

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 7 (“BUILDING CODE”) TO AMEND THE FOLLOWING PROVISIONS: 7-1-6 PERMIT TIME LIMITATION AND EXPIRATION AND 7-1-7 PERMIT REACTIVATION. THIS ORDINANCE ALSO IS AMENDING GARDEN CITY CODE TITLE 8 (“DEVELOPMENT CODE”) TO AMEND THE FOLLOWING PROVISIONS: 8-2C BY ADDING SECTIONS FOR THE USES MOBILE SERVICE AND SPECIAL EVENTS ,8-2C-38 AMENDING CRITERIA RELATED TO TEMPORARY USES, 8-4A-3 FENCES AND WALLS, 8-4C-5 PROHIBITIONS [OF BUILDING MATERIALS], 8-5B-6 TERM OF [SUBDIVISION] PERMITS, 8-6A-8 EXPIRATION OF APPROVALS, 8-7A-1 DEFINITIONS OF USES.

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

**SECTION 1.** That Title 7, Chapter 1, Section 6 (“Permit Time Limitation and Expiration”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Applications for which no permit is issued within one hundred eighty (180) days following the date of receipt of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed. The ~~administrator of building safety services or his or her designee~~ City Council may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) calendar days on request by the applicant showing that circumstances beyond the control of the applicant have prevented ~~the~~ action from being taken.

B. Every permit issued shall expire and become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned if no inspection has been requested for a period of one hundred eighty (180) days after the work is commenced. The ~~administrator of building safety services or his or her designee~~ City Council is authorized to grant, in writing, one or more extensions of time, for periods not more than ~~ninety-sixty~~ (9060) days each. The extension shall be requested in writing and ~~justifiable-good~~ cause shall be demonstrated.

**SECTION 2.** That Title 7, Chapter 1, Section 7 (“Permit Reactivation”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Any expired permit may be reactivated for an additional one hundred eighty (180) days upon the payment of a fee totaling fifty percent (50%) of the permit fee that was established at the time of issuance. All projects whose permits are expired and are under consideration for reactivation will be subject to the codes in effect at the time of reactivation and may require plan review. If a re-review is required, plan review fees equal to that specified for a new project shall be assessed. Permits that have been expired for more than thirty (30) days are not eligible to be reactivated.

**SECTION 3.** That Title 8, Chapter 2, Article C, Garden City Code, add a new Section be, and the same is hereby amended to read as follows:

8-2C-47 Mobile Service:

A. Requirements and Limitations:

1. This use is exempt from permits under this title. Exemption from permits under this title does not waive the requirement of other City licenses and permits or as otherwise required by other governmental entities.
2. The vehicle from which the business or service is operated must be legally licensed through a department of transportation.

**SECTION 4.** That Title 8, Chapter 2, Article C, Garden City Code, add a new Section, be, and the same is hereby amended to read as follows:

8-2C-48 Special Event

A. Requirements and Limitations:

1. Special Events are exempt from permits under this title. Exemption from permits under this title does not waive the requirement of other licenses and permits such as liquor or building permits.
2. A special events permit must be obtained from the City. The City may impose requirements to ensure that the health and safety of the City is not compromised.
3. Special events may be allowed for a period not to exceed three (3) days total within any ninety (90) day period.
4. Any blocking of a road will require approval from the transportation authority.
5. Activities or uses of a site that are prohibited by this title shall be prohibited.
6. Uses of a site that require a conditional use permit shall be required to obtain a conditional use permit prior to the special event.
7. All applicable licenses and permits such as vendor's or central district health licensing requirements are required.

**SECTION 5.** That Title 8, Chapter 2, Article C, Section 38 ("Temporary Uses"), Garden City Code, be, and the same is hereby amended to read as follows:

A. Set backs: Site Design

1. Temporary Uses that are seeking permit renewal for the same temporary use at a location shall be considered a permanent use and shall be required to go through the Design Review process.
- 1.2. Structures and/or the display of merchandise shall comply with the setback requirements of the district within which it is located.

B. Site Layout:

- ~~2.3.~~ 1. Temporary structures and merchandise shall be displayed so as to not ~~to~~ interfere with the clear vision triangle. In no case shall items be displayed, or business conducted within the public right of way, unless otherwise authorized by the transportation authority.
- ~~3.4.~~ 2. Compressors, fans, pumps, and other motorized equipment shall be located or shielded to reduce noise levels to adjoining properties so as to not exceed 50 decibels at the property line.
- ~~4.~~ 5. ~~Except for the construction of a temporary office for model home sales, a~~ maximum of one structure in conjunction with the temporary use shall be allowed and may cover a maximum of five hundred (500) square feet.
6. No use shall be located on a site in a way that would block a private or public sidewalk.
7. A temporary use shall not result in the removal of any trees.

