

**ORDINANCE NO. 2757**

**AN ORDINANCE AMENDING SECTIONS 17.05.030, 17.05.050(P), AND 17.05.050(Y)(8), OF THE GARDNER MUNICIPAL CODE RELATING TO FOOD AND BEVERAGE – MOBILE USES**

WHEREAS, THE CITY OF GARDNER WISHES TO UPDATE BOTH THE GENERAL AND TEMPORARY USE STANDARDS FOR FOOD AND BEVERAGE – MOBILE ESTABLISHMENTS / USES.

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

**SECTION 1:** Section 17.05.030 of the Gardner Municipal Code shall be edited as follows:

**17.05.030 General Use Standards**

A. **Permitted Uses.** In order to implement the intent of each zoning district, facilitate complementary transitions between districts, and to regulate a variety of compatible uses within zoning districts, use categories and general uses have been established for principal uses of land and buildings. Table 5-2 indicates permitted uses (P) subject to general district and building type standards, permitted accessory uses (A) subject to specific accessory use standards, temporary uses (T) subject to limited permits, and conditional uses (C) subject to the discretionary review process in GMC 17.03.050. All uses may be subject to more specific standards, limitations and performance criteria as identified by an asterisk in Table 5-2 and in GMC 17.05.040, 17.05.050 and Chapter 17.11 GMC. Use categories, general uses and specific types of uses are more specifically described in subsection (B) of this section.

Table 5-2: Use Table	Residential Districts								Nonresidential Districts							
	A	RE	R-1	R-2	R-3	R-4	R-5	RM-P	C-O	CO-A	C-1	C-2	C-3	M-1	M-2	REC
<b>RESIDENTIAL DWELLINGS</b>																
Household Living	P	P	P	P	P	P	P	P								
Multi-Unit Household Living				P*	P	P	P		P	P	P					
Group Care Home (9 – 14 residents)	C*	C*			P*	P*	P*									
Congregate Living					P	P	P									
Manufactured/Mobile/Micro Home Community								P*								
Mixed Use (apartment over commercial/service)									P	P	P	P				

Live/Work						P	P			P	P	P					
Accessory Dwelling	A*	A*	A*	A*	A*	A*	A*										
Accessory Home Occupation	A*	A*	A*	A*	A*	A*	A*	A*									
Accessory In-Home Day Care	A*	A*	A*	A*	A*	A*	A*	A*									
<b>CIVIC/INSTITUTIONAL</b>																	
Assembly – Small	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		P*
Assembly – Large								C	C			C	C	C	P	P	P
Assembly – Event Venue														C	C	C	
Cultural and Public Service	C							C	C		P	P	P	P	P		P
School – Neighborhood	P	P	P	P	P	P	P			P	P			P	P		P
School – Community		P	P	P	P	P	P			P	P			P	P		P
School – Regional												C	P	P	P		C
Cemetery/Mausoleum	P*	P*	P*	P*	P*	P*	P*						P*	P*	P*		P*
Open/Civic Space (see GMC 17.04.020, 17.08.020)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Residential Care – Limited						P*	P*	P*		C*	C*	C*	P	P			
Residential Care – General							P*	P*		C*	C*	C*	P	P			
Residential Care – Institutional								C*		C*			C	P			
<b>Retail</b>																	
Retail – Micro (under 1K)	A	A								P	P	P	P	P	P	P	A
Retail – Neighborhood (1K – 3K)	A									P	P	P	P	P	P	P	A
Retail – Small (3K – 6K)											P	P	P	P	P		
Retail – General (6K – 20K)												P	P	P	P		
Retail – Large (20K – 100K)														P	P		
Retail – Warehouse (100K+)														P	P		
Grocery – Market (under 10K)											P	P	P	P			
Grocery – Store (10K – 45K)											C*	C*	P	P			
Grocery – Supermarket (45K+)													P	P			
Outdoor Sales – Limited	A*	A*									A*	A*	A*	A*			
Outdoor Sales – General													P*	P*	P*	P*	
Outdoor Sales – Heavy													C*	P*	P*	P*	
Convenience Store/Fuel Station – Limited (1-4 pumps)										P*	P*	C*	P*	P*	P*	P*	
Convenience Store/Fuel Station – General (5-12 pumps)											C*		P*	P*	P*	P*	
Convenience Store/Fuel Station – Heavy (13+ pumps)													C*	P*	P*	P*	
<b>Service and Employment</b>																	
Animal Care – Kennel	P*												A*	A*	P*		
Animal Care – General	C									P	P	P	P	P	P		
Animal Care – Large	C*													C*	P		
Day Care Center			C*	C*	C*	C*	C*			P	P	P	P	P	P		
Food and Beverage – Accessory Drive-Through										A*		A*	A*	A*	A*		
Food and Beverage – Accessory Outdoor										A*	A*	A*	A*	A*	A*		A*
Food and Beverage – General										P	P*	P	P	P	P		A*
Food and Beverage – Heavy										P		C	P	P	P		
Food and Beverage – Mobile / if Semi-Permanent/Permanent	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*/C	T*/C	T*/C	T*/C	T*/C	T*/C	T*/C	T*
Food and Beverage – Mobile Grouping												C	C	C	C	C*	
Funeral Home and Interment										P	P	P					

