



**Nibley City**  
**Planning Commission Meeting**  
Thursday, January 18, 2024  
**Nibley City Hall**  
**455 W. 3200 S.**  
Nibley, UT

6:30 p.m.      Call to Order and Roll Call  
                    Approval of Agenda  
                    Approval of Minutes

*In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall, 455 West 3200 South, Nibley, Utah. The public may participate in the meeting either in person or electronically via the meeting link provided at [www.nibleycity.com](http://www.nibleycity.com).*

1. **Public Hearing:** Ordinance 24-01: Amending NCC 3.02.040, 17.06.050, 19.20, 19.22 and 19.24; removing owner occupation requirements for accessory dwelling units and two-family housing, amending impact fee provisions, height requirements and other provisions for accessory dwelling units and setback requirements for accessory buildings
2. **Discussion and Consideration:** Ordinance 24-01: Amending NCC 3.02.040, 17.06.050, 19.20, 19.22 and 19.24; removing owner occupation requirements for accessory dwelling units and two-family housing, amending impact fee provisions, height requirements and other provisions for accessory dwelling units and setback requirements for accessory buildings
3. **Workshop:** Zoning Incentives for Moderate Income Housing
4. **Workshop:** Planning Commission Goals for 2024
5. Staff Report and Action Items

*Planning Commission agenda items may be tabled or continued if 1) Additional information is needed in order to take action on the item, OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.*



**Nibley City Planning  
Commission  
Agenda Item Report  
January 18, 2024**

**Agenda Item #1 & #2 – ADU Ordinance Update**

**Description**

**Public Hearing:** Ordinance 24-01: Amending NCC 3.02.040, 17.06.050, 19.20, 19.22 and 19.24; removing owner occupation requirements for accessory dwelling units and two-family housing, amending impact fee provisions, height requirements and other provisions for accessory dwelling units and setback requirements for accessory buildings

**Discussion and Consideration:** Ordinance 24-01: Amending NCC 3.02.040, 17.06.050, 19.20, 19.22 and 19.24; removing owner occupation requirements for accessory dwelling units and two-family housing, amending impact fee provisions, height requirements and other provisions for accessory dwelling units and setback requirements for accessory buildings

**Department**

City Planning

**Action Type**

Legislative

**Recommendation**

Recommend approval of Ordinance 24-01: Amending NCC 3.02.040, 17.06.050, 19.20, 19.22 and 19.24; removing owner occupation requirements for accessory dwelling units and two-family housing, amending impact fee provisions, height requirements and other provisions for accessory dwelling units and setback requirements for accessory buildings

**Reviewed By**

City Planner, City Attorney

## Background

During a December 21 workshop, the Planning Commission discussed potential amendments to the ADU ordinance that may encourage increased provision of ADUs. Strategy 1 of the Nibley City Moderate Income Housing Plan is to ‘Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones.’ Specific Action items for this strategy include the following:

- *Track number of ADUs that are built (ongoing)*
- *Research barriers to building ADUs (Late 2023)*
- *Consider amendments to ADU ordinance based upon research findings (Early 2024)*

In December 2020, Nibley City adopted an Accessory Dwelling Unit Ordinance, which allows external ADUs throughout Nibley City. Internal or attached ADUs are also permitted, but considered ‘two-family housing’ and regulated as such. Since the adoption of this ordinance, there have been five (5) permitted external ADUs and nine (9) internal or attached ADUs. The adopted ordinance has been reviewed and adjusted over time. Restrictions within the ordinance and other factors remain potential barriers to building ADUs.

Specific restrictions within the ordinance that the Planning Commission discussed which may limit the provision of new ADUs include the following:

- (D)(2) Owner Occupation. The property shall be owner occupied except for bona fide temporary absences.
- (D)(5) Parking: Off-street parking for two vehicles, shall be provided for use by the tenants of the accessory dwelling unit. This parking shall be provided in addition to the required parking for the primary dwelling unit and shall not obstruct access to the parking of the primary dwelling unit and shall be located behind the front plane of the primary dwelling. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.
- (D)(6) One Accessory Dwelling Unit: Only one accessory dwelling unit shall be allowed for each single-family dwelling. Accessory dwelling units are not allowed on lots that contain a two-family dwelling.
- (D)(9) Installation of separate water and sewer meters for accessory dwelling units shall be prohibited.
- (D)(11) Impact Fees: Accessory dwelling units shall be subject to impact fees as set forth in the latest associated Impact Fee Ordinance adjustment.
  - a. Owners may petition the City for a rebate of impact fees for accessory dwelling units which provide rent that is considered affordable, as described below. The maximum rebate amount shall be set at 33 1/3% annually of the total collected impact fee for a period of three (3) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided

within 30 days of each anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.

