

ORDINANCE NO. 2475

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF GARDNER, KANSAS BY AMENDING IN ITS ENTIRETY SECTION 18.140.100 OF TITLE 18 OF THE GARDNER MUNICIPAL CODE, RELATING TO ACCESSORY USES IN THE R-1 AND R-2 ZONING DISTRICTS.

WHEREAS, the City of Gardner, Kansas initiated the herein changes to Title 18, Section 18.140.100 by action of the Governing Body on the 2nd day of December, 2014; and

WHEREAS, a public hearing on the herein changes to Section 18.140.100 was properly noticed and held before the Planning Commission of the City of Gardner, Kansas, on the 16th day of December, 2014; and

WHEREAS, the Planning Commission has recommended that the herein amendments to the zoning ordinance of the City of Gardner, Kansas be approved.

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

Section 1: Section 18.140.100 Districts R-1 and R-2, of the Code of the City of Gardner, Kansas, 2008 shall be amended to read as follows:

18.140.100 Districts R-1 and R-2.

- A. Day-Care Home, Group Day-Care Home. Day-care homes for children provided the maximum number of children does not exceed the following, including the provider's own children under 14 years of age:

No. of Children under 18 Months	Maximum No. of Children 18 Months to Kindergarten Age	Maximum No. of Children in Attendance*
0	6	10
1	5	10
2	3	9
3	1	8

*Includes children kindergarten age to age 14.

The maximum number of children for which a group day-care home may be licensed shall be as follows:

No. of Adults Providing Child Care	Age of Children Enrolled	Maximum No. of Children in Attendance*
1 Adult	2-1/2 years to 14 years of age 3 years to 14 years of age Kindergarten age to 14 years of age	9 10 12
2 Adults	No more than 3 children under 18 months Not more than 5 children 18 months to kindergarten age	12
2 Adults	No more than 5 children 18 months to 2-1/2 years	12

- B. Accessory Buildings and Structures.

1. Location. Accessory buildings and structures shall be located in the rear yard. The building or structure shall be located at least 15 feet from the principal building. Accessory buildings or structures less than 250 square feet shall be located at least five feet from the side and rear property lines. Accessory buildings or structures 250 square feet or larger shall meet the setback requirement of the zoning district for side and rear yards. No accessory structure may be located on a vacant lot.
 - a. Number of Structures. There may be one detached garage or carport and one detached accessory building used for storage. One additional detached accessory building may be permitted by the Business and Economic Development Director or designee for the purpose of keeping animals in accordance with Section 18.140.100.D.
 - b. Size. The maximum size of an accessory building or structure is 1,000 square feet. However, in no instance shall the accessory building or structure exceed one-third of the habitable living area of the residence located on the parcel. The height of the accessory structure shall not exceed the height of the primary structure.
- C. Fences. Fences may be constructed to a maximum height of eight feet above the average grade level on the property line with the following exceptions and restrictions:
 1. A fence may not be constructed in the front yard or beyond the front platted building line.
 2. Where there is no platted side or rear building setback line, a fence may not be constructed within 15 feet of the property line along any street right-of-way.
 3. Fences constructed beyond platted rear or side yard building setback lines may be constructed to a maximum height of six feet above the average grade but not within 15 feet of the property line along any street right-of-way.
 4. A permit to install or modify a fence shall be obtained from the Codes Administrator.
 5. RP-1 and RP-2 Zoning Districts may have fences along arterial streets only when approved by the Planning Commission as part of the final development plan approval.
 6. Exceptions to the above may occur only when a master landscape/screening plan has been approved by the Planning Commission for a subdivision.
 7. All fences shall be constructed with the finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.

Any preexisting, nonconforming fence that is replaced 50 percent or more must come into compliance with the fence ordinance.

- D. Animals. Horses, ponies, cows, honeybees, fowl, goats, rabbits or other animals of similar size are permitted as follows:
 1. On lots 3 acres or more in size.
 2. On lots of less than 3 acres in size, the keeping of rabbits, chickens or fowl of similar size, or other animals of a similar size and characteristics may be approved by either of the following:
 - a. The Business and Economic Development Director or designee upon review of a plot plan or site plan in accordance with the following standards:
 - i. No more than 1 fowl or rabbit per 1,000 square feet of lot area and no more than 15 per lot.
 - ii. Roosters are not permitted.
 - iii. Fowl and rabbits are not permitted to run or fly at large and shall be kept in an enclosed structure or area located in the rear yard of the principal dwelling. Enclosed structures and areas shall be located a minimum of 30 feet from neighboring dwelling and 9 feet from side and rear lot lines. Enclosures open to the sky shall be surrounded with a wall or fence with a minimum height of 4 feet. The combined area of structures and enclosures for fowl shall provide a minimum of 10 square feet per fowl or rabbit.