Health Care – Small										P	P	P	P	P	P		
Health Care – General										P	P	P	P	P	P		
Health Care – Large												P	P				
Lodging – Bed and Breakfast (up to 5 rooms)	C*	C*	C*	C*	C*	C*	C*				P	P					
Lodging – Short Term Rental of Detached House		C*	C*	C*													
Lodging – Inn (up to 20 rooms)										P	P	P	P	P			
Lodging – Small (up to 100 rooms)										P		P	P	P			
Lodging – Large (more than 100 rooms)													P	P			
Office – Limited (under 10K)										P	P	P	P	P	P		
Office – General (10K – 40K)										P	C	C	P	P	P		
Office – Large/Complex (40K+)													P	P	P		
Pawn Shops/Short-Term Loan and Check Cashing											P	P	P	P	P		
Personal Services – Limited (under 3K)										P	P	P	P	P	P		
Personal Services – General (3K – 10K)											P	P	P	P	P		
Personal Services – Heavy/Business Services (10K+)													P	P	P	P	
Personal Storage – Indoor										C			P	P	P		
Personal Storage – Outdoor													P	P			
Recreation/Entertainment – Indoor Minor (under 10K)										P	P	P	P	P	P		P
Recreation/Entertainment – Indoor Major (10K+)										P		C	P	P	P		P
Recreation/Entertainment – Outdoor Minor										P		C	P	P	P		P
Recreation/Entertainment – Outdoor Major												C	C	P			P
Recreation – RV Park/Campground	C												P*	P*			P*
Temporary Use (See GMC 17.05.050(Y))	T*									T*	T*	T*	T*	T*	T*	T*	T*
Vehicle/Equipment Service and Repair – Limited										P	P	P	P	P	P	P	
Vehicle/Equipment Service and Repair – General													C	P	P	P	
Vehicle/Equipment Service and Repair – Heavy														C	P	P	
<b>INDUSTRIAL</b>																	
Manufacturing – Limited/Artisan											P	P	P	P	P	P	
Manufacturing – Light													C	P	P	P	
Manufacturing – General															P	P	
Manufacturing – Heavy																P	
Freight and Distribution – Light															P	P	
Freight and Distribution – Heavy																P	
Commercial Storage – Indoor										C			P	P	P	P	
Commercial Storage – Outdoor Minor														P*	P*	P*	
Commercial Storage – Outdoor Major															P*	P*	
Extractive Industry/Natural Resource Processing	C*															C*	
Landfill and Waste Processing Facility																C*	
<b>AGRICULTURE</b>																	
Agri-Tourism	P																
Agriculture – Light Processing	A														P	P	
Agriculture – Heavy Processing																P	
Farming – Light	P	A	A	A	A	A	A	A									P
Farming – Commercial	P*																
Farming – Homestead	A	A*	A*	A*													

Riding Stables	P																
<b>COMMUNICATIONS AND UTILITIES</b>																	
Small cell and distributed antenna systems mounted or collocated on monopoles, utility poles, or street lights in the public rights-of-way	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Communication facilities designed as an architecturally compatible element mounted or collocated on nonresidential buildings	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*
Communication facilities designed as an architecturally compatible element mounted or collocated on mixed use or live/work buildings							A*	A*		A*	A*	A*					
New tower (not in the public rights-of-way)	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*
Modification of an existing tower or base station that does not incur a substantial change to the tower or base station or that otherwise qualifies as an eligible facilities request	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Wind Energy Conversion System – Small	C*	C*					C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*
Wind Energy Conversion System – Large	C*																C*
Solar Collector – Roof Mounted	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*
Solar Collector – Ground Mounted	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*
Public Utility Facility – Minor	C*	C*	C*	C*	C*	C*	C*	C*	P*	P*	P*	P*	P*	P*	P*	P*	
Public Utility Facility – Major	C*								C*	C*	C*	C*	C*	C*	C*	C*	
Aviation Facilities	C*																
Signs, Ancillary (See Sign Standards)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Signs, Principal Use (See Sign Standards)														P	P	P	

**B. Description of Uses.** This subsection contains general descriptions associated with the use of land and buildings organized by categories and types, and enabled by zoning districts in Table 5-2. Where a proposed use is not generally listed or appears to meet the description of more than one use type, the Director shall make an interpretation on the most relatively equivalent described use considering (1) the similarity of the use in terms of scale, impact and operations to other described uses; (2) the typical building formats and site designs associated with the use from existing examples; and (3) the potential contribution of the use and typical formats to the intent of the zoning district. Any use that may not be interpreted as relatively equivalent to a use described in this section or the use table is not anticipated by these regulations and may only be allowed by a text amendment.

**1. RESIDENTIAL DWELLINGS**

The Residential Dwelling category is the principal use of land and buildings for dwelling units. The arrangement and extent of dwelling units depends on the zoning district, lot sizes and building types, arranged in the following types:

- a. *Household Living*. Detached dwelling units in buildings designed and used for one household in a single, principal structure. For the purpose of this use, “household” includes up to eight disabled individuals with up to two resident caregivers living as a group in a single dwelling, as defined by K.S.A. [12-736](#).
- b. *Multi-Unit Household Living*. Buildings with two or more dwelling units, dependent on specific building types permitted in each district, where each is designed for occupancy by one household.
- c. *Group Care Home (Nine to 14 Residents)*. A single-unit residential building designed as a detached house but occupied by nine to 14 disabled residents as defined by K.S.A. [12-736](#), or other residents with common special needs, and up to two resident caregivers living as a group in a single home.
- d. *Congregate Living*. Congregate living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of “one household,” but often share a common situation or facilities. Does not include residential care facilities or correctional facilities.
- e. *Manufactured/Mobile/Micro Home Community*. A parcel of land planned and designed for multiple home sites for the placement of manufactured, mobile or other small homes, and used for the principal dwelling of households for long-term residency. Home sites may either be located on a single lot, owned through appropriate condominium procedures, or platted for individual ownership of each site under certain conditions.
- f. *Mixed Use (Apartment over Commercial/Service)*. A residential use in a building designed primarily for street level retail, service or employment uses, and where dwelling units are accommodated on upper stories, or otherwise separated from the principal commercial function of the building.
- g. *Accessory Dwelling*. A dwelling unit, either in a detached accessory structure, or included within a principal structure, that is located on the same lot as a detached house and is incidental to the principal use of the lot for a principal dwelling. Examples include a garage apartment, basement apartment or second level/attic apartment.
- h. *Accessory Home Occupation*. A business, profession, service, or trade conducted for gain or support entirely within an owner occupied residential dwelling and/or its accessory structures, when such activities are clearly incidental or subordinate in use to the dwelling and may involve limited on-premises interaction with customers.
- i. *Live/Work*. A residential building type designed with a single dwelling unit, but where an additional component of the structure is designed for a small-scale business

function run by the occupant. Live/work units can either be detached structures or attached with common party walls with other live/work units similar to the row house configuration.

## 2. CIVIC/INSTITUTIONAL

The Civic/Institutional category is the use of land and buildings to serve public or community interest by enhancing the daily cultural, social, or recreation needs for residents and neighborhoods, whether by way of open and public citizenship, by property ownership or residency, or by membership affiliation. It includes the following types:

- a. *Assembly – Small.* Places of public assembly designed and located to serve community or civic needs for residents of nearby neighborhood(s) with regular or periodic organized services or events, and typically designed for no more than 600 people at maximum occupancy. Examples include a neighborhood association club house, meeting hall, or small religious facility.
- b. *Assembly – Large.* Places of public assembly designed and located to serve community or civic needs of a broad vicinity with regular or periodic organized services or events, and typically designed for 600 to 1,200 people. Examples include a community center, small event hall or large religious facility.
- c. *Assembly – Event Venue.* Places of public assembly designed and located to serve community or civic needs of the City or region and typically designed for 1,200 or more. Examples include an auditorium, large event hall or major worship hall.
- d. *Cultural and Public Service.* A civic use offering education, arts and cultural materials or attractions for the general public, including exhibits and events; or offering administrative, social, tourism, or charitable services to the general public. Examples include museums, libraries, charitable or philanthropic centers, tourist information centers, and similar uses.
- e. *School – Neighborhood.* A small public or private institution for primary or secondary education and typically serving up to 600 students, primarily targeted to neighborhoods within one mile. Special purpose schools that have a larger target area but are designed and scaled to perform similarly to a neighborhood school may be included in this type.
- f. *School – Community.* A large public or private institution for primary or secondary education and typically serving more than 600 students and targeted to the broad vicinity, including neighborhoods beyond one mile.

- g. *School – Regional*. A public or private institution for post-secondary education, skills and trade instruction or job training, targeted to the region. Examples include colleges, universities, and vocational/technical schools.
- h. *Cemetery/Mausoleum*. Land or building used for the burial of the deceased and dedicated for interment purposes, including both human and animals.
- i. *Open/Civic Space*. Areas preserved as primarily open land, except for accessory structures, and designed to serve a specific urban design function for natural, ecological, aesthetic, recreational or formal gathering purposes. (See GMC [17.04.020](#) and [17.08.020](#) for more specific types.)
- j. *Residential Care – Limited*. A facility providing residential living, social programs and limited health care services for residents, where the social and healthcare services are accessory to the building(s) and site design emphasizing household living, where the social programs and health care services are limited accessory elements in terms of the function and extent, and where dedicated staff are present primarily during normal business hours. Examples include retirement village, independent living or assisted living communities.
- k. *Residential Care – General*. A facility providing long term care, health services and residency, that admits residents on medical referral, and where medical, behavioral and rehabilitative care is necessary beyond normal business hours. Examples include nursing homes, hospice homes, or other similar care facilities.
- l. *Residential Care – Institutional*. A facility offering short or long-term care for individuals residing on the site that need a high degree of services or monitoring, and where full time staff are present on the premises at all times, and where the building(s) and site design emphasize the institutional function, secondary to the residential accommodations. Examples include treatment centers, homeless shelters, or other facilities with a high intensity of care or supervision.

### **3. RETAIL**

The Retail category is the use of land and buildings for the sale, lease or rental of products to the general public with frequent interaction of patrons or consumers on premises. The types of uses in this category are dependent on the size of gross leasable area per tenancy, where the smaller formats (Micro, Neighborhood and Small) are typically dependent on a target market of consumers within the neighborhood or one mile area, and where the larger formats (General, Large and Warehouse) are typically dependent on a target market beyond the one mile area.

