

Ordinance 1051-26 Proposed Changes March 18, 2026

The following is a detailing of the changes that Ordinance 1051-26 proposes.

The first table is an overall review of the changes to the Administrative Section of Title 8. Following the table includes all proposed changes with commentary to the reader. The additions are underlined, removals are shown in ~~striketrough~~. Changes since the second reading of ORD1051-24 are highlighted in blue.

<i>Section</i>	<i>Current Title</i>	<i>Proposed Title</i>	<i>Changes</i>
§ 8-6A-1	PURPOSE	PURPOSE	No Change
§ 8-6A-2	DUTIES AND AUTHORITY	DUTIES AND AUTHORITY	<p>Updated timeframe for council review to be at the next regularly scheduled meeting rather than within 15 days to deal with the few instances where there may be more than 15 days between regularly scheduled City Council meetings and the decision.</p> <p>Clarification language</p> <p>Provides strikethrough to address incorrect codification. The strikethrough reflects ordinance 1004-19</p> <p>Adds a section to clarify what the processes are for which an application can be processed under.</p> <p>Updates Table 8-6A-1 to better reflect the Design Review Process and identify that the final plat is an administrative review.</p> <p>Identifies LLUPA reconsideration and judicial review</p>

§ 8-6A-3	GENERAL APPLICATION PROCESS	GENERAL APPLICATION PROCESS	<p>Requires that application materials must be submitted to the Development Services Department (at times they are submitted to other departments)</p> <p>Adds clarification language</p> <p>Changes action on application to 60 days from 30 days</p> <p>Provides decision determination criteria.</p>
§ 8-6A-4	REQUIRED APPLICATION INFORMATION	REQUIRED APPLICATION INFORMATION	<p>Delete MPUD, Site Layout as processes no longer exist</p> <p>Delete language “X may be waived” as is repetitive language</p>
§ 8-6A-5	ADMINISTRATIVE PROCESS WITH NOTICE	NOTICING	<p>Administrative with Notice section repealed in its entirety.</p> <p>New Section: amends 8-6A-7 PUBLIC HEARING PROCESS</p> <p>Amended to reference Garden City Meeting and Public Hearing Guidelines Policy.</p> <p>Updates to Table 8-6A-3 to coincide with other updates.</p>
§ 8-6A-6	ADMINISTRATIVE PROCESS WITHOUT NOTICE	PUBLIC HEARING AND TESTIMONY PROCEDURES	<p>Administrative without Notice section repealed in its entirety</p> <p>New Section: amends 8-6A-7 PUBLIC HEARING PROCESS</p> <p>References Garden City Meeting and Public Hearing Guidelines Policy.</p>

§ 8-6A-7	PUBLIC HEARING PROCESS		Moved to 8-6A-5 and Renamed NOTICING
§ 8-6A-8	EXPIRATION OF APPROVALS	EXPIRATION OF APPROVALS	Renumber to 8-6A-7 No text change
§ 8-6A-9	APPEALS AND CITY COUNCIL REVIEWS	APPEALS	Renumber to 8-6A-8 Refers to Garden City Meeting and Public Hearing Guidelines Policy Clarifies that Appeal record is on the record of the decision maker.
§ 8-6A-10	SUBSTANTIAL CONFORMANCE	SUBSTANTIAL CONFORMANCE	Renumber to 8-6A-9 No text change
§ 8-6A-11	ENFORCEMENT	ENFORCEMENT	Renumber to 8-6A-10 No text change
§ 8-6A-12	FEES	FEES	Renumber to 8-6A-11 No text change
§ 8-6A-13	VIOLATIONS	VIOLATIONS	Renumber to 8-6A-12 No text change
§ 8-6A-14	PENALTIES	PENALTIES	Renumber to 8-6A-13 No text change
§ 8-6A-15	FINANCIAL SURETY	FINANCIAL SURETY	Renumber to 8-6A-14 No text change

8-6A-2: DUTIES AND AUTHORITY:

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 through the administrative process with notice or public hearing process when an appeal is not made but the city council determines in a public meeting, **within fifteen (15) days of by the next regularly scheduled City Council subsequent to** the final decision, that there may be significant adverse impact to the city as a result of the final decision, making the city affected or aggrieved by the final decision, which would be final unless appealed. Such council reviews are not *de novo de novo*, and shall be processed, noticed, and decided in the same manner as an appeal as established in the section of this code 8-6A-9 Appeals.

Note to Reader: the update is to deal with the few instances where there may be more than 15 days between regularly scheduled City Council meetings.

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 reviews of the complete development code;

e. Conduct public hearings, make recommendations to the council **and renders decisions** based on the required findings and standards for applications as set forth in article B, "Specific Provisions," of this chapter; and

Note to Reader: clarification of actual duties

f. Serve as the review authority in appeals of decisions of the planning official, except when otherwise specified in this title.

g. The commission may, at its discretion, delegate some of its functions to the commission chair, a commission subcommittee, or to the planning official.

