

ORDINANCE NO.2673

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF TITLES 5, 14, AND 17 OF THE GARDNER MUNICIPAL CODE RELATING TO THE CHANGE IN NAME FROM “BUSINESS AND ECONOMIC DEVELOPMENT” DEPARTMENT AND DIRECTOR TO “COMMUNITY DEVELOPMENT” DEPARTMENT AND DIRECTOR

WHEREAS, THE CITY OF GARDNER, KANSAS, HAS CHANGED THE NAME OF THE “BUSINESS AND ECONOMIC DEVELOPMENT” DEPARTMENT TO THE “COMMUNITY DEVELOPMENT” DEPARTMENT; AND

WHEREAS, THE CITY OF GARDNER, KANSAS HAS CHANGED THE TITLE OF “BUSINESS AND ECONOMIC DEVELOPMENT DIRECTOR” TO “COMMUNITY DEVELOPMENT DIRECTOR”; AND

WHEREAS, IT IS THE INTENT OF THE GOVERNING BODY TO ACCOMPLISH A GENERAL HOUSEKEEPING ORDINANCE TO CLEAN UP LANGUAGE IN THE CITY’S CODE RELATED TO REFERENCES TO THE “BUSINESS AND ECONOMIC DEVELOPMENT DEPARTMENT” AND THE “BUSINESS AND ECONOMIC DEVELOPMENT DIRECTOR”;

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

SECTION ONE: Chapter 5.15.040 is hereby amended to read as follows:

5.15.040 - Massage establishment permit application – Processing and issuance

- A. After the filing of an application in the proper form, the City Clerk or his or her designee shall examine the application for completeness, and after such examination, shall immediately transmit copies of the application to the Chief of Police, or his or her designee, and the Director of Community Development or his or her designee.
- B. The Chief of Police, or his or her designee, shall be responsible to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a massage establishment permit. The Chief of Police shall report the results of the investigation to the City Clerk not later than 21 days from the date the application is received by the City Clerk, unless good cause is shown for the extension of such time period.
- C. The Director of Community Development, or his or her designee, shall be responsible to determine whether the premises where the massage therapy business will be conducted complies with the requirements and meets the standards of the City’s applicable business licensing, health, zoning, and building ordinances. The standards for premises set forth in GMC 5.15.050 must be met in their entirety prior to the first day the premises are open for business. The Director of Community Development or his or her designee, shall report the results of his or her investigation to the City Clerk not later than 21 days from the date the application is received by the City Clerk, unless good cause is shown for the extension of such time period.
- D. Upon receipt of the above-referenced reports from the Chief of Police, or his or her designee, and the Director of Community Development, or his or her designee, or 21 days following filing and acceptance of the completed application, unless good cause is shown for the extension of such time period, whichever occurs first, the City Clerk shall grant or deny the permit consistent with the notification requirements established in this chapter or otherwise provided by law; provided, that the permit shall be issued or denied within 45 days from the date of filing of a completed application with the City Clerk’s office. The City Clerk shall issue a permit for a massage establishment, unless the City Clerk, or his or her designee, in investigation of the application or in consideration of the reports from

the Chief of Police or the Director of Community Development, or their respective designees, finds that:

1. The correct permit fee has not been tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation;
 2. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;
 3. The applicant, if an individual; or any of the stockholders holding more than 10 percent of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of received diversion for, or entered a plea for pursuant to a suspended imposition of sentence on:
 - a. A person felony, as defined by Kansas law, in the 20 years immediately preceding the date of the application;
 - b. A non-person felony, as defined by Kansas law, in the 10 years immediately preceding the date of application;
 - c. An offense involving sexual misconduct with children;
 - d. Obscenity;
 - e. Promoting prostitution, operating a brothel, or equivalent conviction;
 - f. Solicitation of a lewd or unlawful sexual act;
 - g. Prostitution;
 - h. Rape, sodomy, sexual assault, or other unlawful sexual act as defined by K.S.A. 22-5501 and amendments thereto;
 - i. Pandering or similar related sexual or indecent offense; or
 - j. Any violation of this chapter or other state law or municipal ordinance arising out of the applicant's operation, ownership, employment, or participation in a massage establishment or provision of massage therapy services in the five years immediately preceding the date of the application;
 4. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith;
 5. The applicant has had a massage establishment, as defined in this chapter, or other similar permit or license denied, revoked, or suspended for any of the above causes by the City or any other state or local agency within five years prior to the date of the application;
 6. The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business is not over the age of 18 years;
 7. The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business is currently engaged in or currently holds a permit for adult entertainment under the provisions of Chapter 5.10 GMC, or such similar permit or license issued by a state or other municipality;
 8. The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this chapter.
- E. Any permit issued under the provisions of this chapter shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

