

BY THE COUNCIL: CARVER-HERBERT, JORGENSEN, PAGE, AND 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”); AMENDING SECTION 4 (“REQUIRED APPLICATION INFORMATION”); REPEALING SECTION 5 (“ADMINISTRATIVE PROCESS WITH NOTICE”); REPEALING AND REPLACING SECTION 6 WITH “PUBLIC HEARING AND TESTIMONY PROCEDURES”; AMENDING FORMER SECTION 7 (“PUBLIC HEARING PROCESS”) AND RENUMBERING IT AS SECTION 5 (“NOTICING”); RENUMBERING SECTION 8 (“EXPIRATION OF APPROVALS”) AS SECTION 7; AMENDING SECTION 9 (“APPEALS AND CITY COUNCIL REVIEWS”) AND RENAMING IT (“APPEALS”) AND RENUMBERING AS SECTION 8; RENUMBERING SECTION 10 (“SUBSTANTIAL CONFORMANCE”) AS SECTION 9; RENUMBERING SECTION 11 (“ENFORCEMENT”) AS SECTION 10; RENUMBERING SECTION 12 (“FEES”) AS SECTION 11; RENUMBERING SECTION 13 (“VIOLATIONS”) AS SECTION 12; RENUMBERING SECTION 14 (“PENALTIES”) AS SECTION 13; RENUMBERING SECTION 15 (“FINANCIAL SURETY”) AS SECTION 14; AMENDING ARTICLE B (“SPECIFIC PROVISIONS”), SECTION 3 (“DESIGN REVIEW”); REPEALING ALL ORDINANCES OR PARTS THEREOF TO THE EXTENT THEY CONFLICT WITH THIS ORDINANCE; PROVIDING THAT ALL OTHER ORDINANCES INCLUDED IN THE OFFICIAL CODE REMAIN 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 2. That all other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 3. 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 4. 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 by the next regularly scheduled City Council subsequent to 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 and renders decisions 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.~~

~~2. (Rep. by Ord. 1004-19, 4-22-2019)~~

~~3. Term of Office for Planning and Zoning Commission Members:~~

~~a. Members of the commission shall serve a tTerm of are three (3) years.~~

~~b. The initial appointment shall be made by the Mayor with confirmation by a majority vote by City Council.~~

~~b. c. No person shall serve more than two (2) full The mayor may reappoint a commissioner to additional consecutive terms without a majority vote by the city council.~~

~~c. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment.~~

~~d. Members may be removed for cause by a majority vote of the council.~~

~~e. Members shall be selected without respect to political affiliation.~~

~~4. (Rep. by Ord. 1004-19, 4-22-2019)~~

~~5. The commissioners are appointed and governed by policies adopted by resolution and in accordance with Idaho Code Section 67-6504.~~

SECTION 5. 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 definitions of the processes of this section are as follows:

1. Administrative: A decision-making procedure in which the decision maker may take action without providing notice to the public and without conducting a public hearing. The action is based solely on compliance with applicable adopted standards and criteria.

2. Administrative with Public Notice: A decision-making procedure in which the decision maker may take action without conducting a public hearing; however, public notice of the

proposed action shall be provided in accordance with this Code. Any person or entity with standing, as defined herein, may appeal the final administrative decision.

3. Public Hearing: A de novo decision-making procedure in which the decision maker conducts a publicly noticed hearing, accepts public testimony, and renders a decision based on the evidence presented and the applicable standards and criteria. For purposes of this section, de novo means that the reviewing authority considers the matter anew, without being bound by any prior findings, conclusions, or recommendations, and may affirm, modify, or wholly substitute its own findings and decision.

4. Appeal: A request for review of a final decision. An appeal seeks correction of alleged errors in the application of law, procedure, or findings, and is limited to the scope and standard of review established by this Code.