~~h. Written bylaws consistent with this title and other laws of the state for the transaction of business of the commission shall be adopted.~~

Note to Reader: This is codified incorrectly. Ordinance 1004-19 removed 1.h and all of 3.

~~2. (Rep. by Ord. 1004-19, 4-22-2019)~~

~~3. Term of Office for Planning and Zoning Commission Members:~~

~~a. Members of the commission shall serve a tTerm of are three (3) years.~~

~~b. The initial appointment shall be made by the Mayor with confirmation by a majority vote by City Council.~~

~~b. c. No person shall serve more than two (2) full The mayor may reappoint a commissioner to additional consecutive terms without a majority vote by the city council.~~

~~c. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment.~~

~~d. Members may be removed for cause by a majority vote of the council.~~

~~e. Members shall be selected without respect to political affiliation.~~

~~4. (Rep. by Ord. 1004-19, 4-22-2019)~~

~~5.~~ The commissioners are appointed and governed by policies adopted by resolution and in accordance with Idaho Code Section 67-6504.

C. Planning Official: The planning official is responsible for the application of the development code. The planning official 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; and
 - d. Maintain records of the commission 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.

D. Design Review Consultant(s):

- a. Duties Of The Design Review Consultant(s): The design review consultant(s) shall work in partnership with applicants on design review matters. The design review consultant(s) shall act as consultant(s) to staff on design applications unless otherwise herein defined, and serve as an expert on matters of design that come before the city.
- b. Design review consultant(s) shall be selected by the planning official as being experts in design review and as set forth in policy passed by resolution. Per the discretion of the planning official, the type and number of design review consultants to review applications shall be determined, but will not become a governing body as defined in Idaho Code.

E. The definitions of the processes of this section are as follows:

Note to Reader: Added for clarification of what each process is.

1. Administrative: A decision-making procedure in which the decision maker may take action without providing notice to the public and without conducting a public hearing. The action is based solely on compliance with applicable adopted standards and criteria.

2. Administrative with Public Notice: A decision-making procedure in which the decision maker may take action without conducting a public hearing; however, public notice of the proposed action shall be provided in accordance with this Code. Any person or entity with standing, as defined herein, may appeal the final administrative decision.

3. Public Hearing: A *de novo* decision-making procedure in which the decision maker conducts a publicly noticed hearing, accepts public testimony, and renders a decision based on the evidence presented and the applicable standards and criteria. For purposes of this section, *de novo* means that the reviewing authority considers the matter anew, without being bound by any prior findings, conclusions, or recommendations, and may affirm, modify, or wholly substitute its own findings and decision.

4. Appeal: A request for review of a final decision. An appeal seeks correction of alleged errors in the application of law, procedure, or findings, and is limited to the scope and standard of review established by this Code.

5. Request for Reconsideration: A written request submitted within fourteen (14) days of the final written land use decision made by the City Council, identifying specific deficiencies in that decision and seeking review, affirmation, reversal, or modification of the decision by the issuing body. A timely request for reconsideration is a mandatory administrative remedy that must be exhausted before an aggrieved party may seek judicial review under Idaho Statute 67-6535.

E. F. The following Table 8-6A-1 is a summary list of the actions authorities and procedures that the city shall take in administration of this title, including the body

responsible for the action, and reference to the process under which the action shall be taken.

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker ¹	Process	Appeal Body ²
Annexation		PZ	CC	PH	
Change of use to a permitted use		None	PO	A	PZ
Comprehensive plan amendment	DRC	PZ	CC	PH	
Conditional use		None	PZ	PH	CC
Conditional use, revocation		None	PZ	PH	CC
Design review, administrative		None	PO	A	PZ
Design review, administrative with notice * for applications that have not been found by the Planning Official in accordance with Table 8-6A-2 Decisions to require a Public Hearing		DRC	PO/CC	AN/PH	<u>CC</u>

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker ¹	Process	Appeal Body ²
<u>Design review, administrative with notice * for applications that have been found by the Planning Official in accordance with Table 8-6A-2 Decisions to require a Public Hearing</u>	<u>DRC</u>	<u>None</u>	<u>CC</u>	<u>PH</u>	<div style="border: 1px solid black; padding: 5px;"> <p>Note to Reader: A new standards in section 8-6A-2 identifies when design review should be administrative v. a public hearing.</p> </div>
Development agreement or amendment		PZ	CC	PH	
Development code amendment	DRC	PZ	CC	PH	
Floodplain/floodway		None	PO	A	PZ
Manufactured/mobile home		None	PO	A	PZ
Minor land division		None	PO	AN	CC
Modifications to an approved permit		Same decision maker and process as initial approval			
Nonconforming setback extensions		None	PO/CC	AN/PH	<u>CC</u>

