



CITY OF GARDEN CITY

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MEMORANDUM

DATE: For May 11, 2020 Meeting
TO: City Council
FROM: Development Service Staff
RE: Public Hearing: Garden City Code Flood Hazard Ordinance

REQUEST: Public Hearing- Revisions to Garden City Code Flood Hazard Ordinance

BACKGROUND: The Federal Emergency Management Agency (FEMA) has completed a Flood Insurance Study (FIS), which will necessitate that Garden City update Garden City Code Flood Hazard Ordinance to comply with current requirements as well as adopt the new Flood Insurance Rate Map (FIRM) and FIS before June 20, 2020.

It has been previously identified by State Floodplain Manager and FEMA that there are some deficiencies to Garden City's Flood Hazard ordinance. To ensure that the City ordinance addresses all required elements of the ordinance, the State's model ordinance was utilized as a basis for a draft amendment and noticed for hearings.

Finally, the ordinance will be relocated in to design standards rather than being in an overlay. Staff believes this to be a best practice.

RECOMMENDATIONS

1. During the Planning and Zoning Commission hearing on April 15, 2020 the Planning and Zoning Commission unanimously recommended that the following recommendations to be included in the code changes:
 - i. Prior to review by City Council, the proposed ordinance will be amended with additional or clarifying language proposed by the Garden City Legal Department to ensure that all stakeholders understand their rights and obligations under the regulations.
 - ii. The proposed ordinance will also include an update to all of Garden City Code updating reference to Garden City Code 8-3B to 8-4H and removing all conflicts in with proposed Flood Hazard 8-4H in Garden City Code.
 - iii. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

The Planning and Zoning Commission recommendation can be found at the link: [Planning and Zoning Commission recommendation](#)

2. During the Design Review Committee hearing on April 20, 2020 the Committee noted that with the inconsistencies identified in the testimony that they thought that a recommendation would be premature, and a desire to postpone a recommendation until a revised draft was submitted for review was noted. Staff reminded the Committee that the ordinance must be passed by June 20, 2020 or the City of Garden City will be suspended from the National Flood Insurance Program. The Committee made the following recommendations to be included in the code changes:
 - i. Prior to review by City Council, the proposed revisions to Garden City Code, Title 8 will be amended to rectify conflicting definitions, unless integral to a regulatory process prescribed by another regulatory agency.
 - ii. The definition of “exempt” should not include a monetary value.
 - iii. The City Council should consider a thorough review of Garden City Code to harmonize the regulations found within.

The Design Review Committee recommendation can be found at the link: [Design Review Committee recommendation](#)

PUBLIC COMMENT

- a. Geoffrey Wardle has provided testimony identifying inconsistent definitions in Title 8, specifically noting concerns related to substantial compliance and substantial damage and requested clearer nonconforming regulations as how they interact with other provisions of Garden City Code. Mr. Wardle provided written testimony and oral testimony during the recommendation hearings.
- b. Shawn McFadden requested information on how the floodway deletions were identified in the 2017 flood insurance study maps.
- c. Hannah Ball testified orally in opposition to the draft changes noting concerns with the definition of ‘development’ and how regulations would be applied to existing mobile/manufactured home parks and requested that the draft ordinance not be adopted. Ms. Ball also submitted written testimony requesting that the penalties for noncompliance not include misdemeanor.

NOTABLE CHANGES TO FLOOD HAZARD ORDINANCE PROPOSED:

1. Seclusion: The FIRMS that are required to be adopted by June 20, 2020 show Garden City in Seclusion. The following language has been proposed in the draft ordinance: “Properties that are not identified in the regulatory floodplain in the 2003 FIRM that show that there is a one percent (1%) or greater chance of flood occurrence in a given year in the 2018 Flood Insurance Study utilized for the creation of June 19, 2020 FIRM shall be constructed to or above the BFE identified in the 2018 Flood Insurance Study, as adopted by Garden City Resolution 1083-20, and also comply with all other applicable permitting and construction standards set forth by this Article or provide and record an acknowledgement that the structure will be built to conditions contradicted by best available data.” Provided that this ordinance is adopted, a subsequent resolution, 1083-20 will adopt the work maps.
2. Floodway Removal: The areas that are shown as the floodway in the 2003 FIRMS that are shown as not in the floodway in the work maps will be treated as 100-year floodplain. The following language has been proposed “Properties that are in the floodway in the 2003 FIRMS that no longer identified in the floodway in the Flood Insurance Study utilized for the creation

of June 19, 2020 FIRM, as adopted by Garden City Resolution 1083-20, shall be regulated as 100-year floodplain instead of floodway.”