- 1) The unit's rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of three (3) years.

The rent limit shall be set using the following calculation: HUD annual 4-person 50% AMI Income Limit \* 0.3 (30 %) – \$150 (for utility expenses)

- (E)(1) Accessory dwelling units shall have the following requirements:
  - a. Shall have the minimum floor area of 300 sq. ft. and a maximum floor area of 1,200 sq. ft.
  - b. Detached accessory dwelling units shall follow the sizing and setback requirements for other accessory buildings as listed in NCC 19.24. For new one-story detached accessory dwelling unit structures, a minimum rear and side setback of 10 feet is required. For new two-story detached accessory dwelling unit structures, a minimum rear yard setback of 20 feet and side yard setback of 10 feet is required.
  - c. Detached accessory dwelling units shall not be permitted on lots smaller than 12,000 sq. ft.
  - d. The total square footage of all detached accessory dwelling units shall not occupy more than twenty five percent (25%) of the rear yard.
  - e. Detached accessory dwelling units shall be limited to two stories and shall not exceed the height of the primary single-family dwelling.

Each of the provisions noted above were enacted to abate potential impacts of an ADU. However, requirements that are overly restrictive create barriers to increasing the supply of affordable housing within the City. Based upon feedback obtained from the Planning Commission, which considered the potential barriers that the regulations cause, the following adjustments are recommended.

1. Remove owner occupation requirement. The purpose of this provision is to ensure onsite management. However, there currently is no requirement for owner occupation in other housing within the City. Removing this provision will allow for landlords who currently own a single-family home to build an ADU on investment properties, thus potentially increasing the supply of affordable rental housing. For consistency, this requirement is also recommended to be lifted for two family housing.
2. Lift the regulation on ADUs being limited to be no taller than the primary dwelling. This has proved to be a limiting factor for landowners wishing to build an ADU above a detached garage or those wishing to build a two-story ADU when the primary dwelling is a single story home. Instead, the proposed ordinance limits ADUs to 30' in height.
3. Lower the required impact fee to 50% of the rate of a multi-family dwelling. The justification for lowering this rate comes from the fact that the square footage of ADUs is restricted to lower than 1,200 square feet and are expected to house fewer occupants than other housing units. In addition, they are not allowed to install separate water or sewer

meters. This would lower the overall cost of ADUs, potentially making them more affordable to low and moderate income households.

In addition to those provisions noted above, the proposed ordinance includes the following:

- Clarification that garage, shop or other space outside of living area is not counted toward floor area limitation.
- Change front setback regulation for accessory buildings to clarify that they cannot be built within front setback area, but do not necessarily need to be located behind the principal building.
- Clarify the nomenclature of permits to zoning clearance permit (rather than accessory building permit) and building permit to appropriately differentiate each permit.

### **Recommended Findings**

1. The proposed ordinance is in support of Strategy 1 of the Nibley City Moderate Income Housing Plan is to ‘Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones.’.
2. Removing the owner occupation requirement for lots with accessory dwelling units or two-family housing has the potential of increasing the supply of affordable rental units within the City in support of the City’s moderate income housing plan.
3. A height requirement of 30’ for accessory dwelling units will provide for options to construct a wider variety of designs for accessory dwelling units, while still ensuring that new construction is not overly intrusive on the surrounding neighborhood.
4. Because the square footage of accessory dwelling units is limited and additional sewer and water meters are prohibited, it is anticipated that the impact of such units may be lower than other housing units.
5. Removing the requirement that an accessory building must be behind the primary building allows for more efficient use of properties with varying lay-outs such as large setbacks, while ensuring that consistency of front setbacks of the primary building remain.

## **Agenda Item #3 – Zoning Incentives for Moderate Income Housing**

### **Description**

**Workshop:** Zoning Incentives for Moderate Income Housing

### **Department**

City Planning

## Action Type

Legislative

## Recommendation

Discuss potential amendments to Land Use Ordinance

## Reviewed By

City Planner

## Background

The purpose of this workshop is to discuss potential amendments to the Land Use Ordinance that would incentivize the provision of moderate-income housing. This item was discussed on December 21 but it was recommended to continue discussing this item to allow feedback from the broader Commission.

Strategy 5 of the Nibley City Moderate-income housing plan is to ‘implement zoning incentives for moderate income units in new developments.’ The plan points out that “although the City has made significant progress in rezoning for densities that allow the opportunity for the development of market rate housing which is affordable to moderate-income households, the housing market has vastly outpaced the growth in incomes. Therefore, it is becoming increasingly difficult to provide affordable market-rate housing. The City should consider incentivizing providing deed-restricted housing which is affordable to low and moderate-income households with new developments.” Specific Measures and Benchmarks for this Strategy include:

- *Study appropriate density bonus and incentive threshold to apply to the R-PUD zone or other zones within Nibley City. (Early 2024)*
- *Draft Ordinance with zoning incentives for moderate income units based upon findings of analysis for consideration (Late 2024)*

In order to inform this consideration, Staff researched existing ordinances using the Utah Chapter of the American Planning Association listserv. The following is a summary of those examples.

