

ORDINANCE 1051-24

BY THE COUNCIL: JACOBS, JORGENSEN, PAGE, RASMUSSEN

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 6 ("ADMINISTRATION"), ARTICLE A ("GENERAL PROVISIONS"), SECTION 2 ("DUTIES AND AUTHORITY"); AMENDING SECTION 3 ("GENERAL APPLICATION PROCESS"); REPEALING SECTION 5 ("ADMINISTRATIVE PROCESS WITH NOTICE"); REPEALING SECTION 6 ("ADMINISTRATIVE PROCESS WITHOUT NOTICE"); AMENDING SECTION 7 ("PUBLIC HEARING PROCESS"); AMENDING ARTICLE B ("SPECIFIC PROVISIONS"), SECTION 3 ("DESIGN REVIEW"); ; REPEALING ALL ORDINANCES OR PARTS THEREOF TO THE EXTENT THEY CONFLICT WITH THIS ORDINANCE; PROVIDING ALL OTHER ORDINANCES INCLUDED IN THE OFFICIAL CODE ARE STILL IN EFFECT NOTWITHSTANDING SOME PROVISIONS THEREOF BEING ELIMINATED; PROVIDING FOR A SEVERABILITY CLAUSE; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, provisions of Title 50, Chapter 9, of the Idaho Code authorize publication of compiled ordinances of a municipality; and

WHEREAS, the City of Garden City wishes to make substantive changes to the clarify administrative processes; and

WHEREAS, local government units have the primary responsibility for application oversight actions affecting the processing of the subject project's review; and

WHEREAS, the City Council for the City of Garden City intends to adopt the changes herein; and

NOW, THEREFORE, in order to provide clearer standards and more efficient processes for processing development applications in the City of Garden City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO:

SECTION 1. That the foregoing recitals are hereby incorporated into this ordinance as if fully set forth herein.

SECTION 5. That all other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 6. That the fact that some provisions of the official municipal code for the City of Garden City have been deliberately eliminated by the governing body shall not serve to cause any interruption in the continuous effectiveness of ordinances included in said official Code. All other ordinances shall continue in full force and effect unless specifically repealed or amended.

SECTION 7. That Title 8, Chapter 6, Article A, Section 2 (“Duties and Authority”), Garden City Code, be, and the same is hereby amended to read as follows:

8-6A-2: DUTIES AND AUTHORITY:

A. Council: The council shall have the authority to set policy and legislation affecting land use and the administration of this title, including establishing application fees by resolution. The council shall act on recommendations from the commission in legislative matters, some quasi-judicial applications, and serve as the final authority on appeals. The council shall also have the authority to review any action taken through the administrative process with notice or public hearing process when an appeal is not made but the city council determines in a public meeting, within fifteen (15) days of the final decision, that there may be significant adverse impact to the city as a result of the final decision, making the city affected or aggrieved by the final decision, which would be final unless appealed. Such council reviews are not ~~de novo~~ de novo, and shall be processed, noticed, and decided in the same manner as an appeal as established in the section of this code 8-6A-9 Appeals.

B. Planning and Zoning Commission: The planning and zoning commission shall be the designated planning agency for the city. The commission shall be responsible for final action on site-specific permits and appeal body as defined by this title and for recommendations to the council on land use legislation, comprehensive plan amendments, and other policy matters.

1. Duties of the commission regarding implementation of this title shall be as follows:

- a. Provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process, comprehensive plan, and implementation;
- b. Promote a public interest in and understanding of the commission’s activities;
- c. Make recommendations to the council concerning the comprehensive plan, planning process, or implementation of the comprehensive plan;
- d. Initiate proposed amendments to this title and conduct reviews of the complete development code;
- e. Conduct public hearings, make recommendations to the council based on the required findings and standards for applications as set forth in article B, “Specific Provisions,” of this chapter; and
- f. Serve as the review authority in appeals of decisions of the planning official, except when otherwise specified in this title.
- g. The commission may, at its discretion, delegate some of its functions to the commission chair, a commission subcommittee, or to the planning official.

h. Written bylaws consistent with this title and other laws of the state for the transaction of business of the commission shall be adopted.

SECTION 8. That Title 8, Chapter 6, Article A, Section 2 (“Duties and Authority”), Garden City Code, be, and the same is hereby amended to read as follows:

E. The following Table 8-6A-1 is a summary list of the actions authorities and procedures that the city shall take in administration of this title, including the body responsible for the action, and reference to the process under which the action shall be taken.

