

DRAFT

ORDINANCE NO. 23 - 04

AN ORDINANCE AMENDING THE PROVISIONS OF GARDEN CITY CODE § 11E-505(C) AND ESTABLISHING THE ACCEPTABLE FORMS OF COMPLETION ASSURANCES FOR SUBDIVISION IMPROVEMENTS.

WHEREAS, Garden City Code § 11C-505(C) currently sets forth the terms and conditions for the providing of a financial security by a subdivider in lieu of completing all required infrastructure before the approval and recording of a final plat for a subdivision;

WHEREAS, the Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-604.5 sets certain minimum standards for the terms and conditions municipalities may set for the financial security provided by subdividers in lieu of completing the installation of all required infrastructure for a subdivision before the approval and recording of a final plat for the subdivision; and

WHEREAS, the Town Council of Garden City has determined that it is necessary and proper to amend the terms and conditions in the Garden City Code related to the financial security that may be provided by subdividers in lieu of completing the installation of required infrastructure before the approval of a final plat in order to bring the Garden City Code into compliance with state law;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF GARDEN CITY, UTAH, as follows:

1. Garden City Code § 11E-505(C) is amended and completely restated to read as follows:

C. Guarantee of Completion of Infrastructure: In lieu of the actual installation of infrastructure required for the subdivision before filing of the final plat, the subdivider may elect to provide one of the acceptable forms of completion assurance set forth below in accordance with the terms and conditions of this Section.

1. Amount of the completion assurance. The completion assurance shall be in an amount equal to one hundred twenty-five percent (100%) of the total estimated cost for completing construction of the required infrastructure for the subdivision as determined by the Town Engineer. The total estimated cost for completing the construction of the required infrastructure shall include not only the estimated cost of materials and labor but also the estimated costs the Town may incur in having to assume responsibility to complete the infrastructure including, without limitation, the cost of hiring new contractors as well as any administrative costs.

2. Time to complete improvements. If the subdivider provides a completion assurance in compliance with this Section, the subdivider shall complete the construction of the required infrastructure within eighteen (18) months of the date of approval of the final plat unless otherwise approved by the Town Council in a written development agreement recorded on title to the property being subdivided (referred as the "construction period" and the end thereof referred to as the "completion deadline"). The completion assurance provided by the subdivider must be valid for at least ninety (90) days past the completion deadline to allow the Town sufficient time to execute on the same after a default.

3. Types of completion assurance. The subdivider may provide one of the following types of completion assurance:

a. Cash Deposit in Escrow. The subdivider may deposit completion assurance funds with a bank, title company, or other professional escrow, which is acceptable to the Town and upon execution of an escrow agreement that is approved by the Town Attorney. The escrow must agree to hold and apply the proceeds completion assurance only for the required infrastructure for the subdivision. The agreement must give the Town the right to withdraw those funds necessary to complete any required infrastructure not installed by the completion deadline.

b. Letter of Credit. The subdivider may provide an irrevocable letter of credit as a completion assurance. The letter of credit must be with a federally insured bank or savings institution and be in a form as approved by the Town Attorney.

4. Partial Release. The subdivider may apply to the Town for partial or pro-rata releases of the completion security if: (1) a request is not made more frequently than every sixty (60) days, (2) the request for required infrastructure that has been completed, inspected, and approved by the Town, (3) a proportionate warranty assurance for the required infrastructure has been received by the Town.

5. Default by Subdivider. In the event the subdivider fails to complete the installation of all required infrastructure by the completion deadline, the Town shall have the right to complete or cause to be completed the installation of the required infrastructure. The subdivider shall indemnify and hold the Town harmless for, and the Town may collect from the completion assurance, all costs and expenses the Town incurs in completing the installation of the required infrastructure, including without limitation all engineering, legal, and contingent costs and any and all damages the Town may sustain on account of the subdivider's failure to timely complete the installation of the required

infrastructure. The Town need not wait until after the infrastructure is completed to draw upon the completion assurance but may collect therefrom in order to obtain the funds necessary to complete the installation of the required infrastructure.