- a. *Retail – Micro (under 1K)*. A small-scale retail use under 1,000 square feet.
- b. *Retail – Neighborhood (1K – 3K)*. A small-scale retail use at least 1,000 but less than 3,000 square feet.
- c. *Retail – Small (3K – 6K)*. A small-scale retail use at least 3,000 but less than 6,000 square feet.
- d. *Retail – General (6K – 20K)*. A retail use at least 6,000 but less than 20,000 square feet.
- e. *Retail – Large (20K – 100K)*. A large-scale retail use at least 20,000 but less than 100,000 square feet.
- f. *Retail – Warehouse (100K+)*. A large-scale retail use at least 100,000 square feet.
- g. *Grocery – Market (under 10K)*. A retail use selling food and produce or specialty food products for household consumption in a small-scale format under 10,000 square feet. Examples include a corner market, butcher shop, produce stand or similar food store.
- h. *Grocery – Store (10K – 45K)*. A retail use selling food, produce and other household products for household consumption in a small-scale format at least 10,000 but less than 45,000 square feet. Examples include a small grocery store that may serve as the anchor to a small-scale walkable center.
- i. *Grocery – Supermarket (45K+)*. A retail use selling food, produce and household products for household consumption in a large-scale format, at least 45,000 square feet. Examples include a large format grocery or supermarket, or a similar function housed within a larger warehouse retail store.
- j. *Outdoor Sales – Limited*. A retail use involving the limited accessory display of merchandise on a sidewalk adjacent to an otherwise permitted nonresidential use. Examples include an ice machine, propane tank rentals, movie rentals, newspaper dispensers, etc.
- k. *Outdoor Sales – General*. A retail use where the primary business is associated with merchandise that can only be displayed permanently and year round out of doors, or where the primary business maintains a permanent outdoor display area for rotations of seasonal merchandise to be displayed outdoors. Examples include a small-scale nursery, a lumber yard, farm store, or small machine or equipment sales or rental.
- l. *Outdoor Sales – Heavy*. A retail use where the primary business is associated with large-scale equipment and merchandise that can only be displayed permanently and year round out of doors. Examples include a lot or yard for sales or rentals of motor vehicles, large equipment, boats or recreational vehicles, large machines or farm implements.



- m. *Convenience Store/Fuel Station – Limited (One to Four Fueling Stations)*. A retail use engaged in the sale of fuel and other convenience goods to the general public, and may include accessory repair or maintenance services. The use is limited to no more than four fueling stations and no more than three garage service bays. Examples include a small, neighborhood gas and service station.
- n. *Convenience Store/Fuel Station – General (Five to 12 Fueling Stations)*. A retail use engaged in the sale of fuel and other convenience goods to the general public, and may include accessory repair or maintenance services. The use is limited to no more than 12 fueling stations and no more than four garage service bays. Examples include a small convenience center or large gas station.
- o. *Convenience Store/Fuel Station – Heavy (13+ Fueling Stations)*. A retail use engaged in the sale of fuel and other convenience goods to the general public, and may include accessory repair or maintenance services. The use may include 13 or more fueling stations. Examples include large convenience stores, gas stations or truck stops and travel centers.

#### **4. SERVICE AND EMPLOYMENT**

The Service and Employment category is the use of land and buildings for businesses engaged in the exchange of professional and individual services. It includes the following types:

- a. *Animal Care – Kennel*. A service use for the boarding of animals, where there are outside areas or facilities where more than four dogs are kept for purposes of breeding, boarding, or care.
- b. *Animal Care – General*. A service use offering basic care for animals in an indoor setting, and which may include services offered outside of normal business hours. Examples include a small veterinary office, grooming service, animal hospital or rehabilitation facility.
- c. *Animal Care – Large*. A service use offering full care for animals with activities taking place in large-scale indoor and/or outdoor facilities, and which may include services offered outside of normal business hours. Examples include large animal hospitals, kennels, animal adoption agencies or other similar facilities.
- d. *Day Care Center*. A service use providing recreation, education and supervisory services for children or adults on a regular basis away from their primary residence, not including schools, in-home day care, or residential care facilities.

- e. *Food and Beverage – Accessory Drive-Through.* A portion of a facility that relates to dispensing products or services to patrons who remain in vehicles. May include a window, driving lane, outside menu boards, and other interior or exterior features and equipment dedicated for this purpose.
- f. *Food and Beverage – Accessory Outdoor.* A porch, patio, deck or other area of land used for seated dining which is not within the interior building walls of a restaurant or eatery.
- g. *Food and Beverage – General.* A service use that prepares and sells food and beverages for on-premises consumption, and may include accessory off-premises consumption through carry-out or drive-through services, and may also include on-premises consumption of alcoholic beverages and/or accessory indoor entertainment.
- h. *Food and Beverage – Heavy.* A service use that prepares and sells food and beverages for on-premises consumption, but where alcohol sales are a majority of the sales and food services are subordinate to this function, or where entertainment events by tickets or cover charge, or other significant attractions are held during nighttime or evening business.
- i. *Food and Beverage – Mobile.* A service use that utilizes any motorized or nonmotorized vehicle, trailer, or other device / structure designed to be portable, for preparing and selling food and/or beverages for on- or off-premises consumption. Such mobile vehicle, trailer or other device / structure shall not be permanently attached to the ground nor attached to any public or private electrical service; public or private gas service; public or private sewerage facility; or public or private water source. Any mobile food and beverage use that is permanently attached to the ground or attached to any public or private utility shall be considered a permanent use of the property and would be considered a Food and Beverage – General or Heavy use of the property per the applicable definition subject to meeting the applicable building and zoning regulations as well as making site improvements that would apply to a permanent food and beverage use per the applicable definition(s) as determined through the Conditional Use Permit process, unless associated with an approved temporary special event or community sponsored activity.
- j. *Food and Beverage – Mobile Grouping.* A service use which includes more than one motorized or nonmotorized vehicle, trailer, or other device / structure designed to be portable, for preparing and selling food and/or beverages for on- or off-premises consumption. Such groupings shall be considered a permanent use of property and would be considered Food and Beverage – General or Heavy use of the property per the applicable definition and subject to meeting all applicable building and zoning