### Uintah County

- Allows 10% density bonus for provision of at least 10% of moderate-income housing within any development within an urban area.
- Moderate-income housing defined as 80% or less.
- Housing must be permanently affordable through deed restriction, community land trust, limited equity cooperative or other method approved by land use authority.

- Link to ordinance: [Chapter 16.14 - GENERAL REQUIREMENTS FOR ALL SUBDIVISIONS | Code of Ordinances | Uintah County, UT | Municode Library](#)

### **Hurricane City**

- Allows an additional 2 units/acre (base density 15 units/acre) in planned developments when 10% of units are affordable to moderate-income households.
- Moderate-income housing defined as 80% or less.
- Requires deed restriction for at least 25 years for the affordable units.
- Staff member noted one project which used this incentive.
- Link to ordinance: [CHAPTER 15. - COMMERCIAL ZONES | Code of Ordinances | Hurricane, UT | Municode Library](#)

### **Heber City**

- Requires that 10% of development is affordable for developments that contain 10 or more units and requires a rezone, any mixed-use development, any development that allows for density bonus, or as a voluntary option for other developments.
- Allows decrease in setbacks, building permit fee, lot width, lot area, height and open space.
- Allows for fee-in-lieu to be paid toward housing authority or other alternatives of equal value.
- Requires development agreement with detailed provisions to spell out allowances and requirements.
- Link to ordinance: [https://heber.municipalcodeonline.com/book?type=planzone#name=18.102\\_Affordable\\_Housing](https://heber.municipalcodeonline.com/book?type=planzone#name=18.102_Affordable_Housing)

### **Las Vegas, NV**

- Allows density bonus in almost all zones of 3-10 units/acre if 10% of units are affordable.
- Allows additional height depending on the percentage of affordable housing provided.
- Waives development fees for projects that have a high percentage of very-low income units
- Requires that affordable housing status remain for at least 30 years.
- Design of affordable units must be similar to other units and be clustered throughout the development.
- Link to ordinance: <https://online.encodeplus.com/regs/lasvegas-nv/doc-viewer.aspx#secid-2722>

The Planning Commission may consider provisions incorporated into the aforementioned ordinances or others, as appropriate, and direct Staff to potential Nibley City code changes to consider.

# Agenda Item #4 – 2024 Planning Commission Goals

## Description

**Workshop:** Planning Commission Goals for 2024

## Department

City Planning

## Recommendation

Discuss goals for 2024

## Reviewed By

City Planner

## Background

To guide the activities of the Planning Commission and supportive Staff for the year, the Planning Commission has traditionally formalized annual goals. As a starting point of the discussion, Staff has summarized the status of 2023 goals and included other accomplishments below.

### Planning Commission Goals- 2023 Status

	<b>Status</b>
Review and make recommendations to create/update the following ordinances:	
a. Landscape Ordinance and Standards	complete
b. Town Center Commercial Zone and Standards	incomplete
c. Cluster Subdivisions	incomplete
d. Conditional Uses	complete
e. Subdivision Financial Assurance provisions	complete
f. Access, Connectivity Standards and Intersection spacing	in progress
g. All required ordinance changes from State legislature	complete
h. Update Nibley City Code to address development requirements outside of residential subdivisions	complete
2. Update Parks, Recreation and Open Space Master Plan	in progress
3. Commence development of Active Transportation Master Plan to replace and update Trail Master Plan and active transportation elements of Transportation Master Plan	in progress



4. Develop more robust and standardized public and stakeholder engagement activities to ensure public buy-in of major code changes and plan updates.	in progress
5. Update Annexation Policy Plan, including analyzing areas to accommodate future growth in which utilities can be efficiently provided.	incomplete
6. Implement strategies identified in Moderate Income Housing Plan, including the following:	in progress

Other accomplishments:

- Updated Moderate Income Housing Plan
- Updated trail & connectivity standards to continue trails that terminate on the edge of property
- Modified definition of dwelling unit and limits to single family
- Updated Animal Land Use Ordinance

For 2024 goals, the Planning Commission may first consider focusing on completing provisions that were not completed last year if they are still of priority and discuss other initiatives to pursue. For example, Staff recommends that we commence the development of an updated General Plan. The City has submitted an application for a UDOT Technical Planning Assistance grant to assist with this project.

The purpose of this workshop is to guide Staff in drafting goals for the Planning Commission. A draft can then be presented back to the Commission, then reviewed by City Council for any additional feedback.

