

BY THE COUNCIL: HELLER, JACOBS, JORGENSEN, AND PAGE

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REPEALING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 5 ("LAND DIVISION REQUIREMENTS"), ARTICLE B ("SUBDIVISION PROCESS"), SECTION 7 ("GUARANTEE OF COMPLETION OF IMPROVEMENTS"); AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 5 ("LAND DIVISION REGULATIONS"), ARTICLE A ("GENERAL PROVISIONS AND STANDARDS"), SECTION 6 ("IMPROVEMENT STANDARDS"), SUBSECTION C ("CONSTRUCTION OF IMPROVEMENTS"); 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; AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 6 ("ADMINISTRATION"), ARTICLE A ("GENERAL PROVISIONS"), ADDING SECTION 15 ("FINANCIAL SURETY") TO INCLUDE UPDATED PROVISIONS FOR SURETIES; PROVIDING SEVERABILITY; REPEALING CONFLICTING CITY CODE PROVISIONS; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GARDEN CITY, IDAHO:

SECTION 1. The portion of Ordinance No. 898-08, which was added on the 8th day of September 2008, that adopted 8-5B-7, Guarantee of Completion of Improvement, is hereby repealed.

SECTION 2. All other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 3. 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 All other ordinances shall continue in full force and effect unless specifically repealed or amended.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 4. The current Title 8 ("Development Code"), Chapter 5 ("Land Division Regulations"), Article A ("General Provisions and Standards"), Section 6 ("Improvement Standards"), Subsection C ("Construction of Improvements") Garden City Code be, and the same is hereby added, to read as follows:

C. Construction Of Improvements; Surety: The construction of improvements required by this title shall have been completed by the applicant and ~~approved by the council; or a financial surety acceptable to the council shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.~~

SECTION 5. Adding Section 15 (“Financial Surety”) to Title 8 (“Development Code”), Chapter 6 (“Administration”), Article A (“General Provisions”), to read as follows:

8-6A-15: Financial Surety

A. Purpose: The purpose of this section is to establish procedures to guarantee the completion of required improvements of an approval, when the improvements have not been completed.

B. Applicability: The provisions of this section shall apply only to improvements that are not required for the safe occupancy of an approved development. What constitutes safe occupancy is guided by the Development Services and/or Public Works Department’s application of city code and the requirements of the application.

C. Process:

1. All improvements required for the safe occupancy of a development shall be completed prior to occupancy;
2. In the event that improvements, which are not required for safe occupancy, cannot be installed prior to desired occupancy, the city may allow for occupancy in conjunction with a surety agreement;
3. The acceptable surety agreement, financial guarantee, fees, and required documentation shall adhere to a policy or policies that is approved by city council;
4. Upon certification of acceptable improvement completion, a designated official of the city shall release the surety agreement and financial guarantee that is deposited with the city. If it is determined that a one-year warranty is required, the bond will be applied toward the warranty.

D. Standards: A surety agreement shall meet the following minimum requirements

2. The surety shall be, at minimum, an amount equal to one hundred twenty five percent (125%) of the total estimated cost of completing construction of the specific public improvements, as estimated by a designated city official. The minimum percentage may increase based on cost data and staff estimates, to an amount reasonably necessary to secure the completion of the project.

E. Penalty For Failure to Complete Construction: In the event the applicant shall, in any case, fail to complete such work within the period of time required by the conditions of the surety, it shall be the responsibility of the city to proceed to have such work completed. In order to accomplish this, the city shall reimburse itself for the cost and expense thereof by appropriating the surety or may take such steps as may be necessary to require performance by the bonding or surety company.

SECTION 7. 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 and sections of this Ordinance, which shall remain in full force and effect.

SECTION 8. That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

SECTION 9. This Ordinance shall be in full force from and after passage, approval, and publication.

PASSED by the City Council and **APPROVED** by the Mayor of Garden City, Idaho, this 13th day of February, 2023.

ATTEST:



Lisa M. Leiby, City Clerk

APPROVED:



John G. Evans, Mayor

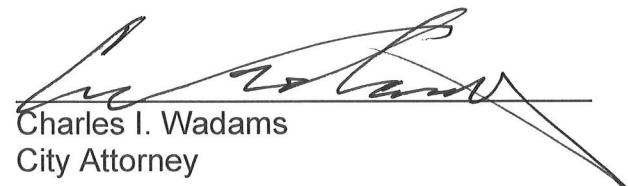


EXHIBIT A

**STATEMENT OF GARDEN CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. 1030-22**

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. 1030-22 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 13th day of February, 2023.



Charles I. Wadams
City Attorney

**SUMMARY OF ORDINANCE NO. 1030-22
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 February 13, 2023, that Ordinance No. 1030-22 entitled:

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REPEALING GARDEN CITY CODE TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 5 ("LAND DIVISION REQUIREMENTS"), ARTICLE B ("SUBDIVISION PROCESS"), SECTION 7 ("GUARANTEE OF COMPLETION OF IMPROVEMENTS"); AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 5 ("LAND DIVISION REGULATIONS"), ARTICLE A ("GENERAL PROVISIONS AND STANDARDS"), SECTION 6 ("IMPROVEMENT STANDARDS"), SUBSECTION C ("CONSTRUCTION OF IMPROVEMENTS"); 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; AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 6 ("ADMINISTRATION"), ARTICLE A ("GENERAL PROVISIONS"), ADDING SECTION 15 ("FINANCIAL SURETY") TO INCLUDE UPDATED PROVISIONS FOR SURETIES; PROVIDING SEVERABILITY; REPEALING CONFLICTING CITY CODE PROVISIONS; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

This ordinance repeals Title 8, Chapter 5, Article B, Section 7 of the Garden City Code and moves references to financial sureties to a new section in Title 8, Chapter 6, Article 15. The goal of the ordinance is to amend the guarantee of completion of improvements standards and process, streamlining the language for easier interpretation and application of the code. The ultimate purpose of this amendment is to allow surety eligibility to be determined by staff and removes language requiring council approval. Instead, the city public works director, development services director, and city attorney will oversee stages of the surety process and work with applicants to ensure city code compliance. Finally, the ordinance provides for severability, repeals any conflicting ordinances, and provides an effective date.

The ordinance is intended to be implemented with a financial surety standard operation procedure, which was approved by Resolution No. 1141-23, and authorizes the development services director and public works director to execute said financial surety standard operation procedure for and on behalf of Garden City.

The effective date of the ordinance is from and after 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 Idaho Code § 50-901A(4).

DATED this 13th day of February, 2023.

ATTEST:


Lisa M. Leiby, City Clerk

CITY OF GARDEN CITY, IDAHO:


John G. Evans, Mayor