- b. A Special Use Permit subject to Chapter 18.145 if the above standards cannot be met.
- E. Hobby Activity. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided, that the articles produced or constructed are not sold either on or off the premises.
- F. Additional Uses. Such additional accessory uses as private swimming pools, gardens, television and radio receiving antennas not exceeding 60 feet in height, signs as permitted by ordinance, parking areas, toolshed not exceeding 200 square feet, and play equipment are permitted. If any of the accessory uses described above exceeds 10 feet in height, it shall be located a distance inside the property line at least equal to one-third its height. Ground-mounted satellite dish antennas are permitted if the following performance standards are met:
1. "Satellite dish antenna" as used herein means any parabolic or dish or similar shape antenna constructed for the purpose of communicating or receiving signals from a satellite.
 2. Maximum number per lot: one.
 3. Maximum height: 13 feet.
 4. Maximum diameter: 11 feet.
 5. No antenna shall be located in a front or a side yard.
 6. Minimum setback from center of satellite dish to property lines of lot: 15 feet.
 7. Must be ground-mounted and securely attached to a concrete pad.
 8. All lines, wires or cables serving a satellite dish antenna must be buried underground.
 9. The construction of satellite dish type antennas will conform to the Uniform Building Code, as adopted by the Governing Body of the City of Gardner, Kansas. The permit fee shall be paid as established by the Governing Body by resolution.
- Solar collectors are permitted; provided, that the following performance standards are met:
1. Roof-mounted solar collectors located on front and side building roofs visible from the public right-of-way shall not extend above the peak of the roof plane where they are mounted; and further provided, that no portion of any such solar collector shall extend more than 24 inches perpendicular to the point on the roof where it is mounted.
 2. Roof-mounted solar collectors located on the rear side of building roofs shall not extend above the peak of the roof plane where they are mounted; and further provided, that no portion of any such solar collector shall extend more than four feet perpendicular to the point on the roof where it is mounted.
 3. Ground-mounted solar collectors shall not exceed eight feet in total height and shall be located within the rear yard at least 12 feet inside the property line.
 4. All lines serving a ground-mounted solar system shall be located underground.
- G. Outdoor Storage of Equipment, Material or Vehicle.
1. Outdoor Storage of Vehicles. Outdoor storage of boats, camping trailers, pickup campers, motor homes, recreational vehicles or hauling trailers is permitted on a lot in the R-1 and R-2 districts with the following exceptions and restrictions:
 - a. One hauling trailer which is used primarily to support a resident's occupation may be stored in the front yard on a paved driveway, and one of the above described vehicles (boat, camping trailer, pickup camper, motor home recreational vehicle or hauling trailer) may be stored in the rear yard or side yard but not on the street side of a corner lot.
 - b. A hauling trailer used primarily to support a resident's occupation shall not be stored in a manner which encroaches upon or obstructs a sidewalk.
 - c. Rear and side yard storage areas are not required to be paved.
 - d. A boat, camping trailer, pickup camper, motor home or a recreational vehicle may be parked in a driveway for purposes of loading or unloading or trip preparation for a period of time not to exceed 48 hours in a 30-day period in a residential district.

- e. Exceptions from the above may be granted by the Business and Economic Development Director or designee upon express written approval of either:
 - i. plans indicating screening to be installed and setbacks used; or
 - ii. demonstration that a vehicle other than a hauling trailer is used primarily to support a resident's occupation.
 - f. None of the vehicles in this section may be stored in an Inoperable condition. For purposes of this Section, "Inoperable" means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. Nothing herein shall be deemed to create an exception or exemption to the City's Code requirements stated within Chapter 10.20 relating to inoperable and abandoned motor vehicles.
2. Outdoor Storage of Materials, Products or Equipment. All storage of materials, products or equipment (beyond customary building mechanical systems) within the R-1 and R-2 districts shall be within the primary residence or other approved fully enclosed accessory structure. All other outside storage of materials, products or equipment shall not be permitted except for construction materials and equipment related to active construction activity upon the dwelling, accessory building or fence located on the lot upon which such construction and materials are stored.

H. Fruit and Vegetable Gardens. Gardens for production of fruit and vegetables are permitted.

Section 3: All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

Section 4: This ordinance shall be published on February 11, 2015.

Section 5: This ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

PASSED by the City Council this 5th day of January, 2015.

APPROVED by the Mayor this 5th day of January, 2015.

(SEAL)

CITY OF GARDNER, KANSAS

/s/ Chris Morrow
Chris Morrow, Mayor

Attest:

/s/ Jeanne Koontz
Jeanne Koontz, City Clerk

Approved as to form:

/s/ Ryan B. Denk
Ryan B. Denk, City Attorney