- regulations as well as making site improvements that would apply to a permanent food and beverage use per the applicable definition(s) as determined through the Conditional Use Permit process, unless associated with an approved temporary special event or community sponsored activity.
- k. *Funeral Home and Interment*. A service use accommodating preparation and ceremony for the burial of the deceased.
  - l. *Health Care – Small*. A facility where a small group of physicians, dentists or other health care professionals offer limited medical services in an office setting during normal business hours.
  - m. *Health Care – General*. A facility where multiple groups of physicians, dentists or other health care professionals offer a range of services in a shared office setting primarily during normal business hours.
  - n. *Health Care – Large*. A large institution offering full-service, 24-hour, in-patient, out-patient and emergency health care services, including a wide range of accessory office, cafeteria and other uses that support the institutional setting.
  - o. *Lodging*. A service use by a licensed (where applicable) business providing accommodations for short-term overnight occupancy. This use type is broken into the following sub-classes based on scale and intensity:
    - p. *Lodging – Bed and Breakfast (up to Five Rooms)*. A lodging use in a residential building type that has up to five guest rooms and a resident manager for accessory meals, operations and cleaning services.
    - q. *Lodging – Short-Term Rental of Detached House*. A lodging use in a residential building type where the dwelling is rented or sold for any term less than 30 consecutive days.
    - r. *Lodging – Inn (up to 20 Rooms)*. A lodging use in a small commercial building that accommodates up to 20 rooms which may include limited accessory services such as a small restaurant or lounge.
    - s. *Lodging – Small (up to 100 Rooms)*. A lodging use in a large commercial building or complex that accommodates up to 100 guest rooms, and may include accessory restaurant, lounge, or meeting room facilities.
    - t. *Lodging – Large (More Than 100 Rooms)*. A lodging use in a large commercial building or complex designed for more than 100 guest rooms, as well as associated restaurant, event and conference services.
  - u. *Office*. An employment use focusing on the administrative and management aspects of business or professional services, typically do not have a high rate of exchange with general public, consumers, or patrons, but may involve regular interaction with

- clients or other business activities. This use type is broken into the following sub-classes based on scale and intensity:
- v. *Office – Limited (under 10K)*. An office use where the total gross leasable area is less than 10,000 square feet.
  - w. *Office – General (10K – 40K)*. An office use where the total gross leasable area is at least 10,000 but less than 40,000 square feet, and may include more than one building.
  - x. *Office – Large/Complex (40K+)*. An office use where the total gross leasable area is at least 40,000 square feet, or involves more than one building in a complex.
  - y. *Pawn Shops/Short-Term Loan and Check Cashing*. A service use engaged in the business of lending money on the security of pledged goods, purchasing goods on the condition that they may be repurchased, or offering loans for periods of 30 days or less intended to coincide with a period of one or more paydays of the borrower.
  - z. *Personal Services*. A service use providing professional or individual services and where frequent interaction with the general public, consumers or patrons occurs on the premises. This use type is broken into the following sub-classes based on scale and intensity:
    - aa. *Personal Services – Limited (under 3K)*. A personal service use where the gross leasable area is under 3,000 square feet. Examples include a neighborhood barber shop or hair salon, a small professional office (lawyer, accountant, or travel agent), small bank, dry cleaners or tailor.
    - bb. *Personal Services – General (3K – 10K)*. A service use where the gross leasable area is at least 3,000 and less than 10,000 square feet. Examples include a large spa or beauty complex, tattoo shop, a copy center, large post office or mail center, or laundromat.
    - cc. *Personal Services – Heavy/Business Services (10K+)*. A service use where the gross leasable area is 10,000 square feet or more. Examples include a large bank, equipment repair shop, or other service for consumers or other businesses that requires larger spaces.
    - dd. *Personal Storage – Indoor*. A service use where individual units accessed from inside of a building are offered for rent or lease for the storage of personal property.
    - ee. *Personal Storage – Outdoor*. A service use where individual units accessed from outside of a building are offered for rent or lease for the storage of personal property.
    - ff. *Recreation/Entertainment – Indoor*. A service use providing daily or regularly scheduled activities for entertainment, instruction or exercise inside a building and

- open to the general public or through membership. This use type is broken into the following sub-classes based on scale and intensity:
- gg. Recreation/Entertainment – Indoor Minor (under 10K).* Indoor recreation that involves a building less than 10,000 square feet. Examples include a small bowling alley, fitness club, billiard hall, martial arts center, yoga studio, or dance studio.
  - hh. Recreation/Entertainment – Indoor Major (10K+).* Indoor recreation that involves a building 10,000 square feet or more. Examples include a large bowling alley, sports and recreation center, theater complex, large health club, or shooting range.
  - ii. Recreation/Entertainment – Outdoor.* A service use providing daily or regularly scheduled activities for entertainment, recreation or exercise outside and open to the general public or through membership. This use includes accessory buildings for the transaction of business and accessory indoor services. This type is broken into Major and Minor based on the scale and intensity of the use.
  - jj. Recreation/Entertainment – Outdoor Minor.* Examples include driving range, miniature golf, golf course, swimming pool, tennis, batting cage, small band shell or amphitheater.
  - kk. Recreation/Entertainment – Outdoor Major.* Examples include theme park, water park, fairground, zoo, drive-in theater, shooting range, skeet and trap range, racetrack.
  - ll. Recreation – RV Park/Campground.* A service use providing overnight accommodations within a large open area for recreational purposes.
  - mm. Temporary Use.* A use established for a limited and fixed period of time, and upon its discontinuance no structures, facilities or other impacts on the site remain and the site is otherwise restored to its preuse condition. Examples include short-term events such as festivals, carnivals, or art exhibits; seasonal sales such as farm produce, Christmas tree stands, or pumpkin sales; general merchandise outdoor sales stands such as flower stands, arts and crafts sales, or other general merchandise.
  - nn. Vehicle/Equipment Service and Repair – Limited.* A service use engaged in motor vehicle maintenance and repair services, and accessory retail sale of supplies and accessories, but limited to small-scale operations that involve no more than three vehicle service bays, and where all work and storage of equipment and supplies occurs indoors, and where on-site or overnight storage of vehicles is limited to no more than eight cars on the lot. Examples include a small neighborhood mechanic shop, lubricant center, tire store, auto glass installation or audio or alarm installation.
  - oo. Vehicle/Equipment Service and Repair – General.* A service use engaged in equipment and motor vehicle maintenance and repair services, and accessory retail sale of supplies and accessories, which involves four or more vehicle service bays,