- F. Any applicant aggrieved by denial of a massage establishment permit application may seek judicial review pursuant to K.S.A. 60-2101(d), and amendments thereto.

SECTION TWO: Chapter 5.15.050 is hereby amended to read as follows:

5.15.050 Inspection – Facilities necessary

- A. No permit to conduct a massage establishment shall be issued unless an inspection by the Director of Community Development or his or her designee determines that the establishment complies with each of the following minimum requirements:
1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets; provided, that such paper is changed for every patron. No service or practice shall be carried on within a cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
 2. Toilet facilities shall be provided in convenient locations and in conformance with applicable City ordinance and building standards, and state and federal law and regulations.
 3. Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.
- B. The Director of Community Development or his or her designee shall certify that the proposed massage establishment complies with all of the requirements of this chapter and shall give or send such certification to the City Clerk; provided, that nothing contained in this section shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

SECTION THREE: Chapter 5.15.060(A) is hereby amended to read as follows:

5.15.060(A) Inspections – Immediate right of entry.

- A. The Police Department and Community Development Department may from time to time make an inspection of each permitted establishment in this City for the purpose of determining that the provisions of this chapter are complied with

SECTION FOUR: Chapter 5.15.070(A)(3) is hereby amended to read as follows:

5.15.070(A)(3) – Operation Regulations – Danger to Safety and Health

3. Danger to Safety and Health. No service shall be given which is clearly dangerous or harmful in the opinion of the Chief of Police or the Director of Community Development, or their respective designees, to the safety or health of any person, and after such notice in writing to the permittee from said officials

SECTION FIVE: Chapter 5.15.070(B) is hereby amended to read as follows:

5.15.070(B) – Operation Regulations

- B. The City Clerk, Chief of Police, or the Director of Community Development may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this chapter

SECTION SIX: Chapter 5.15.090 is hereby amended to read as follows:

5.15.090 - Employee and patron registers.

Current and daily registers shall be kept of employees and patrons as follows:

- A. All operators permitted under the provisions of this chapter shall keep and maintain on their premises a current register of all their employees and massage therapists showing such employee's or massage therapist's name, home address, and containing a copy of government-issued identification of each such person, and for massage therapists, each massage therapist's license number and a copy of his or her massage therapist license. Such register shall be open to inspection at all reasonable times by any authorized City official, including but not limited to the Police Department, the Community Development Department, the Chief of Police, the Director of Community Development, and the City Clerk, or their respective designees.
- B. Every person who engages in or conducts a permitted establishment shall keep a daily register of all patrons, with first and last names, addresses, hours of arrival and departure, the rooms or cubicles assigned, and the first and last name of the employee who performed the massage. The daily register shall at all times during business hours be subject to inspection by authorized City officials, including but not limited to the Police Department, the Community Development Department, the Chief of Police, the Director of Community Development, and the City Clerk, or their respective designees, and shall be kept on file for one year.

SECTION SEVEN: Chapter 5.15.170(E) is hereby amended to read as follows:

5.15.170(E) - Education requirements – Testing and certification requirements – Continuing education requirements – Massage therapist.

- E. All licensed massage therapists applying for a renewal license must show proof of compliance with continuing education requirements. Each applicant must show proof that they have received a minimum of 12 hours (50 minutes per hour) of professional massage continuing education during the preceding 12-month licensing period. One hour of continuing education credit will be awarded for each hour attendance at programs relating to the theory or clinical application of theory pertaining to the practice of massage to include, but not limited to, clinical business practices, hygiene, record-keeping, medical terminology, professional ethics, business management, human behavior, client interaction and state and local laws that are sponsored by a university, junior college or otherwise found to be acceptable by the Community Development Department. The certificate for any online continuing education courses must clearly depict the time required to acquire such certificate.

