

BY THE COUNCIL: JACOBS, JORGENSEN, PAGE, RASMUSSEN

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 6 ("ADMINISTRATION"), ARTICLE A ("GENERAL PROVISIONS"), SECTION 8 ("EXPIRATION OF APPROVALS"); AMENDING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 7 ("REFERENCES"), ARTICLE A ("DEFINITIONS"), SECTION 2 ("DEFINITIONS OF TERMS"); 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, Garden City Code Title 8 ("Development Code"), Chapter 6 ("Administration"), Article A ("General Provisions"), Section 8 ("Expiration of Approvals"), was added on the 14th day of May 2012 by Ordinance No. 944-12; and

WHEREAS, Garden City Code Title 8 ("Development Code"), Chapter 7 ("References"), Article A ("Definitions"), Section 2 ("Definitions of Terms"), was added on the 8th day of September 2008 by Ordinance No. 898-08; and

WHEREAS, the City of Garden City wishes to make substantive changes to the availability of extensions for application approvals depending on certain relevant factors such as project type and the subject project's code compliance, as well as delegate more of the extension-granting oversight to the Development Services Department; and

WHEREAS, local government units have the primary responsibility for application oversight and actions affecting the timeline of the subject project's approval; 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 determining the expiration of various application approvals from 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 2. That Ordinance No. 1032-22 that regulates application approval period lengths and the granting of extensions for such approvals, Title 8, Chapter 6, Article A, Section 8 ("Expiration of Approvals"), Garden City Code, which was adopted on the 13th day of February 2023, is hereby amended as reflected below.

SECTION 3. That Ordinance No. 898-08 that provides definitions to terms found throughout the City's code, Title 8, Chapter 7, Article A, Section 2 ("Definition of Terms"), Garden City Code, which was adopted on the 13th day of February 2023, is hereby amended as reflected below.

SECTION 4. That all other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 5. 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 6. That Title 8, Chapter 6, Article A, Section 8 ("Expiration of Approvals"), Garden City Code, be, and the same is hereby amended to read as follows:

A. Unless otherwise specified by this code, All all application approvals shall expire one (1) year two (2) years from the date of approval. unless otherwise specified by this code or Notwithstanding the foregoing, application approval expirations are subject to the following exceptions:

1. All application approvals for conditional use permits expire one (1) year from date of approval;
2. All application approvals for properties where the subject property is not compliant, and has not been actively pursuing compliance, with all city, state, and federal codes and laws since the date of application expire one (1) year from date of approval and will not, under any circumstances, be entitled to an extension under 8-6A-8C;
3. Once the city issues a building permit for an application, the expiration date of the application will be automatically extended by one (1) year;
3. By condition of approval or development agreement, an alternate time period for completion of the application has been specified; or
4. An extension has been granted pursuant to section 8-6A-8C.

B. The occurrence of any of the following events will cause an application approval to be secured and no further extension is necessary:

1. The city issues a building permit for the proposed improvement, development, or use prior to the expiration of the one (1) two (2) year period; or

- ~~2. By condition of approval or development agreement, a time period for completion of the application has been specified; or~~
- ~~3. A certificate of compliance or certificate of occupancy has been issued for the entire application; or~~
- ~~4. 2. For subdivision applications, the The final plat of a subdivision approval is recorded with Ada County; or otherwise defined by section 8-5B-6 of this title.~~

~~B.C. City council may allow for an A request for an extension is no guarantee that the extension will be granted. One (1) extension of not more than exceeding one (1) year, may be granted, provided:~~

- ~~1. Good cause for the request is demonstrated by the applicant in their request. Good cause includes, development constructions being delayed by *force majeure*, development constructions being delayed by wrongful conduct of others, or other such circumstances of similar specificity; and~~
- ~~2. The application and/or applicable city regulations have not changed; and~~
- ~~3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and~~
- ~~4. The subject property is compliant and has been compliant, or actively pursuing compliance, with all city, state, and federal codes and laws since the date of application; and~~
- ~~5. It is determined by the city council that it is in Garden City's best interest to grant the extension.~~
- ~~3. The extension request is submitted to the development services department in writing prior to the application's expiration date.~~

~~A request for an extension is no guarantee that the extension will be granted.~~

~~D. Extension requests will be determined by the City Council in all instances except for conditional use permit extension requests. Extension requests for conditional use permits are administrative pursuant to Idaho Code section 67-6529F(4) and the planning official shall make the determination.~~

~~D. For purposes of this code, expirations and extension requests made pursuant to the provisions above are purely administrative pursuant to Idaho Code section 67-6529F(4).~~

SECTION 7. 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:

<u>EXPIRE</u>	OR	<u>The ending of an action's validity after the lapsing of the applicable time period. Expiration shall forego any future actions related to the expired subject.</u>
<u>GOOD CAUSE</u>		<u>Real, substantial, and compelling circumstances that a reasonable person would be compelled to act as a result by.</u>

SECTION 8: 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 carry out the purpose(s) of the Article before the declaration of partial invalidity.

SECTION 9. All other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 10. 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 11. 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 12. That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

SECTION 13: 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 23rd day of September, 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. 1045-24**

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. 1045-24 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 23rd day of September, 2024.

Charles I. Wadams
City Attorney

**SUMMARY OF ORDINANCE NO. 1045-24
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 September 23rd , 2024, that Ordinance No. 1045-24 entitled:

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 6 ("ADMINISTRATION"), ARTICLE A ("GENERAL PROVISIONS"), SECTION 8 ("EXPIRATION OF APPROVALS"); AMENDING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 7 ("REFERENCES"), ARTICLE A ("DEFINITIONS"), SECTION 2 ("DEFINITIONS OF TERMS"); 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.

The current code governing the extension of application approvals is ambiguous and does not operate in accordance with the wishes of the City. The code will be amended to alter the length of the period before application approvals expire and more clearly stipulate the conditions under which approvals expire or may be extended. The amendment aims to base the expiration period and extension availability on the project type, explicitly address the status of approvals under 8-6A-8A.1-4, and specify the decision-making process for expiration decisions.

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 23rd day of September, 2024.

ATTEST:

CITY OF GARDEN CITY, IDAHO:

Lisa M. Leiby, City Clerk

John G. Evans, Mayor