



NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, July 11, 2019 – 6:30 p.m.
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Larsen)
2. Call to Order and Roll Call (Chair)
3. Approval of Minutes and Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Department Report: Recreation
6. Public Hearing to receive comment regarding Ordinance 19-06: Amendments to Nibley City Code, Title 21: Subdivision Regulations—Substantive Policy Changes
7. Discussion and Consideration of Ordinance 19-06: Amendments to Nibley City Code, Title 21: Subdivision Regulations—Substantive Policy Changes (Third Reading)
8. Discussion and Consideration of Ordinance 19-11: Establishing Rules and Regulations Governing the Use of Parks, Trails and Outdoor Recreational Facilities (Second Reading)
9. Council and Staff Reports

In compliance with the Americans With Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (435) 752-0431.

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.



**Nibley City Council
Agenda Report for
July 11, 2019**

Agenda Item #5

Description	Department Report
Department	Recreation
Presenter	Chad Wright, Recreation Director
Recommendation	Receive the report and provide feedback.
Reviewed By	City Manager, Recreation Director

Background

The Recreation Department will provide an update on Heritage Days and other recreation happenings.

Agenda Item #6 & 7

Description	A Public Hearing to receive comment regarding Ordinance 19-06: Amendments to Nibley City Code, Title 21: Subdivision Regulations--Substantive Policy Changes and Discussion and Consideration of Ordinance 19-06: Amendments to Nibley City Code, Title 21: Subdivision Regulations--Substantive Policy Changes (Third Reading)
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve Ordinance 19-05: Amendments to Nibley City Code, Title 21: Subdivision Regulations--Substantive Policy Changes.
Reviewed By	Mayor, City Manager, City Planner, City Attorney, Nibley City Planning Commission

Background

The City Council recommended that the proposed changes to the Subdivision Ordinance be broken into two different ordinances, one to cover minor but important changes in wording and general clean up of the ordinance, and the other to cover major policy changes. The City Council approved the first set of changes on June 13, 2019. This second ordinance covers the recommended policy changes.

Process for Approval

The proposed ordinance changes the approval process for standard subdivisions.

Section 21. 06.060

Land Use Authority shows these changes by assigning different types of subdivisions different approval authority. The Approval Authority would be as follows:

A. *The Land Use Authority shall be established according to the table below for Preliminary Plats, Final Plats, and Development Agreements.*

<i>Subdivision Type</i>	<i>Approval Authority</i>	<i>Public Hearing Required</i>
<i>Standard Subdivision</i>	<i>Planning Commission</i>	<i>No</i>
<i>Minor Subdivision</i>	<i>Planning Commission</i>	<i>No</i>
<i>Rural Preservation Subdivision</i>	<i>City Council</i>	<i>Yes</i>
<i>Cluster</i>	<i>City Council</i>	<i>Yes</i>
<i>PUDs and Subdivisions in Overlay Zones</i>	<i>City Council</i>	<i>Yes</i>

This table outlines who would have the ability to approve a subdivision and what subdivision would require a public hearing. Below is more detail about the proposed approval process.

Phasing: 21.02.080

The proposed ordinance contains changes in how developments can be phased. It extends the phasing deadline from one year to five. The reasons are to allow a large development to be able to effectively phase a project, which will hopefully eliminate most remainder parcels and allow large tracts of land to be developed by one developer.

Public Notice: 21.06.050

This section outlines the process for public notices and public hearings for subdivisions. All subdivisions, even if they are not required to hold a public hearing, must still give notice to adjacent property owners to allow them to submit any findings to Nibley City and also to allow for transparency. This section also outlines that public hearings are for preliminary plats only.

Groundwater Report: 21.06.080

The Groundwater Report requirement has been altered to allow a developer to not do a groundwater report if they state on the plat that, “no finished floor shall be built at an elevation lower than six inches (6”) above finished curb or centerline of the street, whichever is higher, unless an individual lot owner is able to provide a stamped report meeting the qualifications as

listed within NCC 21.06.070 (B) for their lot. This report must be reviewed and approved by the City Engineer.”

Amendment to a Plat: 21.08.030

The proposed ordinance now references state code and says that ,if a developer wants to amend a plat, the process must follow the one laid out in state code.

Streets: 21.12.050

Nibley City recently updated its Transportation Master Plan and Design Standards. The Master Plan updated several street cross-sections with several updates and suggestions. Sections C (3-6) are in the current code but have been moved from another section.

Blocks, Connectivity, and Trail Standards: 21.12.060

There have been several major changes and additions within this section of code. The first change is to provide a definition of Block Length and limiting blocks to 1,600 ft. This is aimed at providing breaks in the streets and to increase connectivity throughout neighborhoods.

The Cul-de-sac standards have also been moved into this section. This section requires a trail to leave the cul-de-sac and to link to the nearest ROW. The trail pavement has increased to the width of 8’, instead of 5’ to comply with our Trails Master Plan and states that fencing is required to be installed next to the trail by the developer.

The next big change within this section of code is the requirement of access roads. This code change highlights the need for the developer to provide two functioning accesses to a development with 30 or more units. The code also clarifies what an access road outside of the development should look like. An access road outside of development must be a minimum of 22’ wide asphalt with a 5’ sidewalk. These roads should be built to meet design standards of the future full road and have sufficient stormwater capacity.

The new proposed code also addresses Traffic Calming measures that are suggested in the Transportation Master Plan. In developments that contain arterial or collector roadways, a developer must provide some form of traffic calming at each entrance and exit of the development.

The last major change in this section is Trails, Bicycles, and Pedestrian Connectivity standards. The City currently does not have any trail standards listed within Nibley City’s code, except for those that must leave the back of a cul-de-sac. This states that trails must be added to all subdivision developments according to our Trail Master Plan and Transportation Master Plan. It also requires that there be a trail at an interval of every 660 ft for blocks longer than 660 ft.

Street Trees 21.12.170

One item staff would recommend that has not been added to the ordinance to this point is different language for street trees. Currently, our street trees are governed by NCC 13.12.020 as follows:



13.12.020 Plantings

Street tree plantings must conform in species and location with the Nibley City tree care plan. No species other than those included in the tree care plan may be planted as street trees or park trees without the written permission of the Nibley City tree board.

A. In the case of new residential, commercial or industrial development (of any size or type), the developer shall be responsible for new street tree planting. The developer must purchase and plant in the public right of way, trees no smaller than one and one-half inch (1 1/2") caliper. As part of the subdivision approval, developers shall be required to submit a plan for street trees in their subdivision.

B. A variety of tree species, of similar shape and mature height, is required of all tree planting plans submitted to the city, with a minimum of one tree per fifty feet (50').

One of the biggest concerns that the City and the developers have with this ordinance is the fact that developers have no way to maintain the trees until after the homes are built. By this point, some developers are no longer involved with the process. Staff had the idea to incorporate the street tree process into the subdivision ordinance and allow a developer to pay the City for the trees. This would allow the City to order and plant the trees as homes are finished. Staff has added section 21.12.170 Street Trees and the ordinance cover sheet repeals NCC 13.12.020 (A-B).

Other Recommendations

Staff is considering and reviewing a potential change that would require a developer to install fencing on back and external property lines of lots within development along roadways. Staff will give a full report on any recommendations at City Council.

ORDINANCE 19-06

**AMENDMENTS TO NIBLEY CITY CODE, TITLE 21: SUBDIVISION REGULATIONS--
SUBSTANTIVE POLICY CHANGES**

WHEREAS, State law gives Nibley City authority to create regulations and ordinances governing subdivision of land within the City's boundaries; and

WHEREAS, Nibley City has subdivision regulations and desires to update them; and

WHEREAS, Nibley City wants to provide higher standards for connectivity, trails, and infrastructure design; and

WHEREAS, Nibley City wants to simplify the process while still allowing public notice and proper review.

NOW, THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL OF NIBLEY, UTAH THAT:

1. The attached changes to Title 21: Subdivision Regulations be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. NCC 13.12.020 Plantings (A-B) shall be repealed. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2019.

ATTEST:

David Zook, City Recorder

Shaun Dustin, Mayor

21 Subdivision Regulations

21.02 General Provisions

21.02.010 Purposes

The purposes of this title are:

- A) To promote the health, safety and general welfare of the residents of the City.
- B) To promote the efficient and orderly growth of the City.
- C) The Nibley City Council adopts this title pursuant to the Utah Municipal Land Use, Development and Management Act, Utah Code 10-9a, 1953, as amended, for the purposes set forth therein. Maps referenced herein are a part hereof. The intent of this title is to provide a means of ensuring predictability and consistency in the use of land and individual properties and to implement the goals and policies of the Nibley City General Plan.
- D) To provide standards for the physical development of subdivisions of land, construction of buildings and improvements within the City, including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water, stormwater and sewer systems, design standards for public facilities and utilities, accesses to public rights of way, dedication of land and streets, granting easements or rights of way and to establish fees and other charges for the authorizing of a subdivision.

21.02.020 Violation

- A. No person shall subdivide any tract or parcel of land located wholly or in part in the City, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
- B. Whoever shall violate any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in NCC 1.08.010.
- C. Any parcel of land created, purchased, sold or exchanged in violation of this title shall not be eligible for building permit or other development approval until full compliance with the provisions of this title is achieved.
- D. Any person or corporation that allows to continue any violation of any provision of this title shall be guilty of a misdemeanor for each and every day the violation continues, and each day shall be a separate violation.
- E. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or the issuance of a building permit.
- F. Any owner or agent of the owner of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded in the office of the Cache County Recorder, consistent with

the requirements of this title, and applicable state and federal requirements, is guilty of a violation of this title, and of Utah Code § 10-9a, for each lot or parcel transferred or sold.

- G. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, Nibley City land use ordinances, or the laws of the State of Utah.

21.02.030 Permits

- A) The building inspector shall not grant a permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a subdivision plat therefore has been recorded or approved as herein required. Any license or permit issued in conflict with such provisions shall be void. Approved development plans shall be filed with the Planning Commission and City Recorder.

21.02.040 General Requirements

- A) The subdivider shall prepare all plats consistent with the standards contained herein and the Nibley City Design Standards and Specifications and shall pay for the design and inspection of the public improvements required. The City shall process said plats in accordance with the regulations set forth herein.
- B) All improvements shall be constructed in accordance with the International Building Code, the Nibley City Design Standards and Specifications and other applicable federal, state and local regulations.
- C) The City shall review the plats for design, for conformity to the Nibley City General Plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.
- D) Proposed subdivisions shall be referred by the City to such City departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The City is responsible for coordinating the comments received from all public and private entities and shall decide which agencies to refer the proposed subdivision.
- E) The City engineer shall make comments as to engineering requirements for plans submitted for construction, including, but not limited to, street widths, grades, alignments and flood control, whether the proposed public improvements are consistent with this title and other applicable ordinances and for the inspection and approval of all construction of public improvements. Street layout and overall circulation shall be coordinated with the Nibley City Transportation Master Plan.
- F) The Planning Commission shall act as an advisory agency to the City Council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the Nibley City General Plan and land use ordinances, and other

pertinent documents. The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary and final plats to the City Council.

- G) The City, in conjunction with the City engineer and City attorney, shall approve the form of the final plat, that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report.
- H) The Nibley City Council has final jurisdiction in the approval of subdivision plats unless otherwise designated within this title; the establishment of requirements for the Nibley City Design Standards and Specifications; and the acceptance of lands and public improvements that may be proposed for dedication.
 - 1) The amendment and alteration of the Nibley City Design Standards and Specifications may, by resolution, be delegated to the Public Works Director and the City Engineer.

21.02.050 Site Preparation And Work Prohibited

- A) No excavation, grading, regrading or removal of vegetation for a proposed subdivision shall take place and no building permits shall be issued until a proposed subdivision has received approval from the Nibley City Council and a Notice to Proceed has been issued.

21.02.060 Complete Submittal Required

- A) No application for a subdivision shall be reviewed by the City Planning Commission or City Council or be entitled to substantive review and approval until the applicant has submitted all documents required by this Chapter. The City shall inform applicants of the information needed to provide a complete application. Once a complete application has been received, the application shall be reviewed/approved as outlined in this Chapter.

21.02.070 Effect Of Approval

- A) Any approval granted under this title, whether it be for a preliminary plat or for a final plat for all or part of a subdivision shall be effective for a period of one year from the date of approval by the Approval Authority. If the applicant has not recorded the final plat or, in the case of the preliminary plat, presented a final plat for a phase of the subdivision for approval, within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.

21.02.80 Phasing

- A) When developing a large tract of land, subdividers may choose to construct the subdivision in phases rather than develop the entire property at once. A subdivider must submit a preliminary plat that contains the complete development, proposed phasing and complies with all preliminary plat requirements. Subdividers opting to phase the subdivision shall have five years from the date of preliminary approval to present each phase of the subdivision for final approval. The final plat for each phase must conform with the approved preliminary plat for density and connectivity. Any phase that does not

meet the five-year application deadline will be required to regain preliminary approval. The subdivider must apply for final approval for the first phase within one year; if not, the preliminary approval for the development shall be expired.

- B) Phasing shall be done in a manner that maximizes connectivity between phases of the subdivision and shall be presented as part of the preliminary plat approval. Specific attention shall be paid to ensure that the roads in each phase connect to the roads in earlier phases.
- C) Developers may choose to construct infrastructure improvements within the proposed subdivision, which may include, but are not limited to: utilities, parks, open space, stormwater facilities, trails, etc. When such improvements are approved as part of the subdivision approval, they shall be phased in proportion, based on percentage of the total value of the amenities in the subdivision, to the total number of lots in the subdivision, per phase. Example: If a phase contains 25% of the lots for the subdivision, then 25% of the total value of the subdivision's amenities are required to be constructed along with that phase.
- D) Choosing to phase the subdivision does not relieve developers of the requirement to present the entire subdivision, in its phases, for final approval by the City within five years of receiving approval of the preliminary plat by the City, as outlined in NCC 21.06.080.
- E) Each phase must comply with Nibley City access and connectivity standards as listed within this title.

21.02.090 Fees

- A) Subdividers shall pay non-refundable filing fees for each of the preliminary plat(s), final plat(s) and plat amendments to cover costs including, but not limited to, staff review, legal review and engineering review. Fees shall be paid prior to the subdivision receiving either preliminary or final plat approval.

21.02.100 Appeal

- A) Any person adversely affected by an action or decision of the Planning Commission or City Council interpreting or applying Utah Code or Nibley City Code in the review, denial, or approval of a land use application may appeal by following the procedures for appeal outlined in NCC 19.06 "Appeals".
- B) An applicant who wishes to challenge the completeness or timeliness of an application shall follow the procedures set forth in Utah Code § 10-9a-509.5.

21.02.110 Enforcement

- A) The Planning Commission, the City engineer and such other departments and agencies of the City as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this title and shall enter such actions in court as are necessary. Failure of such departments to pursue appropriate legal

remedies shall not legalize any violation of such provisions or waive the City's right to pursue such remedies in the future.

21.02.120 Inspection

- A) Appropriate agencies and departments of the City shall inspect or cause to be inspected all public improvements in the course of construction, installation or repair as required in this title. Excavations for any publicly owned infrastructure shall not be covered or backfilled until such installation shall have been approved by the Public Works Director. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector, and at the responsible person's cost and expense.

21.02.130 Prohibition on Subdivision

- A) It is unlawful for any person to subdivide any tract or parcel of land located wholly or in part in the Nibley City limits, and no application for any subdivision for any tract or parcel of land may be approved, if any of the following apply;
 - 1) The applicant or subdivider is a member of the City Council;
 - 2) The applicant or subdivider is a spouse of a City Council member;
 - 3) A member of the City Council owns an interest of any kind in the applicant or subdivider;
- B) As set forth in NCC 1.10.030, the Mayor is a member of the City Council for the purpose of this Section.
- C) A violation of this section is a Class B Misdemeanor.

21.04 Definitions

21.04.010 Definitions

- A) For purposes specific to this title, all terms shall have the same definition as provided by Utah Code § 10-9a-103, 1953, as amended and also in NCC 19.04, except as such definitions are modified herein.
- B) "Appeal Authority" as used in Utah Code § 10-9a-103 means that body or person designated by NCC 19.06 "Appeals".
- C) "Land Use Authority" as used in Utah Code § 10-9a-103 means that body or person designated as the Approval Authority by Nibley Code 21.06.060 Land Use Authority.
- D) "Nibley City Design Standards and Specifications" means those technical standards, specifications, measurements, and requirements adopted by the City Council or its designee that govern the design and construction of public and private infrastructure and facilities.

21.06 Approval Process

21.06.010 Compliance Required

- A) Before dividing any tract of land into a "subdivision" as defined in NCC 21.04, a subdivider shall follow the procedures specifically provided for that type of development or zoning under Nibley City Code. If no more specific procedures are provided, a subdivider shall follow the procedures outlined in this chapter, except as may be provided for in Utah Code § 10-9a-605, 1953, as amended.

21.06.020 Standards and Lot Size

- A) All subdivisions must meet the minimum lot and development standards as outlined in each zone of the Nibley City land use ordinance and within this Title.

21.06.030 Concept Plan Review and Development Review Committee

- A) Prior to submitting a preliminary plat, a subdivider shall submit a written "concept plan" to the Development Committee. The concept plan shall include a sketch plan of the proposed subdivision in which the proposed subdivision is sufficiently described to enable the Development Committee to determine whether the proposed subdivision complies with zoning title, master plans, street plans and services. The Development Committee shall advise the subdivider of possible problems with the proposed subdivision within thirty (30) days after it receives the concept plan. Development Committee advise on the concept plan shall not constitute preliminary or final approval of a particular subdivision plan or of the preliminary plat.
- B) The Development Committee shall be composing of the City Engineer, the Public Works Director, the City Planner who shall chair the committee and other members as appointed by the City Council.
- C) The Development Committee does not have authority for approval of applications but is a review body established to help subdivision application comply with Nibley City Master Plans, Code, and Design Standards and Specifications.

21.06.040 Submission of Preliminary Plat

- A) The subdivider shall submit three (3) paper copies and one (1) electronic copy, in a format that is readable, of the proposed preliminary plat to the Planning Commission at least fourteen (14) days prior to the date of the Planning Commission meeting at which the preliminary subdivision plan is to be reviewed. The Planning Commission shall circulate

copies of the proposed preliminary plat to all affected departments and to any districts which may be providing special services for comment and review.

B) The preliminary plat shall conform to the development standards outlined in NCC 21.08.010.
21.06.50 Public Notice and Hearing Required

- A) Subdivider shall post a sign on the property for the purpose of notifying the public of the proposed subdivision. The sign shall meet the following standards:
- 1) The sign shall be posted on the property in a location visible and within 10' of an adjacent right-of-way.
 - 2) The sign(s) shall consist of four foot by four-foot (4' x 4') plywood or other hard surface and the bottom of the sign shall be at least three feet (3') above the ground.
 - (a) Centered at the top of the four foot by four-foot (4' x 4') signboard(s) in six inch (6") letters shall be the words "City Of Nibley Public Notice". In addition, each sign will inform the public of the nature of the notice, the date, time and address of the location, a summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and, if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black.

City of Nibley Public Notice
Preliminary Subdivision Plat For This Property
(Date and time)
(Meeting Address)
(City Hall Phone Number)
(Applicant Name)

- B) Notice of the proposed subdivision shall be mailed to all property owners within three hundred feet (300') in any direction of the property at issue at least ten (10) days prior to the meeting. The letter shall state the phone number of Nibley City Hall.
- C) If a public hearing is required, notice of the public hearing shall be added onto the sign and included with letters sent to property owners within 300 ft. Other public hearing notices shall be followed as outlined in NCC 19.02.120

21.06.060 Land Use Authority

- A) The Land Use Authority shall be established according to the table below for Preliminary Plats, Final Plats, and Development Agreements.