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker ¹	Process	Appeal Body ²
Planned unit development	DRC	PZ	CC	PH	
Plat, boundary line amendment		None	PO	A	CC
Plat, final		PO	CC	PH A	<div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"> <p>Note to Reader: State Statute requires that City Council reviews subdivisions, however, holding a second public hearing is unnecessary and potentially problematic if the final plat is in conformance with the preliminary plat.</p> </div>
Plat, condominium		PO	CC	A	
Plat, preliminary	DRC	PZ	CC	PH	
Plat, preliminary and final combined	DRC	PZ	CC	PH	
Signs		None	PO	A	PZ

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker ¹	Process	Appeal Body ²
Signs, master plan or design review	DRC		PO	A	CC
Site layout template (minor PUD)			CC	AN/PH	
Small cell facility		None	PO	A	CC
Specific area plan	DRC	PZ	CC	PH	
Variance		None	PZ	PH	CC
Zoning district amendment		PZ	CC	PH	

CC = City Council A = Administrative

PO = Planning Official AN = Administrative with Public Notice

PZ = Planning and Zoning Commission PH = de novo Public Hearing

DRC = Design Review Consultant(s) DRC* = Design review consultant(s) only provides comment when design is affected by the application

¹ The decision is considered final if not appealed. The decision upon any appeal shall be considered the final decision for the purposes of applying Idaho Code 67-6535.

² The decision on an appeal made by the commission or planning official may be further appealed to the council.

F. Per Idaho Code 67-6535 any applicant or affected person seeking judicial review must first seek reconsideration of the final written decision within fourteen (14) calendar days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

G. Per Idaho Code 67-6535 an applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may, within twenty-eight (28) days after all remedies have been exhausted under this title, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

8-6A-3: GENERAL APPLICATION PROCESS:

A. Purpose: The purpose of this section is to outline the general application process for a permit or decision under provisions of this title.

B. Application Requirements:

1. All uses, structures, or work defined by this title as requiring review by council, planning and zoning commission, design review consultant(s) or planning official must obtain the appropriate permit or permits prior to commencing the use, construction, or alteration in or on any property within the Garden City boundaries.

2. All requests for permits and decisions in accordance with this title shall submit an application to the planning official on forms approved by the planning official and provided by the city.

3. At a minimum, the application shall require the following information:

a. Name, address and contact information of the applicant and the applicant's representative;

b. Proof of that current ownership in of the subject property ~~which is the subject of the application or signed letter of authorization from the property owner for making~~ authorizes the application;

c. Legal description of the property; and

d. Statement of project intent for making the application.

4. Some requests for permits and decisions shall require additional application information.

5. As determined by the planning official, some information may be submitted in an electronic format.

6. All applications shall be accompanied by a filing fee in an amount established by council resolution.

C. Determination Of Completeness:

1. Applications shall be submitted to the development services department in the manner established by the planning official to receive such materials.

~~2.~~ An application shall contain all information deemed necessary by the planning official to determine if the proposal will comply with the applicable requirements of this title. Incomplete applications will not be accepted.

~~3.~~ Within thirty (30) days of receipt of an application, ~~or such later time as reasonably appropriate consistent with city workloads,~~ the planning official shall find the application as complete for review or require additional information to be submitted. The planning official may extend this timeframe by one or more time periods of (30) thirty days, provided good cause necessitates an extension.

~~4.~~ No further action shall be taken on the application until such additional information and materials have been submitted. If the additional information is not submitted within thirty (30) days from the planning official's request, or a date mutually agreed upon by the applicant and the planning official, the application will be returned to the applicant.

~~5.~~ The planning official shall issue a notice of application acceptance and completion either by letter to the applicant or by public notice of the pending public hearing or action on the application.

~~6.~~ The planning official shall begin processing the application once the application is deemed complete.

D. Action On The Application: After an application has been determined by the Planning Official to be complete, an action or decision shall occur as follows:

1. If no public hearing is required, the ~~decision making~~ decision maker ~~body~~ shall act upon the application within ~~thirty~~ sixty (60) days.

~~2. If a public hearing is required, the initial hearing shall be held no later than sixty (60) days after the date of the determination of completeness, unless waived by the applicant.~~

Within sixty (60) days of receipt of an application determined by the planning official, the city shall set the hearing date.

3. Subsequent to a recommendation, a hearing with the final decision maker shall be scheduled within (60) sixty days from the date of the recommendation. The application, together with a complete copy of the record documents reviewed to render a decision shall be transmitted to the final decision maker.

4. If an appeal is filed, a hearing shall be scheduled within (60) sixty days from the date of the receipt of a timely appeal. The application, together with a complete copy

of the record documents reviewed to render a decision or recommendation shall be transmitted to the appeal body.

5. The planning official or decision maker may extend the established timeframes, by one or more time period of (30) thirty days, provided good cause necessitates additional time.

