

ORDINANCE NO. 2587

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF GARDNER, KANSAS BY AMENDING THE SECTIONS OF TITLE 17 OF THE GARDNER MUNICIPAL CODE.

WHEREAS, the City of Gardner, Kansas initiated changes to Sections of Title 17 entitled "Land Development Code", by action of the City Council on 5th day of February, 2018, and action of the Planning Commission on the 24th day of April, 2018 and 24th day of July, 2018; and

WHEREAS, a public hearing on the herein changes to the Land Development Code was properly noticed and held before the Planning Commission of the City of Gardner, Kansas, on the 28th day of August, 2018, and the 25th day of September, 2018; and

WHEREAS, said Planning Commission has recommended that the herein amendments to the Land Development Code 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: Title 17 of the Code of the City of Gardner Kansas, 2016, shall be amended in part to read as follows:

CHAPTER 17.01 GENERAL PROVISIONS

Section 17.01.060 Nonconformances

- E. Nonconforming Lots.** Any lots platted legally prior to the adoption or amendment of this Code, but which could not be platted under the current requirements of this Code, may continue to exist, provided it complies with all other applicable standards. Any difficulties meeting these standards caused by the nonconformance of the lot may be used as criteria in granting any discretionary relief to these standards. A nonconforming lot shall not be used, conveyed, transferred, subdivided, nor have its boundaries altered in any manner, except for government purpose, that would compound or further increase the nonconforming characteristics of the lot. Such nonconforming lots may be combined, per the applicable plat procedure, provided this merger does not increase the degree of any nonconformity, and any such newly combined lot that does not meet current lot standards will continue to be a legal nonconforming lot even though it was not platted legally prior to the adoption of this Code.

CHAPTER 17.06 SPECIAL DISTRICTS

Section 17.06.040 AC-P – Activity Center Planned District

- A. Intent and Applicability.** The AC-P District is intended to encourage the creation of a balanced mix of regional- and community-serving uses and amenities near major highway interchanges and connecting arterial streets, and along proximate collector roadways, and to provide incentives for developments that meet the intent of this district. Specifically, development plans in this planned district should accomplish one or more of the following:
1. Create broader community benefits through the better integration of regional- and community-serving uses along and near key commercial corridors.
 2. Ensure the provision of infrastructure to support multi-modal transportation services along and through key commercial corridors.
 3. Ensure improved public realm designs are implemented along key commercial corridors, including streetscapes, open space, civic spaces and the relationship of buildings and sites to those spaces.
 4. Ensure compatibility between uses through building placement, building design, and landscape solutions and arranging uses to provide transitions from lower to higher intensity.
- B. Permitted Uses.** The uses for this district shall be based on the typically applicable base zoning districts associated with the Comprehensive Plan Future Land Use Category for the site, as shown

in Table 5-1: Comprehensive Plan and Zoning Districts, and as specified in Table 5-2: Use Table, with the following exception:

1. A development plan for land located within one-half (1/2) mile of the I-35 interchange right-of-way that includes frontage on arterial and collector streets shall include at least one use that is consistent with Community Mixed Use or Community Commercial Future Land Uses of the Comprehensive Plan, as permitted in one or more of the typically applicable zoning districts, as a primary or secondary component to other permitted uses.
2. Such uses shall be located in a visibly prominent location as viewed from I-35 and the applicable frontage streets, providing a transition to more intense uses.
3. If such uses are reserved for future development, deed restrictions shall be implemented to ensure future compliance.

C. Development Standards. The development standards for this district shall be based on the typically applicable base zoning districts associated with the Comprehensive Plan Future Land Use Category for the site, as shown in Table 5-1: Comprehensive Plan and Zoning Districts, except as specifically modified and noted on a development plan accompanying a planned zoning proposal. Departures from standards may be approved provided they support the stated intent for this district and the applicable provisions of the Comprehensive Plan. Departures from standards may specifically propose standards that differ from this Code for:

1. *Blocks and Lots, subject to the following:*
 - a. Larger developments shall utilize internal circulation patterns that are well-connected with adjacent parcels and roadways where appropriate.
2. *Open and Civic Space Types, subject to the following:*
 - a. Enhanced civic spaces are encouraged along arterial and collector street frontages.
 - b. Existing streams and floodplains shall be incorporated into natural areas.
3. *Building Type and Development Standards, subject to the following:*
 - a. Enhanced design shall be required for buildings that front arterial and collector streets and/or those that are adjacent to less intense uses.
 - b. Buildings shall be designed with appropriate setbacks or height transitions so that adjacent less intense uses are not overwhelmed in terms of building mass and scale.
4. *Frontage Type Standards, subject to the following:*
 - a. Enhanced landscape design shall be required for buildings that front arterial and collector streets.
5. *Site Design and Landscape, subject to the following:*
 - a. Enhanced landscape design shall be required adjacent to less intense uses.