Subdivision Type	Approval Authority	Public Hearing Required
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Standard Subdivision	Planning Commission	No
Minor Subdivision	Planning Commission	No
Rural Preservation Subdivision	City Council	Yes
Cluster	City Council	Yes
R-PUDs and other Overlay Zones Developments	City Council	Yes

- B) The Approval Authority shall have approval authority of the Preliminary Plat, Final Plat, and Development Agreement as required in Nibley City Code.
- 1) The City Council shall approve any development agreement and Final Plat if said development agreement would obligate the City to build infrastructure over \$25,000.
 - 2) If the City Council is the Approval Authority, they shall not approve, approve with conditions, or deny a Preliminary or Final Plat until they receive a recommendation from the Planning Commission.
- C) Construction Drawing, Engineering Reports and Design Compliance shall be approved by the Nibley City Engineer, who shall consult with the City Planning Department and Public Works Departments before approval.
- D) Subdivisions shall follow the established processed within the section of Nibley City Code that outlines the requirements and process for that type of development.

21.06.070 Authorization to Proceed

- A) Upon approval of the preliminary plat, copies of the approved preliminary plat with written conditions attached shall be delivered to the City Planner and to the subdivider. Receipt of same shall be authorization for the subdivider to proceed with the preparation of the final plat and plans and specifications for the improvements required in the final plat.
- B) Prior to the construction of any improvements required by this title, the subdivider shall provide the City engineer with all plans, information and data necessary to install and construct the improvements. This information shall be examined by the City Engineer and shall be approved if the City Engineer determines them to be in accordance with the requirements of City ordinances and standards.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.080 Final Plat Approval

- A) Within one year of receiving approval of the preliminary plat by the City, developers shall present the entire subdivision or first phase or phases for final approval by the specified Land Use Authority.
- B) The application for final approval shall consist of the following:

- 1) Final plats for the entire subdivision or for the proposed phases, prepared according to this ordinance and to the Nibley City Design Standards and Specifications;
 - 2) A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.
 - i) No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.
 - ii) The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt. font) on the recorded mylar
 - iii) The report shall be attached to the Development Agreement.
 - iv) An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finish curb or center line of the street, whichever is higher unless an individual lot owner is able to provide a stamped report meeting the qualification as listed within this section for their lot. This report must be reviewed and approved by the City Engineer
 - 3) Construction drawings for the subdivision, prepared by licensed professionals according to this ordinance and to the Nibley City Design Standards and Specifications;
 - 4) Three (3) hard copies of the final plats and construction drawings and one (1) electronic copy of the same; and
 - 5) A draft Development Agreement, prepared by Nibley City, outlining the roles and responsibilities of both the subdivider and Nibley City. The Development Agreement shall be approved by the City as part of the final approval.
- C) Upon a subdividers failure to receive approval within that one-year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the Applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.
- D) Developers are not required to record all phases of the subdivision, once final approval has been given. They are required only to receive final approval for the entire subdivision and then they may construct the subdivision in phases.
- E) Final approval shall be valid for three (3) years. If a subdivision, or phase thereof, has not been constructed within three (3) years of the date of final approval by the City Council, the Public Works Director shall suspend the Notice to Proceed and the developer shall be required to resubmit the final plats and construction drawings for review and compliance with City standards and specifications in effect at that time.
- F) At the time final approval is requested, the City and the developer shall enter into a development agreement outlining the roles and responsibilities of each respective to the development. Regardless of how the developer chooses to phase the subdivision, the development agreement shall encompass the entirety of the project and shall be recorded with the first recorded phase of the subdivision.

21.08 Standards of Approval

21.08.010 Preliminary Plat

- A) As part of the submittal of the preliminary plat, subdividers shall provide Nibley City with the following information:
- 1) A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.
- B) Description: The preliminary plat shall be drawn to a scale not smaller than one hundred feet to the inch (1" = 100') on standard twenty-four inch by thirty six inch (24" x 36") paper and shall include the following information in the title block:
- 1) The proposed name of the subdivision.
 - 2) The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
 - 3) A legal description of the property.
 - 4) The names and addresses of the owner, subdivider if other than owner, and the engineer or surveyor of the subdivision.
 - 5) Date of preparation.
 - 6) Scale.
- C) Existing Conditions: The plat shall show:
- 1) The location of the nearest benchmark and property monuments.
 - 2) All property contiguous to the proposed subdivision under the control of the subdivider, even if only a portion is being subdivided.
 - 3) The location, width and names of all existing streets, railroads, open spaces, sewers, water mains, culverts or other utility lines and rights-of-way, and permanent buildings and structures located within the tract and within three hundred feet (300') of the outermost boundary of the subdivision.
 - 4) The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract.
 - 5) Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.
 - 6) Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
 - i) Except as outlined in NCC 21.10.040, prior to approval of the preliminary plat, the subdivider shall provide the City with signed documentation that any affected canal company has had the chance to review plans related to the alteration of affected canals, and further, that the canal company understands they have thirty (30) days from the date of notification to bring any concerns to the City.
 - 7) Identification of known natural features including, but not limited to, wetlands as identified by the US Army Corps of Engineers, areas which would be covered in the event of a 100-year storm event, all water bodies, floodways and drainageways, slopes exceeding twenty percent (20%) and any other natural features as may be required by the Planning Commission or City Council for the subdivision, including the acreage in each required feature.
 - 8) Boundary lines of adjacent tracts of land, showing ownership where possible.
 - 9) Contour map at vertical intervals of not more than five feet (5') where the slope is greater than ten percent (10%) and not more than two feet (2') where the slope is less than ten percent (10%).

- 10) A plan outlining how the subdivider intends to phase construction of the project, if phasing is intended.
- D) Proposed Development: In addition to the above-listed items, the preliminary plat shall show:
- 1) The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.
 - 2) The layout, numbers and typical dimensions of lots.
 - 3) Open space intended to be dedicated for public use or set aside for the private use of property owners in the subdivision.
 - 4) Building setback lines, including dimensions of said lines.
 - 5) Easements, including dimensions, for water, sewer, drainage, utility lines and other purposes as required by the Planning Commission or by City law.
 - 6) A tentative plan or method for the subdivision's groundwater, fire hydrant, sewer and stormwater drainage facilities.
 - 7) Where the plan submitted covers only part of the subdivider's tract, the preliminary plat shall include a sketch of the prospective future street system which shall be considered in light of the future street system of the larger area.
- E) Approval of Preliminary Plat:
- 1) Conditions of Approval: The Approval Authority shall approve only those preliminary plats that satisfy the standards and criteria specified in this title, Zoning Title 19 of the Nibley City Code and all other applicable City ordinances.
 - 2)
 - 3) Environmental Impact Analysis: The Planning Commission shall determine from the preliminary plat the possible need for environmental impact analysis.
 - 4) Approval or Disapproval By the Approval Authority: The Approval Authority shall, approve the preliminary subdivision plan if it finds that the subdivision complies with City ordinances. The Approval Authority may conditionally approve a preliminary subdivision plat imposing such conditions as required in order to bring the subdivision plat into compliance with the requirements of City ordinances. In the event the Approval Authority disapproves the preliminary plat, they shall state in writing each reason for the disapproval.

21.08.020 Final Plat

- A) Description: The final plat shall be drawn to scale on standard twenty-four inch by thirty-six inch (24"x36") paper and shall include the following information:
- 1) The proposed name of the subdivision.
 - 2) The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
 - 3) A legal description of the property.
 - 4) The names and addresses of the owner, subdivider, if other than owner, and the engineer or surveyor of the subdivision.
 - 5) Date of preparation.
 - 6) Scale
 - 7) The base heading of true north.
- B) The plat shall contain the following information:

- 1) Accurate dimensions for each lot, street, alley, easement, areas to be dedicated as open space and other important features. Dimensions shall be shown in feet and hundredths. Lot sizes shall be expressed in acreage.
- 2) The street address for each lot. Lots on the north and west sides of the street shall have odd numbers. Lots on the south and east sides of the street shall have even numbers.
- 3) A description and delineation of other angles, distances, points, monuments, markers, boundaries and other geometries as described in the Nibley City Design Standards and Specifications.
- 4) Standard signature forms, the wording of which is found in the Nibley City Design Standards and Specifications, for the following:
 - i) Registered land surveyor's certificate of survey, as applicable under Utah law;
 - ii) Owner's signature of dedication;
 - iii) Notary public acknowledgement;
 - iv) City engineer's certificate of approval;
 - v) Utility companies' approval;
 - vi) Planning Commission approval;
 - vii) City approval, signed by the Mayor and City Recorder if City Council is required to approve the plat;
 - viii) City attorney approval;
 - ix) A block for use by the County Recorder containing the required recording information.
 - (a)
 - x) The following note regarding groundwater:
 - (a) Areas in Nibley have groundwater problems due to the varying depth of a water table. The City's approval of a final plat, building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building site, remain solely with the building permit application, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which may occur, nor for such concerns including, but not limited to, building location and/or elevation, site grading and drainage.
- C) Additionally, construction plans shall be submitted with the final plat. These plans shall detail the size, design, type and location of all infrastructure improvements proposed for construction as part of the phase, including, but not limited to, streets, sidewalks, curbs, utility pipes and other infrastructure. Construction plans shall be prepared in accordance with the Nibley City Design Standards and Specifications.

21.08.030 Lot Line Adjustments and Amendments to a Subdivision Plat

- A) An agreement to adjust lot lines between adjoining properties, whether in a subdivision or on unsubdivided parcels of land, may be executed by the owners of record of said properties and recorded upon execution, if the following conditions are met:
 - 1) No new lot results from the lot line adjustment.
 - 2) No previously existing lot is eliminated as a result of the adjustment.

- 3) If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and NCC 19.
 - 4) No lot is made undevelopable without a variance or other special consideration.
 - 5) All property owners directly affected by the lot line adjustment give their consent.
 - 6) The lot line adjustment does not result in a remnant piece of land that did not exist previously.
 - 7) The lot line adjustment does not result in the violation of any applicable zoning ordinance.
 - 8) The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.
 - 9) Provided the above conditions are met, no municipal land use authority approval is required.
- B) An amendment to a subdivision plat shall follow the process and standards within Utah State Code 10-9a-6 as amended, and any applicable Nibley City ordinances.

21.08.040 Minor Subdivision Process

- A) Purpose: In an effort to reduce the expense of developing relatively small residential subdivisions that meet certain conditions, residential subdivisions of five (5) lots or less may be considered and approved under this section. A subdivision approved under this section shall be known as a "Minor Subdivision." Minor subdivisions, when approved, are exempt from platting requirements for preliminary and/or final plats and may also be exempt from the requirements for some engineering reports and construction drawings as determined by the Nibley City Engineer and as provided in this section.
- B) Minor Subdivision Requirements: To be considered for approval as a Minor Subdivision, the proposed subdivision must meet all the following requirements:
- 1) Notice is provided as required by ordinance;
 - 2) The proposed parcel is not traversed by the mapped lines of a proposed street or trail as shown in the General Plan, Master Transportation Plan, and/or Trail Master Plan;
 - 3) The proposed subdivision does not require the dedication of any land for street or other public purposes;
 - 4) The proposed subdivision has been approved by the culinary water authority and the sanitary sewer authority;
 - 5) The proposed subdivision is located in a residential zoned area;
 - 6) The proposed subdivision conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance;
 - 7) The proposed subdivision contains five (5) lots or less total;
 - 8) The parcel being divided has not had other lots separated from it within the past five years, provided that if another lot or lots have been separated from the parcel that is the subject of the request for Minor Subdivision within the past five years, then the previously separated lots and the subject parcel will all be counted towards the five (5) lot limit for the purposes of the application for a Minor Subdivision under this section;
 - 9) The proposed subdivision does not require or contemplate the creation or dedication of open space land for the purpose of receiving higher density and/or smaller lot size; and

- 10) The proposed subdivision complies with all other applicable requirements under Nibley City Code for a subdivision, including zoning, infrastructure improvements and bonding thereof, providing for drainage needs, providing required utility easements, and protecting sensitive land issues, etc.
- C) Minor Residential Subdivision Application Procedure: The application procedure for a minor subdivision shall be as follows:
- 1) Pre-Application Meeting- The applicant must meet with Nibley City Staff to determine if the proposed subdivision meets the requirements of a Minor Subdivision. The staff shall provide a copy or access of this section of Nibley City code and inform the applicant of their options. The staff shall review with the applicant any requirements for construction drawings that may be needed and required for approval.
 - 2) Minor Subdivision Plat- Minor Subdivisions shall be exempt from preliminary plat application and shall file a final plat in compliance with all NCC 21 and standards on the plat as unless noted in this section and the applicant may only submit a final Minor Subdivision plat after a Pre-Application Meeting with Nibley City staff and a determination from City staff that the proposed subdivision meets the requirements for a Minor Subdivision. Nibley City staff shall write and proposed a development agreement to be considered with the minor subdivision application.
 - 3) The Planning Commission shall act as the land use authority for a Minor Subdivision and shall grant or deny an application for a Minor Subdivision within 60 days of its receipt of a complete application. The Planning Commission shall approve an application for a Minor Subdivision if the plat and development agreement meet all of Nibley City's ordinances as listed in NCC 19 and NCC 21, Public Work's design standards, general plan, master plans and all requirements for a final plat.
- D) Recording of the final plat: Final approval shall be valid for three (3) years. If an applicant fails to record the final plat within that time, the approval of the plat is void.
- E) Notice to proceed and process after final approval: All Minor Subdivisions shall follow the Nibley City subdivision code and process as outlined after final approval.
- F) Minor Subdivision standards: All Minor Subdivision shall comply with Nibley City Ordinances, as listed in Nibley Code, and engineering and public work design standards, unless otherwise listed in this section.
- 1) Finished floor elevation recorded on the final plat:
 - i) An applicant shall include all groundwater reports as required Nibley City code with the final plat. An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finish curb or center line of the street, whichever is higher.
 - 2) Construction Drawings and Engineering Reports:
 - i) The applicant shall submit all report as required by Nibley City code unless otherwise exempted by the Planning Commission.
 - ii) Applicants shall submit detailed stormwater plans at the request of the Nibley City Engineer.

21.10 Subdivision Options

21.10.010 Type of Subdivisions

A) A developer may subdivide under one of the following subdivisions:

Type of Subdivision	Applicable Zones	Density	Open Space Requirements	Lot Size
Standard Subdivision	All Zones	Density must comply with zoning	Open space is not required	Lot size must comply with zoning
Rural Preservation Subdivision	R-1, R-1A, R-2, and R-2A	Bonus density	Open space is required	Smaller lots are allowed
Cluster Subdivision	A, R-E, R-1, R-1A, R-2, and R-2A	Density must comply with zoning	Open space is required	Smaller lots are allowed

1. Standard Subdivision must follow all zoning and subdivision code contained within Nibley City code and design standards, including lot sizes, frontages, setbacks, etc.
2. Rural Preservation Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified within the Rural Preservation Subdivision requirements stated within Nibley City Code.
3. Cluster Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified with the Cluster Subdivision requirements stated within Nibley City Code.
4. Each subdivision must follow State law and the Utah Land Use Development Management Act.

21.10.020 Rural Preservation Subdivision

- A) Purpose: The purpose of this section is to provide for subdivision development within Nibley City in a manner that:
- 1) Helps preserve the rural feeling of Nibley City as outlined in the General Plan;
 - 2) Provides Open Space Land with a specific purpose that provides visual and physical access to the public.
 - 3) Supports adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resources and agricultural lands as set forth in the General Plan;
 - 4) Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
 - 5) Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
 - 6) Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;

- 7) Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
 - 8) Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
 - 9) Creates neighborhoods with direct visual and/or physical access to Open Space Land;
 - 10) Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.
- B) Definitions: For purpose of this section, the following words shall have the meanings set forth herein:
- 1) **OPEN SPACE LAND:** Any parcel or area of land dedicated under this section as indicated on a Rural Preservation Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.
 - 2) **CONSTRAINED AND SENSITIVE LAND:** Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.
 - 3) **WATERWAY:** Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
 - 4) **TREE STAND:** A group or cluster of trees within a geographic location that are occurring naturally or artificially.
 - 5) **MEADOWS:** Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
 - 6) **PASTURE:** A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
 - 7) **NET DEVELOPABLE LAND:** Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
 - 8) Public access rights-of-way
 - 9) Land required to be dedicated along waterways
 - 10) Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)

- 11) Constrained and Sensitive Land as defined herein
- 12) Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
- 13) Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.

C) Applicability:

- 1) The election to develop the property as a Rural Preservation Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section and the rural preservation subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Rural Preservation Subdivisions may be developed within applicable residential zones of the City. Rural Preservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.
- 2) In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
- 3) Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop a Rural Preservation Subdivision. R-2A zones may also be developed under the terms of this ordinance; in such cases, the R-2A zoned property shall be treated as R-2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for a Rural Preservation Subdivision.
- 4) Developers desiring to develop the property as Rural Preservation Subdivision are subject to the development standards, conditions procedures and regulations of this section.

D) Application Process:

- 1) Applications for a Rural Preservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this section, including, but not limited to, submission of a sensitive area designation plan and maintenance plan.
- 2) Pre-application Meeting: Applicants for a Rural Preservation Subdivision shall have a pre-application meeting with the Development Committee as established in NCC 21.06.030 to review the application and answer questions provided by the applicant. Prior to this meeting, the developer shall submit the draft plan of the proposed subdivision and shall include the following:
 - i) Zoning and parcel location
 - ii) Total gross acres
 - iii) Estimated right-of-way dedication

- iv) Estimated Constrained and Sensitive Land
 - v) Estimated Net Developable Land
 - vi) Estimated Open Space Dedication and proposed uses.
 - vii) Total number of lots based on density bonus
 - viii) Estimated lot sizes and subdivision layout.
- 3) Sensitive Area Designation Plan Map: All applications for a Rural Preservation Subdivision shall include a sensitive area designation plan map prepared in accordance with the provisions set forth herein and submitted with the preliminary plat. The sensitive areas designation plan map shall identify all constrained and sensitive lands within the property boundaries as set forth in this section. The sensitive area designation plan map shall also clearly identify all natural or cultural resources present on the property, including, but not limited to those defined in this ordinance (geographic features, meadows, tree stands, streams, stream corridors, floodwalls, berms, waterways, canals, irrigation ditches, farmland, pastures, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space). Applicants are solely responsible for the accuracy and designation of constrained and sensitive lands as defined in this ordinance, and natural and cultural resources as defined by the United States, State of Utah, Cache County, and Nibley City on the sensitive area designation plan map for their project and applicable adjacent property. The applicant shall include all sensitive areas within four hundred feet (400') of the developments property boundaries as noted in City, County, State, and Federal records.
- 4) Maintenance Plan for preserved Open Space Land: The developer must submit a Preliminary Maintenance Plan in accordance with subsection M,2 of this section and with the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.
- E) Dimensional Standards:

- 1) The lot standards within a Rural Preservation Subdivision shall be determined in accordance with the Lot Standards Chart. Lot Standards Chart.

Lot Standards Chart					
Zone	Open Space Ratio ^{NOTE 1} (OSR)	Incentive Multiplier	Average Residential Lot Size	Minimum Residential Lot Size	Frontage ^{NOTE 2}
R-1	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 18,700 \text{ ft}^2$	$\geq 17,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 16,700 \text{ ft}^2$	$\geq 15,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 14,700 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 12,700 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
R-1A	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 14,000 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 13,000 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 12,000 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 11,000 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
R-2 and R-2A	$0.25 \leq \text{OSR} < 0.30$	1.20	$\geq 13,200 \text{ ft}^2$	$\geq 11,500 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.25	$\geq 12,200 \text{ ft}^2$	$\geq 10,500 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.30	$\geq 10,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.35	$\geq 9,200 \text{ ft}^2$	$\geq 7,800 \text{ ft}^2$	$\geq 80 \text{ ft}$
Notes: 1. The OSR is the ratio of the area of the Open Space Land divided by the area of the Net Developable Land. 2. Frontage is determined at the front setback line.					