5. Request for Reconsideration: A written request submitted within fourteen (14) days of the final written land use decision made by the City Council, identifying specific deficiencies in that decision and seeking review, affirmation, reversal, or modification of the decision by the issuing body. A timely request for reconsideration is a mandatory administrative remedy that must be exhausted before an aggrieved party may seek judicial review under Idaho Statute 67-6535.

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

E. F. 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

**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
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 * for applications that have not been found by the Planning Official in accordance with Table 8-6A-2 Decisions to require a Public Hearing		DRC	PO/CC	AN/PH	<u>CC</u>
<u>Design review, administrative with notice * for applications that have been found by the Planning Official in accordance with Table 8-6A-2 Decisions to require a Public Hearing</u>	<u>DRC</u>	<u>None</u>	<u>CC</u>	<u>PH</u>	

**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
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
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	
Plat, boundary line amendment		None	PO	A	CC
Plat, final		PO	CC	PH <u>A</u>	
Plat, condominium		PO	CC	A	
Plat, preliminary	DRC	PZ	CC	PH	

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 7. 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 body~~ decision maker shall act upon the application within ~~thirty-sixty (30/60)~~ 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 a complete application, as 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>	<p><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></p> <p><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></p> <p><u>All applications that are noncompliant with code will be denied.</u></p>
<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</u>

	<u>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>	<p><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></p> <p><u>All conditions of approval shall be attached to the written decision.</u></p>
<u>Reject the recommendation</u>	<u>The recommendation shall be rejected if the application cannot 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 information that was not previously considered.</u>
<u>Appeal</u>	
<u>Grant (appeal) and Vacate (decision)</u>	<u>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>
<u>Grant (appeal) and Modify (decision)</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>Remand the application to the decision maker for additional proceedings and findings</u>	<u>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</u>

	<u>determine compliance, or if procedural processes are required to be remedied.</u>
<u>Deny (appeal and affirm the decision)</u>	<u>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>
<u>Reconsideration</u>	
<u>Affirm (decision)</u>	<u>The decision is not in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, and is supported by factual evidence.</u>
<u>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 written decision document consistent with the requirements of Idaho Code Title 67 Chapter 65 shall be provided to the applicant.

E. F. Resubmitted Application Resubmission Limitations: 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 8. That Title 8, Chapter 6, Article A, Section 4 (“Required Application Information”), Table 8-6A-2 (“Required Application Information”) Garden City Code be, and the same is hereby modified to remove Minor Planned Unit Development, Site Layout Template, and X= Denotes application information that may be waived depending on the nature of the request”, to read as follows:

**TABLE 8-6A-2
REQUIRED APPLICATION INFORMATION**

Permit/ Decision	Neighbor-hood Map	Site Plan	Land-scaping Plan	Schematic Drawings	Topo-graphic survey	Grading Plan	Hydrology Report	Natural Hazard and Resource Analysis	Dedications and Easements	Covenants and Deed Restrictions	Will Serve Letter	Approved Addresses
Planned Unit Development, Minor	X	X	X	X	X	X	X	X	X	X	X	X
Site Layout Template		X	X	X								
X= Denotes application information that may be waived depending on the nature of the request												

SECTION 9. That Title 8, Chapter 6, Article A, Section 5 (“Administrative Process With Notice”), Garden City Code, be repealed.

SECTION 10. That Title 8, Chapter 6, Article A, Section 6 (“Administrative Process Without Notice”), Garden City Code, be repealed.

SECTION 11. That Title 8, Chapter 6, Article A, Section 6 (Public Hearing and Testimony Procedures”), Garden City Code, be added as follows:

8-6A-6: PUBLIC HEARING AND TESTIMONY PROCEDURES:

- A. Purpose: The purpose of this section is to establish hearing and public comment procedures.
- B. Public Hearing Procedures: Public Hearing procedures shall be as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines. This policy is formally adopted by resolution, enforceable, and publicly accessible.
- C. Public Testimony: Public Testimony procedures shall be as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines.
- D. The most recently adopted version of the Garden City Meeting and Public Hearing Guidelines is formally adopted by resolution, enforceable, and publicly accessible.