C. Parking and Access:

8. Adequate off-off-street parking shall be provided to serve the use.
9. The use shall not displace the required off-off-street parking spaces or loading areas of the permitted uses on the site.
10. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
11. All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material.

DB. Requirements and Limitations:

1. ~~Except for the construction of an office for model home sales, t~~he use shall not result in the construction of any permanent structures that would not otherwise be permitted subject to the provisions of this title.
2. The applicant shall provide notarized consent of the property owner.
- ~~2.3.~~ Any temporary structures shall be portable and completely removed from the premise at the end of the allowed time period.
4. Except as otherwise defined in this section, one temporary use is allowed on a property for a the specified period ~~not exceeding two (2) weeks in any twelve (12) month period from the date of issuance of a temporary use permit. For seasonal stands or events, t~~
- ~~3.5.~~ The temporary use permit shall specify a beginning and end date of the use.
- ~~4.6.~~ Any use of a temporary nature that does not meet the definition of a "temporary use" as defined in chapter 7, article A of this title shall be reviewed and permitted only as the use is allowed in the base zoning district.

7. All signs erected in association with the use shall be in compliance with the regulations for signs as set forth in chapter 4, article F, "Sign Provisions", of this title.
8. A building permit for temporary structures may be required as set forth in title 7, "Building Regulations", of this code.
9. Activities or uses of a site that are prohibited by this title shall be prohibited.
10. Activities or uses of a site that require a conditional use permit shall be required to obtain a conditional use permit prior to the commencement of the use.
11. No direct sales to customers while customers are in vehicles shall be allowed.
- 5-12. The sale or storage of alcohol is prohibited.

**EC.** Site Maintenance:

1. The site shall be returned to a clean condition after the termination of the use, including being free of debris and garbage.
2. All outdoor display of merchandise shall be in compliance with the standard set forth in subsection 8-1C-3N, "Outdoor Display Of Merchandise", of this title.
3. Unsold food products, ~~trees, greens, or and~~ debris generated by the use shall be properly disposed off the site.
4. Any vehicles that may be used in conjunction with the use must be
  - a. Legally licensed through a department of transportation;
  - b. Be immediately movable.
  - a-c. Completely removed from the premise at the termination of the permit.

**FD.** Standards for Specific Types of Temporary Uses

**1.** Additional Standards for Fireworks Stands:

- ~~1a. Prohibited:~~ The use shall be prohibited in residential districts.
- ~~2b. Other Standards Apply:~~
  - a- The applicant or owner shall obtain written approval of the fire authority and the Garden City police department.
  - c. -Dates of the fireworks sales shall comply with Idaho Code section 39-2606 and title 4, chapter 8 of this code.

**G2.** Additional Standards for ~~Model-model Home-home Salessales, And Construction construction Officeoffice, temporary storage, and construction staging areas:~~

- ~~1a.~~ The sales office shall be located on a lot within a subdivision or planned unit development.
- ~~2b.~~ The use of the sales office shall be limited to the sale of lots and/or dwellings within the development.

~~3c.~~ When required, the applicant or owner shall obtain a building permit to convert the sales office to a dwelling or shall remove the sales office within thirty (30) days of the sale or rent of the final lot or space.

~~4d.~~ Temporary buildings, construction trailers, temporary fences, equipment and materials may be permitted in any district during the period construction work is in progress, provided that the location and nature have been included as part of an approved permit. Such temporary facilities or equipment shall be removed within sixty (60) days of substantial completion of the construction work.

~~e.~~ Temporary storage not associated with a building permit or other City approval is limited to thirty (30) days per calendar year and is exempt from the temporary use permit.

~~H3.~~ Additional Standards For Seasonal Sale Of Agricultural And Food Products:

- ~~a.~~ Such sales are limited to a period of time not to exceed two (2) consecutive months for pumpkin and Christmas tree sales, and four (4) consecutive months per calendar year for other uses.
- ~~b.~~ Christmas tree lots shall be removed by January 1.

~~I.~~ Additional Standards For Arts, Entertainment Or Recreation Event:

- ~~1.~~ Events, such as festivals, carnivals, circuses, fairs, and amusement rides may be allowed in any nonresidential district for a period not to exceed two (2) weeks within any ninety (90) day period.
- ~~2.~~ The Garden City police department shall approve the location and access for any use in this category.