E. Recommendations and Decisions

1. Upon conclusion of its review, the decision maker shall make its decision. Decisions must be rendered no later than the next regularly scheduled meeting after the public hearing has been closed.

2. In its decision, the decision maker shall base its findings upon all factual matters in the record and the recommendation.

3. The findings of fact must be based on the evidence in the record.

4 The decision shall be accompanied by conclusions of law.

5. Decision shall be consistent with the grounds identified in Table 8-6A-2:

<u>TABLE 8-6A-2 DECISIONS</u>	
<u>Decision/Recommendation</u>	<u>Grounds for decision/recommendation</u>
<u>Recommendation and Final Decision with no previous recommendation¹</u>	
<u>Approve</u>	<u>The application, as submitted, and supported by the record, is in compliance with applicable regulations.</u>
<u>Approve with conditions</u>	<u>The application, as conditioned, and supported by the record, is in compliance with applicable regulations.</u> <u>All conditions of approval shall be attached to the written decision.</u>
<u>Additional review or changes needed</u>	<u>There are changes that could make the application compliant with code that will require further review to verify compliance or if the application lacks sufficient</u>

	<u>documentation to determine compliance.</u>
<u>Deny</u>	<p><u>The application, as supported by the record, is not in compliance with all applicable regulations, or if there is inadequate record to determine compliance.</u></p> <p><u>An application for which the public hearing has been continued repeatedly at the request of the applicant, without demonstration of good cause, may also be denied after the third continuance.</u></p> <p><u>All applications that are noncompliant with code will be denied.</u></p>
<u>Public Hearing Required²</u>	<u>The Planning Official shall set a public hearing for items that are processed under the Administrative With Notice process if the city is in receipt of ten or more written objections to the application³ by a person or persons with standing, or if there may be significant adverse impact that would make the city affected or aggrieved as a result of a decision.</u>
<u>Final Decision with recommendation</u>	
<u>Sustain (Affirm) the recommendation</u>	<u>The recommendation shall be sustained unless the recommendation is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>

<u>Sustain (Affirm) and modify recommendation with conditions</u>	<p><u>Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met.</u></p> <p><u>All conditions of approval shall be attached to the written decision.</u></p>
<u>Reject the recommendation</u>	<u>The recommendation shall be rejected if the application can not be sustained.</u>
<u>Remand the application for additional proceedings and findings</u>	<u>The decision maker may remand the application to remedy unlawful procedure or to require the review information that was not previously considered.</u>
<u>Appeal</u>	
<u>Grant (appeal) and Vacate (decision)</u>	<u>The decision is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>
<u>Grant with modifications (appeal) and Modify (decision)</u>	<u>Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met.</u>
<u>Remand the application to the decision maker for additional proceedings and findings</u>	<u>There are changes that could make the application compliant with code that will require further review to verify compliance, if the application lacks sufficient documentation to determine compliance, or if procedural processes are required to be remedied.</u>
<u>Deny (appeal and affirm the decision)</u>	<u>Deference shall be given to the decision. The decision shall be sustained unless the decision is in</u>

	<u>violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>
<u>Reconsideration</u>	
<u>Affirm (decision)</u>	<u>The decision is not in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, and is supported by factual evidence.</u>
<u>Reverse-Remand or Vacate (decision)</u>	<u>The decision is in violation of constitutional, statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>
<u>Modify (decision)</u>	<u>A better decision is applicable and complies with procedural standards.</u>

¹ The planning official may refer any administrative application to the planning and zoning commission, or the design review consultant(s) for any administrative application governed by chapter 4 of this title, for a decision when staff has a question as to whether applicable standards or purposes have been met.

² If the determination is that a public hearing is required, the application shall be reviewed *de novo* and a decision rendered by the City Council via public hearing process established by 8-6A-7.

³ For purposes of determining the number of objections, all objections from residents of a dwelling, or on behalf of a specific business shall be considered one objection.

~~e. A reasoned statement consistent with Idaho Code Title 67 Chapter 65 shall accompany the decision.~~

~~f. A written decision document consistent with the requirements of Idaho Code Title 67 Chapter 65 shall be provided to the applicant.~~

Note to Reader: It has been suggested by legal that this is not necessary.

~~Idaho Code 67-6535 shall include:~~

~~i. The decision determination.~~

~~ii. A determination of the required findings.~~

~~iii. A reasoned statement in support of the decision.~~

~~iv. The facts upon which it based its decision.~~

~~v. The ordinance and standards used in evaluating the application.~~

~~vi. Conditions of approval that are deemed necessary to protect public health, safety, and welfare, and prevent undue adverse impacts on surrounding properties, if applicable.~~

~~vii. If denied, the actions, if any, that the applicant could take to obtain approval.~~

~~viii. Final decisions shall include notice regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.~~

E. Resubmitted: No application that has been denied by the planning official, the commission, or the council shall be resubmitted, in substantially the same form for the same use, within one (1) year from the date of denial. The planning official may waive the one (1) year requirement and accept a new application, where the subject property is affected by amendments to the comprehensive plan or to this title.