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

| Permit/Decision | Design Review Consultant(s) (DRC*) Consultation Required | Recommending Authority | Final Decision Maker ¹ | Process | Appeal Body ² |
|---|--|------------------------|-----------------------------------|---------|--------------------------|
| Annexation | | PZ | CC | PH | |
| Change of use to a permitted use | | None | PO | A | PZ |
| Comprehensive plan amendment | DRC | PZ | CC | PH | |
| Conditional use | | None | PZ | PH | CC |
| Conditional use, revocation | | None | PZ | PH | CC |
| Design review, administrative | | None | PO | A | PZ |
| Design review, administrative with notice | | DRC | PO/CC | AN/PH | <u>CC</u> |

TABLE 8-6A-1
AUTHORITIES AND PROCESSES

| Permit/Decision | Design Review Consultant(s) (DRC*) Consultation Required | Recommending Authority | Final Maker ¹ | Decision | Process | Appeal Body ² |
|--|---|---|--------------------------|-----------|-----------|--------------------------|
| Development agreement or amendment | | PZ | CC | PH | | |
| Development code amendment | DRC | PZ | CC | PH | | |
| Floodplain/floodway | | None | PO | A | PZ | |
| Manufactured/mobile home | | None | PO | A | PZ | |
| Minor land division | | None | PO | AN | CC | |
| <u>Minor Planned Unit Development</u> | | <u>None</u> | <u>PO</u> | <u>A</u> | <u>PZ</u> | |
| <u>Minor Planned Unit Development Site Layout Template</u> | <u>DRC</u> | <u>None</u> | <u>PZ</u> | <u>PH</u> | <u>CC</u> | |
| Modifications to an approved permit | | Same decision maker and process as initial approval | | | | |
| Nonconforming setback extensions | | None | PO/CC | AN/PH | <u>CC</u> | |
| Planned unit development | DRC | PZ | CC | PH | | |

TABLE 8-6A-1
AUTHORITIES AND PROCESSES

| Permit/Decision | Design Review Consultant(s) (DRC*) Consultation Required | Recommending Authority | Final Maker ¹ | Decision | Process | Appeal Body ² |
|---|---|------------------------|--------------------------|----------|---------|--------------------------|
| Plat, boundary line amendment | | None | PO | A | CC | |
| Plat, final | | PO | CC | PH | | |
| Plat, condominium | | PO | CC | A | | |
| Plat, preliminary | DRC | PZ | CC | PH | | |
| Plat, preliminary and final combined | DRC | PZ | CC | PH | | |
| Signs | | None | PO | A | PZ | |
| Signs, master plan or design review | DRC | | PO | A | CC | |
| Site layout template (minor PUD) | | | CC | AN/PH | | |
| Small cell facility | | None | PO | A | CC | |
| Specific area plan | DRC | PZ | CC | PH | | |
| Variance | | None | PZ | PH | CC | |
| Zoning district amendment | | PZ | CC | PH | | |

CC = Council

A = Administrative

TABLE 8-6A-1
AUTHORITIES AND PROCESSES

| Permit/Decision | Design Review Consultant(s) (DRC*) Consultation Required | Recommending Authority | Final Maker ¹ | Decision | Process | Appeal Body ² |
|-----------------|---|------------------------|--|----------|---------|--------------------------|
| PO | = Planning Official | AN | = Administrative with Public Notice | | | |
| PZ | = <u>Planning and Zoning</u> Commission | PH | = <u>de novo</u> Public Hearing | | | |
| DRC | = <u>Design Review Consultant(s)</u> | DRC* | = Design review consultant(s) only provides comment when design is affected by the application | | | |

¹ The decision is considered final if not appealed. The decision upon any appeal shall be considered the final decision for the purposes of applying Idaho Code 67-6535.

² The decision on an appeal made by the commission or planning official may be further appealed to the council.

F. Per Idaho Code 67-6535 any applicant or affected person seeking judicial review must first seek reconsideration of the final written decision within fourteen (14) calendar days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

G. Per Idaho Code 67-6535 an applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may, within twenty-eight (28) days after all remedies have been exhausted under this title, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

SECTION 9. That Title 8, Chapter 6, Article A, Section 3 ("General Application Process"), Garden City Code, be, and the same is hereby amended to read as follows:

8-6A-3: GENERAL APPLICATION PROCESS:

A. Purpose: The purpose of this section is to outline the general application process for a permit or decision under provisions of this title.

B. Application Requirements:

1. All uses, structures, or work defined by this title as requiring review by council, planning and zoning commission, design review consultant(s) or planning official must obtain the appropriate permit or permits prior to commencing the use, construction, or alteration in or on any property within the Garden City boundaries.
2. All requests for permits and decisions in accordance with this title shall submit an application to the planning official on forms approved by the planning official and provided by the city.
3. At a minimum, the application shall require the following information:
 - a. Name, address and contact information of the applicant and the applicant's representative;
 - b. Proof of that current ownership ~~in of the subject property which is the subject of the application or signed letter of authorization from the property owner for making authorizes the application;~~**
 - c. Legal description of the property; and
 - d. Statement of project intent for making the application.
4. Some requests for permits and decisions shall require additional application information.
5. As determined by the planning official, some information may be submitted in an electronic format.
6. All applications shall be accompanied by a filing fee in an amount established by council resolution.