SECTION 12. That Title 8, Chapter 6, Article A, Section 7 (“Public Hearing Process”), Garden City Code, be amended to be Title 8, Chapter 6, Article A, Section 5 (“Noticing”) and read as follows:

8-6A-75: PUBLIC HEARING PROCESSNOTICING:

A. ~~Purpose: The purpose of this section is to outline the specific application to establish 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: as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines Policy. This policy is formally adopted by resolution, enforceable, and publicly accessible.~~

~~1. Neighborhood Meetings:~~

~~a. Neighborhood meetings shall be required for some applications prior 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 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.~~

~~2. Radius Notice: At least fifteen (15) days prior to the public hearing the city shall send a notice 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 (1015) days prior to the public hearing.~~

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

<p style="text-align: center;">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>

~~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 (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.~~

~~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, 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.~~

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties
<u>Applications processed as Administrative without notice</u>							
<u>Applications processed as Administrative with notice</u>	<u>X</u>	<u>X</u>			X		<u>X</u>
Appeal	-	-	-	-	-	-	<u>X</u>
Annexation or rezone	X	X	X	X	X	X	<u>X</u>
Comprehensive plan or ordinance amendment ¹	X	X	X		X	X	<u>X</u>
Conditional use ²	X	X	X	X	X		<u>X</u>
Conditional use, revocation			X				<u>X</u>
Design review process under <u>section 8-6A-5 Public Hearing</u>	<u>X</u>	X	<u>X</u>	X	<u>X</u>		<u>X</u>
Development agreement	X	X	X	X	X		<u>X</u>

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties
Development agreement revocation			X		X		X
Planned unit development	X	X	X	X	X		X
Plat, amendment	-	X	-	X	X		X
Plat, final	-	X	-	X	X		X
Plat, preliminary	X	X	X	X	X		X
Plat, preliminary and final combined	X	X	X	X	X	-	X
Minor land division <u>Public Hearing</u>	X	X	X	X	X		X
Site layout template	-	-	-	-	-	-	X
Specific area plan	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

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.~~

~~4. C. 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.~~

~~G. D. Planning and Zoning Commission Hearing Procedures for de novo Public Hearing: shall as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines.~~

~~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. Public Hearing Testimony:~~

~~a. The decision maker shall hear public testimony at the duly noticed public hearing.~~

~~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, mailed or hand delivered to City Hall and timely received in advance of the public hearing, shall be entered into the record of the hearing.~~

~~d. 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 12. That Title 8, Chapter 6, Article A, Section 8 (“Expiration of Approvals”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 7 (“Expiration of Approvals”).

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 be (“Appeals”) read as follows:

8-6A-98: 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. Appeals shall not be conducted de novo. The appeal body shall base its decision on the existing record; however, the appeal body may exercise free review of the record and is not bound by findings, conclusions, or interpretations of the initial decision maker. ~~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.~~

3. 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.

4. 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.

5. The city will notify the appellant, applicant, and property owner as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines Policy.

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 Record: ~~Hearing Notice:~~

1. Review of an appeal will be on the record of the decision maker.

~~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 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 A, Section 10 (“Substantial Conformance”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 9 (“Substantial Conformance”).

SECTION 15. That Title 8, Chapter 6, Article A, Section 11 (“Enforcement”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 10 (“Enforcement”).

SECTION 16. That Title 8, Chapter 6, Article A, Section 12 (“Fees”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 11 (“Fees”).

SECTION 17. That Title 8, Chapter 6, Article A, Section 13 (“Violations”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 12 (“Violations”).

SECTION 18. That Title 8, Chapter 6, Article A, Section 14 (“Penalties”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 13 (“Penalties”).