D. Amenities.

1. The development plan shall include pedestrian and non-motorized infrastructure as indicated in Chapter 17.04 GMC, and GMC 17.09.020 Block and Lot Access, and shall also provide connections to existing or planned trail networks.
2. The development plan shall include alternative transportation infrastructure encouraging public transit use if located along an existing or future planned public transportation route. Such infrastructure may include sheltered/shaded bus stops with seating, solar cell phone charging stations, potable water, drinking fountains, etc.
3. The provision of public art, wayfinding signs, historic interpretive signs, creative landscape amenities or similar improvements in prominent locations are encouraged.

E. Rezoning. Approval of a development plan for this planned district shall be considered a rezoning of the property and be subject to the procedures and criteria in GMC [17.03.040](#).

F. Incentives. Development that is consistent with the intent and standards of this planned district shall be eligible for development incentives as authorized by the Governing Body.

CHAPTER 17.08 SITE AND LANDSCAPE STANDARDS

Section 17.08.040 SCREENS AND FENCING

- B. Fencing.** All fencing for screening, security, or privacy shall meet the following standards:

1. *Front Fencing.* All fencing in front of the front building line, shall:
 - a. Be limited to no higher than four feet; and
 - b. Shall have a void of at least 33 percent up to four feet, so that a four-foot-high picket fence shall have a picket to void ratio of 2:1 or greater transparency.
2. *Other Street-Side Fencing.* All fencing adjacent to a street-side lot line (not including front lot line) shall:
 - a. Meet the standards above for Front Fencing; except that street-side fencing more than six feet from a pedestrian facility in the public right-of-way and behind the front building line may meet the standards for rear and side fencing in subsection (B)(3) of this section.
3. *Interior Rear and Interior Side Fencing.* All interior rear and side fencing located behind the front building line shall:
 - a. Be limited to no higher than six feet, or up to seven feet in all nonresidential districts;
 - b. May have a solid screen.
4. *Other Fencing Design Standards.*
 - a. Any fencing that could potentially create a sight obstruction for vehicles crossing pedestrian areas or entering the street may require greater transparency or additional location restrictions to allow for safe sight distances for the vehicle.
 - b. All fencing located along adjacent lot lines shall be constructed so that either:
 - (1) The face of the fence is on the property line; or
 - (2) The face of the fence is at least three feet from the property line. Any areas set back three feet or more from the property line, which could become enclosed by other similarly located fences, shall provide at least one gate for access and maintenance equipment.
 - c. All fences shall be constructed so that the finished side faces adjacent property or any public right-of-way.
 - d. Fences shall be constructed from materials as follows:
 - (1) Any fence or wall constructed within 15 feet of the street right-of-way shall be limited to decorative or ornamental fencing and screening materials complementing the architectural style and materials of the principal building. The following materials may be considered to be decorative or ornamental:
 - (a) Wood or vinyl simulating wood;
 - (b) Wrought iron or aluminum simulating wrought iron;
 - (c) Stone, brick, concrete with stone or brick veneer, or precast concrete simulated stone or brick.
 - (d) Vinyl
 - (2) Fence materials that are not considered to be decorative or ornamental, including chain link (with or without slats), welded wire and similar materials (including any of these materials that are vinyl coated) are permitted as follows:
 - (a) In all residential districts, in the rear or side yard only with a maximum height of four feet;
 - (b) In the M-1 and M-2 districts, in the rear and side only, but no closer than 30 feet from any public street;
 - (c) Prohibited in all commercial districts.
 - (3) Electrified fencing in the RE or A districts only, and only when associated with a permitted agriculture use of the property.

Section 2: All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

Section 3: 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 15th day of October, 2018.

APPROVED by the Mayor this 15th day of October, 2018.

(SEAL)

CITY OF GARDNER, KANSAS

/s/

Steve Shute, Mayor

Attest:

/s/

Amy Nasta, City Clerk

Approved as to form:

/s/

Ryan B. Denk, City Attorney