SECTION EIGHT: Chapter 14.01.203(A) is hereby amended to read as follows:

14.01.203(A) - Public and private responsibilities under the stormwater management system.

- A. Public Responsibilities. The City Engineer, or his or her designee, will administer the regulations and requirements contained in this chapter. In addition, where designated herein or upon the

designation of the City Engineer, the Department of Public Works and the Community Development Department shall also be responsible for the administration of the provisions of this chapter.

SECTION NINE: Chapter 14.01.402(B) is hereby amended to read as follows:

14.01.402(B) - Preliminary stormwater management plan

- B. Following the receipt of the preliminary stormwater management plan, a general review meeting shall be conducted and shall include the City Engineer, Community Development Department staff, representatives of the developer and the developer's engineer. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed development on existing or future adjacent developments.

SECTION TEN: Chapter 14.01.606 is hereby amended to read as follows:

14.01.606 - Enforcement

The Department of Public Works and the Community Development Department shall enforce the provisions of these sections (GMC 14.01.600 through 14.01.608) through routine activities that include inspecting the site and communicating with the contractor, permittee or landowner to resolve issues of noncompliance. If remedial action is not taken by the end of the following business day after being notified of violations, the City Engineer, or his or her designee, may proceed with any or all of the following enforcement measures listed below:

- A. Refusal of Inspection. Request for an inspection of any permitted construction activity or land disturbance activity may be denied if it is found that ESC measures have not been implemented or maintained, or are found to be ineffective. No further inspections will be performed until the ESC measures have been implemented or violations of this chapter abated.
- B. Stop Work Order. The City Engineer is authorized to issue a stop work order for any or all construction activity and/or land disturbance activity within the established boundary of the LDP. The stop work order shall be in writing and shall be given to the landowner of the property, the owner's agent, LDP holder, or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease.
 - 1. The City Engineer may issue a stop work order if any one or more of the following conditions exist:
 - a. Inspection by the Department of Public Works, the Community Development Department, the City Engineer, or City staff reveals the LDP or the land disturbance activity conducted pursuant to the LDP is not in substantial compliance with the SWPPP and/or ESC plan as determined by the City Engineer, or his or her designee; or
 - b. Failure to comply with a written order from the City Engineer, or his or her designee, to bring the site into compliance with the LDP, correct a violation of this chapter or restore a disturbed area within the time limits defined by the City Engineer; or
 - c. Failure to pay a required fee; or
 - d. Failure to submit reports in accordance with the City of Gardner Technical Specifications and NDPES requirements; or
 - e. Any other violation of this chapter.
 - 2. It shall be a violation of this chapter for a person to undertake, allow, consent or permit another to undertake work or land disturbing activity upon a site subject to a stop work order.

3. If the stop work order is not cured within a reasonable period, the LDP may be revoked by the City Engineer, and thereafter no person shall continue any work described in the LDP without first obtaining a new LDP and paying a new LDP fee as required by this chapter.
 4. The landowner and LDP holder are responsible for City expenditures, and administrative costs to correct or abate the site shall be billed to the LDP holder and the landowner in the event the City must make such corrections or abatements following a stop work order.
- C. Abatement. The City Engineer is authorized to correct or abate violations and may authorize the use of either City departments or external contractors to perform such abatement. City expenditures and administrative costs to correct or abate a violation, including but not limited to the expenses for any contractors or subcontractors, shall be billed to the LDP holder. If the City does not receive payment within 30 days, the City will draw upon any and all financial securities to cover the costs. If the City's expenditures and costs exceed the financial securities provided by the landowner and/or LDP holder, the City Engineer shall report the costs of such abatement and related work to the City Clerk. The City Clerk shall comply with the provisions of K.S.A. 12-1617e to collect the City's cost, including mailing a statement of costs to the last-known address of the property owner, occupant or agent in charge of the property and if such costs are not paid to the City within 10 days of such notice, the Governing Body shall pass an ordinance levying a special assessment for such costs against the property on which the facility exists or abuts, and the City Clerk shall certify such assessment to the County Clerk for collection and payment to the City the same as other assessments and taxes are collected and paid.
- D. Violations and Penalties.
1. Any person who violates a provision of this section, fails to comply with the requirements of this chapter regarding land disturbance activity, or fails to comply with a stop work order or an authorized directive issued by the City Engineer is guilty of a public offense and shall be subject to the penalties as provided in GMC 14.01.108.
 2. The City Engineer is authorized to cite the landowner, LDP holder and any other persons identified on an LDP as responsible to the City for violations of the LDP or any provisions of this chapter relating to land disturbance activities.