~~J4.~~ Additional Standards For Vendors Not Associated With An Arts, Entertainment Or Recreation Event:

- ~~1a.~~ The applicant shall provide notarized consent of the property owner.
- ~~2a.~~ The use shall be prohibited in residential districts.
- ~~3.~~ Signs shall only be allowed on the vending units and shall not exceed sixteen (16) square feet in area.
- ~~4b.~~ No direct sales to customers in vehicles shall be allowed.

~~K.~~ Other Standards Apply:

- ~~1.~~ All signs erected in association with the use shall be in compliance with the regulations for signs as set forth in chapter 4, article F, "Sign Provisions", of this title.
- ~~2.~~ All outdoor display of merchandise shall be in compliance with the standard set forth in subsection 8-1C-3N, "Outdoor Display Of Merchandise", of this title.
- ~~3.~~ A building permit for temporary structures may be required as set forth in title 7, "Building Regulations", of this code.

**SECTION 6.** That Title 8, Chapter 4, Article A, Section 3 ("Fences and Walls"), Garden City Code, be, and the same is hereby amended to read as follows:

A. A.— Applicability: All new fences shall be required to be in conformance with this section. Legal nonconforming fences may remain so as long as there are no significant improvements to the site or specifically conditioned in a conditional use permit.

A.B. Permit Required: Anyone constructing a fence or wall over six feet (6') in height, not in conjunction with a building permit for a principal use or building shall first obtain Design Review Committee approval and a building permit from the city prior to construction., or a Any fence located in the floodway shall secure a floodplain permit from the city prior to construction.

BC. Maximum Height Requirements:

1. Fences and walls located along a street frontage within the front yard setback: Three and one-half feet (3.5').

2. Fences and walls located within rear and interior side setbacks not adjacent to public rights-of-way: Six feet (6').

3. Fences and walls on residential property with rear and interior side yards located adjacent to commercial uses: Eight feet (8').

~~4. Fences and walls on corner properties: Six feet (6') with a minimum setback of ten feet (10') from the front property line.~~

4. The height of fences and walls shall be measured from the existing grade.

D. Setbacks:

1. Fences greater than three and one-half feet (3.5') shall be set back to be flush or behind the building frontage. Where there is no building frontage, fences greater than three and one-half feet (3.5') shall be set back minimally ten feet (10') from the back of sidewalk so as to allow for street trees and landscaping between the fence and the sidewalk.

~~GE. —Fences And Walls Subject To Design Review: The following fences and walls shall be approved through the design review process as set forth in section 8-6B-3, "Design Review Committee", of this title.~~

~~1. Electric And Barbed Wire Fencing: Electric and barbed wire fencing may be allowed in the LI, C base districts and around agricultural uses when: a) used as the top section~~

~~for security fencing; and b) located a minimum of six feet (6') above grade to the bottom wire.~~

~~2. Prohibited Fencing Materials: The use of barbed wire, razor wire, boxes, sheet metal, old or decayed wood, broken masonry blocks, chain link, chain link with slats, or other like unsightly materials for fencing shall be prohibited. unless an application is made to design review committee and the committee finds the fence to be compliant with the following:~~

~~1. Implement the vision as set forth in the comprehensive plan; and~~

~~2. Demonstrate that the fence provides significant creativity and uniqueness, and the intent is not to merely evade the provisions set forth in this section, or can demonstrate that the fence is an established icon that enhances the community's assets more than a fence complying with the requirements set forth in this section; and~~

~~5. Demonstrate that it is constructed of professional and durable materials, and are not intended to be of temporary nature.~~

**SECTION 7.** That Title 8, Chapter 4, Article C, Section 5, Subsection B (“Prohibitions”), Garden City Code, be, and the same is hereby amended to read as follows:

*A. Stylized Buildings: Garden City respects that independent businesses, corporations and franchises use specific architectural designs to identify their businesses and attract customers. The city encourages independent businesses, corporations and franchises to build locations in Garden City using architectural designs that comply with this code, conform to the city's comprehensive plan and goals, and complement surrounding structures. All new business, corporate and franchise designs will be reviewed on a case by case basis by the design review committee to assure compliance with these plans and goals.*

**Figure 8-4C-16**



**Example Of Stylized Building**

B. *Visible False Fronts: False fronts that are not tied into the rest of the building, that are designed so that the ends are visibly separate from the building.*

**Figure 8-4C-17**



**Example Of Visible False Front**

C. *Metal Buildings/Prefabricated Structures:*

*1. Principle and accessory structures visible from the right-of-way that are made of prefabricated materials such as shipping containers or pre-engineered metal buildings unless they contain architectural features and a variety of materials so that they lose the appearance of being a prefabricated structure. Metal buildings should be prohibited except within the light industrial (LI) base zoning district.*