**TABLE 8-6A-2
REQUIRED APPLICATION INFORMATION**

Permit/ Decision	Neighbor-hood Map	Site Plan	Land-scaping Plan	Schematic Drawings	Topo-graphic survey	Grading Plan	Hydrology Report	Natural Hazard and Resource Analysis	Dedications and Easements	Covenants and Deed Restrictions	Will Serve Letter	Approved Addresses
Planned Unit Development, Minor	X	X	X	X	X	X	X	X	X	X	X	X

Site Layout Templ ate		X	X	X									
X= Denotes application information that may be waived depending on the nature of the request													
<div style="border: 1px solid black; background-color: #cccccc; padding: 5px; width: fit-content;"> <p>Note to Reader: This removes application types that no longer exist and redundant language</p> </div>													

8-6A-6: PUBLIC HEARING AND TESTIMONY PROCEDURES:

A. Purpose: The purpose of this section is to establish hearing and public comment procedures.

B. Public Hearing Procedures: Public Hearing procedures shall be as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines. This policy is formally adopted by resolution, enforceable, and publicly accessible.

Note to Reader: The Public Hearing and Hearing Procedures Policy replaces the stricken matters

C. Public Testimony: Public Testimony procedures shall be as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines.

D. The most recently adopted version of the Garden City Meeting and Public Hearing Guidelines is formally adopted by resolution, enforceable, and publicly accessible.

8-6A-75: PUBLIC HEARING PROCESS NOTICING:

A. Purpose: The purpose of this section is to ~~outline the specific application to establish noticing processes for actions that require a public hearing.~~

B. Public Notice Requirements: Applications ~~that require a public hearing~~ shall be noticed in accord with the noticing requirements identified in Table 8-6A-3, and ~~the following relevant procedures:~~ as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines Policy. This policy is formally adopted by resolution, enforceable, and publicly accessible.

1. ~~Neighborhood Meetings:~~

~~a. Neighborhood meetings shall be required for some applications prior to an application being determined by the Planning Official as complete~~ submittal of an application.

~~b. Notice of the neighborhood meeting shall be provided by the applicant to all property owners of record within three hundred feet (300') of the exterior boundary of the application property. Notice of the meeting shall be either hand delivered or mailed to the recipients. Notice shall also be provided to the planning official.~~

~~c. Notice of the meeting shall be provided at least fifteen (15) ten (10) days prior to the meeting.~~

~~d. The meeting shall be held on a weekday between five thirty o'clock (5:30)~~

~~P.M. and eight o'clock (8:00) P.M. not more than three (3) months or less than one (1) day prior to the submittal of an application.~~

~~e. The notice of the meeting shall identify the process for persons to be considered interested parties.~~

~~2. Radius Notice: At least fifteen (15) days prior to the public hearing or upon an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes, the city shall send a notice shall be sent by first class mail of the time and place, and a summary of the application to property owners or purchasers of record (as listed in the current records of the Ada County assessor) owning property within three hundred feet (300') of the property being considered.~~

~~3. Posting On The Site: A public notice shall be posted by the applicant on the premises for which the permit is sought. The notice shall be posted not less than ten fifteen (10/15) days prior to the public hearing or an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes. If the application is legislative and not for a specific property or properties, site posting is not required.~~

~~a. Notice Form: The notice shall be in substantial compliance with the following form:~~

<p>As required by the City of Garden City</p> <p>PUBLIC NOTICE</p> <p>THERE WILL BE A [INSERT MEETING/ HEARING TYPE]</p> <p>ON [DATE] AT [TIME]</p> <p>AT [LOCATION]</p> <p>Purpose: Property Location: Application contact:</p>
<p>CITY OF GARDEN CITY</p> <p>PUBLIC HEARING NOTICE</p> <p>THERE WILL BE A PUBLIC HEARING</p> <p>ON [DATE] AT [TIME]</p> <p>At CITY HALL 6015 GLENWOOD</p> <p>Purpose: Property Location: Application By: Contact the City Planner at (208) 472-2921 with any questions</p>

b. ~~Notice Size: The notice(s) shall consist of a four foot by four foot (4' x 4') plywood or other hard surface mounted on two (2) four inch by four inch (4" x 4") posts.~~

c. ~~Notice Lettering: Centered at the top of the four foot by four foot (4' x 4') notice(s) in six inch (6") letters shall be the words "City of Garden City Public Hearing Notice". The date of the hearing shall be in bold four inch (4") letters. The remainder of the notice shall be in two inch two inch (2") letters. Each notice shall be painted white, and the letters shall be painted black and shall appear on both sides.~~

d. ~~Notice Content: Each notice shall inform the public of the nature of the meeting or hearing, the date, time and address of the hearing location, a summary of the proposal to be considered, a city contact phone number or email address, the location of the development and the name of the applicant, and if applicable, the proposed development.~~

e. ~~Notice Placement: The notices shall be posted on the property being considered along each street that is adjacent to the subject property boundaries. The notice(s) shall be located on the property, outside of the public right-of-way. If the notice cannot be placed on the property and still be clearly visible, the notice may be placed within the right-of-way if the applicant can obtain the consent of the owner of the right-of-way. The notice shall be posted perpendicular to the street and mounted so that the bottom of the notice is at least three feet (3') above the ground.~~

