

**ORDINANCE NO. 998-18**

**BY THE COUNCIL: BEAUMONT, HIGGINS, MITCHELL, AND SOUZA**

**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”), TO UPDATE THE DUTIES AND AUTHORITY OF THE CITY COUNCIL AND PLANNING AND ZONING COMMISSION, ADMINISTRATIVE PROCESS WITH NOTICE, STANDING TO APPEAL, CITY COUNCIL REVIEW, STANDARD OF REVIEW, AND TIME PERIOD TO APPEAL; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.** That Title 8, Chapter 6, Article A, Section 2, Subsection A (“Council”), Garden City Code, be, and the same is hereby amended to read as follows:

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 by the planning and zoning commission regarding conditional use permits, which would be final unless appealed.

**SECTION 2.** That Title 8, Chapter 6, Article A, Section 2, Subsection B (“Planning and Zoning Commission”), Garden City Code, be, and the same is hereby amended to read as follows:

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 ~~a biannual~~ reviews of the complete development code;
- e. Conduct public hearings, make decisions and recommendations to the council 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.

**SECTION 3.** That Title 8, Chapter 6, Article A, Section 5 ("ADMINISTRATIVE PROCESS WITH NOTICE"), Garden City Code, be, and the same is hereby amended to read as follows:

A. The purpose of this section is to outline the specific application process for actions with prior notice to adjoining property owners.

B. Upon submittal of an application and determination that the application meets the requirements as set forth in section 8-6A-4, table 8-6A-2, of this article, the Planning Official shall issue a notice of intent to approve or deny the application.

1. The notice of intent shall be sent to adjoining property owners within three hundred feet (300') and agencies with jurisdiction.

2. The notice shall state that the decision will be final within ~~ten (10)~~ fifteen (15) days unless there is a written objection submitted to the city.

**SECTION 4.** That Title 8, Chapter 6, Article A, Section 9 ("APPEALS"), Garden City Code, be, and the same is hereby amended to read as follows:

8-6A-9: APPEALS AND CITY COUNCIL REVIEWS:

A. Standing To Appeal, City Council Review, Standard Of Review, And Notice Of Appeal:

1. An applicant and/or a person who has testified or provided written communication in the record from the decision maker, the development services director, the public works director, the chief of police, and/or those who testified orally or in writing excluding staff reports in front of the final decision maker at the lower hearing, 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. 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*.

23. An appeal shall be made on the form provided by the city and filed with the city clerk within ~~ten (10)~~ fifteen (15) days after the action of the decision maker.

34. 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.

B. Review Authority: Appeals of commission or design review committee decisions are heard and decided by the council. Appeals of the planning official decisions are heard and decided by the commission unless related to chapter 4, "Design And Development Regulations", of this title. Planning official decisions pertaining to chapter 4, "Design And Development Regulations", of this title shall be heard by the design review committee.

C. Hearing Notice:

1. 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 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 mailing copies of the notice by certified mail, postage prepaid, 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: ~~The~~ 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 review, 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 design review committee may be further appealed to the council.

The decision of the council shall be final.

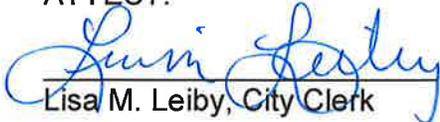
**SECTION 5.** All ordinances of the City of Garden City that conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

**SECTION 7.** This ordinance shall be in full force and effect from and after passage, approval, and publication.

**PASSED** by the City Council and **APPROVED** by the Mayor of Garden City, Idaho, this 13<sup>th</sup> day of November, 2018.

ATTEST:

  
Lisa M. Leiby, City Clerk

APPROVED:

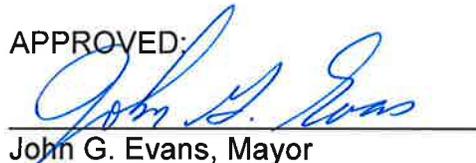
  
John G. Evans, Mayor

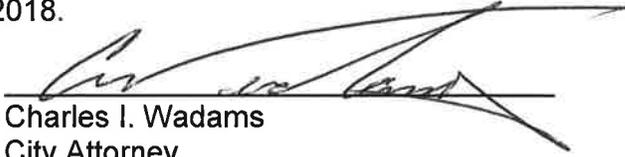


EXHIBIT "A"

**STATEMENT OF GARDEN CITY ATTORNEY  
AS TO ADEQUACY OF SUMMARY  
OF ORDINANCE NO. 998-18**

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. 998-18 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 13<sup>th</sup> day of November, 2018.

  
Charles I. Wadams  
City Attorney

**SUMMARY OF ORDINANCE NO. 998-18  
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 November, 13, 2018, that Ordinance No. 998-18 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"), TO UPDATE THE DUTIES AND AUTHORITY OF THE CITY COUNCIL AND PLANNING AND ZONING COMMISSION, ADMINISTRATIVE PROCESS WITH NOTICE, STANDING TO APPEAL, CITY COUNCIL REVIEW, STANDARD OF REVIEW, AND TIME PERIOD TO APPEAL; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

This ordinance updates the duties and authority of Garden City's council and planning and zoning commission, and the administrative appeal and review process. Updates to the code include an amendment indicating that the council has the authority to review any action taken by the planning and zoning commission regarding conditional use permits, which would be final unless appealed. The ordinance amends the planning and zoning commission's duty of conducting reviews of the development code, such that reviews are not required on a biannual basis, allowing for commission discretion on when such reviews should occur.

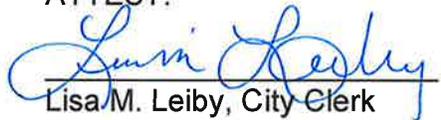
The ordinance clarifies that the planning official's notice of intent to approve or deny an application, when notice is required, shall state that a decision will be final within fifteen (15) days, instead of ten (10) days, unless there is a written objection submitted to the

city. The ordinance also updates the appeals section of the development code to change who has standing to appeal, provides that the council has discretion to review certain final decisions, specifies one standard of review, and increases the time period to appeal from ten (10) days to fifteen (15) days. Finally, the ordinance provides for severability, and repeals any conflicting ordinances.

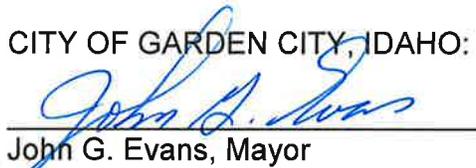
The effective date of the ordinance is from and after passage, approval, and publication. A copy of the full text of the ordinance is available at the city clerk's office, 6015 N. Glenwood Street, Garden City, Idaho 83714. Examination may be requested in writing or in person during regular business hours of the city clerk's office, from 8:00 a.m. until 5:00 p.m., pursuant to Section 50-901A(4), Idaho Code.

DATED this 13<sup>th</sup> day of November, 2018.

ATTEST:

  
Lisa M. Leiby, City Clerk

CITY OF GARDEN CITY, IDAHO:

  
John G. Evans, Mayor