where all work and storage of equipment and supplies occurs indoors, but where on-site or overnight storage of vehicles may involve nine or more cars on the lot. Examples include large mechanic shop, lubricant center, tire store, auto glass installation or audio or alarm installation or an auto body shop where the likelihood of overnight storage, outdoor storage and overnight or multiday drop off is more likely.

*pp. Vehicle/Equipment Service and Repair – Heavy.* A service use engaged in the maintenance and repair of motor vehicles, commercial vehicles or heavy equipment, and accessory retail sale of supplies and accessories, that is likely to involve larger outdoor storage areas for vehicles and supplies, and where larger multi-bay garages or warehouses are needed to conduct services.

## 5. INDUSTRIAL

The Industrial category is the use of land and buildings engaged in the production, processing, storage or distribution of goods with potential impacts beyond the site due to the types of activities, the physical needs of the site or facility, the types of materials used, or the delivery and access operations, and which in typical formats and operations may not be compatible with other business uses. It includes the following types:

- a. *Manufacturing – Limited/Artisan.* A small-scale industrial use where activities produce little or no byproducts such as smoke, odor, dust or noise discernible from outside of the building, where deliveries and distributions are made by general consumer delivery services requiring no special large truck access, and where products are made available to the general public. Uses typically occupy buildings or spaces under 10,000 square feet of gross leasable area. Examples include an artists' studio, small wood or metal shop, craft manufacturing, small bakery or microbrewery, or other similar small-scale assembly of finished products.
- b. *Manufacturing – Light.* An industrial use where little or no byproducts such as smoke, odor, dust or noise are discernible from outside of the building, and where distribution and delivery needs occur through light to moderate commercial truck access. Examples include research labs or facilities, small equipment or commodity assembly, warehousing or wholesaling of consumer products, commercial bakery, nonretail laundry services, or similar businesses that provide products for support of other businesses.
- c. *Manufacturing – General.* An industrial use where byproducts such as noise, dust, smoke or odor are produced, but are mitigated to limit impacts beyond the property boundary. Outside storage and activities may be necessary, and distribution and

- delivery needs involve frequent or large truck access. Examples include large-scale manufacturing or fabrication plants, food production and manufacturing plants, metal fabrication plants, chemical laboratories or other similar high-intensity manufacturing or distribution operations.
- d. *Manufacturing – Heavy.* An industrial use capable of producing significant byproducts such as noise, dust, smoke or odor beyond the building or site, or where hazardous materials may be stored, used or produced as a typical part of the business, and distribution involves heavy truck, freight and machinery access. Examples include chemical, wood or metal storage and production, pressing and dyeing plants, asphalt or cement production, animal processing or other heavy or hazardous manufacturing operations.
  - e. *Freight and Distribution – Light.* An industrial logistics use involved in the storage, order processing and distribution of consumer products where all operations occur indoors, and where delivery and distribution occur through commercial truck access. Examples include distribution centers, warehouses, moving and storage operations, cold storage, parcel services and similar uses.
  - f. *Freight and Distribution – Heavy.* An industrial logistics use involved in the storage, order processing and distribution of business products or raw materials where operations may involve outdoor activities, and where delivery and distribution occur through large truck, freight or heavy equipment access. Examples include freight terminals, fleet vehicle terminals, bulk material storage and distribution, cargo container facilities, and similar uses.
  - g. *Commercial Storage – Indoor.* Storage of consumer products or small-scale commercial products inside a building. Examples include mini-warehouses where all storage areas including those leased or rented to individual customers are accessed from inside the principal building.
  - h. *Commercial Storage – Outdoor Minor.* Storage of consumer products or small-scale commercial equipment which may be associated with a wholesale, service or industrial use on an outdoor lot. Examples include a contractor’s yard or similar small-scale storage lot or facility.
  - i. *Commercial Storage – Outdoor Major.* Storage of commercial products or large-scale machinery which may be associated with a wholesale, service or industrial use on an outdoor lot. Examples include boat or RV storage, towing service storage yard, or similar large-scale storage lot or facility.
  - j. *Extractive Industry/Natural Resource Processing.* The growth, harvesting, and preparation of byproducts of land (other than agriculture) for distribution and sale as a

- raw material in some other manufacturing process, where the growth and harvesting involves outdoor machinery operation or outdoor storage. Examples include a quarry, mining operation, oil or gas well, or wood storage yard.
- k. *Landfill and Waste Processing Facility*. An area dedicated to the storage, processing, treatment and distribution of waste products. Examples include scrap or salvage yards, transfer stations, and other similar uses.

