

# APPEAL DEV2015-00010

## APPLICABLE GARDEN CITY CODE

### **8-6A-9 APPEALS:**

- A. Notice Of Appeal:
1. An applicant and/or a person who has testified or provided written communication in the record from the decision maker may appeal the action of the decision maker.
  2. An appeal shall be made on the form provided by the city and filed with the city clerk within ten (10) days after the action of the decision maker.
  3. An appeal 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 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 appeal will be on the record of the decision maker.
- E. Decision:
1. After the hearing on the appeal, 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.

### **8-1A-4 APPLICABILITY:**

The regulations of this title shall apply and govern development and use of all properties: a) within the corporate limits of the city; and b) within the area of city impact, based on mutual agreement between the city and Ada County.

A. No person or public agency shall construct, alter, move a structure; or change the use of a structure; or undertake any development unless:

1. The proposed use, structure, division of property, or modification to a division of property complies with this title; and
2. Any required approval is first obtained as provided by chapter 6, "Administration", of this title, and any applicable conditions of approval are met.

### **GCC 8-2B-3 F. 5:**

Accessory structures shall not be located in any front yard setback and shall be setback a minimum of five feet (5') from any side or rear property line.

### **GCC 8-2C-2 ACCESSORY USE:**

#### **A. Limitations.**

1. An accessory use shall not be permitted if the use is otherwise not permitted in the zoning district, or obtaining required approvals for the use.
2. Accessory uses shall not be permitted in any zoning district without a legal principle use.
3. An accessory structure shall not be used for sleeping quarters, unless specifically designed as an approved accessory dwelling unit or through approval of a conditional use permit.

### **GCC 8-2C-15 DWELLING UNIT, ACCESSORY:**

#### **A. Setbacks and Dimensional Standards.**

1. Setbacks shall meet the zoning district setback requirements.
2. No Accessory structure shall be allowed in front of the principle structure without design review approval.
3. Accessory Dwelling units may not be any greater in size than six hundred 600 square feet in size.

#### **B. Additional Standards.** In addition to meeting all building codes for a dwelling unit the following provisions shall be complied with:

1. Not more than one accessory dwelling unit shall be allowed per property;
2. Direct ingress and egress to the unit shall be provided.
3. The unit shall provide a kitchen with appliances for the cooking of food, a sink and storage.
4. The unit shall provide a bathroom with minimally a sink, toilet and either tub and or shower.
5. The unit shall have at least three hundred (300) square feet of habitable space as defined by the building code.
6. The unit shall provide for at least one closet.
7. The unit shall be identified with an approved address.
8. Manufactured and mobile homes shall not be permitted as an accessory dwelling unit.

### **8-1B-3 NONCONFORMING USES:**

A. A nonconforming use may continue as long as the use remains lawful and is not abandoned, expanded, or extended, subject to the following provisions:

1. Nonconforming uses, structures, or portions thereof that have been declared dangerous and not abated or are a chronic public nuisance as defined by Garden City code shall lose their nonconforming status for failure to act.

2. No existing use or structure containing a nonconforming use may be expanded in intensity or degree of use, enlarged, extended, constructed, reconstructed, moved, or structurally altered except: (a) through the approval of a conditional use permit in accord with the procedures set forth in chapter 6, article B, "Specific Provisions", of this title; or (b) where the use of the structure is changed to a conforming use.

3. A nonconforming use may be extended to occupy additional land area only through the approval of a conditional use permit in accordance with the procedures set forth in chapter 6, article B, "Specific Provisions", of this title.

4. The nonconforming use shall be deemed to be abandoned and shall not be reestablished if the use of the property is changed. Conducting activity of another use on the property, commencing utility service for another use, or approval of an application to change the use of a property shall be considered change of use.

B. A nonconforming use may be changed only to a conforming use.

### **8-4B-3 SINGLE-FAMILY AND TWO-FAMILY ATTACHED AND DETACHED RESIDENTIAL DWELLING UNITS:**

#### **A. Building Design:**

1. Materials used on the street facade of a residential structure shall wrap a minimum of two feet (2') around the facades not facing the street, or terminate at a perpendicular building element.

2. The front entry of a residential structure shall be clearly defined and identifiable as demonstrated by the following:

a. Shall have a direct and permanent pathway that connects to the public sidewalk; and

b. Shall be clearly visible in the front elevation of the structure; and

(1) A front entry door with a covered porch, dormer, stoop, decorative posts or roof; or

(2) A front entry door may not be located flush with garage doors, but may be located in the portion of the building closer to the front property line with the garage setback a greater distance from the front property line.

3. All elevations adjacent to public streets must contain:

a. Windows; and

b. Shall have a direct and permanent pathway that connects to the sidewalk and an entrance with decorative posts or roof, or covered porch; and

c. Modulation in the building facades.

#### **B. Accessory Structures:**

1. An accessory structure, other than an accessory dwelling unit, shall not be used by a person or entity other than the resident of the dwelling unit.

2. An accessory structure shall require design review committee approval and approval of a conditional use permit if the structure is not designed to an "R" or "U" occupancy, as defined by or otherwise exempted from permit by the adopted building codes.

3. An accessory structure, unless built and approved as an accessory dwelling, shall not be utilized as a dwelling.

4. Accessory structures and all portions of the principal structure, such as an attached garage, that are utilized for residential accessory uses over a combined one thousand (1,000) square feet may not exceed the combined square footage of the principal dwelling unit without a design review committee approval and approval of a conditional use permit.