- 2) Procedure for Calculating Allowed Number of Lots: The Allowed Number of Lots including the density bonus for a Rural Preservation Subdivision shall be determined as follows using the appropriate Incentive Multiplier from the Lot Standards Chart. The developer shall follow the process outlined below to determine allowable properties of the proposed subdivision and use these properties in developing the preliminary and final plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the plat applications:
- The subdivision must be in one of the approved zones as listed within the Rural Preservation Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
 - Provide to the City the total area contained within the subdivision plat.
 - Provide to the City the total area being dedicated to rights-of-way.
 - Provide to the City the total acres of Constrained and Sensitive Land.
 - Provide the City the total Net Developable Land area as defined within this section.
 - State the area of proposed Open Space Land.
 - Calculate Open Space Ratio.
 - Calculate the Base Number of Lots per zone:
 - Base Number of Lots R-1 = Net Developable Land / 1 acre
 - Base Number of Lots R-1A = Net Developable Land / .75 acres
 - Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres
 - Determine Incentive Multiplier

- (a) Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.
 - x) Calculate total allowed
 - (a) Total allowed lots = Base number of lots multiplied by the Incentive Multiplier
- F) Lot Area, Frontages, and Zoning Regulations:
 - 1) The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to Rural Preservation Subdivisions, unless otherwise noted within this section.
- G) Conservancy Lots:
 - 1) Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
 - 2) Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
 - 3) The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.
- H) Use Regulation: Use of the land in a Rural Preservation Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified within this section, for the zone in which the land is located. Use of Open Space Land within a Rural Preservation Subdivisions is subject to the following:
 - 1) Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:
 - i) Street rights-of-way may traverse Open Space Land if permitted under City ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.
 - ii) Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.
 - iii) Agricultural and horticultural uses, including raising crops wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations. Wholesale nurseries must obtain an operating permit and business license

from the City and must comply with all fencing and maintenance requirements of this ordinance.

- iv) Conservation of open land in its natural state; e.g., meadows, tree stands, wetlands, forestland.
 - v) Waterways along with dedicated public access rights-of-way or easements along one or both sides.
 - vi) Underground utility easements for drainage, access, sewer or water lines, electric lines or other public purposes.
 - vii) Active noncommercial recreation areas, such as trails, playing fields, playgrounds, courts, and multipurpose trails. These parcels shall be maintained by the City or an owners' association and shall be open to the public if maintained by the City, or residents within the Rural Preservation Subdivision if maintained by a functional owners association.
 - viii) Agricultural uses excluding livestock operations involving swine, poultry, and mink. Open Space Land of less than one-half (0.5) acre may be used as landscaped buffers for roadways, landscaped entrances to subdivisions, neighborhood "pocket parks" or similar amenities that meet standards and uses listed herein.
 - ix) Fencing that is rural in character. All fencing must be transparent, such as rail fences, post fences, or wire fences and architecturally appropriate to the use as determined by the City Planner. Chain link fences are not permitted on Open Space Land. All applicants must receive a fence permit from the City before construction of any proposed fence.
 - x) Golf courses, not including commercial miniature golf. A development plan must be turned in as part of the approval process that outlines ownership, development, and building plans.
 - xi) Neighborhood Open Space Land uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses. Neighborhood Open Space Land must be owned and maintained by an owners' association or the City.
 - xii) Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
 - xiii) Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
 - xiv) Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted around the perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation.
- 2) Prohibited Uses on Open Space Land: The following uses shall be considered prohibited in Open Space Land areas:
- i) Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.

- ii) Firearm ranges, and other uses similar in character and potential impact are prohibited.
 - iii) Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.
 - iv) Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.
 - v) Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.
 - vi) Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land
 - vii) Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.
 - viii) Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
 - ix) Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.
 - x) Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.
 - xi) Hunting or trapping for any purpose other than predatory or problem animal control.
 - xii) The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.
 - xiii) The division, subdivision or de facto subdivision of the property.
 - xiv) The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.
 - xv) All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.
- 3) Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands.
- 4) Open Space Land Coordination: Open Space Land shall be coordinated and located to maximize the continued use of the space. To create larger areas of Open Space Land and to combine Open Space Land from a variety of developments, Open Space Land shall be coordinated either with existing adjacent Open Space Land or with planned future Open Space Land. If no adjacent parcels of land are planned for development, Open Space Land shall be planned to provide the greatest likelihood of adjoining future developments' Open Space Land.
- 5) Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within a rural preservation Subdivision shall be complied with as provided herein.

- I) Open Space Land Design Standards: Open Space Land shall be located and designed within the Rural Preservation Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within a Rural Preservation Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:
- 1) Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
 - 2) Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions or developments to provide for large and integrated Open Space Land areas within the City.
 - 3) Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
 - 4) Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.
 - 5) Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
 - 6) Recreation Space: Open Space Land maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association owned open spaces shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

- 7) Stormwater Basin: These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.

J) Permanent Protections of Open Space Land:

- 1) Conservation Easement: All Open Space Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Open Space Land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the rural preservation subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Rural preservation subdivision.
- 2) Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:
 - i) Legal description of the easement;
 - ii) Description of the current use and condition of the property;
 - iii) Permanent duration of easement;
 - iv) Permitted and conditional uses;
 - v) Prohibited development and/or uses;
 - vi) Maintenance responsibilities and duties; and
 - vii) Enforcement rights and procedures.
- 3) Marking of Open Space Land: Open space land shall be marked at each corner and property line intersection with a minimum 4" diameter x 3' deep concrete monument provided with an aluminum or brass cap cast or epoxied into the monument. Caps shall be stamped "Nibley Conservation Marker, Do Not Remove", and an arrow stamped into the cap perpendicular to the Open Space boundary line and pointing into the Open Space. Monuments shall be placed such that the top 6" of the monument is above finished grade at the monument location.
- 4) Grantee: Unless otherwise approved by the City Council, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization, or governmental entity. The City may, but shall not be required to, accept, as grantee, a conservation easement encumbering Open Space Lands within a Rural Preservation Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.

K) Ownership of Open Space Land:

- 1) Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the

following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.

- 2) Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
 - 3) Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
 - 4) Owners' Association: Open Space Land may be held in common ownership by a Home Owners' or other acceptable Owners' Association, subject to all the provisions for Owners' Associations set forth in state law, the City Code, and the following:
 - i) A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 - ii) The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;
 - iii) Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
 - iv) The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
 - v) The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and
 - vi) Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of the Association and to the City no less than thirty (30) days prior to such event. vii. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.
 - vii) In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.
 - 5) Private Ownership: A conservation parcel may be owned by a private individual or entity. Such parcels shall have a defined purpose and restrictions recorded in the maintenance plan and comply with this section.
- L) Maintenance of Open Space Lands:
- 1) Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.

- 2) Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
 - i) The proposed Ownership of the Open Space Land;
 - ii) The party that will be responsible for maintenance of the Open Space Land;
 - iii) The proposed use of the Open Space Land and how each parcel of Open Space Land meets the
 - iv) standards listed within this section;
 - v) The size of each Open Space Land parcel; and
 - vi) The proposed concept plan for landscaping of the Open Space Land.
- 3) Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Rural Preservation Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - i) Ownership agreements for Open Space Land;
 - ii) A description of the use of the Open Space Land and how that use complies with this section;
 - iii) The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);
 - iv) The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
 - v) The landscaping plans for parcels that will be owned by an owners association or by the City.
 - vi) Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
- 4) The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements and must complete all proposed open space improvements within the first three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.
- 5) Failure to Maintain: For all open space designated under the terms of this Ordinance, including privately held Open Space Lands, the responsible party for the maintenance of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space

Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.

- 6) **Corrective Action:** The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.
- 7) **Implementation and Maintenance:** The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
- 8) **Maintenance Access:** The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the Rural preservation subdivision.

21.10.030 Cluster Subdivisions

- A) **Purpose and Intent:** Cluster subdivisions are intended to allow flexibility in neighborhood and subdivision lot design by permitting the development of dwellings on lots smaller than normally required for the zone in which the subdivision is located and by dedicating or reserving the land so saved to needed open space. It is not intended that this type of subdivision be universally applied but only where circumstances or natural features and land use make it appropriate and of special benefit to the residents of the subdivision and surrounding area.
- B) **General Regulations:**
 - 1) **Conditional Use:** A cluster subdivision shall be a conditional use in the A, R-E, R-1, R-1A, R-2 and R-2A zones, and the terms and requirements of those zones shall govern the subdivision except as such terms and requirements are modified by this section.
 - 2) **Minimum Subdivision Size:** A proposed cluster subdivision shall have a minimum of ten (10) dwelling units and sufficient land to meet the density requirements of the zone in which the development is located, as set forth below.
 - 3) **Reduction In Minimum Lot Area:** Where land is proposed for subdivision into lots and a subdivider dedicates or permanently reserves land within the subdivision for recreational use or open space, a reduction in the minimum lot area required for the zone in which the cluster subdivision is located may be recommended for approval by the planning commission to the city council, provided the provisions of this chapter are met and further provided that the cluster subdivision receives subdivision approval.
- C) **Site Development Standards:**

- 1) Lot Area: The minimum lot area for dwellings may be reduced below the area normally required in the zone in which the cluster subdivision is located, but the overall density of the cluster subdivision shall not exceed the density allowed in the zone in which the development is located.
 - 2) Use And Height Regulations: Use and height regulations shall be the same as for the zone in which the cluster subdivision is located.
 - 3) Yard Setbacks: The required yard setbacks of the zone shall be maintained on the perimeter of the cluster subdivision.
 - 4) General Considerations: The cluster subdivision should be compatible with the surrounding land uses, building types and physical features of the site. The planning commission should consider the criteria used in NCC 19.28.
 - 5) Basis For Issuance Of Conditional Use Permit: In addition, the planning commission should consider the following:
 - i) Fencing, screening and landscaping both inside and at the perimeter of the site;
 - ii) The quality, quantity and potential uses of the reserved or dedicated open space land; and
 - iii) Bulk and location of buildings on the site.
- D) Open Space
- 1) Required: There shall be permanently reserved within the subdivision for recreation and/or open space, parcels of land whose total area is not less than the amount by which the areas of residential lots are reduced below the minimum area normally required in the zone in which the cluster subdivision is located.
 - 2) Preservation And Maintenance: Recreation and/or open space areas to be permanently reserved shall be improved, landscaped and maintained in accordance with a plan approved by the planning commission. The developer shall specify how and by whom the reserved open space land will be maintained.
- E) Procedure for Approval: A preliminary site plan of the cluster subdivision showing topography, proposed building sites and locations, proposed uses, areas within the subdivision to be permanently reserved for recreation and/or open space, improvements and method of maintenance of such areas shall be presented to the planning commission. The planning commission shall submit its recommendation for approval or denial, together with such modifications necessary to serve the public and ensure integration of the development into the neighborhood, to the city council. The site plan must be approved by the city council before the cluster subdivision proposal becomes a permitted use in the zone in which it is proposed.

21.12 Infrastructure Improvements

21.12.010 Compliance Required

- A) Prior to the release of the mylar, to the subdivider, for recordation and subsequent issuance of building permits by the City, the improvements described in this section shall be completed by the subdivider and approved by the Public Works Director. All improvements described in this title shall meet the standards set forth in the Nibley City Design Standards and Specifications.

- B) In lieu of completion of the infrastructure requirements, surety may be provided as described in NCC 21.14.010.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.020 Water Supply

- A) All subdivisions shall be required to connect to the Nibley City culinary water system. Subdividers shall, at their own expense, install water mains, fire hydrants and service laterals to each lot within the subdivision in accordance with the Nibley City Design Standards and Specifications. The subdivider must also install the necessary pipeline from the subdivision to the nearest City water line. In addition, the following minimum standards shall apply:
- B) Subdividers shall be required, in all zones, to provide Nibley City with water shares sufficient to serve the culinary needs of the subdivision. The amount required shall be determined by the City Engineer as part of the preliminary plat review.
- 1) In calculating the amount of water needed, the City shall follow Utah Administrative Code Rule R309-510: Facility Design Operation: Minimum Sizing Requirements, as may be amended.
- C) In areas where flood irrigation or pressurized irrigation is available, subdividers are encouraged to install a secondary water system, in addition to the required hook-on to the Nibley City culinary system. Subdividers shall notify Nibley City of their intent to install a secondary system at the time the preliminary plat is submitted and shall submit plans for the design and operation of the secondary system. Providing a secondary water system does not relieve subdividers of providing the City with water shares, as outlined in NCC 21.10.020(A). However, the City may sell to the owners of the secondary system secondary water as may be needed to support the secondary system. The subdivider shall provide the City with engineered calculations demonstrating the amount of water they require to support the secondary system. The cost of the water will be limited to actual costs associated with maintaining the shares, plus a reasonable administrative fee.

21.12.030 Sewage Disposal

- A) Public sanitary sewer facilities shall be provided for each lot in the subdivision. Where a public sanitary sewer is available within three hundred feet (300') of a subdivision property line, or any part or portion thereof, including the property lines for each individual parcel located within the subdivision, at the time of recording the final plat, the subdivider shall connect with such sanitary sewer and provide sewer mains and extend laterals from the main sewer line to each lot in the subdivision prior to the installation of the road base, surfacing, curbs, gutters and sidewalks.

21.12.040 Storm Drainage

- A) A storm drainage system shall be provided and must meet the approval of the City engineer. This system must be independent of any sanitary sewer system. No ditch or canal shall be approved as suitable for use as storm drainage without the written permission of the appropriate ditch or canal company, and/or the affected water users. If permission is

obtained, ditches and canals must be adequately improved to handle such water as might reasonably be expected to flow from normal irrigation and spring water, storm runoff water, and any other water expected to reach such ditch or canal.

- B) Any use of the irrigation canal system owned by the Nibley Blacksmith Fork Irrigation Company (NBFI) for stormwater drainage shall be approved as provided in the Operating Agreement between the City and NBFI dated August 21, 2014, as may be amended.
- 1) Prior to the approval of a preliminary plat by the Approval Authority, developer shall present to the NBFI, any and all plans related to the alteration of canals owned and operated by NBFI on the developer's property under consideration for subdivision. Such plans shall include, but not be limited to: relocation of canals on the property, proposed pipe size, location and design of proposed inlet and outlet structures, and calculations demonstrating how the proposed alterations will affect the discharge volume of canals on the property.
 - 2) At the time of presentation of plans to the NBFI, developer shall secure a signed and dated receipt showing the NBFI has received the plans.
 - 3) Within sixty (60) days of receipt of said plans, which shall be calculated from the date on the signed receipt, NBFI shall notify the developer and Nibley City in writing, of having accepted said plans or, by empirical data, demonstrated a sound reasoning for refusing said plans. Failure to contact developer and Nibley City within sixty (60) days shall constitute acceptance of said plans.
 - 4) Once Nibley City has received notification from NBFI, the preliminary plat may be approved by the Nibley City Council. Developer may, at their discretion, choose to seek NBFI approval prior to submittal of the preliminary plat to Nibley City.
 - 5) Nibley City storm drainage regulations are governed by the State of Utah Construction General Permit. (CGP) and the Nibley City Municipal Separate Storm Sewer System (MS4). All plans related to storm drainage, including but not limited to, a Stormwater Pollution Prevention Plan, shall be designed and constructed in accordance with the CGP, MS4, and the Nibley City Design Standards and Specifications.
- C) The City encourages developers to utilize Low Impact Development (LID) techniques in developing their plan(s) for storm drainage. Prior to approval of any LID techniques, the developer must be able to demonstrate how such techniques will satisfy the subdivision's storm drainage needs. Any LID technique must be approved by the City Engineer.
- D) At the time a subdivider intends to record a plat for a subdivision, or for a phase thereof, the subdivider shall submit for review and approval, a stormwater pollution prevention plan (SWPPP), which shall meet the standards and requirements of the State of Utah Construction General Permit, the Nibley City MS4, and such other federal, state and local regulations regarding stormwater as may be in effect at the time of such submittal.

21.12.050 Streets

- A) Street Design: Subdividers shall locate streets within the subdivision so that streets will connect with existing streets. Streets shall be located and designed so that the adjoining land shall not be diminished in value. If the adjoining land is zoned for residential use, streets shall be located so that the adjacent land may be efficiently subdivided.

Half streets (completed only to centerline) are allowed only when the City engineer has

reviewed the proposed half street design and can attest that public safety issues have been satisfied. A minimum of twenty feet (20') of asphalt shall be required on all half streets.

- B) Streets To Conform To Transportation Master Plan: Subdividers shall provide all arterial and collector streets as described in the Transportation Master plan, including providing temporary dead-end streets as necessary. Whenever a subdivision is in an area for which a major or collector street plan has not been adopted, major or collector streets shall be provided as determined by staff and the City engineer.
- C) Minimum Street Widths:

- 1) The neighborhood street may be used in areas that would not generally be considered a through street or a street that would carry significant amounts of traffic other than that generated on that street. A cul-de-sac may be a neighborhood street.
- 2) The design of road types shall be in accordance with the Nibley City Design Standards & Specifications:
- 3) Street Width Requirements For Small Acreage Parcels On Cul-De-Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul-de-sac as the only access to the development:
 - i) Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City Design Standards & Specifications and shall include five foot (5') sidewalks where required by City ordinance.
 - ii) Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City Design Standards & Specifications.
 - iii) All other developments shall have roadways that conform to this section.
- 4)

- D) Curb, Gutter And Sidewalks: The subdivider shall be required to install curb and gutter on all new and existing streets within or adjoining the proposed subdivision.
- 1) Sidewalks are required in all areas of new development.
 - 2) The above requirements may be waived in rural estate and agricultural zones, if it is felt that curb, gutter and sidewalks would detract from the rural setting of the subdivision.
 - 3) The requirement for curb and gutter on existing streets may be waived only if future changes to the street are anticipated that would make the installation of curb and gutter unwise. In such cases, the Planning and Zoning Commission may require that the subdivider pay to the city a sum equal to the best estimate of the cost of the improvements not installed to allow sufficient funds to later complete the improvements. Any such proceeds shall be placed in the street capital improvement fund.
 - 4) Alternate curb and gutter cross sections may be proposed as part of Low Impact Development (LID) practices. Proposed alternates shall be in compliance with Nibley

City Design Standards and include design drawings and engineering calculations showing the effectiveness of the proposed LID technique. Proposed alternates shall be reviewed and approved by the City Engineer and Public Works Director.