## 6. AGRICULTURE

The Agriculture category is for the use of land and buildings in the production of food, fiber or raw materials raised and harvested on large land areas in a rural or open setting.

- a. *Agri-Tourism*. The accessory use of a commercial farm for special events or retail activities in typical agricultural structures or settings.
- b. *Agriculture – Light Processing*. The storage, processing and distribution of farm products produced on site where only small-scale facilities are necessary.
- c. *Agriculture – Heavy Processing*. The aggregation, storage, processing and distribution of farm products. Examples include grain elevators, livestock auction yard, stockyard or rendering plant.
- d. *Farming – Light*. The primary use of land for small-scale production of field crops or horticulture for food, where only small-scale accessory storage facilities and light machinery are necessary. Examples include a community garden, greenhouse, or other small productive edible landscape area.
- e. *Farming – Commercial*. The primary use of land for commercial production of field crops for food or raw materials in other agriculture operations; the raising or breeding of livestock, poultry, fish or other animals for food or use of their byproducts in agriculture operations; plant production such as nursery, orchard, vineyard.
- f. *Farming – Homestead*. The accessory use of residential property for the production of crops or horticulture for food, and which may include the limited keeping of animals, where the principal residence of the owner or operator is on the premises and where the activities and equipment used results in impacts similar to typical residential activities.
- g. *Riding Stables*. A facility for the boarding and riding of horses, including either general commercial and recreational purposes, or private purposes for horse owners.

## 7. COMMUNICATIONS AND UTILITIES



The Communications and Utilities category is for buildings, structures, or other physical improvements that provide essential public services or support the communication/distribution of information.

- a. *Communication Facilities for Wireless Services.* Any structure or device used to collect or transmit electromagnetic waves for the provision of commercial wireless services, including all accessory equipment, facilities and support structures, and including all buildings used as a support structure. Such services include specialized mobile radio (SMR), personal communications services (PCS), commercial satellite services, microwave services, radio, television, and any commercial wireless service not licensed by the Federal Communications Commission. For more specific definitions and applicable site, development, building and design standards, see Chapter [17.11](#) GMC.
- b. *Wind Energy Conversion System – Small.* Any structure or mechanical equipment used to collect, store and transmit energy from wind that is comparable in height and generally accessory to the buildings and site, including all accessory equipment.
- c. *Wind Energy Conversion System – Large.* Any structure or mechanical equipment used to collect, store and transmit energy from wind that is large-scale and intended for production and use of energy other than on the specific site, including all accessory equipment.
- d. *Solar Collector.* Any structure, mechanical equipment, or building material used to collect, store or transmit energy from sunlight, including all accessory equipment.
- e. *Public Utility Facility – Minor.* Utility services of a local nature, including electrical switching facilities and substations, water tanks, and similar facilities to provide the local area with electricity, water, and other utility services. May include Office – Limited in districts where that use is permitted as indicated in Table 5-2.
- f. *Public Utility Facility – Major.* Utility services of a regional nature, including generating plants, electrical switching facilities and primary substations, water and wastewater treatment plants, and similar facilities to provide the general public with electricity, natural gas, steam, water, sewage collection, or other similar service. May include General Office or Large Office where those uses are permitted as indicated in Table 5-2.
- g. *Aviation Facilities.* Any area of land or water designed, set aside, or used for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft or other accessory airport activities.

- h. *Signs, Ancillary* – Signs associated and supporting a principal or another accessory use located on the same property.
- i. *Signs, Principal Use* – Signs that are not associated with another principal or accessory use located on the same property.

**SECTION 2:** Section 17.05.050(P) of the Gardner Municipal Code shall be edited as follows:

**P. Food and Beverage – Mobile.** Where Food and Beverage – Mobile uses are permitted as a temporary use (as indicated in Table 5-2) subject to additional standards, all of the following standards shall be met in addition to the standards of subsection (Y) of this section pertaining to temporary uses. If such use is determined to be a semi-permanent or permanent use of property the issuance of a conditional use permit per Section 17.03.050 Conditional Use Permit is required, and such use can only be located in the following non-residential commercial – CO-A, C-1, C-2, C-3 - and industrial – M1, M2 - zoning districts as indicated in Table 5-2 (this section does not apply to transient merchants using public streets who do not park at one location):

1. Standards applicable to all Food and Beverage – Mobile uses:
  - a. Shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris, and other waste attributable to the vendor on a daily basis.
  - b. Shall comply with all other applicable federal, state, County and City regulations and obtain all applicable permits or licenses.
  - c. Shall not be located within the sight triangle as prescribed in GMC [17.04.010\(D\)](#).
  - d. Shall be located at least 10 feet from building entrances.
  - e. Shall only be located on properties that contain permitted nonresidential uses in all zoning districts, or on vacant properties in commercial and industrial zoning districts.
  - f. Shall only be located on properties with approved access, circulation and parking surface improvements. A site plan (including all associated site improvements – e.g. lighting, signage, seating, waste receptacles, landscaping, and other amenities) - shall be provided for review and approval as part of the temporary use permit application.
  - g. Shall provide evidence of property owner approval.
  - h. Shall be limited to intermittent, not continuous or permanent, operation at any one location per calendar year. As it pertains to Food and Beverage – Mobile uses the term intermittent shall mean that the motorized or nonmotorized vehicle, trailer, or other device designed to be portable shall not remain on the property when not in operation.
  - i. Shall be permitted per location on an annual basis (permit duration shall not exceed one calendar year and is specific to the location identified on the permit).
  - j. Shall be limited to one unit per lot except as part of a Food and Beverage – Mobile Grouping use as provided below.
  - k. Shall not be attached to any public or private utility except that electric power, via an active existing utility account serving an established operating principal structure and use on the same property, may be provided by the utility account / property owner in a code compliant manner as part of an approved special event; community activity; or