### **3.02.040 Powers And Duties**

In accordance with provisions of the Utah land use development and management act, Utah Code § 10-9a-302, the following are the powers and duties of the Nibley City planning commission:

A. The planning commission shall be the land use authority that:

1. Recommends a general plan and amendments to ~~to~~ the city council;
2. Recommends to the city council, zoning ordinances and maps, and amendments to zoning ordinances and maps;
3. Administers provisions of the zoning ordinance;
4. Recommends subdivision regulations and amendments thereto to the city council;
5. Recommends approval or denial of subdivision applications to the city council;
6. Assists with the creation of an appeal authority for the city of Nibley;
7. Conducts such public hearings as are required by law or as deemed necessary;
8. Hears and decides any matters that the city council designates, including the approval or denial of conditional use permits and review of nonconforming uses and structures; and
9. Advises on matters as the city council directs and hears, or decides any matters as authorized by state law.

B. The planning commission may designate by resolution, that Nibley City staff be the land use authority on the following land use applications:

1. Conditional use permits for home occupations;
2. Accessory building zoning clearance permits; and
3. All other routine land use requests.  
Should staff or any other land use authority so designated determine that an issue needs review and approval of the planning commission, they may refer the matter back to the commission for further investigation prior to approval or denial.

C. The planning commission shall also protect the right of each:

1. Applicant and third party to require formal consideration of any application by a land use authority;
2. Applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
3. Participant to be heard in each public hearing on a contested application.

### **17.06.050 Impact Fee Imposed**

- Impact fees are hereby imposed as a condition of and unless otherwise provided and approved by the City Council, shall be paid prior to the issuance of a building permit by Nibley City for any development activity which creates additional demand and need for public facilities or makes demands on the roadways, streets, park, culinary water and sanitary sewers in Nibley City's system. The fees imposed are as follows:

### 1. Facilities Impact Fee

Parks Impact Fee	\$9,003.00 per single-family unit' \$6,613.00 per multi-family unit & ADU
Sanitary Sewer Impact Fee	\$1,425.00 (1-inch meter) \$1,189.00 (multi-family unit per door & ADU) \$4,629.00 (2-inch meter) \$8,685.00 (3-inch meter) \$12,478.00 (4-inch meter) (Based on the size of the culinary water meter).
Culinary Water Impact Fee	\$3,363.00 (1-inch meter) \$2,757.00 (multi-family unit per door & ADU) \$10,733.00 (2-inch meter) \$20,137.00 (3-inch meter) \$33,658.004 (4-inch meter) (Based on the size of the culinary water meter).

### 2. Transportation Impact Fee

	ASSESSMENT	ITE CODE	TRIPS GENERATED	ADJUSTMENT FACTOR	ADJUSTED TRIPS	FEE
Residential Single-Family	Per Unit	210	9.44	-	9.44	\$887
Residential Multi-Family	Per Unit	220	7.32	-	7.32	\$688
Mobile Home	Per Unit	240	5.00	-	5.00	\$470
Shopping Center	Per 1,000 sf	820	37.75	34%	24.92	\$2,342
Office	Per 1,000 sf	712	16.19	-	16.19	\$1,522
Light Industrial	Per 1,000 sf	110	4.96	-	4.96	\$466

Warehouse	Per 1,000 sf	150	1.74	-	1.74	\$164
Institutional	Per 1,000 sf	Average*	15.18	-	15.18	\$1,426
Hotel	Per 1,000 sf	310	8.36	-	8.36	\$786
Food/Fast Food**	Per 1,000 sf	Average*	299.43	60%	119.77	\$11,257
Gas Station/Conv	Per 1,000 sf	945	1,440.02	66%	489.61	\$46,015

\*Institutional trip statistics based on an average of ITE Categories 520, 522, and 530.

\*\*Food/Fast Food based on an average of ITE Categories 930, 932, and 934.

**B. Impact Fees for Other Forms of Development.** Other forms of development not readily related to those of the above chart shall be subject to an impact fee calculated by the City Manager using the formulas in the Analysis and the trip generation data from the same source as used in the Analysis.