21.12.60 Blocks, Connectivity and Trail Standards

- A) Block Length is defined as the distance along any given road frontage between two intersections with three or more connecting links. Links that connect into a cul-de-sac shall not be considered the termination point of a block length.
 - 1) Blocks shall not be longer than one thousand six hundred feet (1,600'). Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities.
- B) Cul-de-sac: Cul-de-sacs shall not exceed one-eighth (1/8) mile in length, except in R-E zones where they shall not exceed one-fourth (1/4) mile in length. If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.
 - 1) The subdivider shall provide a pedestrian ROW as outlined below linking the cul-de-sac to the nearest adjacent public ROW, park, or school unless expressly prohibited by conflict with previously developed subdivisions or land uses.
 - 2) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.
 - 3) All pedestrian ROWs shall be designed for compliance with the Transportation Master Plan to maximize non-motorized transportation network efficiency.
 - 4) The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.
- C) Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the planning commission.
- D) Access Roads
 - 1) Subdividers shall provide sufficient access to the development from an established public road or street. Subdivision of 30 lots or more shall provide two functioning access roads that comply with Nibley City street standards
 - 2) Access Roads outside of development: If a developer cannot provide sufficient access to a development with adjacent roads, the developer shall construct access road(s) from an improved public road. Access roads shall be a minimum of 22' asphalt and provide a sidewalk built to City Standards. Sidewalks and roads shall be built to Nibley City Design Standards and Specifications and shall be placed as close to where full roadway shall be built in the future. Sufficient stormwater drainage shall be provided for each access road.
- E) Traffic Calming

- 1) In developments that contain arterial or collector roadways, developer must provide traffic calming features, as described in Nibley City's Transportation Master Plan, at each entrance/exit of the development along the arterial or collector road. Each traffic calming feature shall be designed to meet projected traffic levels and speeds. Traffic calming features must be approved by the City Engineer.
- F) Trails, Bicycles, and Pedestrian Connectivity
- 1) Trails, bike paths, and horse trails shall be provided by the Developer in accordance with the City Trails Master Plan and where otherwise necessary as determined by the Approval Authority. Trails should connect traffic generators such as schools, recreation facilities, commercial areas, parks, future and existing city trails and other significant natural features. Such trails shall be built to City specifications and easements shall be dedicated for such trails. The trails shall be constructed with the accompanying phase and development, unless the Approval Authority determines otherwise.
 - 2) Bicycle lanes and facilities shall be added to roads and trails according to Nibley Design Standards, Transportation Master Plan and Trails Master Plan.
 - 3) Blocks longer than 660 feet shall provide a pedestrian ROW at minimum 660-foot intervals as outlined below linking the block to the nearest adjacent public or private street, cul-de-sac, park, school, or City trail unless expressly prohibited by conflict with previously developed subdivisions or land uses.
 - i) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street. The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way.
 - ii) The Approval Authority may make an exception to the requirements if the block street makes a 90 degree connecting turn towards an existing ROWs.
 - 4) All pedestrian ROWs shall be designed for compliance with the Transportation Masterplan and Trails Master Plan to maximize non-motorized transportation network efficiency.

21.12.070 Lot Layout And Design

- A) Standards: All lots shown on the subdivision plan shall conform to the minimum requirements of the zoning title for the zone in which the subdivision is located, and to the minimum requirements of the Nibley City Design Standards and Specifications.
- B) Street Access: All lots shall abut a dedicated public street, a private street or a street which has become a public right of way or right of use. In the event a lot abuts a public right of way created by use, the subdivider is responsible for demonstrating and proving to the City's satisfaction that the right of way has been dedicated to public use and shall improve the right of way to the standards required by this title.

- C) Lot Arrangement: The lot arrangement and design shall be based on the following criteria: provide satisfactory and desirable sites for buildings, be properly related to topography, to the character of surrounding developments and to existing requirements.
- D) Lot Remnants: All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than be allowed to remain lot remnants.
- E) Undeveloped Lots: Undeveloped lots shall be kept free of trash, weeds, abandoned automobiles, machinery and other unsanitary, unsightly or unsafe material.
- F) Lot Ownership: Where the land in a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the county recorder.

21.12.080 Railroad

- A) Where the proposed subdivision contains or is adjacent to a railroad right of way, provision shall be made for either:
 - 1) A street approximately parallel to and on each side of such right of way; or
 - 2) A buffer planting strip of trees and/or shrubs at least ten feet (10') in width.
 - 3) A six foot (6') fence running the length of the property adjacent to the railroad r-o-w.
- B) Any plan for improvement along the railroad right-of-way shall include a description of who will be responsible for maintenance of the improvements.

21.12.90 Ditches, Canals and Conveyance

- A) Open ditches or canals are prohibited within or adjoining a subdivision except along rear or side lot lines or through permanently reserved open space. Subdividers may also be required to pipe any ditches and canals on the property. Subdividers shall coordinate any improvements to canals with the affected canal company, as stated herein.
- B) Each subdivision must comply with the provision of NCC 19.24.230 Preserving Safety And Maintenance of Conveyance

21.12.100 Safety Fences

- A) Subdividers may be required to install a six foot (6'), nonclimbable chain-link fence, or its equivalent, along railroad rights of way, ditches and canals or streets. All fences must comply with NCC 19.24.090.

21.12.110 Street Signs

- A) The subdivider shall be required to pay for the installation of all necessary street signs. Fees for such shall be assessed as part of the subdivision fee schedule.

21.12.120 Landscaping

- A) In compliance with the State of Utah Construction General Permit, subdividers shall provide ground cover where it is determined that soil erosion may be a problem, that surface water may flood portions of the City or damage City property, to prevent the growth of noxious weeds which may become a nuisance or fire hazard or endanger the public health and may specify the types of ground cover.

21.12.130 Monuments/Pins

- A) Permanent monuments shall be accurately set and established at such points as are necessary to definitely establish all lines of the plat except those outlining individual lots. All subdivision plats shall be tied to a corner or monument of record.
- B) Property lines outlining individual lots shall be established by setting pins in the curb, as detailed in the Nibley City Design Standards and Specifications.

21.12.140 Street Lighting

- A) Streetlights shall be required every five hundred feet (500') throughout the subdivision, at every street intersection and at the back of each cul-de-sac. Street lights shall comply with Nibley City standards.

21.12.150 Protection Strips

- A) A. Where subdivision streets parallel contiguous property of other owners, the subdivider may, upon approval of the City Council, retain a protection strip not less than one foot (1') in width between the street and adjacent property. The protection strip shall be subject to the following provisions:
 - 1) An agreement shall be made between the subdivider and the City whereby the subdivider shall deed the protection strip to the City at the end of six (6) years; said deed shall not be recorded until the end of the six (6) year period;
 - 2) The agreement will provide for the reimbursement to the subdivider for the fair cost of land in the protection strip and the street improvements and other infrastructure properly chargeable to the adjacent property owner;
 - 3) The subdivider shall agree to pay the costs associated with the agreement (engineering review, attorney fees, etc).
- B) Time for determining the six (6) year period shall be determined from the time the subdivider receives notice that the improvements of his property are substantially complete and usable.
- C) At the time that the adjacent property is proposed for development, as a condition of approval, the property owner shall pay to the City the full cost of the improvements initially installed by the first subdivider, which are chargeable to the owner of the adjacent property.
- D) Protection strips shall not be permitted at the end of streets.

21.12.160 Utilities

- A) All utilities shall be installed underground. In addition to infrastructure for utilities proposed as part of the subdivision, Developers shall install conduit for future utilities, as outlined in the Nibley City Standards and Specifications.

21.12.170 Street Trees

- A) The developer shall provide a street tree planting plan that will be attached to the development agreement. Proposed street trees must conform with Nibley City's Tree Care

Plan. The City and the Developer shall enter into an agreement that the City shall install and plant new trees within the development according to the submitted and approved street tree planting plan. The Development agreement shall outline this agreement and shall include the number of trees that will be planted and the cost of each tree that the developer will pay to the City to plant said trees.

- 1) The City and Developer may agree to allow the Developer the responsibility to plant maintain trees until such a time that the adjacent property owner or Owners Association can manage and properly maintain the trees.
- B) A variety of tree species, of similar shape and mature height, is required of all tree planting plans submitted to the City, with a minimum of one tree per fifty feet (50')

21.14 Inspection And Guarantee Of Work

21.14.010 Effect

- A) The provisions contained in this section shall apply to all subdivisions and, in the event that a developer chooses to phase their subdivision, to each phase of the subdivision.

21.14.020 Definitions

- A) The following definitions are used in this section relating to the guarantee of improvements in subdivisions.
- B) Acceptance Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director to determine completion status of all required improvements for a subdivision, or a specific phase thereof. Once the improvements are complete, the Public Works Director shall issue an Improvements Completion and Acceptance Report stating such and accepts the improvements on behalf of Nibley City.
- C) Cost Estimate of Improvements: The subdivider's estimate of the costs of all work to be done to complete subdivision improvements required in accordance with the subdivision's approved construction drawings. The cost estimate is used to determine the amounts of the Improvement Completion Assurance for the subdivision. The Cost Estimate of Improvements or actual cost of the improvements is used to establish the amount of the Warranty Bond.
- D) Final Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director after the one-year Guarantee Period for the subdivision improvements to determine if the improvements are free from material defects or workmanship for the Guarantee Period.
- E) Guaranty Period: The period (normally one year) following the completion and acceptance by the City of all subdivision improvements during which time the subdivider is responsible to ensure, by a Warranty Bond, that the improvements are free of material defect or workmanship.
- F) Improvement Completion Assurance: The legal/financial instrument by which the subdivider of the subdivision guarantees to the City, and to the purchasers of the various lots within the subdivision, that all of the subdivision improvements required in accordance with the

subdivision's approved development plan are completed. Improvement Completion Assurance must comply with all aspect of this Title and State law.

- G) Improvements Completion and Acceptance Report: A report issued by the Public Works Director stating the findings of the Acceptance Inspection and acknowledging the City's acceptance of the subdivision improvements.
- H) Notice to Proceed: The written notification by the City (issued by the Public Works Director, after consultation with the City Planner), to the subdivider that work may commence on the subdivision improvements.
- I) Partial Acceptance Inspection: Periodic inspections by the Public Works Director throughout the construction of the subdivision improvements to determine if the work is being done properly. These inspections may be done during each of "Parts 1, 2 and 3", as defined herein, in order to release portions of the Improvement Completion Assurance to the subdivider.
- J) Parts 1, 2 and 3: A list and grouping of tasks within the total work requirements for a subdivision which divides and sequences the project. This is done in order to provide points at which inspections shall be done and partial releases made, thus ensuring work is completed in a logical manner. Each of the parts is as follows:
 - 1) Part 1: Installation of underground utilities and stormwater structures.
 - 2) Part 2: Construction of open space amenities and roads, minus asphalt, to the point that they provide access to the individual building lots.
 - 3) Part 3: Asphaltting roads and construction of the sidewalks.
 - 4) Any exceptions to Parts 1, 2 and 3 must be approved by the City Engineer and the Public Works Director and shall be incorporated into the subdivision's Development Agreement. No certificates of occupancy for individual building lots shall be issued until the inspection and acceptance of Part 3.
- K) Pre-Construction Meeting: A meeting held prior to any construction being started for the subdivision, or each phase thereof, in which appropriate City staff members and the subdivider, his general contractor and any other associates of the subdivider directly related to the subdivision, meet together to discuss the project.
- L) Public Works Director: The Public Works Director for Nibley City, or his designated representative.
- M) Subdivision Development Agreement: An agreement between the subdivider and Nibley City relative to the specific subdivision subdivider is proposing whereby the subdivider agrees to construct all improvements in the subdivision in accordance with the Nibley City Design Standards and Specifications and an estimated schedule, and the City agrees to allow for building permits to be issued within the subdivision at an agreed upon point in the construction process, typically after the completion of Parts 1 and 2.
- N) Warranty Bond: The legal/financial instrument by which the subdivider warrants to the City, and to the purchasers of various lots within the subdivision, that all of the subdivision improvements are free of defective materials or workmanship for one-year following the City's issuance of the Improvements Completion and Acceptance Report. The amount of the warranty bond is equal to ten percent (10%) of the actual cost of making the subdivision improvements.

21.14.030 Inspections

- A) All construction work involving the installation of improvements in subdivisions shall be subject to inspection by Nibley City. The appropriate person or agencies of the City shall inspect or cause to be inspected in the course of construction, installation, or repair, any infrastructure outlined in approved construction drawings, including, but not limited to: roadways, curb, gutter, sidewalk, trails, landscaping, stormwater facilities and piping, sewer and water systems. Any underground utilities which may be publicly owned shall not be covered until such installations shall have been inspected by the Public Works Director or other authorized City inspector. Certain types of construction shall have continuous inspection, with no work being done except in the presence of the inspector or with the specific approval from the inspector allowing the work to continue in his absence. Partial Acceptance Inspections shall be made as needed in order to evaluate the completion of Parts 1, 2 or 3 and to allow for the partial release of the Improvement Completion Assurance.
- 1) Continuous Inspection. Continuous inspection shall be required on the following types of work:
 - i) Laying of street surfacing
 - ii) Pouring of concrete for curb and gutter, sidewalks and other structures
 - iii) Installation of infrastructure related to sewer, stormwater and culinary water systems
 - iv) Acceptance testing
 - v) Direct connections to existing sewer, stormwater and culinary water systems.
 - 2) Periodic Inspection. Periodic inspection shall be required on the following:
 - i) Street grading and gravel base
 - ii) Excavations for curb, gutter and sidewalks
 - iii) Excavations for structures
 - iv) Forms for concrete for curb and gutter, sidewalks and structures
 - v) Required improvements to or reclamation of open spaces or any common areas.
 - 3) Requests for Inspection. Requests for inspection shall be made to the municipality by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made at least three (3) days prior to commencing the work. Requests for inspection on work requiring periodic inspection shall be made at least one (1) day prior to commencing the work.
 - 4) Acceptance Inspection. Upon the request of the subdivider, an Acceptance Inspection shall be made by the Public Works Director or their designee after all construction work is completed. Any faulty or defective work shall be corrected by the persons responsible for the work within a period of thirty (30) days of the date the Public Works Director or their designee issues an inspection report defining the faulty or defective work. Upon satisfactory completion of all improvements, allowing for minor "punch list" items, the Public Works Director shall issue to the subdivider an Improvements Completion and Acceptance Report. The warranty period shall begin once the Improvements Completion and Acceptance Report has been issued by the Public Works Director.
 - 5) Whenever, in the judgment of the Public Works Director, the subdivision improvements cannot be seen, tested, or otherwise properly inspected, such as when the area is covered with snow, he may postpone and/or delay inspection of the subdivision improvements, including the Acceptance Inspection, until such time as the improvements requiring inspection can be appropriately seen/tested/inspected.

21.14.40 Building Permit Issuance

A) No building permit for construction of any building on any lot within a subdivision shall be issued until after:

- 1) All improvements required by Parts 1 and 2 are completed or the subdivider has executed a Subdivision Development Agreement with the City setting forth a schedule to complete all required improvements prior to the issuance of any building permit; and
- 2) An Improvement Completion Assurance is in place, pursuant to this title.

21.14.50 Guarantee Of Work

A) The subdivider shall warrant and guarantee that the improvements provided for hereunder, and every part thereof, will be completed to the satisfaction of the City and thereafter remain in good condition by providing the assurances described hereunder, for the subdivision and for each phase thereof, as applicable.

B) Financial Guaranty

- 1) Improvements Improvement Completion Assurance. The subdivider shall provide an Improvement Completion Assurance stating that 100% of all agreed upon improvements shall be completed in accordance with the Subdivision Development Agreement and this ordinance. The work covered by this guaranty shall begin with the Notice to Proceed for the subdivision and shall end with the issuance of an Improvements Completion and Acceptance Report by the Public Works Director whereby the improvements are accepted by the City. No specific time period is associated with the Improvement Completion Assurance. It must remain in place until the issuance of the Improvements Completion and Acceptance Report by the PUBLIC WORKS DIRECTOR and the Warranty Bond has been provided.
- 2) Warranty Bond. The Warranty Bond shall ensure that the improvements constructed are free from defective material or workmanship for a period of one year following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director ("Guaranty Period"). This Warranty Bond shall be filed with the Public Works Director and shall secure the subdivider's agreement to make all repairs to and maintain the improvements and every part thereof in good condition during that time, with no cost to the City. The City reserves the right, as appropriate, to extend the Guaranty Period to a period of two (2) years following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director, in accordance with the provisions of Utah Code § 10-9a-604.5, as amended.
- 3) Repair of Work
 - i) The Public Works Director shall determine when repairs or maintenance are required for improvements which have not been accepted by the City, or for improvements which have been accepted by the City, based on the Improvements Completion and Acceptance Report, but which are not free of defective materials or workmanship for the one (1) year Guaranty Period. Unless unreasonable, arbitrary or capricious, the Public Works Director's decision shall be binding on the subdivider. Required repairs or maintenance to improvements may extend to, but is not limited to, the street base, and all pipes, joints, valves, backfill and compaction, as well as the working surface, curbs, gutters, sidewalks and other accessories which are or may be affected by the construction operations.
 - ii) Whenever, in the judgment of the Public Works Director, the work needs repair, maintenance or rebuilding, he shall cause a written notice to be served on the subdivider and thereupon, the subdivider shall undertake and complete such repairs,

maintenance or rebuilding. If the subdivider fails to do so within thirty (30) days from the date of the service of such notice, the Public Works Director may have such repairs made and the costs of such repairs shall be charged to the subdivider with an additional twenty-five percent (25%) of the cost of the repairs levied for stipulated damages resulting from such failure on the part of the subdivider to make the repairs.

21.14.60 Guarantee Of Improvements

- A) Prior to the recording of the Final Plat, where after lots may be sold, and before the issuance of any building permit within the subdivision, the subdivider shall guarantee, by an Improvement Completion Assurance, the installation and construction of any payment for the required improvements. Prior to the City's acceptance of the improvements and the final release of the Improvement Completion Assurance, the subdivider shall guarantee, by a Warranty Bond, that the improvements shall be maintained in a state of good repair, free from defective material or workmanship for the Guaranty Period. The provisions of both such guarantees, regardless of form, shall be as approved by the Public Works Director as to the amount of the bond and as approved by the City Attorney as to the form of the guarantee and shall provide for the following:
- B) The Improvement Completion Assurance shall be in an amount equal to one hundred percent (100%) of the cost of all improvements as estimated by the subdivider and verified by the City Engineer. The estimated improvements costs shall include only those costs for which the subdivider is responsible including the installation and construction of, and payment for such improvements within the time period required by the City, and based on the circumstances of each subdivision and set forth in an agreement between the City and subdivider. The estimated cost upon which the Improvements Security is based shall not include the subdivision processing fees, the fee for the initial seal coat application for roads built as part of the subdivision, or any improvements for which the subdivider has no responsibility such as those improvements to be done at another time, those to be done by the City or other entity, or as otherwise agreed upon in the process of approving the subdivision.
- C) The subdivider shall have the right to partial release(s) against the Improvement Completion Assurance with the municipality providing however that a sum equal to ten percent (10%) of the estimated costs of all improvements installed in the subdivision shall remain with the municipality until after the issuance of an "Improvements Completion and Acceptance Report" by the City Engineer and the Warrantee Bond has been provided. The subdivider must show evidence of payment of all costs for the improvements and show that the lots and the improvements thereto are free from any liens before any release (partial or full) of funds from the Improvement Completion Assurance. The City Engineer may release a portion of this remaining part of the Improvement Completion Assurance (meaning the 10% above the estimated costs of all the improvements) if, in his opinion, there remains encumbered a sufficient amount of the Improvement Completion Assurance to ensure the completion of the required subdivision improvements. The Warrantee Bond provided to the City is to guarantee that improvements are correctly installed, constructed, and are maintained through the Guarantee Period and to secure the City as to the costs of any required corrections of defects of such improvements.
- D) During said Guarantee Period, if all or any part of the required improvements are found not to be correctly installed, constructed and maintained, and paid for according to the standards required in this title and Nibley City Design Standards and Specifications, the City shall

notify the subdivider in writing of the defects or any other problems and shall make demand on the subdivider that defects/problems be corrected and paid for. If the defects are not corrected and paid for within thirty (30) days the municipality may correct the defects and charge to the subdivider the costs of correcting the defects as provided above, including administrative costs. There shall be no draw(s) made by the subdivider against the Warrantee Bond. The cost of correcting any deficiencies must be borne by the subdivider without access to the Warrantee Bond.

- E) After eleven (11) months of the Guarantee Period have expired, the subdivider shall call for Final Inspection by the City Engineer. If the required improvements remain substantially free from defects, or other problems, and free from liens, the municipality shall certify such fact to the subdivider and the municipality shall discharge the subdivider of its obligation to the municipality within thirty (30) days from the time of Final Inspection by releasing the Warrantee Bond. Any items that need correcting following the Final Inspection must be corrected within thirty (30) days to have the Warrantee Bond released. Any items not completed at the end of these last thirty (30) days, or in other words one year from the date of initial acceptance of the improvements, shall require an additional, or extension of the, Warrantee Bond be established to ensure the completion of any corrections, and/or the City may obtain draw(s) against the Warrantee Bond for such purpose.