- intermittent accessory activity. However, power cables or similar devices shall not be run across any City street, alley, or pedestrian facilities.
2. Standards applicable to all Food and Beverage – Mobile Grouping uses (i.e. Food Truck Courts, Food Truck Rallies). Such groupings are only allowed: as part of an approved special event or community sponsored activity receiving a temporary use permit or as a semi-permanent / permanent use in the following non-residential commercial – C-1, C-2, C-3 - and industrial – M1, M2 - zoning districts only, subject to receiving a conditional use permit per Section 17.03.050 Conditional Use Permit, which may include the following additional conditions:
    - a. There shall be a 20-foot separation between any mobile food vending unit and any permanent structure.
    - b. There shall be a 10-foot separation between mobile food vending units.
    - c. A fire lane shall be maintained.
    - d. Each mobile vending unit in the grouping shall obtain a Temporary Use Permit prior to operation.
    - e. Electric power, via an active existing utility account serving an established operating principal structure and use on the same property, may be provided by the utility account / property owner in a code compliant manner as part of an approved special event; community activity; or intermittent accessory activity. However, power cables or similar devices shall not be run across any City street, alley, or pedestrian facilities.
  3. Standards applicable to all Vending Carts:
    - a. Shall meet all requirements for accessory outdoor food and beverage service except that it need not be associated with the adjacent business.
    - b. Vending carts shall be limited to a maximum size of 40 square feet in area and shall not exceed a maximum height of 10 feet.
    - c. All vending carts shall be non-motorized and securely anchored while in use, but shall have wheels to enable removal in case of emergency.
    - d. The owner/operator shall provide evidence of any applicable license, certification or registration required by a local, state, or federal agency.
  4. Standards applicable to all Mobile Food Vending Units (i.e. Food Trucks/Trailers):
    - a. Standards applicable to all Mobile Food Vending Units:
      - (1) All food shall be prepared, sold, or displayed inside of a mobile food vending unit or on equipment directly associated with the mobile food vending unit.
      - (2) There shall be no dining area within 10 feet of a mobile food vending unit, including but not limited to tables and chairs, booths, stools, benches, and stand up counters.
      - (3) When extended, awnings for mobile food vending units shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
      - (4) Besides signage that is physically part of the mobile food vending units, only one portable pedestrian sign is allowed in accordance with Chapter [17.10](#) GMC.
      - (5) Shall not use any flashing or blinking lights or strobe lights; all exterior lights over 60-watt equivalent shall contain opaque, hooded shields to direct illumination downwards.

- (6) Shall not use loud music, amplification devices, or “crying out” or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the Code Enforcement Officer.
  - (7) Shall be parked at least 25 feet from driveways at all times.
  - (8) The owner/operator shall provide evidence of any applicable license, certification, permit or registration required by a local, state, or federal agency.
  - (9) Utility cables, lines, devices or facilities shall not be run across any street, alley, or pedestrian or vehicular areas.
- b. Additional standards applicable to Mobile Food Vending Units located on public property:
- (1) The customer service area for mobile food vending units shall be on the side of the street that faces a curb, lawn, or sidewalk when parked. No food service shall be provided on the driving lane side of the truck or vehicle.
  - (2) Mobile food vending units parked on public streets shall conform to all applicable parking regulations and shall not hinder the lawful parking or operation of other vehicles.
  - (3) Mobile food vending units utilizing public parking spaces shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.
  - (4) Shall not operate on public property within one block of a City-sanctioned or authorized street fair, public festival, farmer’s market or event without authorization from the event sponsor.
  - (5) Any required power on City-controlled property shall be self-contained and shall not use utilities drawn from the City-controlled property without City approval.

**SECTION 3:** Section 17.05.050(Y)(8) of the Gardner Municipal Code shall be edited as follows:

- 8. The duration of the temporary use shall be limited as follows:
  - a. Special events – no more than seven days.
  - b. General merchandise sales or services – no more than seven days.
  - c. Seasonal sales – no more than 90 days.
  - d. Temporary Offices at Construction/Development Sites:
    - (1) May be used on the site of a construction/development project if they are removed upon completion of the project. A temporary use permit and building permit is required for all temporary offices.
    - (2) In residential districts, any temporary offices may only be located in a model home and must cease upon the issuance of a certificate of occupancy for the last residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the last dwelling unit for that phase.
    - (3) Temporary trailers may be used for temporary construction/sales offices associated with residential development, but the placement of such cannot occur until a building permit for a model home is issued and the trailer is allowed only

until the model home is completed. All trailers shall be removed once the model home is completed and ready for use.

- e. Food and Beverage – Mobile and Mobile Grouping uses are subject to the timelines and other limitations provided in GMC Section 17.05.050(P)
- f. Or other appropriate administrative limitation based on the specific use and context of the proposed location.

**SECTION 4:** All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

**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 19th day of December, 2022.

APPROVED by the Mayor this 19th day of December, 2022.

CITY OF GARDNER, KANSAS

(SEAL)

\_\_\_\_\_/s/\_\_\_\_\_  
Todd Winters, Mayor

Attest:

\_\_\_\_\_/s/\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

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