~~f. Proof Of Posting: The applicant shall submit a notarized statement and a photograph of the posting to the city no later than seven (7) days prior to the public hearing attesting to where and when the notice(s) were posted. Unless the statement is received by such date, the hearing will be continued.~~

~~g. Notice Removal: The notice(s) shall be removed no later than three (3) days after the public hearing for which the notice(s) had been posted is ended.~~

~~4. Alternate Forms Of Notice: When mailed notice is required of two hundred (200) or more property owners, alternate forms of notice may be provided by the city as follows:~~

~~a. Posting of the notice in three (3) conspicuous locations within the city;~~

~~b. Making notice available to all forms of media for use as a public service announcement; or~~

~~c. Paid advertisement of notice in local print media of at least four inches (4") and two (2) columns in size.~~

~~5. Legal Notice: At least fifteen (15) days prior to the public hearing, the city shall publish a public notice of the time, place, and description of the application in the official newspaper of general circulation.~~

~~6. Public Service Announcement: At least fifteen (15) days prior to the public hearing, the city shall provide a public notice to other newspapers, radio and television stations serving the city for use as a public service announcement.~~

~~7. Agency Review; Notification To Agencies With Jurisdiction: At least fifteen (15) days prior to the a public hearing or an administrative decision that requires notice per Table 8-6A-1 Authorities And Processes, the city shall give notice to all political subdivisions providing services within the city, including the school district.~~

~~8. Transmittal To Other Agencies: The planning official may transmit the notice, application and other documents submitted for review and recommendation to city departments and other agencies and community organizations as adopted by commission resolution.~~

~~9. Interested Parties: The planning official shall transmit notice of changes in hearing dates and decisions to persons who have filed a written request for notice with the city. The city may provide notice to interested parties electronically.~~

~~10. Petitioner Requester: The city shall give notice of the time and place of hearings, appeals, or council review by sending notice to the applicant, appellant, and respondent. For the purpose of public noticing requirements, these parties have been referred to as "Requestor".~~

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties	Requester
Applications processed as Administrative without notice								
Applications processed as Administrative with notice	X	X			X		X	X
Appeal	-	-	-	-	-	-	X	X
Annexation or rezone	X	X	X	X	X	X	X	X
Comprehensive plan or ordinance amendment ¹	X	X	X		X	X	X	X
Conditional use ²	X	X	X	X	X		X	X
Conditional use, revocation			X				X	X
Design review process under section 8-6A-5 Public Hearing	X	X	X	X	X		X	X
Development agreement	X	X	X	X	X		X	X

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties	Requester
Development agreement revocation			X		X		X	X
Planned unit development	X	X	X	X	X		X	X
Plat, amendment		X		X	X		X	X
Plat, final		X		X	X		X	X
Plat, preliminary	X	X		X	X		X	X
Plat, preliminary and final combined	X	X	X	X	X		X	X
Minor land division <u>Public Hearing</u>	X	X	X	X	X		X	X
Site layout template							X	X
Specific area plan	X	X	X	X	X	X	X	X
Variance	X	X	X	X			X	X
Zoning district boundary amendment ³	X	X	X	X	X	X	X	X

Notes:

~~1. Comprehensive Plan Amendment: If the commission or design review consultant(s) recommends a material change to the plan after the public hearing, the public notice for the council hearing shall include the recommendation.~~

~~2. When mailed notice is required for two hundred (200) or more people, the alternate noticing requirements as set forth in subsection B.4 of this section may be substituted for mailed notice.~~

~~3. Zoning District Boundary Amendment: Notice may be sent to property owners beyond three hundred feet (300') of the external boundaries of the rezone area to those property owners who may be impacted by the rezone application.~~

~~11. C. Failure to Notify: The failure to comply fully with the notification provision shall not invalidate the action, provided the spirit of the procedure is observed.~~

~~C D. Planning and Zoning Commission Hearing Procedures for *de novo* Public Hearing: shall as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines.~~

~~1. Hearing Date:~~

~~a. Within sixty (60) days of receipt of an application certified as complete, or as reasonably appropriate consistent with city workloads, the initial public hearing shall be conducted.~~

~~b. The time for review and action may be extended by making a finding that additional materials and/or information are required due to the complexity of the application or for other reasons deemed appropriate.~~