C. Determination Of Completeness:

1. Applications shall be submitted to the development services department in the manner established by the planning official to receive such materials.
2. An application shall contain all information deemed necessary by the planning official to determine if the proposal will comply with the applicable requirements of this title. Incomplete applications will not be accepted.
23. Within thirty (30) days of receipt of an application, ~~or such later time as reasonably appropriate consistent with city workloads~~, the planning official shall find the application as complete for review or require additional information to be submitted. The planning official may extend this timeframe by one or more time periods of (30) thirty days, provided good cause necessitates an extension.
34. No further action shall be taken on the application until such additional information and materials have been submitted. If the additional information is not

submitted within thirty (30) days from the planning official's request, or a date mutually agreed upon by the applicant and the planning official, the application will be returned to the applicant.

45. The planning official shall issue a notice of application acceptance and completion either by letter to the applicant or by public notice of the pending public hearing or action on the application.

56. The planning official shall begin processing the application once the application is deemed complete.

D. Action On The Application: After an application has been determined by the Planning Official to be complete, an action or decision shall occur as follows:

1. If no public hearing is required, the ~~decision making~~ decision maker ~~body~~ shall act upon the application within ~~thirty~~ sixty (3060) days.

2. ~~If a public hearing is required, the initial hearing shall be held no later than sixty (60) days after the date of the determination of completeness, unless waived by the applicant.~~

Within sixty (60) days of receipt of an application determined by the planning official, the city shall set the hearing date.

3. Subsequent to a recommendation, a hearing with the final decision maker shall be scheduled within (60) sixty days from the date of the recommendation. The application, together with a complete copy of the record documents reviewed to render a decision shall be transmitted to the final decision maker.

4. If an appeal is filed, a hearing shall be scheduled within (60) sixty days from the date of the receipt of a timely appeal. The application, together with a complete copy of the record documents reviewed to render a decision or recommendation shall be transmitted to the appeal body.

5. The planning official or decision maker may extend the established timeframes, by one or more time period of (30) thirty days, provided good cause necessitates additional time.

E. Recommendations and Decisions

1. Upon conclusion of its review, the decision maker shall make its decision. Decisions must be rendered no later than the next regularly scheduled meeting after the public hearing has been closed.

2. In its decision, the decision maker shall base its findings upon all factual matters in the record and the recommendation.

3. The findings of fact must be based on the evidence in the record.

4 The decision shall be accompanied by conclusions of law.

5. Decision shall be consistent with the grounds identified in Table 8-6A-2:

| <u>TABLE 8-6A-2 DECISIONS</u> | |
|---|---|
| <u>Decision/Recommendation</u> | <u>Grounds for decision/recommendation</u> |
| <u>Recommendation and Final Decision with no previous recommendation¹</u> | |
| <u>Approve</u> | <u>The application, as submitted, and supported by the record, is in compliance with applicable regulations.</u> |
| <u>Approve with conditions</u> | <u>The application, as conditioned, and supported by the record, is in compliance with applicable regulations.</u> <u>All conditions of approval shall be attached to the written decision.</u> |
| <u>Additional review or changes needed</u> | <u>There are changes that could make the application compliant with code that will require further review to verify compliance or if the application lacks sufficient documentation to determine compliance.</u> |
| <u>Deny</u> | <u>The application, as supported by the record, is not in compliance with all applicable regulations, or if there is inadequate record to determine compliance.</u> <u>An application for which the public hearing has been continued repeatedly at the request of the applicant, without demonstration of good cause, may also be denied after the third continuance.</u> |

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| | <u>All applications that are noncompliant with code will be denied.</u> |
| <u>Public Hearing Required²</u> | <u>The Planning Official shall set a public hearing for items that are processed under the Administrative With Notice process if the city is in receipt of ten or more written objections to the application³ by a person or persons with standing, or if there may be significant adverse impact that would make the city affected or aggrieved as a result of a decision.</u> |
| <u>Final Decision with recommendation</u> | |
| <u>Sustain (Affirm) the recommendation</u> | <u>The recommendation shall be sustained unless the recommendation is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u> |
| <u>Sustain (Affirm) and modify recommendation with conditions</u> | <u>Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met.</u> <u>All conditions of approval shall be attached to the written decision.</u> |
| <u>Reject the recommendation</u> | <u>The recommendation shall be rejected if the application can not be sustained.</u> |
| <u>Remand the application for additional proceedings and findings</u> | <u>The decision maker may remand the application to remedy unlawful procedure or to require the review</u> |

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| | information that was not previously considered. |
| <u>Appeal</u> | |
| Grant (appeal) and Vacate (decision) | The decision is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied. |
| Grant with modifications (appeal) and Modify (decision) | Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met. |
| Remand the application to the decision maker for additional proceedings and findings | There are changes that could make the application compliant with code that will require further review to verify compliance, if the application lacks sufficient documentation to determine compliance, or if procedural processes are required to be remedied. |
| Deny (appeal and affirm the decision) | Deference shall be given to the decision. The decision shall be sustained unless the decision is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied. |
| <u>Reconsideration</u> | |
| Affirm (decision) | The decision is not in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful |

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| | <u>procedure, and is supported by factual evidence.</u> |
| <u>Reverse-Remand or Vacate (decision)</u> | <u>The decision is in violation of constitutional, statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u> |
| <u>Modify (decision)</u> | <u>A better decision is applicable and complies with procedural standards.</u> |

1 The planning official may refer any administrative application to the planning and zoning commission, or the design review consultant(s) for any administrative application governed by chapter 4 of this title, for a decision when staff has a question as to whether applicable standards or purposes have been met.