**19.22.010 Space Requirements Chart**

		A	R-E	R-1	R-1A	R-2	R-2A	C	C-N	I
A.	Minimum lot area	5 acres	2 acres	1 acre	3/4 acre	1/2 acre	12,000 sq. ft. (10) See note 9	--	1/4 acre	--
	Minimum lot width <sup>1</sup> ; measured at setback line	200	200	200	150	100	100	--	100	--
B.	<b>Setback principal uses building</b>									
	Front yard	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	20	20	50
	Side yard, interior	15 <sup>3</sup>	15	10	10	10	10	0(10) <sup>3</sup> (30) <sup>11</sup>	10(20*) <sup>11</sup>	0(50) <sup>4</sup>

	Side yard, street	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	20	20	25(35) <sup>3</sup>
	Rear yard	30	30	30	30	25	25	0(10) <sup>3</sup> (30) <sup>11</sup>	5(20*) <sup>11</sup>	0(50) <sup>4</sup>
<b>C.</b>	<b>Setback accessory <u>buildings</u> <u>uses</u></b>									
	Front yard	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	20	20	50
	Side yard, interior	10(3) <sup>5, 13</sup>	10(3) <sup>5, 13</sup>	10(3) <sup>5, 13</sup>	10(3) <sup>5, 13</sup>	10(3) <sup>5, 13</sup>	10(3) <sup>5, 13</sup>	0(10) <sup>4</sup>	0(10) <sup>4</sup>	0(10) <sup>4</sup>
	Side yard, street	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	20	20	25(35) <sup>3</sup>
	Rear yard	1(10) <sup>6, 13</sup>	1(10) <sup>6, 13</sup>	1(10) <sup>6, 13</sup>	1(10) <sup>6, 13</sup>	1(10) <sup>6, 13</sup>	1(10) <sup>6, 13</sup>	0(10) <sup>4</sup>	0(10) <sup>4</sup>	1(10) <sup>4</sup>
<b>D.</b>	<b>Setback accessory <u>dwelling</u> <u>units</u></b>									
	Front yard	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	30(35) <sup>3</sup>	20	20	50
	Side yard, interior	10	10	10	10	10	10	10	10	10
	Side yard, street	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	25(35) <sup>3</sup>	20	20	25(35) <sup>3</sup>
	Rear yard	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>	10(20) <sup>14</sup>
<b>ED.</b>	<b>Height maximum</b>									
	Principal <u>uses</u> <u>buildings</u>	40	40	40	40	40	40	40	35 <sup>12</sup>	50(70) <sup>10</sup>
	Accessory <u>buildings</u>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>	20(30) <sup>15</sup>
	Accessory <u>Dwelling</u> <u>Units</u>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>	30 <sup>12</sup>

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<b>FE. Fences and walls maximum height</b>										
Front yard, property line to setback line	4	4	4	4	4	4	4	4	4	4
Rear yard	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8
Side yard	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8
Corner lots	See NCC 19.24.090(B)									

Notes:

1. **In all zones in a platted subdivision, Minimum lot width is 100 feet minimum, measured at setback line, but lot area must be 1/2 acre.**
2. All measurements are in feet unless otherwise specified.
3. Greater distance required where yard faces arterial road.
4. Greater distance required where property line is adjacent to residential zone or residential dwelling unit.
5. Lesser distance allowed where accessory building is at least 10 feet behind the rear of main building and not less than 10 feet from any dwelling unit on adjacent property.
6. Greater distance required where rear yard faces side yard of adjacent property.
7. Principal use is defined as a dwelling unit in R-E, R-1 and R-2.
8. 8 foot height allowed for a transparent fence, e.g., chainlink, as defined in NCC 19.24.090.
9. The average lot size for the entire subdivision phase and portion thereof shall average at least fourteen thousand (14,000) sq. ft.
10. Greater maximum height allowed if building is at a minimum of 300' from a residential zone.
11. When abutting a residential zone or existing residential dwelling unit, minimum setback is 30 feet for commercial zones and 20 feet for neighborhood commercial zones. The minimum setback shall be increased one additional foot for every additional one foot in height of the building in a commercial zone.
12. Limited to two stories
13. Accessory buildings greater than 15 feet in height shall have 10 feet minimum side yard, interior or rear yard setback.
14. **Greater distance required when accessory dwelling unit is two (2) stories.**
- 13-15. **Greater height allowed for lots which have a legal acreage of 0.75 acre or greater.**

**19.24.060 Accessory Buildings In Residential Zones**

14.16. Definitions: For the purpose of this section, the following will be used as definitions:

1. ACCESSORY BUILDINGS: An "accessory building" for both residential and nonresidential development is defined as a building that:
  1. Is detached from the principal building, and
  2. Is clearly a supplementary use to the principal building, and
  3. Is not intended for human habitation.

Examples include storage buildings, residential greenhouses, detached garages, etc. Attached accessory buildings must comply with all setbacks and zoning regulations of the principal structure.

