ORDINANCE 10XX-2X

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 4 ("DESIGN AND DEVELOPMENT REGULATIONS), ARTICLE A ("GENERAL PROVISIONS"), SECTION 9 ("WATERWAYS"); 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 changes to align with the intent of previously adopted Design Review processes; 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 That all other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.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 All other ordinances shall continue in full force and effect unless specifically repealed or amended.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 4, Article A, Section 9 ("Waterways")**,** Garden City Code, be, and the same is hereby amended:

8-4A-9. WATERWAYS.

A. Natural Waterways:

1. All natural waterways shall remain as a natural amenity and shall not be piped or otherwise covered.

2. Natural waterways may be altered if: a) the alteration will improve the hydraulics and ease of maintenance of the waterway; and b) there is no change in the hydraulics of the waterway that impacts the flow or volume on downstream properties.

3. Fencing along all natural waterways shall not prevent access to the waterway. If fencing is required, open fencing only is allowed, and privacy fencing is prohibited. All fencing shall be approved by the irrigation or drainage district.

B. Pressurized Irrigation; Irrigation Ditches, Laterals, Canals, And Drains:

1. Pressurized irrigation shall be provided in conformance with subsection 8-5A-5H of this title.

2. Irrigation ditches, laterals, canals, and drains shall be left open and used as a water amenity or linear open space unless it can be demonstrated to the ~~design review consultant(s) and the planning official~~ decision maker by the process ~~set forth in section 8-6B-3~~ that:

a. The maintenance of the irrigation ditch, lateral, canal, or drain with any associated easement encumbers more than fifty percent (50%) of the property; or

b. The irrigation ditch, lateral, canal, or drain is located on the property in such a manner that a use of the property is infeasible; or

c. The irrigation ditch, lateral, canal, or drain is enclosed on both ends adjacent to the property, and the adjacent properties are fully developed in a manner that future opening of the enclosed irrigation ditch, lateral, canal, or drain is infeasible~~.~~; or

d. Tiling is necessary to accommodate public streets or pathways, or utility crossings. Any such tiling or enclosure shall be limited to the length reasonably necessary to accommodate the improvement. Tiling for such accommodation shall not establish eligibility for tiling on any adjacent property.

3. Irrigation ditches, laterals, canals, and drains do not require fencing. If fencing is installed, open fencing only is allowed, and privacy fencing is prohibited. All fencing shall be approved by the irrigation or drainage district.

4. For any irrigation or drainage ditch, piping or alteration of the ditch shall not impede the movement of the amount of water crossing the property prior to development or the amount of water delivered to downstream

properties.

5. In no circumstances shall structures be built over irrigation ditches, laterals, canals and drains or within their dedicated easements.

SECTION 9: 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 10. All other ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 11. 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 12. 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 13. That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

SECTION 14. 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 _____ 202__.

ATTEST:

_____
Lisa Leiby
City Clerk

APPROVED:

_____
William L. Jacobs
Mayor

EXHIBIT "A"

STATEMENT OF GARDEN CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. 10XX-2X

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. 10XX-2X 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 _____ 202__.

_____
Charles I. Wadams
City Attorney

SUMMARY OF ORDINANCE NO. 10XX-2X
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 _____ _____, 202___, that Ordinance No. 10XX-2X entitled:

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 8 ("DEVELOPMENT CODE"), CHAPTER 4 ("DESIGN AND DEVELOPMENT REGULATIONS), ARTICLE A ("GENERAL PROVISIONS"), SECTION 9 ("WATERWAYS"); 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.

This amendment broadens the applicability of the ditch tiling provisions to include, rather than limiting the review of a request to design review applications. It also clarifies that enclosures due to public streets or pathways, or utility crossings do not constitute tiling or enclosure of an irrigation ditch, lateral, canal, or drain and may not be used to establish eligibility for tiling on adjacent properties.

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:

_____
Lisa M. Leiby, City Clerk

CITY OF GARDEN CITY, IDAHO:

_____
William L. Jacobs, Mayor