2 If the determination is that a public hearing is required, the application shall be reviewed *de novo* and a decision rendered by the City Council via public hearing process established by 8-6A-7.

3 For purposes of determining the number of objections, all objections from residents of a dwelling, or on behalf of a specific business shall be considered one objection.

e. A reasoned statement consistent with Idaho Code Title 67 Chapter 65 shall accompany the decision.

f. A written decision document consistent with the requirements of Idaho Code Title 67 Chapter 65 shall be provided to the applicant.

Idaho Code 67-6535 shall include:

- i. The decision determination.
- ii. A determination of the required findings.
- iii. A reasoned statement in support of the decision.
- iv. The facts upon which it based its decision.
- v. The ordinance and standards used in evaluating the application.

vi. Conditions of approval that are deemed necessary to protect public health, safety, and welfare, and prevent undue adverse impacts on surrounding properties, if applicable.

vii. If denied, the actions, if any, that the applicant could take to obtain approval.

viii. Final decisions shall include notice regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

E. Resubmitted: No application that has been denied by the planning official, the commission, or the council shall be resubmitted, in substantially the same form for the same use, within one (1) year from the date of denial. The planning official may waive the one (1) year requirement and accept a new application, where the subject property is affected by amendments to the comprehensive plan or to this title.

SECTION 10. That Title 8, Chapter 6, Article A, Section 5 ("Administrative Process With Notice"), Garden City Code, be repealed.

SECTION 11. That Title 8, Chapter 6, Article A, Section 6 ("Administrative Process Without Notice"), Garden City Code, be repealed.

SECTION 12. That Title 8, Chapter 6, Article A, Section 7 ("Public Hearing Process"), Garden City Code, be, and the same is hereby amended to read as follows:

8-6A-75: PUBLIC HEARING PROCESSNOTICING:

A. Purpose: The purpose of this section is to outline the specific application noticing processes for actions that require a public hearing.

B. Public Notice Requirements: Applications that require a public hearing shall be noticed in accord with the noticing requirements identified in Table 8-6A-3, and the following relevant procedures:

1. Neighborhood Meetings:

a. Neighborhood meetings shall be required for some applications prior to an application being determined by the Planning Official as complete submittal of an application.

b. Notice of the neighborhood meeting shall be provided by the applicant to all property owners of record within three hundred feet (300') of the exterior boundary of the application property. Notice of the meeting shall be either hand delivered or mailed to the recipients. Notice shall also be provided to the planning official.

c. Notice of the meeting shall be provided at least fifteen (15) ~~ten (10)~~ days prior to the meeting.

d. The meeting shall be held on a weekday between five thirty o'clock (5:30) P.M. and eight o'clock (8:00) P.M. not more than three (3) months or less than one (1) day prior to the submittal of an application.

e. The notice of the meeting shall identify the process for persons to be considered interested parties.

2. Radius Notice: At least fifteen (15) days prior to the public hearing or upon an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes, the city shall send a notice shall be sent by first class mail of the time and place, and a summary of the application to property owners or purchasers of record (as listed in the current records of the Ada County assessor) owning property within three hundred feet (300') of the property being considered.

3. Posting On The Site: A public notice shall be posted by the applicant on the premises for which the permit is sought. The notice shall be posted not less than ~~ten~~ fifteen (10) days prior to the public hearing or an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes. If the application is legislative and not for a specific property or properties, site posting is not required.

a. Notice Form: The notice shall be in substantial compliance with the following form:

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|--|---|
| <p>As required by the City of Garden City PUBLIC NOTICE THERE WILL BE A [INSERT MEETING/ HEARING TYPE} ON [DATE] AT [TIME] AT [LOCATION]</p> <p>Purpose: Property Location: Application contact:</p> | <p>CITY OF GARDEN CITY PUBLIC HEARING NOTICE THERE WILL BE A PUBLIC HEARING ON [DATE] AT [TIME] At CITY HALL 6015 GLENWOOD</p> <p>Purpose: Property Location: Application By: Contact the City Planner at (208) 472-2921 with any questions</p> |
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- b. Notice Size: The notice(s) shall consist of a four foot by four foot (4' x 4') plywood or other hard surface mounted on two (2) four inch by four inch (4" x 4") posts.
- c. Notice Lettering: Centered at the top of the four foot by four foot (4' x 4') notice(s) in six inch (6") letters shall be the words "City of Garden City Public Hearing Notice". The date of the hearing shall be in bold four inch (4") letters. The remainder of the notice shall be in ~~two inch~~two-inch (2") letters. Each notice shall be painted white, and the letters shall be painted black and shall appear on both sides.
- d. Notice Content: Each notice shall inform the public of the nature of the meeting or hearing, the date, time and address of the hearing location, a summary of the proposal to be considered, a ~~city~~ contact phone number or email address, the location of the development and the name of the applicant, and if applicable, the proposed development.
- e. Notice Placement: The notices shall be posted on the property being considered along each street that is adjacent to the subject property boundaries. The notice(s) shall be located on the property, outside of the public right-of-way. If the notice cannot be placed on the property and still be clearly visible, the notice may be placed within the right-of-way if the applicant can obtain the consent of the owner of the right-of-way. The notice shall be posted perpendicular to the street and mounted so that the bottom of the notice is at least three feet (3') above the ground.
- f. Proof Of Posting: The applicant shall submit a notarized statement and a photograph of the posting to the city no later than seven (7) days prior to the public hearing attesting to where and when the notice(s) were posted. Unless the statement is received by such date, the hearing will be continued.
- g. Notice Removal: The notice(s) shall be removed no later than three (3) days after the public hearing for which the notice(s) had been posted is ended.

4. Alternate Forms Of Notice: When mailed notice is required of two hundred (200) or more property owners, alternate forms of notice may be provided by the city as follows:

- a. Posting of the notice in three (3) conspicuous locations within the city;
- b. Making notice available to all forms of media for use as a public service announcement; or
- c. Paid advertisement of notice in local print media of at least four inches (4") and two (2) columns in size.

5. Legal Notice: At least fifteen (15) days prior to the public hearing, the city shall publish a public notice of the time, place, and description of the application in the official newspaper of general circulation.

6. Public Service Announcement: At least fifteen (15) days prior to the public hearing, the city shall provide a public notice to other newspapers, radio and television stations serving the city for use as a public service announcement.

7. Agency Review; Notification To Agencies With Jurisdiction: At least fifteen (15) days prior to the a public hearing or an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes, the city shall give notice to all political subdivisions providing services within the city, including the school district.

8. Transmittal To Other Agencies: The planning official may transmit the notice, application and other documents submitted for review and recommendation to city departments and other agencies and community organizations ~~as adopted by commission resolution~~.

9. Interested Parties: The planning official shall transmit notice of changes in hearing dates and decisions to persons who have filed a written request for notice with the city. The city may provide notice to interested parties electronically.

10. Petitioner-Requester: The city shall give notice of the time and place of hearings, appeals, or council review by sending notice to the applicant, appellant, and respondent. For the purpose of public noticing requirements, these parties have been referred to as "Requestor".

11. Failure To Notify: The failure to comply fully with the notification provision shall not invalidate the action, provided the spirit of the procedure is observed.

TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS

| Permit/ Decision | Neighborhood Meeting | Radius | Legal | On Site | Agencies | Public Service Announcement | Interested Parties | Requester |
|-------------------------------|-------------------------|--------|-------|------------|----------|-----------------------------------|-----------------------|-----------|
| Administrative without notice | | | | | | | | |
| Administrative with notice | X | X | | | X | | X | X |
| Appeal | | | | | | | X | X |

TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS

| Permit/ Decision | Neighborhood Meeting | Radius | Legal | On Site | Agencies | Public Service Announcement | Interested Parties | Requester |
|---|-------------------------|--------|-------|------------|----------|-----------------------------------|-----------------------|-----------|
| Annexation or rezone | X | X | X | X | X | X | X | X |
| Comprehensive plan or ordinance amendment ¹ | X | X | X | | X | X | X | X |
| Conditional use ² | X | X | X | X | X | | X | X |
| Conditional use, revocation | | | X | | | | X | X |
| Design review process under <u>section 8-6A-5</u> | X | X | | X | X | | X | X |
| Development agreement | X | X | X | X | X | | X | X |
| Development agreement revocation | | | X | | X | | X | X |
| Planned unit development | X | X | X | X | X | | X | X |
| Plat, amendment | | X | | X | X | | X | X |
| Plat, final | | X | | X | X | | X | X |
| Plat, preliminary | X | X | | X | X | | X | X |

TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS

| Permit/ Decision | Neighborhood Meeting | Radius | Legal | On Site | Agencies | Public Service Announcement | Interested Parties | Requester |
|---|-------------------------|--------|-------|------------|----------|-----------------------------------|-----------------------|-----------|
| Plat, preliminary and final combined | X | X | X | X | X | | X | X |
| Minor land division | X | X | X | X | X | | X | X |
| Site layout template | | | | | | | X | X |
| Specific area plan | X | X | X | X | X | X | X | X |
| Variance | X | X | X | X | | | X | X |
| Zoning district boundary amendment ³ | X | X | X | X | X | X | X | X |

Notes:

1. Comprehensive Plan Amendment: If the commission or design review consultant(s) recommends a material change to the plan after the public hearing, the public notice for the council hearing shall include the recommendation.
2. When mailed notice is required for two hundred (200) or more people, the alternate noticing requirements as set forth in subsection B.4 of this section may be substituted for mailed notice.
3. Zoning District Boundary Amendment: Notice may be sent to property owners beyond three hundred feet (300') of the external boundaries of the rezone area to those property owners who may be impacted by the rezone application.