6. Warranty of Improvements. The subdivider shall warrant that all installed infrastructure shall remain in good condition and free from all defects in performance, materials and workmanship during the warranty period. The warranty period shall commence on the date the Town approves and accepts the installed infrastructure and shall terminate one (1) year thereafter.

7. Warranty Assurance. Before the Town may approve and accept any infrastructure installed by the subdivider, the subdivider shall provide a warranty assurance that meets the same requirements for a completion assurance set forth in this Section, except that the amount of the warranty assurance shall be 10% of the lesser of (i) the estimated cost of completion of the infrastructure as determined by the Town Engineer or (ii) the subdivider's reasonable proven cost of completion.

8. Defects in Improvements. In the even the Town discovers any defect in any of the infrastructure installed by the subdivider during the construction period or the warranty period, the Town shall provide notice of the same to the subdivider. The subdivider shall repair or replace the defective infrastructure within ninety (90) days of receipt of the notice from the Town (the "repair deadline").

9. Default on Warranty. In the event the subdivider fails repair or replace the defective infrastructure set forth in the notice provided by the Town by the repair deadline, the Town shall have the right to complete or cause to be completed the repair or replacement of the defective infrastructure. The subdivider shall indemnify and hold the Town harmless for, and the Town may collect from the warranty assurance, all costs and expenses the Town incurs in completing the repair or replacement of the defective infrastructure, including without limitation all engineering, legal, and contingent costs and any and all damages the Town may sustain on account of the subdivider's failure to timely complete the repair or replacement. The Town need not wait until after the repair or replacement is completed to draw upon the warranty assurance but may collect therefrom in order to obtain the funds necessary to complete the repair or replacement of the defective infrastructure.

10. Building permits. No Building Permits may be issued until all infrastructure required by the Planning Commission or the Town Council are complete and signed off by the Public Works Dept., Sewer Dist. and Town Engineer, or until a completion assurance that meets the requirements of this Section has been provided in accordance with the terms and conditions required in

this Section. Nothing herein supersedes the requirements of the State Building and Fire Codes which also must be met before a building permit may be issued.

2. To the extent of any conflict between this Ordinance and any other ordinance(s) or regulation(s) of Garden City, the provisions of this Ordinance shall be controlling.

3. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance

4. This Ordinance shall become effective upon posting in the manner required by law.

ADOPTED AND PASSED, by the TOWN COUNCIL OF GARDEN CITY this _____ day of _____, 2023.

GARDEN CITY, a municipal Corporation

ATTEST:

Town Clerk

By: _____
Mayor

Posting Date: _____

ORDINANCE NO. 23-05

AN ORDINANCE UPDATING MAXIMUM ROAD GRADE

WHEREAS, the Town of Garden City is a town duly incorporated under the general law of the State of Utah; and

WHEREAS, the Garden City Town Council is the governing body for the Town of Garden City and must administer the Garden City Municipal Code; and

WHEREAS, The Garden City Town Council is authorized to govern the health, safety and wellness of the citizens and visitors of the Town of Garden City; and

WHEREAS, The Town of Garden City Planning Commission and the Town of Garden City Town Council shall update the maximum road grade:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF GARDEN CITY TOWN COUNCIL THAT ORDINANCE #11E-514-C SHALL BE UPDATED AS FOLLOWS:

11E – 514 Street Improvement Requirements

C. All streets (roads) in Garden City shall not exceed ~~8%~~ **10%** grade. If special conditions exist on steeper slopes, the variance committee may grant up to ~~10%~~ **12%** grade for a short distance of 200 feet. The ~~10%~~ **12%** grade cannot be on any corner or intersection.

APPROVED AND ADOPTED this 13th day of April 2023.

APPROVAL:

Attest:

Michael Leonhardt, Mayor

Cathie Rasmussen, Town Clerk

Voting	Aye	Nay
Argyle	___	___
Hansen	___	___
Menlove	___	___
Parry	___	___
Leonhardt, Mayor	___	___