21.14.70 Form And Method Of Guarantee Of Improvements

- A) The form and method of the guarantee of improvements, for both the Improvement Completion Assurance and the Warrantee Bond shall be as approved by the City Engineer as to the amount of the bond, escrow, letter of credit or deposit with the municipality and as approved by the City Attorney as to the form of said guarantee documents. All guarantee methods shall provide surety in accordance with this Title and may consist in the form of one or more of the following:
- B) Bond. The subdivider may furnish and file with the City Recorder a bond issued by a licensed, reputable corporate surety in an amount as required by this ordinance. The bond agreement must include a provision that the bond may only be released, in whole or in part, by an order executed by an authorized officer of the City, subject to the requirements of subsection (E), below.
- C) Escrow. The subdivider may deposit with a licensed, reputable and/or duly chartered insurance company, bank, title company or savings and loan institution in an escrow account an amount as required by this ordinance. The escrow agreement must include a provision that the funds in escrow may only be released, in whole or in part, by an order executed by an authorized officer of the City, subject to the requirements of subsection (E), below.
- D) Irrevocable Letter of Credit. The subdivider may file with the municipality an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount as required by this ordinance. The letter of credit must include a provision that the guaranteed credit amount may only be reduced by an order executed by an authorized officer of the City, subject to the requirements of subsection (e), below.
- E) Any of the above Forms and Methods for Guarantee of Improvements shall be subject to approval by the City Attorney, as to form and content of the documents used, and shall be signed by the subdivider, the municipality, and the entity providing the surety bond or holding the escrow, or the financial institution providing the letter of credit, or by the subdivider and municipality for a deposit with the municipality, as applicable. The Guarantee

of Improvement may include provisions that allow for partial release or reduction of the funds by an authorized officer of the City for partial completion of work. The Guarantee of Improvements utilized must name the City as the payee or beneficiary, in the event of default or non-performance and shall provide for the City's access to all or any remaining funds, without the subdivider's approval, for both Improvement Completion Assurance and Warrantee Bond purposes, in the event of default or non-performance by the subdivider. In the case of both the Improvement Completion Assurance and Warrantee Bond, the provisions shall provide for use of all or any remaining funds by the City in accordance with subsection (4), above, in order to complete required improvements and/or make repairs not completed in a timely manner by the subdivider. The Guarantee of Improvements documents used shall also include provisions whereby the subdivider agrees to pay all administrative costs, legal fees, and other costs of enforcement incurred by the City pursuant to the agreement.

21.16 Notice To Proceed And Authorization To Begin Work On The Subdivision
21.16.010 Preconstruction

- A) The Public Works Director may require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to beginning work.

21.16.20 Conditions Prior To Authorization

- B) Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:
- 1) The final plat shall have been approved by the City. All required contract and construction documents shall be completed and filed with the City Engineer.
 - 2) Fee simple title to all necessary off-site easements or dedications required for public facilities, not shown on the final plat or final site plan, must be conveyed separately to the City, or other agency approved by the City, with proper signatures affixed. The originals of each document, and filing fees as determined by the City shall be delivered to the City Engineer prior to approval and release of the construction documents.
 - 3) The Improvement Completion Assurance and other documents required to be accomplished in accordance with this ordinance and the development plan, and any applicable ancillary agreements shall be completed and filed with the City Engineer.
 - 4) The final plat and development agreement shall be filed with the County Recorder as required in this Title.

21.16.030 Authorizing Work To Begin An A Subdivision Without Improvement Completion Assurance

- A) The Public Works Director may authorize work to begin on a subdivision without an Improvement Completion Assurance if all other conditions in NCC 21.16.020 have been met. Until the City has signed the final plat, or if a minor subdivision the Approval Document, no plat shall be filed with the County Recorder and therefore no lots may be sold. The final plat or Approval Document shall be signed by the Mayor and filed with the County Recorder only after all subdivision improvements have been completed and the 10% Warrantee Bond has been established and filed with the City Engineer.

- 1) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.
- 2) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.
- 3) All applicable fees must be paid to the City prior to issuance of the Notice to Proceed.

21.18 Acceptance of The Completed Subdivision

21.18.10 Applicant's Submittal Of Completed Subdivision

- A) Applicant's Submittal of Completed Subdivision. Subdivider may notify the City in writing of the completion of the subdivision and request Final Inspection when the subdivider believes that they have done the following:
- 1) Completed all infrastructure work in the subdivision or development, as prescribed in the Nibley City Design Standards and Specifications and per approved construction drawings.
 - 2) Provided to the City the required as-built drawings, and
 - 3) Otherwise complied with all conditions required by the City Council or this ordinance as preconditions to approval of the Development Agreement, Final Plat, and Construction Drawings.

21.18.20 -Built Drawings

- A) The subdivider shall provide to the City as-built drawings and specifications for all infrastructure improvements in the subdivision. Drawings and specifications shall include but not necessarily be limited to roads, curb/gutter, sidewalks, drainage systems, irrigation systems, waterlines, and sewer lines. Standards for as-builts shall be the same as called for in construction drawings in the Nibley City Design Standards and Specifications. The drawings and specifications, certified by a registered engineer, shall be submitted to and approved by the City Engineer before final release of funds established by the subdivider to ensure improvement completion under any Improvement Completion Assurance provided. One (1) reproducible mylar copy of drawings shall be provided to the City. In addition, the subdivider shall provide either:
- 1) A Computer Assisted Design file of the subdivision (must be readable by AUTOCAD as updated) or ArcMap file of the subdivision; and
 - 2) Electronic PDF copies of the as-built drawings

21.18.030 Public Works Director Review

- A) The Public Works Director shall conduct such review as he/she considers appropriate to determine whether the subdivision is complete and whether the Applicant has satisfied all applicable conditions. If the Public Works Director finds that the Applicant has completed the subdivision and has satisfied all applicable conditions, and that all other requirements of applicable law have been met, the Public Works Director shall approve the as-built drawings and shall forward to the City Recorder a copy of the Improvements Completion and Acceptance Report, and notify him that the Improvement Completion Assurance has been released.

21.18.040 Partial Release of Improvement Completion Assurance

- B) The Public Works Director is authorized from time to time, at the request of the subdivider or his successors in interest, and with recommendation from the City Attorney to release all or a portion of a subdivider's Improvement Completion Assurance up to the amount of one hundred percent (100%) of the value of the improvements. The remaining percent (10%) may only be released in accordance with this Title.

21.18.050 Final Release of Warrantee Bond

- C) Release Submittal and Approval. Following a review of the subdivider's request to have the subdivision's Warrantee Bond released, the Public Works Director shall forward to the City Council a recommendation for the release of the Warrantee Bond and the City Council shall release, in accordance with section 12D-501 (5), the subdivider's Warrantee Bond, with respect to the subdivision.

21 Subdivision Regulations

21.02 General Provisions

21.02.010 Purposes

The purposes of this title are:

- A) To promote the health, safety and general welfare of the residents of the City.
- B) To promote the efficient and orderly growth of the City.
- C) The Nibley City Council adopts this title pursuant to the Utah Municipal Land Use, Development and Management Act, Utah Code 10-9a, 1953, as amended, for the purposes set forth therein. Maps referenced herein are a part hereof. The intent of this title is to provide a means of ensuring predictability and consistency in the use of land and individual properties and to implement the goals and policies of the Nibley City General Plan.
- D) To provide standards for the physical development of subdivisions of land, construction of buildings and improvements within the City, including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water, stormwater and sewer systems, design standards for public facilities and utilities, accesses to public rights of way, dedication of land and streets, granting easements or rights of way and to establish fees and other charges for the authorizing of a subdivision.

21.02.020 Violation

- A. No person shall subdivide any tract or parcel of land located wholly or in part in the City, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
- B. Whoever shall violate any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in NCC 1.08.010.
- C. Any parcel of land created, purchased, sold or exchanged in violation of this title shall not be eligible for building permit or other development approval until full compliance with the provisions of this title is achieved.
- D. Any person or corporation that allows to continue any violation of any provision of this title shall be guilty of a misdemeanor for each and every day the violation continues, and each day shall be a separate violation.
- E. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or the issuance of a building permit.
- F. Any owner or agent of the owner of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded in the office of the Cache County Recorder, consistent with

the requirements of this title, and applicable state and federal requirements, is guilty of a violation of this title, and of Utah Code § 10-9a, for each lot or parcel transferred or sold.

- G. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, Nibley City land use ordinances, or the laws of the State of Utah.

21.02.030 Permits

- A) The building inspector shall not grant a permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a subdivision plat therefore has been recorded or approved as herein required. Any license or permit issued in conflict with such provisions shall be void. Approved development plans shall be filed with the Planning Commission and City Recorder.

21.02.040 General Requirements

- A) The subdivider shall prepare all plats consistent with the standards contained herein and the Nibley City Design Standards and Specifications and shall pay for the design and inspection of the public improvements required. The City shall process said plats in accordance with the regulations set forth herein.
- B) All improvements shall be constructed in accordance with the International Building Code, the Nibley City Design Standards and Specifications and other applicable federal, state and local regulations.
- C) The City shall review the plats for design, for conformity to the Nibley City General Plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.
- D) Proposed subdivisions shall be referred by the City to such City departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The City is responsible for coordinating the comments received from all public and private entities and shall decide which agencies to refer the proposed subdivision.
- E) The City engineer shall make comments as to engineering requirements for plans submitted for construction, including, but not limited to, street widths, grades, alignments and flood control, whether the proposed public improvements are consistent with this title and other applicable ordinances and for the inspection and approval of all construction of public improvements. Street layout and overall circulation shall be coordinated with the Nibley City Transportation Master Plan.
- F) The Planning Commission shall act as an advisory agency to the City Council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the Nibley City General Plan and land use ordinances, and other

pertinent documents. The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary and final plats to the City Council.

- G) The City, in conjunction with the City engineer and City attorney, shall approve the form of the final plat, that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report.
- H) The Nibley City Council has final jurisdiction in the approval of subdivision plats unless otherwise designated within this title; the establishment of requirements for the Nibley City Design Standards and Specifications; and the acceptance of lands and public improvements that may be proposed for dedication.
 - 1) The amendment and alteration of the Nibley City Design Standards and Specifications may, by resolution, be delegated to the Public Works Director and the City Engineer.

21.02.050 Site Preparation And Work Prohibited

- A) No excavation, grading, regrading or removal of vegetation for a proposed subdivision shall take place and no building permits shall be issued until a proposed subdivision has received approval from the Nibley City Council and a Notice to Proceed has been issued.

21.02.060 Complete Submittal Required

- A) No application for a subdivision shall be reviewed by the City Planning Commission or City Council or be entitled to substantive review and approval until the applicant has submitted all documents required by this Chapter. The City shall inform applicants of the information needed to provide a complete application. Once a complete application has been received, the application shall be reviewed/approved as outlined in this Chapter.

21.02.070 Effect Of Approval

- A) Any approval granted under this title, whether it be for a preliminary plat or for a final plat for all or part of a subdivision shall be effective for a period of one year from the date of approval by the Approval Authority. If the applicant has not recorded the final plat or, in the case of the preliminary plat, presented a final plat for a phase of the subdivision for approval, within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.

21.02.080 Phasing

- A) When developing a large tract of land, subdividers may choose to construct the subdivision in phases rather than develop the entire property at once. A subdivider must submit a preliminary plat that contains the complete development, proposed phasing and complies with all preliminary plat requirements. Subdividers opting to phase the subdivision shall have five years one year from the date of preliminary approval to present each phase of the subdivision, inclusive of all phases, for final approval. The final plat

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Commented [SN4R3]: Could review it based on if the transportation master plan or other significant code has been updated.

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for each phase must conform with the approved preliminary plat for density and connectivity. Any phase that does not meet the five-year application deadline will be required to regain preliminary approval. The subdivider must apply for final approval for the first phase within one year; if not, the preliminary approval for the development shall be expired.

A)

B) Phasing shall be done in a manner that maximizes connectivity between phases of the subdivision and shall be presented as part of the preliminary plat approval. Specific attention shall be paid to ensure that the roads in each phase connect to the roads in earlier phases.

C) Developers may choose to construct infrastructure improvements within the proposed subdivision, which may include, but are not limited to: utilities, parks, open space, stormwater facilities, trails, etc. When such improvements are approved as part of the subdivision approval, they shall be phased in proportion, based on percentage of the total value of the amenities in the subdivision, to the total number of lots in the subdivision, per phase. Example: If a phase contains 25% of the lots for the subdivision, then 25% of the total value of the subdivision's amenities are required to be constructed along with that phase.

C)

D) Choosing to phase the subdivision does not relieve developers of the requirement to present the entire subdivision, in its phases, for final approval by the City Planning Commission and City Council within five years of receiving approval of the preliminary plat by the City Council, as outlined in NCC 21.06.080.

E) Each phase must comply with Nibley City access and connectivity standards as listed within this title.

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21.02.090 Fees

A) Subdividers shall pay non-refundable filing fees for each of the preliminary plat(s), final plat(s) and plat amendments, in such amounts as may be established by resolution of the City Council, to cover costs including, but not limited to, staff review, legal review and engineering review. Fees shall be paid prior to the subdivision receiving either preliminary or final plat approval.

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21.02.100 Appeal

A) Any person adversely affected by an action or decision of the Planning Commission or City Council interpreting or applying Utah Code or Nibley City Code in the review, denial, or approval of a land use application may appeal by following the procedures for appeal outlined in NCC 19.06 "Appeals".

B) An applicant who wishes to challenge the completeness or timeliness of an application shall follow the procedures set forth in Utah Code § 10-9a-509.5.

21.02.110 Enforcement

- A) The Planning Commission, the City engineer and such other departments and agencies of the City as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this title and shall enter such actions in court as are necessary. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions or waive the City's right to pursue such remedies in the future.

21.02.120 Inspection

- A) Appropriate agencies and departments of the City shall inspect or cause to be inspected all public improvements in the course of construction, installation or repair as required in this title. Excavations for any publicly owned infrastructure shall not be covered or backfilled until such installation shall have been approved by the Public Works Director. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector, and at the responsible person's cost and expense.

21.02.130 Prohibition On Subdivision

- A) It is unlawful for any person to subdivide any tract or parcel of land located wholly or in part in the Nibley City limits, and no application for any subdivision for any tract or parcel of land may be approved, if any of the following apply;
- 1) The applicant or subdivider is a member of the City Council;
 - 2) The applicant or subdivider is a spouse of a City Council member;
 - 3) A member of the City Council owns an interest of any kind in the applicant or subdivider;
- B) As set forth in NCC 1.10.030, the Mayor is a member of the City Council for the purpose of this Section.
- C) A violation of this section is a Class B Misdemeanor.

21.04 Definitions

21.04.010 Definitions

- A) For purposes specific to this title, all terms shall have the same definition as provided by Utah Code § 10-9a-103, 1953, as amended and also in NCC 19.04, except as such definitions are modified herein.
- B) "Appeal Authority" as used in Utah Code § 10-9a-103 means that body or person designated by NCC 19.06 "Appeals".
- C) "Land Use Authority" as used in Utah Code § 10-9a-103 means that body or person designated as the Approval Authority by Nibley Code 21.06.060 Land Use Authority.

D) "Nibley City Design Standards and Specifications" means those technical standards, specifications, measurements, and requirements adopted by the City Council or its designee that govern the design and construction of public and private infrastructure and facilities.

21.06 Approval Process

21.06.010 Compliance Required

A) Before dividing any tract of land into a "subdivision" as defined in NCC 21.04, a subdivider shall follow the procedures specifically provided for that type of development or zoning under Nibley City Code. If no more specific procedures are provided, a subdivider shall follow the procedures outlined in this chapter, except as may be provided for in Utah Code § 10-9a-605, 1953, as amended.

21.06.020 Standards And Lot Size

A) All subdivisions must meet the minimum lot and development standards as outlined in each zone of the Nibley City land use ordinance and within this Title.

21.06.030 Concept Plan Review and Development Review Committee

A) Prior ~~to submitting a preliminary plat~~, a subdivider shall ~~may submit an initial~~ written "concept plan" to the ~~Development Committee~~ Planning Commission. The concept plan shall include a sketch plan of the proposed subdivision in which the proposed subdivision is sufficiently described to enable the Development Committee ~~Planning Commission to determine whether the proposed subdivision complies with zoning title, master plans, street plans and services.~~ The Development Committee ~~Planning Commission~~ shall advise the subdivider of possible problems with the proposed subdivision within thirty (30) days after it receives the concept plan. Development Committee advise on the ~~Approval of the concept plan shall not constitute preliminary or final approval of a particular subdivision plan or of the preliminary plat. This section is not mandatory and a subdivider may submit a preliminary plat plan in lieu of the concept plan.~~

B) The Development Committee shall be composed of the City Engineer, the Public Works Director, the City Planner who shall chair the committee and other members as appointed by the City Council.

C) The Development Committee does not have authority for approval of applications, but is a review body ~~to~~ established to help subdivision application comply with Nibley City Master Plans, Code, and Design Standards and Specifications.

Commented [SN7]: Mayor's Comment: Mostly want staff to handle it. Council and Commissioners may

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21.06.040 Submission Of Preliminary Plat

- A) The subdivider shall submit three (3) paper copies and one (1) electronic copy, in a format that is readable, of the proposed preliminary plat to the Planning Commission at least fourteen (14) days prior to the date of the Planning Commission meeting at which the preliminary subdivision plan is to be reviewed. The Planning Commission shall circulate copies of the proposed preliminary plat to all affected departments and to any districts which may be providing special services for comment and review.
- B) The preliminary plat shall conform to the development standards outlined in NCC 21.08.010.

21.06.50 ~~21.06.050~~ Public Notice and Hearing Required

A) Subdivider shall post a sign on the property for the purpose of notifying the public of the proposed subdivision. The sign shall meet the following standards:

- 1) The sign shall be posted on the property in a location visible and within 10' of an adjacent right-of-way.
- 2) The sign(s) shall consist of four foot by four foot (4' x 4') plywood or other hard surface and the bottom of the sign shall be at least three feet (3') above the ground.
 - (a) Centered at the top of the four foot by four foot (4' x 4') signboard(s) in six inch (6") letters shall be the words "City Of Nibley Public Notice". In addition, each sign will inform the public of the nature of the notice, the date, time and address of the location, a summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and, if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black.

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City of Nibley Public Notice

Preliminary Subdivision Plat For This
Property

(Date and time)

(Meeting Address)

(City Hall Phone Number)

(Applicant Name)

- B) Notice of the proposed subdivision shall be mailed to all property owners within three hundred feet (300') in any direction of the property at issue at least ten (10) days prior to the meeting. The letter shall state the phone number of Nibley City Hall.

C) If a public hearing is required, notice of the public hearing shall be added onto the sign and included with letters sent to property owners within 300 ft. Other public hearing notices shall be followed as outlined in NCC 19.02.120

A) Upon receipt of a subdivision application, the City Council and Planning Commission shall hold public hearings on all preliminary plats, to hear public comment and concern regarding the proposed development.

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21.06.060 Notification Of Adjacent Property Owners

A) Written notice of the time, date and place where the Planning Commission and City Council will hold public hearings and consider giving preliminary approval to the subdivision shall be given to adjacent property owners within three hundred (300') feet of the proposed subdivision in accordance with NCC 19.02.120(G). The written notice shall also advise the property owner that he or she has the right to be present and to comment on the proposed subdivision. The applicant shall provide the Planning Commission with the names of all persons to whom the notice was mailed.

21.06.060 Land Use Authority

A. The Land Use Authority shall be established according to the table below for Preliminary Plats, Final Plats, and Development Agreements.