3. Critical Facilities: The State has recommended that the 500-year floodplain be considered in the review of critical facilities. Previously, the critical facilities regulations required that there be 3’ of freeboard. It has been revised to state that critical facilities be 3’ above BFE of the 100- year floodplain or 1’ above BFE of the 500-year floodplain; whichever is greater.

The maps that will determine critical facilities’ requirements will be the Flood Insurance Study maps. Therefore, Critical facilities in seclusion shall still meet critical facility standards.

4. Language: There are certain definitions found within the current Garden City Flood Hazard Ordinance that do not coincide with FEMA’s definitions. The draft ordinance is based on the State model ordinance is intended to rectify any inconsistencies with FEMA requirements. The draft ordinance that was presented to the Design Review Committee and the Planning and Zoning Commission had all definitions related to the flood hazard regulations in a section within the proposed GCC 8-4H. A discussion point for both boards was the fact that having the definitions in the proposed GCC 8-4H rather than in GCC 8-7A-2, Definitions of Terms, created a situation where there are terms with different definitions in Garden City Code. However, there are situations where the same term is required to have different definitions to fit within regulatory standards prescribed to the City. An example of this is the definition of mobile/ manufactured homes where there is a HUD definition that is important for the regulation of the structure under building codes, and FEMA has a separate definition that is required to be compliant for flood hazard regulations. The Design Review Committee requested that to the extent possible that the definitions be harmonized.

5. Variance: The current Flood Hazard Ordinance does not have provisions for a variance procedure specific to the floodplain. This is something that has been identified by the Idaho State Floodplain Administrator as being required. The draft ordinance proposes the State model ordinance variance procedures as drafted in the model ordinance.

6. Irrigation Permits: Previously it was understood that irrigation entities were exempted from the requirement to obtain floodplain permits. The State believes this to be in error. Neighboring jurisdictions are implementing a permitting process for irrigation entities. This is not found in the State model ordinance. The proposed Garden City ordinance utilizes language from the proposed City of Boise ordinance.

7. Freeboard: Freeboard is the height above the Base Floodplain Elevation (BFE) that the construction takes place. Currently, Garden City Code requires that the construction commence at or above BFE, the Federal minimum. The State model ordinance recommends 2’ above BFE. The draft ordinance that was presented to the Design Review Committee and Planning and Zoning Commission identified a change to 1.5’ above BFE. Both boards noted a preference for 2’ during the work sessions that staff had with them, and subsequently recommended 2’ of freeboard.

It is more expensive to construct increased freeboard. However, if a structure is in the floodplain and has a federally backed loan, then the structure is required to have flood insurance. The premiums are considerably higher for structures at BFE than those built with freeboard (see below Figure 5). Moreover, when the FIS is updated, it is a possibility that BFEs may be determined to be different than the effective FIS. If a structure is built without

freeboard, the probability increases that the structure would be lower than a new BFE. In this situation the flood insurance would be considerably higher. This could be a deterrent for the resale of the structure, reducing the overall value of the property. Once seclusion is lifted, homes that were constructed with 2' of freeboard to the 2003 FIRMs could see that the Base Flood Elevation changes to reduce the freeboard under new maps.

The cities of Boise, Eagle, and Meridian are proposing 2' freeboard. Ada County is proposing 1.5' freeboard.

Figure 5: Flood Insurance Premium Slide received from Idaho Department of Water Resources



ATTACHMENTS

- Draft Decision Document
- Draft Ordinance 1016-20
- FIS Work Maps to be adopted by RES 1083-20

LINKS

- All record documents can be found at [CPAFY2018-6 Planning and Zoning Commission recommendation](#)
- [Design Review Committee recommendation](#)
- [Reference Documents](#)
- [Agency Comments](#)
- [Noticing](#)
- [Written testimony](#)