless the applicant requests a continuance in writing to a date certain, the application shall be placed on the next regular meeting of the Governing Body. When the Planning Commission submits a recommendation of approval or disapproval of such amendments and the reasons thereof, the Governing Body may:
1. Adopt such recommendation by ordinance.
 2. Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or
 3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon receipt of such recommendation, the Governing Body by a simple majority may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- D. **Effect of Decision.** Approval of a conditional use permit by the Governing Body shall authorize the applicant to apply for a building permit and other applicable permits and establish the conditional use. Approval shall be valid for a period of time determined through the review process and the Governing Body; provided, that approvals for communication facilities for wireless services shall be for a term of not less than 10 years. Any application not acted upon according to the approval and conditions within one year of approval shall be void; although the Governing Body may grant a one-time one-year extension if justified. Any amendment to a conditional use permit shall require the same process as the original approval.

SECTION ELEVEN: All other provisions of Title 17, the Land Development Code, which are not specifically amended as provided herein shall continue in force and effect.

SECTION TWELVE: This ordinance shall take effect and be in force the first Planning Commission application submittal deadline after its passage by the City Council and publication in the official City Newspaper as provided by law.

PASSED by the Governing Body this 16th day of February, 2026.

SIGNED by the Mayor this 16th day of February, 2026.

CITY OF GARDNER, KANSAS

(SEAL)

/s/

Todd Winters, Mayor

Attest:

/s/

Renee Rich, City Clerk

Approved as to form:

/s/

Ryan B. Denk, City Attorney