<u>Subdivision Type</u>	<u>Approval Authority</u>	<u>Public Hearing Required</u>
<u>Standard Subdivision</u>	<u>Planning Commission</u>	<u>No</u>
<u>Minor Subdivision</u>	<u>Planning Commission</u>	<u>No</u>
<u>Rural Preservation Subdivision</u>	<u>City Council</u>	<u>Yes</u>
<u>Cluster</u>	<u>City Council</u>	<u>Yes</u>
<u>R-PUDs and other Overlay Zones Developments</u>	<u>City Council</u>	<u>Yes</u>

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Commented [SN10]: Planning Commission

B. The Approval Authority shall have approval authority of the Preliminary Plat, Final Plat, and Development Agreement as required in Nibley City Code.

1. The City Council shall approve any development agreement and Final Plat if said development agreement would obligate the City to build infrastructure over \$25,000.

2. If the City Council is the Approval Authority, they shall not approve, approve with conditions, or deny a Preliminary or Final Plat until they receive a recommendation from the Planning Commission.

C. Construction Drawing, Engineering Reports and Design Compliance shall be approved by the Nibley City Engineer, who shall consult with the City Planning Department and Public Works Departments before approval.

D. Subdivisions shall followed the established processed within the section of Nibley City Code that outlines the requirements and process for that type of development.

21.06.070 Authorization To Proceed

- A) Upon approval of the preliminary plat ~~by the City Council~~, copies of the approved preliminary plat with written conditions attached shall be delivered to the City Planner and to the subdivider. Receipt of same shall be authorization for the subdivider to proceed with the preparation of the final plat and plans and specifications for the improvements required in the final plat.
- B) Prior to the construction of any improvements required by this title, the subdivider shall provide the City engineer with all plans, information and data necessary to install and construct the improvements. This information shall be examined by the City ~~E~~ngineer and shall be approved if ~~the City Engineer~~ determines them to be in accordance with the requirements of City ordinances and standards.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.080 Final Plat Approval

~~A) Within one year of receiving approval of the preliminary plat by the City Council, developers shall present the entire subdivision or first phase or phases for final approval by the specified Land Use Authority Planning Commission and the City Council. Planning Commission shall make a recommendation to the City Council for the final subdivision approval, approval with conditions, or disapproval.~~

~~A) one year of receiving approval of the preliminary plat by the City Council, developers shall present the entire subdivision for final approval by the Planning Commission and the City Council. Planning Commission shall make a recommendation to the City Council for the final subdivision approval, approval with conditions, or disapproval.~~

- B) The application for final approval shall consist of the following:
- 1) Final plats for the entire subdivision or for the proposed phases, prepared according to this ordinance and to the Nibley City Design Standards and Specifications;
 - 2) A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.
 - i) No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.
 - ii) The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt font) on the recorded mylar
 - iii) The report shall be attached to the Development Agreement.
 - iv) An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finish curb or center line of the street, whichever is higher unless an individual lot owner is able to provide a stamped report meeting the qualification as listed within this section for their lot. This report must be reviewed and approved by the City Engineer

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- 3) Construction drawings for the subdivision, prepared by licensed professionals according to this ordinance and to the Nibley City Design Standards and Specifications;
 - 4) Three (3) hard copies of the final plats and construction drawings and one (1) electronic copy of the same; and
 - 5) A draft Development Agreement, prepared by Nibley City, outlining the roles and responsibilities of both the subdivider and Nibley City. The Development Agreement shall be approved by the City ~~Council~~ as part of the final approval.
- C) Upon a subdividers failure to receive approval within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the Applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.
- D) Developers are not required to record all phases of the subdivision, once final approval has been given. They are required only to receive final approval for the entire subdivision and then they may construct the subdivision in phases.
- E) Final approval shall be valid for three (3) years. If a subdivision, or phase thereof, has not been constructed within three (3) years of the date of final approval by the City Council, the Public Works Director shall suspend the Notice to Proceed and the developer shall be required to resubmit the final plats and construction drawings for review and compliance with City standards and specifications in effect at that time.
- F) At the time final approval is requested, the City and the developer shall enter into a development agreement outlining the roles and responsibilities of each respective to the development. Regardless of how the developer chooses to phase the subdivision, the development agreement shall encompass the entirety of the project and shall be recorded with the first recorded phase of the subdivision.

21.08 Standards of Approval

21.08.010 Preliminary Plat

- A) As part of the submittal of the preliminary plat, subdividers shall provide Nibley City with the following information:
- 1) A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.
- B) Description: The preliminary plat shall be drawn to a scale not smaller than one hundred feet to the inch (1" = 100') on standard twenty four inch by thirty six inch (24" x 36") paper and shall include the following information in the title block:
- 1) The proposed name of the subdivision.
 - 2) The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project..
 - 3) A legal description of the property.
 - 4) The names and addresses of the owner, subdivider if other than owner, and the engineer or surveyor of the subdivision.
 - 5) Date of preparation.
 - 6) Scale.
- C) Existing Conditions: The plat shall show:

- 1) The location of the nearest benchmark and property monuments.
 - 2) All property contiguous to the proposed subdivision under the control of the subdivider, even if only a portion is being subdivided.
 - 3) The location, width and names of all existing streets, railroads, open spaces, sewers, water mains, culverts or other utility lines and rights-of-way, and permanent buildings and structures located within the tract and within three hundred feet (300') of the outermost boundary of the subdivision.
 - 4) The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract.
 - 5) Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.
 - 6) Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
 - i) Except as outlined in NCC 21.10.040, prior to approval of the preliminary plat, the subdivider shall provide the City with signed documentation that any affected canal company has had the chance to review plans related to the alteration of affected canals, and further, that the canal company understands they have thirty (30) days from the date of notification to bring any concerns to the City.
 - 7) Identification of known natural features including, but not limited to, wetlands as identified by the US Army Corps of Engineers, areas which would be covered in the event of a 100-year storm event, all water bodies, floodways and drainageways, slopes exceeding twenty percent (20%) and any other natural features as may be required by the Planning Commission or City Council for the subdivision, including the acreage in each required feature.
 - 8) Boundary lines of adjacent tracts of land, showing ownership where possible.
 - 9) Contour map at vertical intervals of not more than five feet (5') where the slope is greater than ten percent (10%) and not more than two feet (2') where the slope is less than ten percent (10%).
 - 10) A plan outlining how the subdivider intends to phase construction of the project, if phasing is intended.
- D) Proposed Development: In addition to the above-listed items, the preliminary plat shall show:
- 1) The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.
 - 2) The layout, numbers and typical dimensions of lots.
 - 3) Open space intended to be dedicated for public use or set aside for the private use of property owners in the subdivision.
 - 4) Building setback lines, including dimensions of said lines.
 - 5) Easements, including dimensions, for water, sewer, drainage, utility lines and other purposes as required by the Planning Commission or by City law.
 - 6) A tentative plan or method for the subdivision's groundwater, fire hydrant, sewer and stormwater drainage facilities.
 - 7) Where the plan submitted covers only part of the subdivider's tract, the preliminary plat shall include a sketch of the prospective future street system which shall be considered in light of the future street system of the larger area.
- E) Approval Of Preliminary Plat:

1) Conditions Of Approval: ~~The Approval Authority Planning Commission shall approve only those preliminary plats that satisfy which it finds have been developed in accordance with the standards and criteria specified in this title, Zoning Title 19.10 of the Nibley City Code and all other applicable City ordinances.~~

2) ~~The Planning Commission shall approve only those preliminary plats which it finds have been developed in accordance with the standards and criteria specified in this title, Title 10 of the Nibley City Code and all other applicable City ordinances.~~

3) Environmental Impact Analysis: The Planning Commission shall determine from the preliminary plat the possible need for environmental impact analysis.

4) Approval Or Disapproval By ~~the Approval Authority Planning Commission~~: The ~~Approval Authority Planning Commission~~ shall, ~~within forty five (45) days after the preliminary plat is filed with the Planning Commission,~~ approve the preliminary subdivision plan if it finds that the subdivision complies with City ordinances. The ~~Approval Authority Planning Commission~~ may conditionally approve a preliminary subdivision plat imposing such conditions as required in order to bring the subdivision plat into compliance with the requirements of City ordinances. In the event the ~~Approval Authority Planning Commission~~ disapproves the preliminary plat, ~~it shall do so within forty five (45) days after the date the subdivider made application for approval and, they~~ shall state in writing each reason for the disapproval. ~~All comments and recommendations shall be forwarded to the City Council within the prescribed time limit.~~

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21.08.020 Final Plat

A) Description: The final plat shall be drawn to scale on standard twenty four inch by thirty six inch (24"x36") paper and shall include the following information:

- 1) The proposed name of the subdivision.
- 2) The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
- 3) A legal description of the property.
- 4) The names and addresses of the owner, subdivider, if other than owner, and the engineer or surveyor of the subdivision.
- 5) Date of preparation.
- 6) Scale
- 7) The base heading of true north.

B) The plat shall contain the following information:

- 1) Accurate dimensions for each lot, street, alley, easement, areas to be dedicated as open space and other important features. Dimensions shall be shown in feet and hundredths. Lot sizes shall be expressed in acreage.
- 2) The street address for each lot. Lots on the north and west sides of the street shall have odd numbers. Lots on the south and east sides of the street shall have even numbers.
- 3) A description and delineation of other angles, distances, points, monuments, markers, boundaries and other geometries as described in the Nibley City Design Standards and Specifications.
- 4) Standard signature forms, the wording of which is found in the Nibley City Design Standards and Specifications, for the following:
 - i) Registered land surveyor's certificate of survey, as applicable under Utah law;

- ii) Owner's signature of dedication;
- iii) Notary public acknowledgement;
- iv) City engineer's certificate of approval;
- v) Utility companies' approval;
- vi) Planning Commission approval;
- vii) City approval, signed by the Mayor and City Recorder if City Council is required to approve the plat;
- viii) City attorney approval;
- ix) A block for use by the County Recorder containing the required recording information.
 - (a)
- x) The following note regarding groundwater:
 - (a) Areas in Nibley have groundwater problems due to the varying depth of a water table. The City's approval of a final plat, building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building site, remain solely with the building permit application, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which may occur, nor for such concerns including, but not limited to, building location and/or elevation, site grading and drainage.
- C) Additionally, construction plans shall be submitted with the final plat. These plans shall detail the size, design, type and location of all infrastructure improvements proposed for construction as part of the phase, including, but not limited to, streets, sidewalks, curbs, utility pipes and other infrastructure. Construction plans shall be prepared in accordance with the Nibley City Design Standards and Specifications.

21.08.030 Lot Line Adjustments and Amendments to a Subdivision Plat

- A) An agreement to adjust lot lines between adjoining properties, whether in a subdivision or on unsubdivided parcels of land, may be executed by the owners of record of said properties and recorded upon execution, if the following conditions are met:
 - 1) No new lot results from the lot line adjustment.
 - 2) No previously existing lot is eliminated as a result of the adjustment.
 - 3) If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and NCC 19.
 - 4) No lot is made undevelopable without a variance or other special consideration.
 - 5) All property owners directly affected by the lot line adjustment give their consent.
 - 6) The lot line adjustment does not result in a remnant piece of land that did not exist previously.
 - 7) The lot line adjustment does not result in the violation of any applicable zoning ordinance.
 - 8) The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.

- 9) Provided the above conditions are met, no municipal land use authority approval is required.
- B) An amendment to a subdivision plat shall follow the process and standards within Utah State Code 10-9a-6 as amended, and any applicable Nibley City ordinances.

21.08.040 Minor Subdivision Process

- A) Purpose: In an effort to reduce the expense of developing relatively small residential subdivisions that meet certain conditions, residential subdivisions of five (5) lots or less may be considered and approved under this section. A subdivision approved under this section shall be known as a "Minor Subdivision." Minor subdivisions, when approved, are exempt from platting requirements for preliminary and/or final plats and may also be exempt from the requirements for some engineering reports and construction drawings as determined by the Nibley City Engineer and as provided in this section.
- B) Minor Subdivision Requirements: To be considered for approval as a Minor Subdivision, the proposed subdivision must meet all the following requirements:
 - 1) Notice is provided as required by ordinance;
 - 2) The proposed parcel is not traversed by the mapped lines of a proposed street or trail as shown in the General Plan, Master Transportation Plan, and/or Trail Master Plan;
 - 3) The proposed subdivision does not require the dedication of any land for street or other public purposes;
 - 4) The proposed subdivision has been approved by the culinary water authority and the sanitary sewer authority;
 - 5) The proposed subdivision is located in a residential zoned area;
 - 6) The proposed subdivision conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance;
 - 7) The proposed subdivision contains five (5) lots or less total;
 - 8) The parcel being divided has not had other lots separated from it within the past five years, provided that if another lot or lots have been separated from the parcel that is the subject of the request for Minor Subdivision within the past five years, then the previously separated lots and the subject parcel will all be counted towards the five (5) lot limit for the purposes of the application for a Minor Subdivision under this section;
 - 9) The proposed subdivision does not require or contemplate the creation or dedication of open space land for the purpose of receiving higher density and/or smaller lot size; and
 - 10) The proposed subdivision complies with all other applicable requirements under Nibley City Code for a subdivision, including zoning, infrastructure improvements and bonding thereof, providing for drainage needs, providing required utility easements, and protecting sensitive land issues, etc..
- C) Minor Residential Subdivision Application Procedure: The application procedure for a minor subdivision shall be as follows:
 - 1) Pre-Application Meeting- The applicant must meet with Nibley City Staff to determine if the proposed subdivision meets the requirements of a Minor Subdivision. The staff shall provide a copy or access of this section of Nibley City code and inform the applicant of their options. The staff shall review with the applicant any requirements for construction drawings that may be needed and required for approval.

- 2) Minor Subdivision Plat- Minor Subdivisions shall be exempt from preliminary plat application and shall file a final plat in compliance with all NCC 21 and standards on the plat as unless noted in this section and the applicant may only submit a final Minor Subdivision plat after a Pre-Application Meeting with Nibley City staff and a determination from City staff that the proposed subdivision meets the requirements for a Minor Subdivision. Nibley City staff shall write and proposed a development agreement to be considered with the minor subdivision application.
 - 3) The Planning Commission shall act as the land use authority for a Minor Subdivision and shall grant or deny an application for a Minor Subdivision within 60 days of its receipt of a complete application. The Planning Commission shall approve an application for a Minor Subdivision if the plat and development agreement meet all of Nibley City's ordinances as listed in NCC 19 and NCC 21, Public Work's design standards, general plan, master plans and all requirements for a final plat.
- D) Recording of the final plat: Final approval shall be valid for three (3) years. If an applicant fails to record the final plat within that time, the approval of the plat is void.
- E) Notice to proceed and process after final approval: All Minor Subdivisions shall follow the Nibley City subdivision code and process as outlined after final approval.
- F) Minor Subdivision standards: All Minor Subdivision shall comply with Nibley City Ordinances, as listed in Nibley Code, and engineering and public work design standards, unless otherwise listed in this section.
- 1) Finished floor elevation recorded on the final plat:
 - i) An applicant shall include all groundwater reports as required Nibley City code with the final plat. An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower then six inches (6") above finish curb or center line of the street, whichever is higher.
 - 2) Construction Drawings and Engineering Reports:
 - i) The applicant shall submit all report as required by Nibley City code unless otherwise exempted by the Planning Commission.
 - ii) Applicants shall submit detailed stormwater plans at the request of the Nibley City Engineer.

21.10 Subdivision Options

21.10.010 Type Of Subdivisions

- A) A developer may subdivide under one of the following subdivisions:

Type of Subdivision	Applicable Zones	Density	Open Space Requirements	Lot Size
Standard Subdivision	All zones	Density must comply with zoning	Open space is not required	Lot size must comply with zoning
Rural Preservation Subdivision	R-1, R-1A, R-2, and R-2A	Bonus density	Open space is required	Smaller lots are allowed

Cluster Subdivision	A, R-E, R-1, R-1A, R-2, and R-2A	Density must comply with zoning	Open space is required	Smaller lots are allowed
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1. Standard Subdivision must follow all zoning and subdivision code contained within Nibley City code and design standards, including lot sizes, frontages, setbacks, etc.
2. Rural Preservation Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified within the Rural Preservation Subdivision requirements stated within Nibley City Code.
3. Cluster Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified with the Cluster Subdivision requirements stated within Nibley City Code.
4. Each subdivision must follow State law and the Utah Land Use Development Management Act.

21.10.020 Rural Preservation Subdivision

A) Purpose: The purpose of this section is to provide for subdivision development within Nibley City in a manner that:

- 1) Helps preserve the rural feeling of Nibley City as outlined in the General Plan;
- 2) Provides Open Space Land with a specific purpose that provides visual and physical access to the public.
- 3) Supports adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resources and agricultural lands as set forth in the General Plan;
- 4) Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
- 5) Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
- 6) Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;
- 7) Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
- 8) Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
- 9) Creates neighborhoods with direct visual and/or physical access to Open Space Land;
- 10) Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.

B) Definitions: For purpose of this section, the following words shall have the meanings set forth herein:

- 1) OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on a Rural Preservation Subdivision Plat for the access and/or visual enjoyment

of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.

- 2) **CONSTRAINED AND SENSITIVE LAND:** Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.
- 3) **WATERWAY:** Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
- 4) **TREE STAND:** A group or cluster of trees within a geographic location that are occurring naturally or artificially.
- 5) **MEADOWS:** Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
- 6) **PASTURE:** A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
- 7) **NET DEVELOPABLE LAND:** Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
 - 8) Public access rights-of-way
 - 9) Land required to be dedicated along waterways
 - 10) Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
 - 11) Constrained and Sensitive Land as defined herein
 - 12) Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
- 13) Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.

C) Applicability:

- 1) The election to develop the property as a Rural Preservation Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section and the rural preservation subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Rural Preservation Subdivisions may be developed within applicable residential zones of the City. Rural Preservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.
 - 2) In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
 - 3) Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop a Rural Preservation Subdivision. R-2A zones may also be developed under the terms of this ordinance; in such cases, the R-2A zoned property shall be treated as R-2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for a Rural Preservation Subdivision.
 - 4) Developers desiring to develop the property as Rural Preservation Subdivision are subject to the development standards, conditions procedures and regulations of this section.
- D) Application Process:
- 1) Applications for a Rural Preservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this section, including, but not limited to, submission of a sensitive area designation plan and maintenance plan.
 - 2) Pre-application Meeting: Applicants for a Rural Preservation Subdivision shall have a pre-application meeting with the Development Committee as established in NCC 21.06.030 ~~Nibley City staff~~ to review the application and answer questions provided by the applicant. Prior to this meeting, the developer shall submit the draft plan of the proposed subdivision and shall include the following:
 - i) Zoning and parcel location
 - ii) Total gross acres
 - iii) Estimated right-of-way dedication
 - iv) Estimated Constrained and Sensitive Land
 - v) Estimated Net Developable Land
 - vi) Estimated Open Space Dedication and proposed uses.
 - vii) Total number of lots based on density bonus
 - viii) Estimated lot sizes and subdivision layout.
 - 3) Sensitive Area Designation Plan Map: All applications for a Rural Preservation Subdivision shall include a sensitive area designation plan map prepared in accordance with the provisions set forth herein and submitted with the preliminary plat. The sensitive areas designation plan map shall identify all constrained and sensitive lands within the property boundaries as set forth in this section. The sensitive area designation plan map shall also clearly identify all natural or cultural resources present on the property, including, but not limited to those defined in this ordinance (geographic features,

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meadows, tree stands, streams, stream corridors, floodwalls, berms, waterways, canals, irrigation ditches, farmland, pastures, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space). Applicants are solely responsible for the accuracy and designation of constrained and sensitive lands as defined in this ordinance, and natural and cultural resources as defined by the United States, State of Utah, Cache County, and Nibley City on the sensitive area designation plan map for their project and applicable adjacent property. The applicant shall include all sensitive areas within four hundred feet (400') of the developments property boundaries as noted in City, County, State, and Federal records.

