



## OFFICE OF THE CITY ATTORNEY

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**TO:** Mayor and Council  
**FROM:** Charles I. Wadams, City Attorney  
**DATE:** 7/13/2022  
**SUBJECT:** Consideration of Proposed Ordinance No. 1027-22 (Design Review Consultant)

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**ACTION REQUIRED:** Within the City Council's discretion.

**RECOMMENDATION:** None.

**FISCAL IMPACT/BUDGET IMPLICATIONS:** There is no significant financial impact to the City.

**BACKGROUND:** Design Review was implemented to make the development application process more efficient by assisting developers in designing projects that comply with code and Garden City's comprehensive plan. The Design Review Committee served that function; however, the noticing and hearing requirements associated with a Design Review Committee recommendation can be improved in a manner that eliminates the public hearing process and makes staff the decision maker on design review applications. Thus, the current ordinance proposes to replace the Design Review Committee with individual Design Review Consultant(s) to increase the flexibility, efficiency, and effectiveness of the Design Review process.

**ANALYSIS:** Ordinances are local laws that are used to regulate people or property, and for specific situations outlined in state law. The fundamental power of cities to enact laws (ordinances) for the promotion and protection of the public health, safety, and welfare is granted by Article XII, Section 2 of the Idaho Constitution. Ordinances must be used for regulatory measures, especially when there is a penalty for violation. Procedures for adopting ordinances are prescribed by Idaho Code § 50-901 through § 50-906 and must be strictly followed. Failure to follow these requirements can result in an ordinance being struck down by a reviewing court.

Here, the stated purpose of the proposal to change the Design Review Committee to Design Review Consultant(s) is to modify and refine the design review application process. The intention of Design Review is to protect property rights and values, enhance important environmental features of the city, and ensure that the general appearance of buildings and site improvements are consistent with the goals of the city. A Design Review Consultant enables decision-making bodies to render judgments based upon sound advice from an individual that understands building technologies and costs.

**MEMORANDUM ON CONSIDERATION OF CPAFY2022-0003 & PROPOSED ORDINANCE NO. 1027-22, P.1**

This ordinance amends the portions of Title 8 “Development Code” pertaining to the Design Review Committee and the Design Review process. This ordinance will replace the Design Review Committee with Design Review Consultant(s). The Planning Official will select and contract with each consultant on behalf of the City. A consultant may be requested to review and recommend submitted projects as per the process outlined in code.

A Design Review Consultant functions on behalf of the Planning and Zoning Commission. A Design Review Consultant will have expertise in architecture, landscape design, and/or engineering. Their function will be to consult with developers on their projects prior to submittal, assisting them in designing a project that complies with code, conforms to the City’s design guidelines, and follows the Garden City Comprehensive Plan. Then, when a development project is submitted, a Design Review Consultant will review the project and, based on objective criteria outlined in code, recommend approval or denial of the project to the planning official. As per the process outlined in code for the specified project, the planning official will either use the Design Review Consultant’s recommendation to make a decision regarding the submittal or include the recommendation in any Staff Reports submitted to City Council. The recommendation will enable the Planning Official and City Council to make informed decisions about both the functionality and aesthetic of each proposed development project. The consultation and recommendation process will also enable developers to more easily design projects that comply with code and the City’s comprehensive plan.

In conclusion, the proposal is a major repeal and replace of portions of the Garden City Code. At the present time, I am unaware of any reason why the City Council should not approve Proposed Ordinance No. 1027-22.