SECTION ELEVEN: Chapter 17.01.020(H) is hereby amended to read as follows:

17.01.020(H) – Interpretation – Resources, Guides, and Industry Standards

- H. **Resources, Guides and Industry Standards.** Resources, guides and industry standards that are recognized as reputable authority in the planning, development and urban design professions may be used to supplement interpretation of this Code. They shall be subject to the approval of the Director upon a determination that the content is consistent with the policies of the Comprehensive Plan and the purposes, intent, and design objectives of these regulations. Any resource, guide, or industry standard approved by the Director shall be listed in Appendix A and at least one copy shall be kept on file with the Community Development Department. Use of these guides shall be consistent with the purposes, intent and design objectives expressed in these regulations, and shall not be used to otherwise modify, contradict or in any way conflict with any specific standard in these regulations.

SECTION TWELVE: Chapter 17.01.040(A)(1) is hereby amended to read as follows:

17.01.040(A)(1) – Administration – Staff

1. *Director of Community Development.* The Director of Community Development (Director) is the principal interpretation and enforcement officer under these regulations, and may consult with any

other department or relevant outside agencies in order to coordinate their plans, policies and programs that impact the Comprehensive Plan. The Director shall make all final interpretation decisions and any final administrative decisions referred to the Director under the procedures and standards of these regulations.

SECTION THIRTEEN: Chapter 17.03.010(A)(1) is hereby amended to read as follows:

17.03.010(A)(1) – General – All Applications – Applications and Fees

1. *Forms.* Applications required under this Code shall be submitted to the Community Development Department. The Director is authorized to modify the application forms and submittal requirements as deemed necessary in the Director’s discretion.

SECTION FOURTEEN: Chapter 17.03.010(F)(3) is hereby amended to read as follows:

17.03.010(F)(3) – General – All Applications – Public Hearings

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

SECTION FIFTEEN: Chapter 17.05.040(B) is hereby amended to read as follows:

17.05.040(B) – Accessory Uses – Accessory In-Home Daycare

- B. **Accessory In-Home Day Care.** Where in-home day care services for children are permitted as an accessory use to a residence subject to additional standards (as indicated in Table 5-2), the use shall be approved by the Director of Community Development or designee after being found to be in accordance with the following standards:
 1. The day care provider shall provide evidence of any applicable license, certification or registration required by a state or federal agency.
 2. The primary day care provider shall reside on the premises.
 3. Outdoor play areas shall be fenced. Outdoor play shall only occur between the hours of 8:00 a.m. and 9:00 p.m.
 4. No traffic shall be generated by any day care operation in substantially greater volume than would normally be expected in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation. If parking for a day care operation occurs in a manner or frequency causing disturbance to the normal traffic flow for the neighborhood, the operation shall be considered best permitted according to applicable regulations as a day care center.
 5. Permits. There is hereby levied an in-home day care permit fee. Said permit fee shall be set by the Governing Body by resolution

SECTION SIXTEEN: Chapter 17.05.040(C) is hereby amended to read as follows:

17.05.040(C) – Accessory Uses – Accessory Home Occupation

Where home occupations are permitted as an accessory use to a residence subject to additional standards (as indicated in Table 5-2), the use shall be approved by the Director of Community

Development or designee upon review of a plot plan, site plan and/or floor plan in accordance with the following standards:

1. Home occupations shall be entirely contained within the interior of a structure. A home occupation shall use no more than 20 percent of the total dwelling unit floor area.
2. No visible evidence of the business shall be apparent from the street or surrounding area. Signage shall be permitted per the requirements of Chapter 17.10 GMC. There shall be no outdoor storage or display of products, equipment, or merchandise other than of a type and quantity characteristically found at a single residential dwelling. The appearance of a dwelling shall not be altered to the extent that attention is drawn to the structure as a commercial or business operation.
3. The following uses are prohibited as home occupations in all districts:
 - a. Food and beverage service;
 - b. Retail operations (does not include mail order businesses);
 - c. Vehicle/equipment service and repair (including parts) or machine shop;
 - d. Gymnastics, dance, or recording studios and similar uses;
 - e. Mortuaries.
4. No traffic shall be generated by any home occupation in substantially greater volume than would normally be expected in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation. If parking for a home occupation occurs in a manner or frequency causing disturbance to the normal traffic flow for the neighborhood, the occupation shall be considered a business best handled in a commercial district rather than as a home occupation.
5. No more than six clients or two employees shall visit per day, and only between 8:00 a.m. and 8:00 p.m.
6. A home occupation shall not create excessive noise, dust or dirt, heat, smoke, odors, vibration, glare or bright lighting which would be over and above that created by a single residential dwelling. The production, dumping, or storage of combustible or toxic substances shall not be permitted on-site; and no materials which are radioactive, poisonous, or corrosive shall be discharged into any sewer, drainage way, water body, or the ground. Additionally, a home occupation shall not cause electrical or communications interference. If any home occupation presents a safety hazard to the public or adjacent or nearby properties, it shall be rendered safe upon notice or terminated.
7. The application shall include a signed affidavit from the business owner/resident pledging continued compliance with all standards.
8. The owner/operator shall provide evidence of any applicable license, certification or registration required by a local, state, or federal agency.

SECTION SEVENTEEN: Chapter 17.05.040(F) is hereby amended to read as follows:

17.05.040(F) – Accessory Uses – Food and Beverage - Accessory Outdoor

- F. **Food and Beverage – Accessory Outdoor.** Where accessory outdoor food and beverage uses are permitted, the use shall be approved by the Director of Community Development or designee upon review of a plot plan in accordance with the following standards:
1. Applicant shall submit a plan showing the layout and arrangement of the proposed outdoor eating/service area, including overall dimensions, aisle widths, access to the adjacent building, and the locations, dimensions and descriptions of related furniture or other objects to be included in the area. The plan shall also show the location of public infrastructure

- located within the area and within 20 feet of the area boundaries, such as streets, sidewalks, tree wells, benches, etc.
2. Shall be located adjacent to a portion of a building occupied at street level by a food or beverage establishment having the same operator, and having all applicable permits.
 3. Shall contain appropriate waste receptacles on-site and all litter, debris, and other waste attributable to the use shall be removed on a daily basis.
 4. The owner/operator shall provide evidence of any applicable license, certification or registration required by a local, state, or federal agency.
 5. If the outdoor food and beverage service area is proposed to be located within the right-of-way, a right-of-way permit is required.
 6. Pedestrian passageways to exit the service area shall not be less than five feet in width, and shall be unobstructed by any objects.
 7. Any barriers, railings and furnishings shall complement the style, design, and color of the associated building and meet the intent of the applicable design standards.
 8. Signs shall be permitted according to Chapter 17.10 GMC.
 9. Televisions or other electronic audio or visual devices or means of producing amplified sound shall not be permitted within an outdoor food and beverage service area that is within 100 feet of a residential use or district.
 10. All moveable objects shall be removed from a public sidewalk daily at close of business

SECTION EIGHTEEN: Chapter 17.05.040(G)(1) is hereby amended to read as follows:

17.05.040(G)(1) – Accessory Uses – Farming – Homestead – Animal Keeping

1. *Animal Keeping.* Honeybees and domestic animals other than typical household pets are permitted as follows:
 - a. Any size animal on lots three acres or more in size, in accordance with the following standards:
 - (1) *Number.* No more than one horse or cow per one acre, one pig or goat per one-half acre, one sheep per one-quarter acre, and one fowl or poultry per 0.02 acre calculated in combination.
 - (2) *Enclosures.* Any building or enclosure for compact confinement which results in lack of vegetation, or any accumulation of animal refuse, shall be located at least 100 feet from any property boundary; provided, however, that this setback distance may be reduced as approved by the Director of Community Development or designee if the property is adjacent to an agricultural, commercial or industrial district.
 - (3) *Vegetation.* Except for compact confinement areas as above, animal grazing shall be rotated so that continuous vegetation is maintained at all times.
 - b. Only small animals such as rabbits, chickens or other animals of similar size and characteristics (not to include honeybees) on lots less than three acres in size, as approved by the Director of Community Development or designee upon review of a plot plan or site plan in accordance with the following standards:
 - (1) *Number.* No more than one small animal per 1,000 square feet of lot area and no more than 15 per lot.
 - (2) *Prohibited Animals.* Roosters and other animals with frequent, loud vocalizations are not permitted.
 - (3) *Enclosures.* Animals shall be kept in an enclosed structure or area located in the rear yard of the principal dwelling, and shall not be permitted to roam at large