- 4) Maintenance Plan for preserved Open Space Land: The developer must submit a Preliminary Maintenance Plan in accordance with subsection M,2 of this section and with the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.

E) Dimensional Standards:

- 1) The lot standards within a Rural Preservation Subdivision shall be determined in accordance with the Lot Standards Chart. Lot Standards Chart.

Lot Standards Chart					
Zone	Open Space Ratio ^{NOTE 1} (OSR)	Incentive Multiplier	Average Residential Lot Size	Minimum Residential Lot Size	Frontage ^{NOTE 2}
R-1	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 18,700 \text{ ft}^2$	$\geq 17,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 16,700 \text{ ft}^2$	$\geq 15,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 14,700 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 12,700 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
R-1A	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 14,000 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 13,000 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 12,000 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 11,000 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
R-2 and R-2A	$0.25 \leq \text{OSR} < 0.30$	1.20	$\geq 13,200 \text{ ft}^2$	$\geq 11,500 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.25	$\geq 12,200 \text{ ft}^2$	$\geq 10,500 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.30	$\geq 10,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.35	$\geq 9,200 \text{ ft}^2$	$\geq 7,800 \text{ ft}^2$	$\geq 80 \text{ ft}$
Notes:					
1. The OSR is the ratio of the area of the Open Space Land divided by the area of the Net Developable Land.					
2. Frontage is determined at the front setback line.					

- 2) Procedure for Calculating Allowed Number of Lots: The Allowed Number of Lots including the density bonus for a Rural Preservation Subdivision shall be determined as follows using the appropriate Incentive Multiplier from the Lot Standards Chart. The developer shall follow the process outlined below to determine allowable properties of the proposed subdivision and use these properties in developing the preliminary and final plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the plat applications:

- i) The subdivision must be in one of the approved zones as listed within the Rural Preservation Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
 - ii) Provide to the City the total area contained within the subdivision plat.
 - iii) Provide to the City the total area being dedicated to rights-of-way.
 - iv) Provide to the City the total acres of Constrained and Sensitive Land.
 - v) Provide the City the total Net Developable Land area as defined within this section.
 - vi) State the area of proposed Open Space Land.
 - vii) Calculate Open Space Ratio.
 - viii) Calculate the Base Number of Lots per zone:
 - (a) Base Number of Lots R-1 = Net Developable Land / 1 acre
 - (b) Base Number of Lots R-1A = Net Developable Land / .75 acres
 - (c) Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres
 - ix) Determine Incentive Multiplier
 - (a) Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.
 - x) Calculate total allowed
 - (a) Total allowed lots = Base number of lots multiplied by the Incentive Multiplier
- F) Lot Area, Frontages, and Zoning Regulations:
- 1) The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to Rural Preservation Subdivisions, unless otherwise noted within this section.
- G) Conservancy Lots:
- 1) Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
 - 2) Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
 - 3) The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.
- H) Use Regulation: Use of the land in a Rural Preservation Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified within this section, for the zone in which the land is located. Use of Open Space Land within a Rural Preservation Subdivisions is subject to the following:

- 1) Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:
- i) Street rights-of-way may traverse Open Space Land if permitted under City ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.
 - ii) Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.
 - iii) Agricultural and horticultural uses, including raising crops wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations. Wholesale nurseries must obtain an operating permit and business license from the City and must comply with all fencing and maintenance requirements of this ordinance.
 - iv) Conservation of open land in its natural state; e.g., meadows, tree stands, wetlands, forestland.
 - v) Waterways along with dedicated public access rights-of-way or easements along one or both sides.
 - vi) Underground utility easements for drainage, access, sewer or water lines, electric lines or other public purposes.
 - vii) Active noncommercial recreation areas, such as trails, playing fields, playgrounds, courts, and multipurpose trails. These parcels shall be maintained by the City or an owners' association and shall be open to the public if maintained by the City, or residents within the Rural Preservation Subdivision if maintained by a functional owners association.
 - viii) Agricultural uses excluding livestock operations involving swine, poultry, and mink. Open Space Land of less than one-half (0.5) acre may be used as landscaped buffers for roadways, landscaped entrances to subdivisions, neighborhood "pocket parks" or similar amenities that meet standards and uses listed herein.
 - ix) Fencing that is rural in character. All fencing must be transparent, such as rail fences, post fences, or wire fences and architecturally appropriate to the use as determined by the City Planner. Chain link fences are not permitted on Open Space Land. All applicants must receive a fence permit from the City before construction of any proposed fence.
 - x) Golf courses, not including commercial miniature golf. A development plan must be turned in as part of the approval process that outlines ownership, development, and building plans.
 - xi) Neighborhood Open Space Land uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses. Neighborhood Open Space Land must be owned and maintained by an owners' association or the City.

- xii) Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
 - xiii) Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
 - xiv) Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted around the perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation.
- 2) Prohibited Uses on Open Space Land: The following uses shall be considered prohibited in Open Space Land areas:
- i) Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.
 - ii) Firearm ranges, and other uses similar in character and potential impact are prohibited.
 - iii) Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.
 - iv) Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.
 - v) Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.
 - vi) Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land
 - vii) Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.
 - viii) Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
 - ix) Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.
 - x) Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.
 - xi) Hunting or trapping for any purpose other than predatory or problem animal control.
 - xii) The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.
 - xiii) The division, subdivision or de facto subdivision of the property.

- xiv) The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.
 - xv) All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.
- 3) Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands.
 - 4) Open Space Land Coordination: Open Space Land shall be coordinated and located to maximize the continued use of the space. To create larger areas of Open Space Land and to combine Open Space Land from a variety of developments, Open Space Land shall be coordinated either with existing adjacent Open Space Land or with planned future Open Space Land. If no adjacent parcels of land are planned for development, Open Space Land shall be planned to provide the greatest likelihood of adjoining future developments' Open Space Land.
 - 5) Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within a rural preservation Subdivision shall be complied with as provided herein.
- I) Open Space Land Design Standards: Open Space Land shall be located and designed within the Rural Preservation Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within a Rural Preservation Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:
- 1) Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
 - 2) Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions or developments to provide for large and integrated Open Space Land areas within the City.
 - 3) Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
 - 4) Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley

City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.

- 5) Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
 - 6) Recreation Space: Open Space Land maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association owned open spaces shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
 - 7) Stormwater Basin: These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.
- J) Permanent Protections of Open Space Land:
- 1) Conservation Easement: All Open Space Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Open Space Land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the rural preservation subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Rural preservation subdivision.
 - 2) Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:
 - i) Legal description of the easement;
 - ii) Description of the current use and condition of the property;
 - iii) Permanent duration of easement;
 - iv) Permitted and conditional uses;
 - v) Prohibited development and/or uses;
 - vi) Maintenance responsibilities and duties; and
 - vii) Enforcement rights and procedures.
 - 3) Marking of Open Space Land: Open space land shall be marked at each corner and property line intersection with a minimum 4" diameter x 3' deep concrete monument

provided with an aluminum or brass cap cast or epoxied into the monument. Caps shall be stamped "Nibley Conservation Marker, Do Not Remove", and an arrow stamped into the cap perpendicular to the Open Space boundary line and pointing into the Open Space. Monuments shall be placed such that the top 6" of the monument is above finished grade at the monument location.

- 4) Grantee: Unless otherwise approved by the City Council, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization, or governmental entity. The City may, but shall not be required to, accept, as grantee, a conservation easement encumbering Open Space Lands within a Rural Preservation Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.

K) Ownership of Open Space Land:

- 1) Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
- 2) Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
- 3) Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
- 4) Owners' Association: Open Space Land may be held in common ownership by a Home Owners' or other acceptable Owners' Association, subject to all the provisions for Owners' Associations set forth in state law, the City Code, and the following:
 - i) A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 - ii) The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;
 - iii) Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
 - iv) The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
 - v) The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and
 - vi) Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of

the Association and to the City no less than thirty (30) days prior to such event. vii. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.

vii) In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.

5) Private Ownership: A conservation parcel may be owned by a private individual or entity. Such parcels shall have a defined purpose and restrictions recorded in the maintenance plan and comply with this section.

L) Maintenance of Open Space Lands:

1) Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.

2) Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:

- i) The proposed Ownership of the Open Space Land;
- ii) The party that will be responsible for maintenance of the Open Space Land;
- iii) The proposed use of the Open Space Land and how each parcel of Open Space Land meets the
- iv) standards listed within this section;
- v) The size of each Open Space Land parcel; and
- vi) The proposed concept plan for landscaping of the Open Space Land.

3) Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Rural Preservation Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:

- i) Ownership agreements for Open Space Land;
- ii) A description of the use of the Open Space Land and how that use complies with this section;
- iii) The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);
- iv) The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
- v) The landscaping plans for parcels that will be owned by an owners association or by the City.

- vi) Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
- 4) The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements and must complete all proposed open space improvements within the first three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.
- 5) Failure to Maintain: For all open space designated under the terms of this Ordinance, including privately held Open Space Lands, the responsible party for the maintenance of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.
- 6) Corrective Action: The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.
- 7) Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
- 8) Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the Rural preservation subdivision.

21.10.030 Cluster Subdivisions

- A) Purpose and Intent: Cluster subdivisions are intended to allow flexibility in neighborhood and subdivision lot design by permitting the development of dwellings on lots smaller than normally required for the zone in which the subdivision is located and by dedicating or reserving the land so saved to needed open space. It is not intended that this type of

subdivision be universally applied but only where circumstances or natural features and land use make it appropriate and of special benefit to the residents of the subdivision and surrounding area.

B) General Regulations:

- 1) Conditional Use: A cluster subdivision shall be a conditional use in the A, R-E, R-1, R-1A, R-2 and R-2A zones, and the terms and requirements of those zones shall govern the subdivision except as such terms and requirements are modified by this section.
- 2) Minimum Subdivision Size: A proposed cluster subdivision shall have a minimum of ten (10) dwelling units and sufficient land to meet the density requirements of the zone in which the development is located, as set forth below.
- 3) Reduction In Minimum Lot Area: Where land is proposed for subdivision into lots and a subdivider dedicates or permanently reserves land within the subdivision for recreational use or open space, a reduction in the minimum lot area required for the zone in which the cluster subdivision is located may be recommended for approval by the planning commission to the city council, provided the provisions of this chapter are met and further provided that the cluster subdivision receives subdivision approval.

C) Site Development Standards:

- 1) Lot Area: The minimum lot area for dwellings may be reduced below the area normally required in the zone in which the cluster subdivision is located, but the overall density of the cluster subdivision shall not exceed the density allowed in the zone in which the development is located.
- 2) Use And Height Regulations: Use and height regulations shall be the same as for the zone in which the cluster subdivision is located.
- 3) Yard Setbacks: The required yard setbacks of the zone shall be maintained on the perimeter of the cluster subdivision.
- 4) General Considerations: The cluster subdivision should be compatible with the surrounding land uses, building types and physical features of the site. The planning commission should consider the criteria used in NCC 19.28.
- 5) Basis For Issuance Of Conditional Use Permit: In addition, the planning commission should consider the following:
 - i) Fencing, screening and landscaping both inside and at the perimeter of the site;
 - ii) The quality, quantity and potential uses of the reserved or dedicated open space land; and
 - iii) Bulk and location of buildings on the site.

D) Open Space

- 1) Required: There shall be permanently reserved within the subdivision for recreation and/or open space, parcels of land whose total area is not less than the amount by which the areas of residential lots are reduced below the minimum area normally required in the zone in which the cluster subdivision is located.
- 2) Preservation And Maintenance: Recreation and/or open space areas to be permanently reserved shall be improved, landscaped and maintained in accordance with a plan approved by the planning commission. The developer shall specify how and by whom the reserved open space land will be maintained.

E) Procedure for Approval: A preliminary site plan of the cluster subdivision showing topography, proposed building sites and locations, proposed uses, areas within the subdivision to be permanently reserved for recreation and/or open space, improvements and

method of maintenance of such areas shall be presented to the planning commission. The planning commission shall submit its recommendation for approval or denial, together with such modifications necessary to serve the public and ensure integration of the development into the neighborhood, to the city council. The site plan must be approved by the city council before the cluster subdivision proposal becomes a permitted use in the zone in which it is proposed.

21.12 Infrastructure Improvements

21.12.010 Compliance Required

- A) Prior to the release of the mylar, to the subdivider, for recordation and subsequent issuance of building permits by the City, the improvements described in this section shall be completed by the subdivider and approved by the Public Works Director. All improvements described in this title shall meet the standards set forth in the Nibley City Design Standards and Specifications.
- B) In lieu of completion of the infrastructure requirements, surety may be provided as described in NCC 21.14.010.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.020 Water Supply

- A) All subdivisions shall be required to connect to the Nibley City culinary water system. Subdividers shall, at their own expense, install water mains, fire hydrants and service laterals to each lot within the subdivision in accordance with the Nibley City Design Standards and Specifications. The subdivider must also install the necessary pipeline from the subdivision to the nearest City water line. In addition, the following minimum standards shall apply:
- B) Subdividers shall be required, in all zones, to provide Nibley City with water shares sufficient to serve the culinary needs of the subdivision. The amount required shall be determined by the City Engineer as part of the preliminary plat review.
 - 1) In calculating the amount of water needed, the City shall follow Utah Administrative Code Rule R309-510: Facility Design Operation: Minimum Sizing Requirements, as may be amended.
- C) In areas where flood irrigation or pressurized irrigation is available, subdividers are encouraged to install a secondary water system, in addition to the required hook-on to the Nibley City culinary system. Subdividers shall notify Nibley City of their intent to install a secondary system at the time the preliminary plat is submitted and shall submit plans for the design and operation of the secondary system. Providing a secondary water system does not relieve subdividers of providing the City with water shares, as outlined in NCC 21.10.020(A). However, the City may sell to the owners of the secondary system secondary water as may be needed to support the secondary system. The subdivider shall provide the City with engineered calculations demonstrating the amount of water they require to support the secondary system. The cost of the water will be limited to actual costs associated with maintaining the shares, plus a reasonable administrative fee.

21.12.030 Sewage Disposal

- A) Public sanitary sewer facilities shall be provided for each lot in the subdivision. Where a public sanitary sewer is available within three hundred feet (300') of a subdivision property line, or any part or portion thereof, including the property lines for each individual parcel located within the subdivision, at the time of recording the final plat, the subdivider shall connect with such sanitary sewer and provide sewer mains and extend laterals from the main sewer line to each lot in the subdivision prior to the installation of the road base, surfacing, curbs, gutters and sidewalks.

21.12.040 Storm Drainage

- A) A storm drainage system shall be provided and must meet the approval of the City engineer. This system must be independent of any sanitary sewer system. No ditch or canal shall be approved as suitable for use as storm drainage without the written permission of the appropriate ditch or canal company, and/or the affected water users. If permission is obtained, ditches and canals must be adequately improved to handle such water as might reasonably be expected to flow from normal irrigation and spring water, storm runoff water, and any other water expected to reach such ditch or canal.
- B) Any use of the irrigation canal system owned by the Nibley Blacksmith Fork Irrigation Company (NBFI) for stormwater drainage shall be approved as provided in the Operating Agreement between the City and NBFI dated August 21, 2014, as may be amended.
- 1) Prior to the approval of a preliminary plat by the Approval Authority, developer shall present to the NBFI, any and all plans related to the alteration of canals owned and operated by NBFI on the developer's property under consideration for subdivision. Such plans shall include, but not be limited to: relocation of canals on the property, proposed pipe size, location and design of proposed inlet and outlet structures, and calculations demonstrating how the proposed alterations will affect the discharge volume of canals on the property.
 - 2) At the time of presentation of plans to the NBFI, developer shall secure a signed and dated receipt showing the NBFI has received the plans.
 - 3) Within sixty (60) days of receipt of said plans, which shall be calculated from the date on the signed receipt, NBFI shall notify the developer and Nibley City in writing, of having accepted said plans or, by empirical data, demonstrated a sound reasoning for refusing said plans. Failure to contact developer and Nibley City within sixty (60) days shall constitute acceptance of said plans.
 - 4) Once Nibley City has received notification from NBFI, the preliminary plat may be approved by the Nibley City Council. Developer may, at their discretion, choose to seek NBFI approval prior to submittal of the preliminary plat to Nibley City.
 - 5) Nibley City storm drainage regulations are governed by the State of Utah Construction General Permit. (CGP) and the Nibley City Municipal Separate Storm Sewer System (MS4). All plans related to storm drainage, including but not limited to, a Stormwater Pollution Prevention Plan, shall be designed and constructed in accordance with the CGP, MS4, and the Nibley City Design Standards and Specifications.
- C) The City encourages developers to utilize Low Impact Development (LID) techniques in developing their plan(s) for storm drainage. Prior to approval of any LID techniques, the

developer must be able to demonstrate how such techniques will satisfy the subdivision's storm drainage needs. Any LID technique must be approved by the City Engineer.

- D) At the time a subdivider intends to record a plat for a subdivision, or for a phase thereof, the subdivider shall submit for review and approval, a stormwater pollution prevention plan (SWPPP), which shall meet the standards and requirements of the State of Utah Construction General Permit, the Nibley City MS4, and such other federal, state and local regulations regarding stormwater as may be in effect at the time of such submittal.

21.12.050 Streets

- A) Street Design: Subdividers shall locate streets within the subdivision so that streets will connect with existing streets. Streets shall be located and designed so that the adjoining land shall not be diminished in value. If the adjoining land is zoned for residential use, streets shall be located so that the adjacent land may be efficiently subdivided.

Half streets (completed only to centerline) are allowed only when the City engineer has reviewed the proposed half street design and can attest that public safety issues have been satisfied. A minimum of twenty feet (20') of asphalt shall be required on all half streets.

- B) Streets To Conform To Transportation Master Plan: Subdividers shall provide all Arterial and collector streets as described in, shall conform to the Transportation Master plan, including providing temporary dead-end streets as necessary. Whenever a subdivision is in an area for which a major or collector street plan has not been adopted, major or collector streets shall be provided as determined by staff and the City engineer.
- C) Minimum Street Widths:

- 1) The neighborhood street may be used in areas that would not generally be considered a through street or a street that would carry significant amounts of traffic other than that generated on that street. A cul-de-sac may be a neighborhood street.

2) All sidewalks shall be a minimum of five feet (5') in width. Planting strips shall be at least seven feet (7') in width.

- 2) The design of road types shall be in accordance with the Nibley City Design Standards & Specifications, and as follows:

3) Street Width Requirements For Small Acreage Parcels On Cul-De-Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul-de-sac as the only access to the development:

- i) Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City Design Standards & Specifications and shall include five foot (5') sidewalks where required by City ordinance.

- ii) Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City Design Standards & Specifications.