~~c. The decision maker may deny an application for which the public hearing has been continued repeatedly over an unreasonable period of time at the request of the applicant.~~

~~2. The chairperson of the hearing shall determine the order of the hearing and the allotted amount of time to address the body.~~

~~2. Parliamentary procedure should generally be utilized.~~

~~3. Public Hearing Testimony:~~

~~a. The decision maker shall hear public testimony from all affected persons wishing to provide present or rebut evidence at the initial duly noticed public hearing. The final decision maker shall consider the record and report of the recommending body and may or may not elect to hear additional testimony of representatives of the applicant and any witnesses, including interested citizens affected by the proposed application.~~

~~b. The applicant shall offer competent evidence in support of the application sufficient to enable the decision maker to consider the matter and to make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.~~

~~c. Written statements, including exhibits, that are specific to an application, which are mailed or hand delivered to City Hall and timely received by the development services department in the manner established by the planning official to receive such materials, shall be considered timely if received seven (7) or more working days in advance of the public hearing. These materials shall be entered into the record of the hearing.~~

~~d. If testimony fails to comply with standards adopted by resolution, the decision maker may determine that testimony is inadmissible.~~

~~i. The name and address of the person providing testimony;~~

~~ii. The testimony must be relevant to the application;~~

~~iii. Testimony must be factual; and~~

~~iv. Testimony shall not be personally derogatory.~~

~~e. When a design review consultation is required as part of an application that requires a public hearing, public testimony regarding design will be heard by the planning and zoning commission at the planning and zoning commission's scheduled hearing.~~

~~3. Decision:~~

~~a. After hearing the evidence and considering the application, the decision maker shall make their decision. The dependent decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, ; and the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied.~~

~~b. By the next regular scheduled meeting, the decision maker shall make its findings and decision.~~

~~D. Council Public Hearing:~~

~~1. Transmittal: Upon recommendation of approval or disapproval by the recommending body, the application, together with a complete copy of the recommending body's findings and report of action, shall be transmitted to the council.~~

~~2. Public Hearing: Within thirty (30) days of the recommending body completing its findings and report, the city shall notice a council public hearing.~~

~~a. The public notice shall be made in accordance with the Idaho public hearing process.~~

~~b. Public notice shall also be sent to all persons who appeared in person and provided a legible record of their name and address, or submitted testimony in writing before the reviewing body's proceedings. Such notification shall be made at least fifteen (15) days prior to the council meeting.~~

~~3. Public Hearing Testimony: At the hearing before the council, the council shall consider the record and report of the commission and may or may not elect to hear testimony of representatives of the applicant and any witnesses, including interested citizens affected by the proposed application.~~

~~4. Council Decision:~~

~~a. Upon conclusion of its review, the council shall take action on the application and adopt its findings of fact and conclusions by the next regular scheduled council meeting.~~

~~b. In its decision, the council shall base its findings upon the record and report of the commission and, if taken, testimony presented before it.~~

~~c. The council may sustain, modify with conditions, or reject the recommendations of the recommending authority; or remand the application for additional proceedings and findings.~~

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, the development services director, the public works director, the chief of police, and/or those who (1) have standing under the Idaho Local Land Use Planning Act; and (2) testified 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 de novo.**

2. Appeals shall not be conducted de novo. The appeal body shall base its decision on the existing record; however, the appeal body may exercise free review of the record and is not bound by findings, conclusions, or interpretations of the initial decision

Note to Reader: Better clarifying that appeals are not de novo, but free review is allowed.

~~maker. 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.~~

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

4. 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.

5. The city will notify the appellant, applicant, and property owner as established by the most recently adopted version of the Garden City Meeting and Public Hearing Guidelines Policy.

B. Review Authority: Appeals of commission decisions are heard and decided by the council. Except when otherwise specified in this Title, appeals of the planning official decisions are heard and decided by the commission.

C. Appeal Hearing Notice: Record:

~~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 is 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 sending copies of the notice 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: Both a Review of 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, 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 planning official may be further appealed to the council. The decision of the council shall be final.~~

8-6B-3 DESIGN REVIEW

A. Purpose: The purpose of this section is to establish the specific process and findings for approval of design review applications.

B. Objectives: The objectives of the design review process are to involve the city in the earliest possible time in the development and design of a project, and to work with the applicant in an iterative process of review and design to better the design of a project. The review process is intended to be flexible and tailored to the needs of the project and the applicant.

C. Applicability: This process shall apply to all development as more specifically described below. Provisions of title 8, chapter 4 (“Design and Development Regulations”) shall be reviewed as follows:

1. The following development shall be reviewed by the design review consultant(s) and utilize the administrative with notice procedures:

a. Nonresidential Development:

(1) New principal structures;

(2) Accessory structures visible from the public right-of-way;

(3) ~~Additions that add more than twenty five percent (25%) of the gross floor area of an existing principal structure~~ Structural additions that increase the gross floor area of an existing principal structure by more than twenty-five percent (25%).