2. ACCESSORY STRUCTURES: A structure that does not provide shelter from the elements. Examples include swimming pools and pool screening and decking, barbecue pits, decks, etc. Not included in this definition and not regulated by this section are driveways, fences, walls, birdbaths, decorative ponds, and at grade patios.
3. DETACHED GARAGE/CARPORT/STRUCTURE: Any garage or structure that is not attached as defined in 19.04.010 shall be considered detached and an accessory building and shall be subject to the provisions of this section:

15.17. General Requirements:

1. A zoning clearance permit and a building permit is required for accessory buildings greater than one hundred twenty (120) square feet in industrial, commercial or neighborhood commercial zone; or two hundred (200) square feet in a residential zone. A permit may be required for accessory buildings under the size stated above if improvements of the structure require further review from Nibley City Building Inspector as stated in the adopted building code. Accessory building in excess of 15' in height must obtain a building permit.
2. All accessory buildings, regardless of size, shall comply with all the setback requirements found in NCC 19.22.010. Setbacks shall be measured from the roof footprint or outermost section of the building, including any roof overhangs, porches or other features of the building. In no case shall any portion of the building be located within 1 ft of an adjacent lot.
3. The total square footage of all accessory buildings shall not occupy more than twenty five percent (25%) of the rear yard.
4. Accessory buildings must be anchored to a concrete slab, or other methods approved by the building inspector.
5. Accessory buildings shall not be located in-built within the minimum front yard setback area of the principal building.
6. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.

16.18. Size Restrictions: In order to preserve the residential character, the following shall serve as size restrictions on accessory buildings located in residential zones in Nibley City. Height restrictions are governed by NCC 19.22.:

Lot Size	Maximum Square Footage
0 - 14,000 square feet	1,000
0.33 - 0.49 acre	1,200
0.5 - 0.74 acre	1,500
0.75 - 0.99 acre	3,000
1.0 - 1.99 acre	5,000
2.0 acres and above	No Limit

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17.19. Use Regulations: The following uses are prohibited in accessory buildings:

1. Living space, except for permitted Accessory Dwelling Units governed by Section 19.24.250.
2. Hazardous chemical storage.

18.20. Supplemental Regulations:

1. Carports: Detached or attached carports shall be located in either the side or rear yard. An attached carport is considered part of the building it is attached to and must comply with all setbacks and other zoning regulations applicable to the property that apply to the building the carport is attached to. Detached carports must comply with all setbacks and other zoning regulations for accessory buildings of the zoning district of the property. Accessory Structures: All accessory structures (i.e., structures that do not offer shelter from the weather such as barbecue pits, decks, swimming pools, residential doghouses, etc.) are required to comply with the location criteria and setback regulations as identified for accessory buildings.
2. Prohibited Accessory Buildings And Structures: The following accessory buildings and structures are prohibited in all zones:
  1. Tents (when used ~~over longer than~~ a 2 week period unless approved by the planning commission).
  2. Trailers and mobile homes (when used as an accessory building).

19.3. Nonconforming Uses: All other accessory buildings and structures not in compliance at the time of the adoption hereof are hereby vested or

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grandfathered and notwithstanding the nonconforming chapter of this title may be allowed to continue to exist.

### **19.24.250 Accessory Dwelling Unit Standards**

#### **A. Purpose**

1. ~~This chapter establishes approval criteria and outlines processing procedures for accessory dwelling units.~~

A.2. ~~The purpose of this chapter is to provide opportunities to develop affordable moderate-income housing by allowing accessory dwelling units in zoning districts specified in this title, to establish the conditions under which accessory dwelling units are regulated under this chapter, and to set forth criteria and standards to be required of accessory dwelling units when this chapter is applicable.~~

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**Commented [LR1]:** This purpose statement was inexplicitly removed by Ordinance 23-05. This is just reinstating the previous purpose statement.

#### **B. Accessory Dwelling Unit Approval Required**

1. All Accessory Dwelling Units shall comply with the standards and provisions of this title. Accessory dwelling units that existed prior to the adoption of this ordinance, that have not received formal approval, shall be considered illegal until approved in compliance with these provisions, and the City may deny any land use or building approval requested by an owner of property that has an illegal accessory dwelling unit.

#### **C. Application**

1. Persons shall make application for an accessory dwelling unit on forms prepared by Nibley City. No accessory dwelling unit application shall be processed without the submission of the application, all supporting materials as required by this chapter, and the processing fee. Incomplete applications shall not be processed under any circumstances.

2. Supporting Materials. The accessory dwelling unit application shall be submitted with the materials listed herein.

~~a. Notarized letter: a notarized letter of application shall be provided by the property owner stating that the property will be owner-occupied except for bona fide temporary absences~~

~~b.a. Floor Plan: A floor plan of the accessory dwelling unit shall be provided.~~

~~e.b. Parking Plans: A parking plan shall be submitted showing the location of dedicated off-street parking for the accessory dwelling unit and the primary residence.~~

~~d.c. Fire Extinguisher(s): Evidence of a fire extinguisher in the accessory dwelling unit shall be provided.~~

~~e.d. Fee: The processing fee as required by the consolidated fee schedule as approved by the City council shall be paid in full.~~

3. A building permit is required for all new or remodeled accessory dwelling units.

4. A certificate of occupancy is required prior to occupancy of any accessory dwelling unit to ensure compliance with fire, building and health codes.
5. Notification must be sent to abutting property owners with an opportunity to comment to Nibley City Staff within a period of fourteen (14) days from the date of notification.