outside the enclosure or onto another property. Enclosed structures and exercise areas shall be located a minimum of 30 feet from any neighboring dwelling, and a minimum of nine feet from side and rear lot lines. Enclosures open to the sky shall consist of a wall or fence of sufficient height to contain the animals; such enclosure shall be a minimum of four feet and maximum of six feet in height. The combined area of structures and enclosures shall provide a minimum of 10 square feet per fowl or rabbit, and no animal shall be confined in a cage less than twice their length and height.

SECTION NINETEEN: Chapter 17.05.040(M)(4) is hereby amended to read as follows:

17.05.040(M)(4) – Accessory Uses – Outdoor Storage of Watercraft, Recreational Vehicles, and Trailers

4. Exceptions from any of the above screening requirements may be granted by the Director of Community Development or designee upon demonstration that the vehicle is rendered visually unobtrusive by other means which may include large setbacks or other architectural or natural features.

SECTION TWENTY: Chapter 17.05.040(N)(3) is hereby amended to read as follows:

17.05.040(N)(3) – Accessory Uses – Temporary Cargo Containers

3. The Director of Community Development may grant an exception to any of the above restrictions only if the construction project has a unique characteristic that warrants special consideration. Any such exception may be subject to additional conditions or restrictions as deemed necessary by the Director

SECTION TWENTY-ONE: Chapter 17.05.040(O) is hereby amended to read as follows:

17.05.040(O) – Accessory Uses – Permanent Cargo Containers

- O. **Permanent Cargo Containers.** Permanent cargo containers may be permitted in the M-1 and M-2 districts; provided, that the use shall be approved by the Director of Community Development or designee upon review of a plot plan in accordance with the following standards:
 1. Lots shall be larger than one acre.
 2. No more than two cargo containers may be used.
 3. The cargo containers must be located within an outdoor storage area that is properly screened according to GMC 17.08.040.
 4. No cargo container may be located within 20 feet of any property line.
 5. All signage on the cargo container shall be removed and the cargo container shall be painted an earth tone color.
 6. Cargo containers shall be anchored to the ground, and must be maintained such that they are safe, structurally sound, stable, and in good repair. Any cargo container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
 7. No cargo containers shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Cargo containers are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.

SECTION TWENTY-TWO: Chapter 17.05.050(Y)(1) is hereby amended to read as follows:

17.05.050(Y)(1) – Specific Use Standards – Temporary Use

1. A temporary use meeting the standards of this section shall be permitted by the Director of Community Development or designee upon review of a plot plan or site plan in accordance with standards.

SECTION TWENTY-THREE: Chapter 17.05.050(CC)(3) is hereby amended to read as follows:

17.05.050(CC)(3) – Specific Use Standards – Aviation Facilities – Street Design

3. *Street Design.* Per GMC 17.04.010(C)(3), the City Engineer, Director of Community Development, or Planning Commission may modify typical street cross sections to include an exemption to the street tree requirement in designated zones defined in the FAA approved Airport Layout Plan outlined in the Gardner Airport Master Plan.

SECTION TWENTY-FOUR: Effective Date. This Ordinance shall take effect and be in force upon its passage by the City Council and publication in the official City Newspaper as required by law.

PASSED by the City Council this 8th day of September, 2020.

SIGNED by the Mayor this 8th day of September, 2020.

(SEAL)

CITY OF GARDNER, KANSAS

/s/

Steve Shute, Mayor

Attest:

/s/
Sharon Rose, City Clerk

Approved as to form:

/s/
Ryan B. Denk, City Attorney