C. Planning and Zoning Commission Procedures for *de novo* Public Hearing:

1. Hearing Date:

- a. ~~Within sixty (60) days of receipt of an application certified as complete, or as reasonably appropriate consistent with city workloads, the initial public hearing shall be conducted.~~
- b. ~~The time for review and action may be extended by making a finding that additional materials and/or information are required due to the complexity of the application or for other reasons deemed appropriate.~~
- c. ~~The decision maker may deny an application for which the public hearing has been continued repeatedly over an unreasonable period of time at the request of the applicant.~~

2. The chairperson of the hearing shall determine the order of the hearing and the allotted amount of time to address the body.

2. Parliamentary procedure should generally be utilized.

3. Public Hearing Testimony:

- a. The decision maker shall hear public testimony from all affected persons wishing to provide present or rebut evidence at the initial duly noticed public hearing. The final decision maker shall consider the record and report of the recommending body and may or may not elect to hear additional testimony of representatives of the applicant and any witnesses, including interested citizens affected by the proposed application.
- b. The applicant shall offer competent evidence in support of the application sufficient to enable the decision maker to consider the matter and to make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.

c. Written statements, including exhibits, that are specific to an application, which are mailed or hand delivered to City Hall and timely received by the development services department in the manner established by the planning official to receive such materials, shall be considered timely if received seven (7) or more working days in advance of the public hearing. These materials shall be entered into the record of the hearing.

d. If testimony fails to comply with standards adopted by resolution, the decision maker may determine that testimony is inadmissible.

- i. The name and address of the person providing testimony;
- ii. The testimony must be relevant to the application;
- iii. Testimony must be factual; and
- iv. Testimony shall not be personally derogatory.

e. When a design review consultation is required as part of an application that requires a public hearing, public testimony regarding design will be heard by the planning and zoning commission at the planning and zoning commission's scheduled hearing.

3. Decision:

- a. After hearing the evidence and considering the application, the decision maker shall make their decision. The dependent decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, ; and the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied.
- b. By the next regular scheduled meeting, the decision maker shall make its findings and decision.

D. Council Public Hearing:

1. Transmittal: Upon recommendation of approval or disapproval by the recommending body, the application, together with a complete copy of the recommending body's findings and report of action, shall be transmitted to the council.
2. Public Hearing: Within thirty (30) days of the recommending body completing its findings and report, the city shall notice a council public hearing.
 - a. The public notice shall be made in accordance with the Idaho public hearing process.

b. Public notice shall also be sent to all persons who appeared in person and provided a legible record of their name and address, or submitted testimony in writing before the reviewing body's proceedings. Such notification shall be made at least fifteen (15) days prior to the council meeting.

3. ~~Public Hearing Testimony: At the hearing before the council, the council shall consider the record and report of the commission and may or may not elect to hear testimony of representatives of the applicant and any witnesses, including interested citizens affected by the proposed application.~~

4. **Council Decision:**

- a. ~~Upon conclusion of its review, the council shall take action on the application and adopt its findings of fact and conclusions by the next regular scheduled council meeting.~~
- b. ~~In its decision, the council shall base its findings upon the record and report of the commission and, if taken, testimony presented before it.~~
- c. ~~The council may sustain, modify with conditions, or reject the recommendations of the recommending authority; or remand the application for additional proceedings and findings.~~

SECTION 13. That Title 8, Chapter 6, Article A, Section 9 ("Appeals and Council Reviews"), Garden City Code, be, and the same is hereby amended to read as follows:

8-6A-9: APPEALS AND CITY COUNCIL REVIEWS:

A. Standing to Appeal, City Council Review, Standard of Review, and Notice of Appeal:

1. An applicant, the development services director, the public works director, the chief of police, and/or those who (1) have standing under the Idaho Local Land Use Planning Act; and (2) testified may appeal the action of the final decision maker. However, the development services director, the public works director, and the chief of police shall only have standing to appeal, as a representative and designee of the city, if he/she believes there may be a significant adverse impact to the city as a result of the action of the final decision maker, making the city affected or aggrieved by the final decision. Such appeals are not de novo.

2. Any action taken by the planning and zoning commission regarding conditional use permits, which would be final unless appealed, may be reviewed and heard by the city council, when an appeal is not made but the city council determines in a public meeting, within fifteen (15) days of commission action, that there may be significant adverse impact to the city as a result of the final decision by the commission, making the city affected or aggrieved by the final decision. Such council reviews are not de novo.