D. *Prohibited Materials: ~~Chainlink fence and crushed~~ Crushed colored rock/crushed tumble glass are prohibited site improvement materials unless it is found that the material is insignificant in the design or provides significant creativity and uniqueness.*

**SECTION 8.** That Title 8, Chapter 5, Article B, Section 6 (“Term of [Subdivision] Permits”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Failure To Submit Final Subdivision: Approval of a preliminary subdivision and combined preliminary and final subdivision shall become null and void if ~~the applicant fails to record~~ a final subdivision ~~has not been signed by the city clerk and engineer~~ within one year of the approval of the preliminary subdivision; or one year of the combined preliminary and final subdivision unless an extension or phasing plan is approved by City Council.

~~B.— Phased Development: In the event that the development of the preliminary subdivision is made in successive phases in an orderly and reasonable manner, and conforms substantially to the approved preliminary subdivision, such phases, if submitted within successive intervals of one year, may be considered for final approval without resubmission for preliminary subdivision approval; or the applicant may request time extensions at yearly intervals for a period of time not to exceed five (5) years.~~

~~C.— Authorize Extension: Upon written request and filed by the applicant prior to the termination of the period in accord with subsection A of this section, the planning official may authorize a single extension of time to record the final subdivision not to exceed one year provided justifiable cause is demonstrated. Additional time extensions up to one year as determined and approved by the city council may be granted. With all extensions, the planning official or city council may require the preliminary subdivision or combined preliminary and final subdivision to comply with the current provisions of this title. No approval shall be extended more than four (4) years beyond the original approval.~~

~~D.— Failure To Meet Timetable: If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the subdivision procedure again.~~

**SECTION 9.** That Title 8, Chapter 6, Article A, Section 8 (“Expiration of Approvals”), Garden City Code, be, and the same is hereby amended to read as follows:

A. All application approvals shall expire three hundred sixty five (365) days from the date of approval unless:

- 1) the city issues a building permit for the proposed improvement, development, or use prior to the expiration of the three hundred sixty five (365) day period; or
  - 2) by condition of approval or development agreement, a time period for completion of the application has been specified; or
  - 3) a certificate of compliance has been issued; or
  - 4) The final plat of a subdivision approval is recorded with Ada County; or
- otherwise defined by section 8-5B-6 of this title.

~~B.— Provided applicable regulations have not changed; one extension may be granted by staff not to exceed one hundred eighty (180) days.~~

~~GB. The approving body, or planning and zoning commission if staff was the approving body, City Council may allow for additional an extensions of -not more than three hundred sixty-five (365) days provided that they find:~~

~~1. Good cause for the request; and~~

~~2. The application and/or applicable city regulations have not changed; and~~

~~4.3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and~~

~~2. The subject property is compliant and has been compliant, or actively pursuing compliance with all city, state and federal codes and laws since the date of application; and~~

~~3. It is determined by the City Council that it is in Garden City's best interest to grant the extension. Justifiable cause shall be demonstrated. An extension shall not be granted for more than three hundred sixty five (365) days.~~

~~4. Justifiable cause shall be demonstrated.~~

~~5. A request for an extension is no guarantee that the extension will be granted. No permit shall be extended more than four (4) years beyond the original approval.~~

**SECTION 10.** That Title 8, Chapter 7, Article A, Section 1 ("Definitions of Uses"), Garden City Code, be, and the same is hereby amended to amend the following definition:

**Temporary Use:** The use of a site for more than three (3) days and less than nine-three (93) consecutive months unless otherwise specified by standards specified for specific types of Temporary Uses in this Title. ~~Produce stands and mobile, nonmotorized food carts are exempt from vendor licensing under section 3-4-4 of this code.~~

**SECTION 11.** That Title 8, Chapter 7, Article A, Section 1 ("Definitions of Uses"), Garden City Code, be, and the same is hereby amended to add the following uses and definitions:

**Special Event:** A temporary use that is open to the public that lasts three days or less.

**Mobile Service:** A business or service that is operated from a vehicle or trailer, and is at a given location for less than 24 hours. Examples of mobile services may include food trucks, mobile veterinary services, or mobile medical services. This use as defined in this Title does not include the parking or storage of the vehicle or trailer when the service is not in operation.

**SECTION 12.** 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 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 from and after passage, approval, and publication.

**PASSED** by the City Council and **APPROVED** by the Mayor of Garden City, Idaho, this 28<sup>th</sup> day of January, 2019.

ATTEST:

  
\_\_\_\_\_  
Lisa M. Leiby, City Clerk

APPROVED:

  
\_\_\_\_\_  
John G. Evans, Mayor