#### **C. Garage and Carport:**

1. A garage and carport shall be deemphasized when viewed from the public street demonstrated by one (1) of the following:

- a. The garage or carport shall not occupy more than fifty percent (50%) of the building line adjacent to any public street unless the garage has one (1) of the following: windows in or above the garage doors; and dormers, raised or recessed trim on the garage doors; or garage doors sized for a single automobile; and contains texture, color, and materials that match the residential structure; and
    - (1) The garage or carport is recessed at least six feet (6') behind the front building line of the residential structure; or
    - (2) The garage or carport is located with a side entrance;
  - b. The garage or carport is located off a public street designated as an alley.
2. A temporary carport shall only be located behind the house and not visible from a public right-of-way, and shall not be allowed on a corner lot.

#### **8-4J-4 STANDARDS FOR MANUFACTURED HOMES AND MOBILE HOMES**

B. Standards Outside Manufactured Home Parks:

1. Manufactured or mobile homes placed outside a manufactured home park shall conform to requirements of a single-family residence, including but not limited to legal lot requirements, required setbacks, landscaping, open space, and design.
2. Manufactured or mobile homes shall be affixed to a permanent foundation and all materials used in mobilizing the home to the site shall be removed.
3. Manufactured or mobile homes shall comply with all requirements set forth by the county and state to establish a manufactured home as real property.
4. No additions of any kind shall be built onto, attached to, or become a part of any manufactured home, without adequate permits as governed through title Z of this code.
5. Homes shall be required to be reviewed and approved by the building official for safety prior to occupancy.

#### **8-2C-14 DWELLING UNIT, ACCESSORY:**

B. Additional Standards: In addition to meeting all building codes for a dwelling unit the following provisions shall be complied with:

8. Manufactured and mobile homes shall not be permitted as an accessory dwelling unit.

### **CHAPTER 5 LAND DIVISION REGULATIONS ARTICLE A. GENERAL PROVISIONS AND STANDARDS**

#### **8-5A-3 SCOPE:**

These regulations and procedures shall be complied with prior to any of the following:

B. Any alteration, modification, change, addition to or deletion from any recorded subdivision, including modifications, boundary shifts and/or removal of lot lines between existing subdivided lots or parcels and/or unsubdivided tracts of land.

#### **8-5A-5 DESIGN STANDARDS**

F. Easements:

4. Additional easements including, but not limited to, parking, irrigation accesses may be utilized or required by authorized agents of the city.

#### **8-5A-6 IMPROVEMENT STANDARDS:**

C. Construction Of Improvements; Surety: The construction of improvements required by this title shall have been completed by the applicant and approved by the council; or a surety acceptable to the council shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.

### **8-5C-1: LAND DIVISION AMENDMENTS:**

A. Purpose: The purpose of these regulations is to allow for the adjustment of property lines between existing properties, reduction of buildable lots and minor changes in a recorded subdivision. (Ord. 898-08, 9-8-2008)

B. Applicability: These provisions apply to all existing recorded subdivisions or minor land divisions created in accord with section [8-5C-6](#), "Minor Land Division", of this article. (Ord. 944-12, 5-14-2012)

C. Process:

1. Application: An application and fees, in accord with chapter 6, "Administration", of this title, shall be submitted to the planning official on forms provided by the planning department.

2. Tentative Approval: Upon tentative approval of the application by the planning official and subject to any applicable conditions of approval and the provisions of chapter 6, "Administration", of this title, the applicant or owner shall have one year to complete the following tasks:

- a. Cause the property to be surveyed and a record of survey recorded;
- b. Execute and record the necessary deeds to accomplish the property boundary adjustments as approved;
- c. Obtain new tax parcel numbers from the Ada County assessor; and
- d. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the planning official.

3. Certificate Of Code Compliance: Upon determination by the planning official that the final property boundary adjustment is in conformance with this article, a certificate of code compliance shall be issued.

D. Standards:

1. A property boundary adjustment shall not reduce the property size below the minimum dimensional standards prescribed by this title; or if one or more of the properties is nonconforming as to the minimum dimensional standards prescribed by this title, the property boundary adjustment shall not increase the nonconformity.

2. A property boundary adjustment shall not increase the original number of properties, and may decrease the original number of properties.

3. A property boundary adjustment shall not change or move any public streets or publicly dedicated areas in any manner.

4. Any private or public easement shall be vacated in accord with the requirements of this title.

**8-6A-2 DUTIES AND AUTHORITY:** Planning Official: The planning official shall be the administrative official for the development code. The planning official or his/her authorized staff shall administer and enforce this title and fulfill all the duties imposed by law including, but not limited to:

1. Interpret provisions in the enforcement and administration of this title;

2. Provide information to the public on planning, design, zoning, and subdivision matters;

3. Receive and examine applications including, but not limited to, the following:

- a. With the consent of the owner, enter upon any property to make examinations and surveys;
- b. Determine the completeness of applications in providing the required information;
- c. Maintain records of all materials and correspondence related to land use applications;
- d. Maintain records of the commission and council hearings and actions thereon; and
- e. Transmit to the commission or council all applications related to this title.

4. Review and act on administrative applications;
5. Serve as the local administrator for flood hazard protection program;
6. Review and act on minor amendments to an approved permit;
7. Review compliance with conditions set forth by decision maker; and
8. Recommend action to the council on all final plats that are in substantial conformance with the conditions of the preliminary plat.

#### **8-7A-1 DEFINITIONS OF USES:**

DWELLING OR DWELLING UNIT: Any structure, or portion thereof, providing independent living facilities for one (1) "family" as herein defined, including provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING UNIT, ACCESSORY: A dwelling unit either within the principal structure or in a detached structure that is incidental and subordinate to the principal structure and is located upon the same property. Mobile homes and manufactured homes shall not be considered an accessory dwelling unit.