32. An appeal shall be made on the form provided by the city and filed with the city within fifteen (15) days after the action of the decision maker.

43. An appeal or council review shall stay all proceedings related to the application unless there is imminent peril to life and property, as determined by the commission or court order.

B. Review Authority: Appeals of commission decisions are heard and decided by the council. Except when otherwise specified in this Title, appeals of the planning official decisions are heard and decided by the commission.

C. Appeal Hearing Notice: Record:

1. ~~The city shall set the matter for hearing by the review authority at the next regularly scheduled meeting of the review authority if such scheduling provides is reasonably adequate time for all parties involved to be prepared to conduct the hearing.~~
2. ~~The city shall give notice of the time and place of the hearing on appeal or council review by sending copies of the notice to the applicant or petitioner, the appellant and to any interested person who has filed a written request for notice with the city.~~

D. Hearing Record: Both a Review of an appeal and a council review will be on the record of the decision maker.

E. Decision: 1. ~~After the hearing on the appeal or council, the review authority shall make its decision and adopt findings of fact and conclusions.~~

2. ~~In its decision, the review authority shall determine whether the application or petition should be granted, granted with conditions, remanded to the decision maker for additional proceedings and findings, or denied.~~

3. ~~The city shall transmit a copy of the decision by the review authority together with a copy of its findings and conclusions to the decision maker; and shall transmit a copy of its decision, findings, and conclusions of law to the appellant.~~

4. ~~The decision on an appeal made by the commission or planning official may be further appealed to the council. The decision of the council shall be final.~~

SECTION 14. That Title 8, Chapter 6, Article B, Section 3 ("Design Review"), Garden City Code, be, and the same is hereby amended to read as follows:

A. Purpose: The purpose of this section is to establish the specific process and findings for approval of design review applications.

B. Objectives: The objectives of the design review process are to involve the city in the earliest possible time in the development and design of a project, and to work with the applicant in an iterative process of review and design to better the design of a project.

The review process is intended to be flexible and tailored to the needs of the project and the applicant.

C. Applicability: This process shall apply to all development as more specifically described below. Provisions of title 8, chapter 4 ("Design and Development Regulations") shall be reviewed as follows:

1. The following development shall be reviewed by the design review consultant(s) and utilize the administrative with notice procedures:

a. Nonresidential Development:

- (1) New principal structures;
- (2) Accessory structures visible from the right-of-way;
- (3) Additions that add more than twenty-five percent (25%) of the gross floor area of an existing principal;
- (4) Renovations visible from the right-of-way where more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored;
- (5) Site expansions or reconfigurations exceeding twenty-five percent (25%) of the existing site's gross square footage;
- (6) Any improvement within seventy feet (70') of the Boise River's ordinary ~~high water~~ high-water mark; and
- (7) Developments requiring design review consultant(s) consultation elsewhere in code.

b. Residential Development:

- (1) More than two (2) dwelling units on the same property, including, but not limited to, multifamily dwelling units;
- (2) Dwelling units where there are more than two (2) proposed units attached to one another on separate properties; and
- (3) New detached accessory dwelling units visible from the right-of-way.

2. The following development shall be reviewed ~~under the procedures as~~ set forth in section Table 8-6A-1 Authorities and Processes 8-6A-6, "Administrative Process Without Notice":

a. Nonresidential Development:

- (1) Accessory structures not visible from the right-of-way;

- (2) Structural additions that add up to twenty-five percent (25%) of the gross floor area of an existing principal structure and are not visible from the right-of-way;
- (3) Renovations, visible from the right-of-way, where more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored so long as there are no reductions in glass; and
- (4) Site expansions or reconfigurations less than or equal to twenty-five percent (25%) of the existing site's gross square footage, where there is no additional curb cut, reduction in landscaping, or new structures.

b. Residential Development:

- (1) Up to two (2) attached dwelling units on the same property; and
- (2) Accessory structures and accessory dwelling units that do not otherwise require design review consultant(s) recommendation as defined by this title.

3.c. The thresholds identified are cumulative within a twenty-four (24) month time period.

~~3. Any applications that are noncompliant with code will be denied.~~

D. Design Review Consultant(s):

- 1. When design review consultant(s) consultation is required, the consultation shall be timely scheduled with the consultant(s) as established by resolution.
- 2. The purpose of the consultation is for expert(s) to assist the decision maker by providing direction to the applicant on the city-adopted design criteria.
- 3. The consultation is between the design review consultant(s) and the applicant. Timely written public comment shall be incorporated into the materials reviewed during the consultation.
- 4. The applicant may meet with the design review consultant(s) one (1) or multiple times before an application is ready for a recommendation.
- ~~5. Appropriate fees for design review consultation shall be established by resolution.~~

E. Required Findings: In order to approve a design review application ~~after a recommendation by the design review consultants that requires design review consultant review, the decision maker shall make a determination with written reasoned statements on the following findings:~~

- 1. The proposed design shall comply with all design standards in this title;

2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site;
3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise River and waterways, canals, and other surface irrigation;
4. The proposed design shall be compatible with the neighborhood in scale and intensity;
5. The proposed design shall not create an adverse impact on the surrounding neighborhood;
6. The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood;
7. The proposed design and landscape shall improve the design and function of the site and be consistent with southwest Idaho climatic conditions; and
8. The proposed design shall be compatible with applicable natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, and historic structures.