D. Approval Criteria

1. Proposed accessory dwelling units in compliance with the following criteria to ensure the health and safety of occupants.
  - ~~2.—Owner Occupation. The property shall be owner occupied except for bona fide temporary absences.~~
  - ~~3.2.~~ Fire, building, and health codes. The design and size of the accessory dwelling unit shall conform to all applicable standards in the fire, building, and health codes. All necessary permits shall indicate the area to be designated for accessory dwelling unit use.
  - ~~4.3.~~ Separate addresses and mailboxes shall be placed on all accessory dwelling units regulated by this chapter as required for public safety purposes.
  - ~~5.4.~~ Parking: Off-street parking for two vehicles, shall be provided for use by the tenants of the accessory dwelling unit. This parking shall be provided in addition to the required parking for the primary dwelling unit and shall not obstruct access to the parking of the primary dwelling unit and shall be located behind the front plane of the primary dwelling. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.
  - ~~6.5.~~ One Accessory Dwelling Unit: Only one accessory dwelling unit shall be allowed for each single-family dwelling. Accessory dwelling units are not allowed on lots that contain a two-family dwelling.
  - ~~7.6.~~ No accessory dwelling unit shall be built on a registered wetland or flood plain.
  - ~~8.7.~~ The use of an accessory dwelling unit shall be limited to residential uses. With the exception of a home occupation, no commercial or industrial uses are permitted within an accessory dwelling unit.
  - ~~9.8.~~ Installation of separate water and sewer meters for accessory dwelling units shall be prohibited.
  - ~~10.9.~~ Accessory dwelling units shall be charged the base rate for water and sewer usage in accordance with the Nibley City Fee Schedule.
  - ~~11.10.~~ Impact Fees: Accessory dwelling units shall be subject to **50% of the impact fee of a multi-family dwelling units** as set forth in the latest associated Impact Fee Ordinance adjustment.
    - a. Owners may petition the City for a rebate of impact fees for accessory dwelling units which provide rent that is considered affordable, as described below. The maximum rebate amount shall be set at 33 1/3% annually of the total collected impact fee for a period of three (3) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided within 30 days of each

anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.

- 1) The unit's rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of three (3) years.

The rent limit shall be set using the following calculation: HUD annual 4-person 50% AMI Income Limit \* 0.3 (30 %) – \$150 (for utility expenses)

E. Size, Height and Zoning

1. Accessory dwelling units shall have the following requirements:
  - a. Shall have the minimum floor area of 300 sq. ft. and a maximum floor area of 1,200 sq. ft. ~~Garage, shop or other space not associated with the living area shall not be counted toward these limits.~~
  - b. Detached accessory dwelling units shall follow the sizing and setback requirements ~~for other accessory buildings~~ as listed in NCC 19.224. ~~For new one-story detached accessory dwelling unit structures, a minimum rear and side setback of 10 feet is required. For new two-story detached accessory dwelling unit structures, a minimum rear yard setback of 20 feet and side yard setback of 10 feet is required.~~
  - c. Detached accessory dwelling units shall not be permitted on lots smaller than 12,000 sq. ft.
  - d. The total square footage of all detached accessory dwelling units shall not occupy more than twenty five percent (25%) of the rear yard.
  - e. ~~Detached accessory dwelling units shall be limited to two stories and shall not exceed the height of the primary single-family dwelling.~~

F. Noncompliance

1. Owners of the property where the accessory dwelling unit use has been approved shall be responsible for their property's compliance with the city's ordinances and conditions of approval. Owners who fail to maintain or violate the city's ordinances regulating accessory dwelling unit use or conditions upon which approval was contingent may have the permit revoked. Notice of violation shall be given to the owner of the residence containing the accessory apartment use providing 14 days to correct a violation before the permit is revoked. Persons aggrieved by the revocation of their permit may use the appeal process to have their grievances heard.