Note to Reader: The changes are intended to clarify current regulations.

(4) Renovations visible from the right-of-way where more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored;

(5) Site expansions or reconfigurations, or redesign of the site exceeding twenty-five percent (25%) of the existing site’s gross square footage;

(6) Any improvement within seventy feet (70') of the Boise River’s ordinary ~~high water~~ high-water mark;

(7) Developments requiring design review consultant(s) consultation elsewhere in code.

(8) Renovations visible from the public right-of-way where there is a reduction in glass or removal of a public entrance.

b. Residential Development:

- (1) More than two (2) dwelling units on the same property, including, but not limited to, multifamily dwelling units;
- (2) Dwelling units where there are more than two (2) proposed units attached to one another on separate properties; and
- (3) New detached accessory dwelling units visible from the right-of-way.

2. The following development shall be reviewed ~~under the procedures as~~ set forth in ~~section Table 8-6A-1 Authorities and Processes 8-6A-6,~~ “Administrative Process Without Notice”:

a. Nonresidential Development:

- (1) Accessory structures not visible from the right-of-way~~;~~
- (2) ~~Structural additions that add up to twenty-five percent (25%) of the gross floor area of an existing principal structure and are not visible from the right-of-way;~~ Structural additions that increase the gross floor area of an existing principal structure by more than twenty-five percent (25%).
- (3) Renovations of existing structures, visible from the right-of-way, where no more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored so long as there are no reductions in glass; and.
- (4) Site expansions or reconfigurations less than or equal to twenty-five percent (25%) of the existing site’s gross square footage, where there is no additional curb cut, reduction in landscaping, or new structures.

Note to Reader: The changes are intended to clarify current regulations.

b. Residential Development:

- (1) Up to two (2) attached dwelling units on the same property; and
- (2) Accessory structures and accessory dwelling units that do not otherwise require design review consultant(s) recommendation as defined by this title.

Note to Reader: The changes are intended to clarify current regulations.

~~3. c. The thresholds identified are cumulative within a twenty four (24) month time period. The thresholds identified in this section are cumulative within any twenty-four (24) month period, measured from the date of approval of the first design review decision within that period. Cumulative thresholds apply on a per-parcel basis and are calculated separately for: (a) gross floor area additions; (b) façade area altered per~~

façade; and (c) site area expanded or reconfigured. For projects spanning multiple parcels processed as a single application, the cumulative calculation shall apply to the project area as a whole.

~~3. Any applications that are noncompliant with code will be denied.~~

D. Design Review Consultant(s):

1. When design review consultant(s) consultation is required, the consultation shall be timely scheduled with the consultant(s) as established by resolution.

2. The purpose of the consultation is for expert(s) to assist the decision maker by providing direction to the applicant on the city-adopted design criteria.

3. The consultation is between the design review consultant(s) and the applicant. Timely written public comment shall be incorporated into the materials reviewed during the consultation.

4. The applicant may meet with the design review consultant(s) one (1) or multiple times before an application is ready for a recommendation.

~~5. Appropriate fees for design review consultation shall be established by resolution.~~

E. Required Findings: In order to approve a design review application ~~after a recommendation by the design review consultants that requires design review consultant review,~~ the decision maker shall make a determination ~~with written reasoned statements on~~ the following findings:

1. The proposed design shall comply with all design standards in this title;

2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site;

3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise River and waterways, canals, and other surface irrigation;

4. The proposed design shall be compatible with the neighborhood as identified in the Garden City Comprehensive Plan ~~in scale and intensity;~~

Note to Reader: The change is intended to reduce subjectivity.

5. The proposed design shall not create an adverse impact on the surrounding neighborhood;

6. The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood;

7. The proposed design and landscape shall improve the design and function of the site and be consistent with southwest Idaho climatic conditions; and

8. The proposed design shall be compatible with applicable natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, and historic structures.

~~F.—Limitations Of Design Review Authority: Except for development on substandard lots of record, the design review consultant(s) is prohibited from requiring reductions in height, density or floor area ratio, or other general bulk regulations.~~

8-7A-2 DEFINITION OF TERMS (additions)

DECISION MAKER: The body responsible for action.

~~PETITIONER: The land use applicant or appellant.~~

~~APPELLANT: An individual, firm, corporation, partnership, association, syndicate, trust, or other legal entity that executes an appeal.~~ The party or petitioner who initiates an appeal or files a notice of appeal.

NEIGHBORHOOD MEETING: A meeting that the applicant hosts. The intent of the meeting is to encourage dialog between those with concerns and the applicant so that the application can potentially be refined prior to city review.

RESPONDENT: The adverse party not initially seeking affirmative relief in cases presented in an appeal.

Note to Reader: No longer necessary due to the Garden City Meeting and Hearing Guideline Policy