~~F. Limitations Of Design Review Authority: Except for development on substandard lots of record, the design review consultant(s) is prohibited from requiring reductions in height, density or floor area ratio, or other general bulk regulations.~~

SECTION 15. That Title 8, Chapter 7, Article A, Section 2 ("Definition of Terms"), Garden City Code, be, and the same is hereby amended to read as follows:

DECISION MAKER: The body responsible for action.

PETITIONER: The land use applicant or appellant.

APPELLANT: An individual, firm, corporation, partnership, association, syndicate, trust, or other legal entity that executes an appeal. The party or petitioner who initiates an appeal or files a notice of appeal.

NEIGHBORHOOD MEETING: A meeting that the applicant hosts. The intent of the meeting is to encourage dialog between those with concerns and the applicant so that the application can potentially be refined prior to city review.

RESPONDENT: The adverse party not initially seeking affirmative relief in cases presented in an appeal.

SECTION 16: The Ordinance is hereby declared to be severable. Should any portion of this Article be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to conduct the purpose(s) of the Article before the declaration of partial invalidity.

SECTION 17. All other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 18. The fact that some provisions of the official municipal code for the City of Garden City have been deliberately eliminated by the governing body shall not serve to cause any interruption in the continuous effectiveness of ordinances included in said official Code. All other ordinances shall continue in full force and effect unless specifically repealed or amended.

SECTION 19. If any provision or section of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

SECTION 20. That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

SECTION 21. This Ordinance shall be in full force and effect upon passage, approval, and publication.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Garden City, Idaho, this _____ day of _____, 2024.

ATTEST:

Lisa Leiby
CITY CLERK

APPROVED:

John G. Evans
MAYOR

EXHIBIT "A"

**STATEMENT OF GARDEN CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. 1051-24**

The undersigned, Charles I. Wadams, in his capacity as City Attorney of the City of Garden City, Idaho, hereby certifies that he is the legal advisor of the City and has reviewed a copy of the attached Summary of Ordinance No. 1051-24 of the City of Garden City, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A(3).

DATED this _____ day of _____, 2024.

Charles I. Wadams
City Attorney

**SUMMARY OF ORDINANCE NO. 1051-24
OF THE CITY OF GARDEN CITY, IDAHO**

PUBLIC NOTICE IS HEREBY GIVEN that the City of Garden City, Idaho, adopted at its regular meeting of _____ th, 2024, that Ordinance No. 1051-24 entitled:

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 8 (“DEVELOPMENT CODE”), CHAPTER 6 (“ADMINISTRATION”), ARTICLE A (“GENERAL PROVISIONS”), SECTION 2 (“DUTIES AND AUTHORITY”); AMENDING SECTION 3 (“GENERAL APPLICATION PROCESS”); REPEALING SECTION 5 (“ADMINISTRATIVE PROCESS WITH NOTICE”); REPEALING SECTION 6 (“ADMINISTRATIVE PROCESS WITHOUT NOTICE”); AMENDING SECTION 7 (“PUBLIC HEARING PROCESS”); AMENDING ARTICLE B (“SPECIFIC PROVISIONS”), SECTION 3 (“DESIGN REVIEW”); REPEALING ALL ORDINANCES OR PARTS THEREOF TO THE EXTENT THEY CONFLICT WITH THIS ORDINANCE; PROVIDING ALL OTHER ORDINANCES INCLUDED IN THE OFFICIAL CODE ARE STILL IN EFFECT NOTWITHSTANDING SOME PROVISIONS THEREOF BEING ELIMINATED; PROVIDING FOR A SEVERABILITY CLAUSE; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

There are several hearing procedures that are adopted by different resolutions or ordinance. This amendment will clarify the Design Review process and merge administrative code, and the public hearing procedures adopted by resolution.

The effective date of the ordinance is from and after the date of its passage, approval, and publication. A copy of the full text of the ordinance is available at the city clerk's office, 6015 N. Glenwood Street, Garden City, Idaho 83714. Examination may be requested in writing or in person during regular business hours of the city clerk's office, from 8:00 a.m. until 5:00 p.m., pursuant to Section 50-901A(4), Idaho Code.

DATED this ____th day of _____, 2024.

ATTEST: CITY OF GARDEN CITY, IDAHO:

Lisa M. Leiby, City Clerk

John G. Evans, Mayor