**19.20.020 Land Use Chart**

**Nibley City Land Use Chart**

**Key**

<b>P:</b>	Permitted Use
<b>NP:</b>	Not Permitted Use
<b>C:</b>	Conditional use
<b>A:</b>	Agriculture Zone
<b>R-E:</b>	Rural Estate Zone
<b>R-1:</b>	Residential Zone R-1
<b>R-1A:</b>	Residential Zone R-1A
<b>R-2:</b>	Residential Zone R-2
<b>R-2A:</b>	Residential Zone R-2A
<b>R-M:</b>	Mixed Residential Zone
<b>P/S:</b>	Park/School
<b>C:</b>	Commercial Zone
<b>C-N:</b>	Neighborhood Commercial Zone
<b>I:</b>	Industrial Zone

Use	A	R-E	R-1	R-1A	R-2	R-2A	R-M	P/S	C	C-N	I
<b>Residential</b>											
Assisted Living Facility/Nursing Home	NP	NP	NP	NP	NP	NP	C	NP	C	C	NP

Artisan Shop	C	C	C	C	C	C	C	NP	C	C	C
Bed and Breakfast Inn	C	C	C	C	C	C	C	NP	C	C	NP
Group Living Facility <sup>1</sup>	C	C	C	C	C	C	C	NP	C	C	NP
Home Occupation	C	C	C	C	C	C	C	NP	NP	NP	NP
Housing, Short-Term Rental <sup>4</sup>	P	P	P	P	P	P	P	NP	P	P	NP
Housing, Single-Family	P	P	P	P	P	P	P	NP	C <sup>56</sup>	C <sup>56</sup>	NP
Housing, Multi-Family	NP	NP	NP	NP	NP	NP	P	NP	C <sup>56</sup>	C <sup>56</sup>	NP
Housing, Two-Family <sup>5</sup>	P	P	P	P	P	P	P	NP	C <sup>56</sup>	C <sup>56</sup>	NP
Temporary Office/Model Home	P	P	P	P	P	P	P	NP	C	C	C
Accessory Dwelling Unit <sup>3</sup>	P	P	P	P	P	P	P	NP	P	P	NP
<b>Use</b>	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-1A</b>	<b>R-2</b>	<b>R-2A</b>	<b>R-M</b>	<b>P/S</b>	<b>C</b>	<b>C-N</b>	<b>I</b>
<b>Agricultural/Animal</b>											
Ag Implement Sales and Service	C	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Agricultural Production	P	P	P	P	P	P	P	P	C	C	C
Animal Crematorium	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Arboretum/Nature Center	C	C	C	C	C	C	C	C	C	C	C
Farmers' Market	C	C	C	C	NP	NP	C	C	C	C	C
Floral Shop	C	C	C	C	NP	NP	P	NP	P	P	P



Use	A	R-E	R-1	R-1A	R-2	R-2A	R-M	P/S	C	C-N	I
<b>Commercial</b>											
Auditorium	NP	NP	NP	NP	NP	NP	C	P	C	C	C
Bail Bonds/Pawnbroker	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Bakery	NP	NP	NP	NP	NP	NP	P	NP	P	P	P
Banks/Financial Institutions	NP	NP	NP	NP	NP	NP	P	NP	P	P	P
Beauty Salon/Spa	NP	NP	NP	NP	NP	NP	C	NP	P	P	P
Business Equipment Sales and Service	NP	NP	NP	NP	NP	NP	C	NP	C	C	C
Car Wash	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P
Catering/Commercial Kitchen	C	C	C	C	C	C	C	NP	C	C	C
Check Cashing/Credit Services	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Construction Sales and Service	C	NP	NP	NP	NP	NP	NP	NP	C	C	C
Daycare/Preschool, Commercial	NP	NP	NP	NP	NP	NP	P	P	P	P	P
Funeral Home	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P
Gasoline Service Station	NP	NP	NP	NP	NP	NP	C	NP	P	P	P
Gasoline, Wholesale	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Hotel/Motel	NP	NP	NP	NP	NP	NP	C	NP	C	C	C
Laundry Service	NP	NP	NP	NP	NP	NP	C	NP	C	C	C
Liquor Store	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C





Transportation Services	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C
<b>Use</b>	<b>A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-1A</b>	<b>R-2</b>	<b>R-2A</b>	<b>R-M</b>	<b>P/S</b>	<b>C</b>	<b>C-N</b>	<b>I</b>
<b>Industrial</b>											
Junk/Salvage Yard	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Manufacturing, Heavy	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Manufacturing, Industrial	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Manufacturing, Light	NP	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Mineral Extraction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Pest Control	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Recycling Collection Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sign Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sports Facilities	NP	NP	NP	NP	NP	NP	C	C	C	NP	C
Storage Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing, Residential Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Welding/Machine Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C

**Notes**

1. Group living facilities are governed by NCC 19.42
2. Any land use not listed is not permitted
3. Accessory dwelling units are governed by NCC 19.24.250

4. Short-term rental housing is governed by NCC 19.24.260

~~5. For Two-family housing, one of the units shall be owner-occupied, except for bona fide temporary absences~~

56. Housing is only allowed within the Town Center Area as described in NCC 19.32.030(B), in Neighborhood Commercial and Commercial areas within a mixed-use residential/commercial project, as described in NCC 19.20.030.