SECTION 19. That Title 8, Chapter 6, Article A, Section 15 (“Financial Surety”), Garden City Code, be renumbered to be Title 8, Chapter 6, Article A, Section 14 (“Financial Surety”).

SECTION 20. 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 public right-of-way;_

(3) ~~Additions that add more than twenty-five percent (25%) of the gross floor area of an existing principal structure~~ Structural additions that increase the gross floor area of an existing principal structure by more than twenty-five percent (25%).

(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, or redesign of the site 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;_

(7) Developments requiring design review consultant(s) consultation elsewhere in code.

(8) Renovations visible from the public right-of-way where there is a reduction in glass or removal of a public entrance.

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;~~ Structural additions that increase the gross floor area of an existing principal structure by more than twenty-five percent (25%).
- (3) Renovations of existing structures, visible from the right-of-way, where no 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~~
The thresholds identified in this section are cumulative within any twenty-four (24) month period, measured from the date of approval of the first design review decision within that period. Cumulative thresholds apply on a per-parcel basis and are calculated separately for: (a) gross floor area additions; (b) façade area altered per façade; and (c) site area expanded or reconfigured. For projects spanning multiple parcels processed as a single application, the cumulative calculation shall apply to the project area as a whole.

~~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 as identified in the Garden City Comprehensive Plan ~~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 21. That Title 8, Chapter 7, Article A, Section 2 (“Definition of Terms”), Garden City Code, be, and the same is hereby amended to include:

DECISION MAKER: The body responsible for action.

APPELLANT: 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 22: 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 23. All other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 24. 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 25. 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 26. That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

SECTION 27. 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 _____, 2026.

ATTEST:

APPROVED:

Lisa Leiby
CITY CLERK

William L. Jacobs
MAYOR

EXHIBIT "A"

**STATEMENT OF GARDEN CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. 1051-26**

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. 1051-26 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 _____, 2026.

Charles I. Wadams
City Attorney

**SUMMARY OF ORDINANCE NO. 1051-26
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, 2026, that Ordinance No. 1051-26 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”); AMENDING SECTION 4 (“REQUIRED APPLICATION INFORMATION”); REPEALING SECTION 5 (“ADMINISTRATIVE PROCESS WITH NOTICE”); REPEALING AND REPLACING SECTION 6 WITH “PUBLIC HEARING AND TESTIMONY PROCEDURES”; AMENDING FORMER SECTION 7 (“PUBLIC HEARING PROCESS”) AND RENUMBERING IT AS SECTION 5 (“NOTICING”); RENUMBERING SECTION 8 (“EXPIRATION OF APPROVALS”) AS SECTION 7; AMENDING SECTION 9 (“APPEALS AND CITY COUNCIL REVIEWS”) AND RENAMING IT (“APPEALS”) AND RENUMBERING AS SECTION 8; RENUMBERING SECTION 10 (“SUBSTANTIAL CONFORMANCE”) AS SECTION 9; RENUMBERING SECTION 11 (“ENFORCEMENT”) AS SECTION 10; RENUMBERING SECTION 12 (“FEES”) AS SECTION 11; RENUMBERING SECTION 13 (“VIOLATIONS”) AS SECTION 12; RENUMBERING SECTION 14 (“PENALTIES”) AS SECTION 13; RENUMBERING SECTION 15 (“FINANCIAL SURETY”) AS SECTION 14; AMENDING ARTICLE B (“SPECIFIC PROVISIONS”), SECTION 3 (“DESIGN REVIEW”); REPEALING ALL ORDINANCES OR PARTS THEREOF TO THE EXTENT THEY CONFLICT WITH THIS ORDINANCE; PROVIDING THAT ALL OTHER ORDINANCES INCLUDED IN THE OFFICIAL CODE REMAIN 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 _____, 2026.

ATTEST:

CITY OF GARDEN CITY, IDAHO:

Lisa M. Leiby, City Clerk

William L. Jacobs, Mayor