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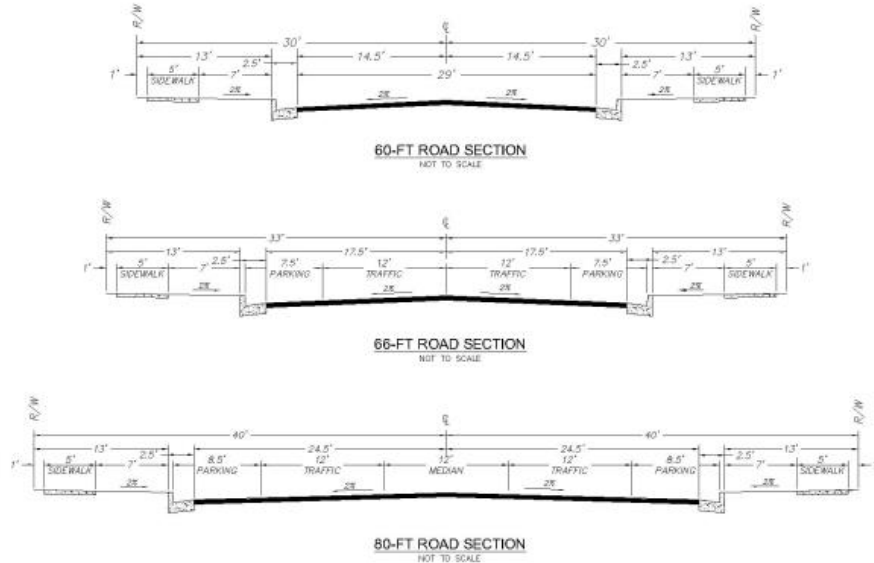
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iii) All other developments shall have roadways that conform to this section.
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- D) Curb, Gutter And Sidewalks: The subdivider shall be required to install curb and gutter on all new and existing streets within or adjoining the proposed subdivision.
- 1) Sidewalks are required in all areas of new development.
 - 2) The above requirements may be waived in rural estate and agricultural zones, if it is felt that curb, gutter and sidewalks would detract from the rural setting of the subdivision.
 - 3) The requirement for curb and gutter on existing streets may be waived only if future changes to the street are anticipated that would make the installation of curb and gutter unwise. In such cases, the Planning and Zoning Commission may require that the subdivider pay to the city a sum equal to the best estimate of the cost of the improvements not installed to allow sufficient funds to later complete the improvements. Any such proceeds shall be placed in the street capital improvement fund.
 - 4) Alternate curb and gutter cross sections may be proposed as part of Low Impact Development (LID) practices. Proposed alternates shall be in compliance with Nibley City Design Standards and include design drawings and engineering calculations showing

the effectiveness of the proposed LID technique. Proposed alternates shall be reviewed and approved by the City Engineer and Public Works Director.

- ~~E) Cul De Sacs: Cul de sacs shall not exceed one eighth (1/8) mile in length, except in R-E zones where they shall not exceed one fourth (1/4) mile in length. Each cul de sac must be terminated by a turnaround with a radius of at least sixty feet (60'). If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.~~
- ~~1) The subdivider shall provide a pedestrian ROW as outlined below linking the cul de sac to the nearest adjacent public ROW unless expressly prohibited by conflict with previously developed subdivisions or land uses.~~
 - ~~2) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.~~
 - ~~3) All pedestrian ROWs shall be designed for compliance with the Transportation Master plan to maximize non motorized transportation network efficiency.~~
 - ~~4) The right of way shall consist of a minimum 5' sidewalk and a minimum 7.5' landscaped area on each side of the sidewalk. The Developer shall submit a compliant Landscaping Plan to the City for approval. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.~~
- ~~F) Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the planning commission.~~
- ~~G) Street Width Requirements For Small Acreage Parcels On Cul De Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul de sac as the only access to the development:~~
- ~~1) Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City design standards and specifications and shall include five foot (5') sidewalks where required by City ordinance.~~
 - ~~2) Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City design standards and specifications.~~
 - ~~3) All other developments shall have roadways that conform to this section.~~
- ~~H) Flag Lots~~
- ~~1) A lot meeting the minimum size requirement for the underlying zone but which lacks the required minimum frontage may be approved by the Planning Commission for a building permit, provided the following conditions are met:~~
 - ~~i) A paved driving surface of not less than twenty feet (20') with six inches (6") minimum crushed gravel base and a three foot (3') drainage on one side.~~

- (a) The driving surface shall be paved entirely from the point where the stem of the flag lot meets the publicly dedicated road to the point where the stem of the flag lot meets the flag portion of the lot, except in the case of the R-E zone, where the driving surface shall be paved for the first fifty feet (50') from point where the stem of the flag lot meets the publicly dedicated road.
- ii) ~~A turnaround per the international fire code standard.~~
- (a) ~~Prior to the Planning Commission's approval of the building permit, the applicant shall submit plans for the turnaround to the local fire protection agency and shall receive the agency's approval for the turnaround.~~
- iii) ~~A stormwater pollution prevention plan shall be submitted, demonstrating how any dust, erosion or sediment problems which may result will be eliminated.~~
- iv) ~~The flag lot shall not be created as part of a subdivision proposed under this ordinance.~~
- v) ~~The flag portion of the lot shall meet the size requirement of the underlying zone, regardless of the size of the flag stem portion of the lot.~~
- vi) ~~All other requirements of the underlying zone which may be outlined in Nibley City Code or in the Nibley City Design Standards & Specifications, including, but not limited to: maximum grade, building height, setback, etc., shall be observed.~~
- (a) ~~Setback shall be calculated from the point where the stem of the flag lot meets the flag portion of the lot.~~
- vii) ~~All accesses to flag lots, regardless of the underlying zone, shall be maintained as private accesses and the responsibility for maintenance of the same shall lie with those property owners who may utilize said access to access their respective properties.~~
- viii) ~~Owners of a flag lot shall grant to Nibley City a permanent, recorded easement along the full width of the access allowing for emergency vehicle access and also for City inspection.~~
- ix) ~~All utilities running the length of the flag stem which service the home on the flag lot shall be owned and maintained by the owners of the flag lot.~~
- x) ~~Approved flag lot accesses shall be for single lot access only.~~
- xi) ~~The Planning Commission may impose such other conditions as they deem necessary and proper.~~

21.12.060 Blocks, Connectivity and Trail Standards

A) Block Length is defined as the distance along any given road frontage between two intersections with three or more connecting links. Links that connect into a cul-de-sac shall not be considered the termination point of a block length.

A)1) _____ Blocks shall not be longer than one thousand six hundred feet (1,600'). Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities.

B) Cul-de-sac: Cul-de-sacs shall not exceed one-eighth (1/8) mile in length, except in R-E zones where they shall not exceed one-fourth (1/4) mile in length. If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.

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1) The subdivider shall provide a pedestrian ROW as outlined below linking the cul-de-sac to the nearest adjacent public ROW, park, or school unless expressly prohibited by conflict with previously developed subdivisions or land uses.

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2) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.

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3) All pedestrian ROWs shall be designed for compliance with the Transportation Master Plan to maximize non-motorized transportation network efficiency.

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4) The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.

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C) Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the planning commission.

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D) Access Roads

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1) Subdividers shall provide sufficient access to the development from an established public road or street. Subdivision of 30 lots or more shall provide two functioning access roads that comply with Nibley City street standards

2) Access Roads outside of development: If a developer cannot provide sufficient access to a development with adjacent roads, the developer shall construct access road(s) from an improved public road. Access roads shall be a minimum of 22' asphalt and provide a sidewalk built to City Standards. Sidewalks and roads shall be built to Nibley City Design Standards and Specifications and shall be placed as close to where full roadway shall be built in the future. Sufficient stormwater drainage shall be provided for each access road.

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E) Traffic Calming

1) In developments that contain arterial or collector roadways, developer must provide traffic calming features, as described in Nibley City's Transportation Master Plan, at each entrance/exit of the development along the arterial or collector road. Each traffic calming feature shall be designed to meet projected traffic levels and speeds. Traffic calming features must be approved by the City Engineer.

F) Trails, Bicycles, and Pedestrian Connectivity

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1) Trails, bike paths, and horse trails shall be provided by the Developer in accordance with the City Trails Master Plan and where otherwise necessary as determined by the Approval Authority. Trails should connect traffic generators such as schools, recreation facilities, commercial areas, parks, future and existing city trails and other significant natural features. Such trails shall be built to City specifications and easements shall be dedicated for such trails. The trails shall be constructed with the accompanying phase and development, unless the Approval Authority determines otherwise.

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2) Bicycle lanes and facilities shall be added to roads and trails according to Nibley Design Standards, Transportation Master Plan and Trails Master Plan.

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3) Blocks longer than 660 feet shall provide a pedestrian ROW at minimum 660-foot intervals as outlined below linking the block to the nearest adjacent public or private

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street, cul-de-sac, park, school, or City trail unless expressly prohibited by conflict with previously developed subdivisions or land uses.

i) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street. The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way.

ii) The Approval Authority may make an exception to the requirements if the block street makes a 90 degree connecting turn towards an existing ROWs.

4) All pedestrian ROWs shall be designed for compliance with the Transportation Masterplan and Trails Master Plan to maximize non-motorized transportation network efficiency.

~~B)~~

~~C) Road segments longer than 660 feet shall provide a pedestrian ROW at minimum 660 foot intervals as outlined below linking the block to the nearest adjacent public or private street or cul-de-sac unless expressly prohibited by conflict with previously developed subdivisions or land uses.~~

~~D) In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.~~

~~E) All pedestrian ROWs shall be designed for compliance with the Transportation Masterplan to maximize non-motorized transportation network efficiency.~~

~~F) The right-of-way shall consist of a minimum 5' sidewalk and a minimum 7.5' landscaped area on each side of the sidewalk. The Developer shall submit a compliant Landscaping Plan to the City for approval. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.~~

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21.12.070 Lot Layout And Design

- A) Standards: All lots shown on the subdivision plan shall conform to the minimum requirements of the zoning title for the zone in which the subdivision is located, and to the minimum requirements of the Nibley City Design Standards and Specifications.
- B) Street Access: All lots shall abut a dedicated public street, a private street or a street which has become a public right of way or right of use. In the event a lot abuts a public right of way created by use, the subdivider is responsible for demonstrating and proving to the City's satisfaction that the right of way has been dedicated to public use and shall improve the right of way to the standards required by this title.
- C) Lot Arrangement: The lot arrangement and design shall be based on the following criteria: provide satisfactory and desirable sites for buildings, be properly related to topography, to the character of surrounding developments and to existing requirements.

- D) Lot Remnants: All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than be allowed to remain lot remnants.
- E) Undeveloped Lots: Undeveloped lots shall be kept free of trash, weeds, abandoned automobiles, machinery and other unsanitary, unsightly or unsafe material.
- F) Lot Ownership: Where the land in a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the county recorder.

21.12.080 Railroad

- A) Where the proposed subdivision contains or is adjacent to a railroad right of way, provision shall be made for either:
 - 1) A street approximately parallel to and on each side of such right of way; or
 - 2) A buffer planting strip of trees and/or shrubs at least ten feet (10') in width.
 - 3) A six foot (6') fence running the length of the property adjacent to the railroad r-o-w.
- B) Any plan for improvement along the railroad right-of-way shall include a description of who will be responsible for maintenance of the improvements.

21.12.90 Ditches, Canals and Conveyance

- A) Open ditches or canals are prohibited within or adjoining a subdivision except along rear or side lot lines or through permanently reserved open space. Subdividers may also be required to pipe any ditches and canals on the property. Subdividers shall coordinate any improvements to canals with the affected canal company, as stated herein.
- B) Each subdivision must comply with the provision of NCC 19.24.230 Preserving Safety And Maintenance of Conveyance

21.12.100 Safety Fences

- A) Subdividers may be required to install a six foot (6'), nonclimbable chain-link fence, or its equivalent, along railroad rights of way, ditches and canals or streets. All fences must comply with NCC 19.24.090.

21.12.110 Street Signs

- A) The subdivider shall be required to pay for the installation of all necessary street signs. Fees for such shall be assessed as part of the subdivision fee schedule.

21.12.120 Landscaping

- A) In compliance with the State of Utah Construction General Permit, subdividers shall provide ground cover where it is determined that soil erosion may be a problem, that surface water may flood portions of the City or damage City property, to prevent the growth of noxious weeds which may become a nuisance or fire hazard or endanger the public health and may specify the types of ground cover.

21.12.130 Monuments/Pins

- A) Permanent monuments shall be accurately set and established at such points as are necessary to definitely establish all lines of the plat except those outlining individual lots. All subdivision plats shall be tied to a corner or monument of record.
- B) Property lines outlining individual lots shall be established by setting pins in the curb, as detailed in the Nibley City Design Standards and Specifications.

21.12.140 Street Lighting

- A) Streetlights shall be required every five hundred feet (500') throughout the subdivision, at every street intersection and at the back of each cul-de-sac. Street lights shall comply with Nibley City standards.

21.12.150 Protection Strips

- A) A. Where subdivision streets parallel contiguous property of other owners, the subdivider may, upon approval of the City Council, retain a protection strip not less than one foot (1') in width between the street and adjacent property. The protection strip shall be subject to the following provisions:
 - 1) An agreement shall be made between the subdivider and the City whereby the subdivider shall deed the protection strip to the City at the end of six (6) years; said deed shall not be recorded until the end of the six (6) year period;
 - 2) The agreement will provide for the reimbursement to the subdivider for the fair cost of land in the protection strip and the street improvements and other infrastructure properly chargeable to the adjacent property owner;
 - 3) The subdivider shall agree to pay the costs associated with the agreement (engineering review, attorney fees, etc).
- B) Time for determining the six (6) year period shall be determined from the time the subdivider receives notice that the improvements of his property are substantially complete and usable.
- C) At the time that the adjacent property is proposed for development, as a condition of approval, the property owner shall pay to the City the full cost of the improvements initially installed by the first subdivider, which are chargeable to the owner of the adjacent property.
- D) Protection strips shall not be permitted at the end of streets.

21.12.160 Utilities

- A) All utilities shall be installed underground. In addition to infrastructure for utilities proposed as part of the subdivision, Developers shall install conduit for future utilities, as outlined in the Nibley City Standards and Specifications.

21.12.170 Street Trees

- A) The developer shall provide a street tree planting plan that will be attached to the development agreement. Proposed street trees must conform with Nibley City's Tree Care Plan. The City and the Developer shall enter into an agreement that the City shall install and plant new trees within the development according to the submitted and approved street tree

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planting plan. The Development agreement shall outline this agreement and shall include the number of trees that will be planted and the cost of each tree that the developer will pay to the City to plant said trees.

1) The City and Developer may agree to allow the Developer the responsibility to plant maintain trees until such a time that the adjacent property owner or Owners Association can manage and properly maintain the trees.

B) A variety of tree species, of similar shape and mature height, is required of all tree planting plans submitted to the City, with a minimum of one tree per fifty feet (50')

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21.14 Inspection And Guarantee Of Work

21.14.010 Effect

- A) The provisions contained in this section shall apply to all subdivisions and, in the event that a developer chooses to phase their subdivision, to each phase of the subdivision.

21.14.020 Definitions

- A) The following definitions are used in this section relating to the guarantee of improvements in subdivisions.
- B) Acceptance Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director to determine completion status of all required improvements for a subdivision, or a specific phase thereof. Once the improvements are complete, the Public Works Director shall issue an Improvements Completion and Acceptance Report stating such and accepts the improvements on behalf of Nibley City.
- C) Cost Estimate of Improvements: The subdivider's estimate of the costs of all work to be done to complete subdivision improvements required in accordance with the subdivision's approved construction drawings. The cost estimate is used to determine the amounts of the Improvement Completion Assurance for the subdivision. The Cost Estimate of Improvements or actual cost of the improvements is used to establish the amount of the Warranty Bond.
- D) Final Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director after the one-year Guarantee Period for the subdivision improvements to determine if the improvements are free from material defects or workmanship for the Guarantee Period.
- E) Guaranty Period: The period (normally one year) following the completion and acceptance by the City of all subdivision improvements during which time the subdivider is responsible to ensure, by a Warranty Bond, that the improvements are free of material defect or workmanship.
- F) Improvement Completion Assurance: The legal/financial instrument by which the subdivider of the subdivision guarantees to the City, and to the purchasers of the various lots within the subdivision, that all of the subdivision improvements required in accordance with the

subdivision's approved development plan are completed. Improvement Completion Assurance must comply with all aspect of this Title and State law.

- G) Improvements Completion and Acceptance Report: A report issued by the Public Works Director stating the findings of the Acceptance Inspection and acknowledging the City's acceptance of the subdivision improvements.
- H) Notice to Proceed: The written notification by the City (issued by the Public Works Director, after consultation with the City Planner), to the subdivider that work may commence on the subdivision improvements.
- I) Partial Acceptance Inspection: Periodic inspections by the Public Works Director throughout the construction of the subdivision improvements to determine if the work is being done properly. These inspections may be done during each of "Parts 1, 2 and 3", as defined herein, in order to release portions of the Improvement Completion Assurance to the subdivider.
- J) Parts 1, 2 and 3: A list and grouping of tasks within the total work requirements for a subdivision which divides and sequences the project. This is done in order to provide points at which inspections shall be done and partial releases made, thus ensuring work is completed in a logical manner. Each of the parts is as follows:
 - 1) Part 1: Installation of underground utilities and stormwater structures.
 - 2) Part 2: Construction of open space amenities and roads, minus asphalt, to the point that they provide access to the individual building lots.
 - 3) Part 3: Asphalt roads and construction of the sidewalks.
 - 4) Any exceptions to Parts 1, 2 and 3 must be approved by the City Engineer and the Public Works Director and shall be incorporated into the subdivision's Development Agreement. No certificates of occupancy for individual building lots shall be issued until the inspection and acceptance of Part 3.
- K) Pre-Construction Meeting: A meeting held prior to any construction being started for the subdivision, or each phase thereof, in which appropriate City staff members and the subdivider, his general contractor and any other associates of the subdivider directly related to the subdivision, meet together to discuss the project.
- L) Public Works Director: The Public Works Director for Nibley City, or his designated representative.
- M) Subdivision Development Agreement: An agreement between the subdivider and Nibley City relative to the specific subdivision subdivider is proposing whereby the subdivider agrees to construct all improvements in the subdivision in accordance with the Nibley City Design Standards and Specifications and an estimated schedule, and the City agrees to allow for building permits to be issued within the subdivision at an agreed upon point in the construction process, typically after the completion of Parts 1 and 2.
- N) Warranty Bond: The legal/financial instrument by which the subdivider warrants to the City, and to the purchasers of various lots within the subdivision, that all of the subdivision improvements are free of defective materials or workmanship for one-year following the City's issuance of the Improvements Completion and Acceptance Report. The amount of the warranty bond is equal to ten percent (10%) of the actual cost of making the subdivision improvements.

21.14.030 Inspections

- A) All construction work involving the installation of improvements in subdivisions shall be subject to inspection by Nibley City. The appropriate person or agencies of the City shall inspect or cause to be inspected in the course of construction, installation, or repair, any infrastructure outlined in approved construction drawings, including, but not limited to: roadways, curb, gutter, sidewalk, trails, landscaping, stormwater facilities and piping, sewer and water systems. Any underground utilities which may be publicly owned shall not be covered until such installations shall have been inspected by the Public Works Director or other authorized City inspector. Certain types of construction shall have continuous inspection, with no work being done except in the presence of the inspector or with the specific approval from the inspector allowing the work to continue in his absence. Partial Acceptance Inspections shall be made as needed in order to evaluate the completion of Parts 1, 2 or 3 and to allow for the partial release of the Improvement Completion Assurance.
- 1) Continuous Inspection. Continuous inspection shall be required on the following types of work:
 - i) Laying of street surfacing
 - ii) Pouring of concrete for curb and gutter, sidewalks and other structures
 - iii) Installation of infrastructure related to sewer, stormwater and culinary water systems
 - iv) Acceptance testing
 - v) Direct connections to existing sewer, stormwater and culinary water systems.
 - 2) Periodic Inspection. Periodic inspection shall be required on the following:
 - i) Street grading and gravel base
 - ii) Excavations for curb, gutter and sidewalks
 - iii) Excavations for structures
 - iv) Forms for concrete for curb and gutter, sidewalks and structures
 - v) Required improvements to or reclamation of open spaces or any common areas.
 - 3) Requests for Inspection. Requests for inspection shall be made to the municipality by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made at least three (3) days prior to commencing the work. Requests for inspection on work requiring periodic inspection shall be made at least one (1) day prior to commencing the work.
 - 4) Acceptance Inspection. Upon the request of the subdivider, an Acceptance Inspection shall be made by the Public Works Director or their designee after all construction work is completed. Any faulty or defective work shall be corrected by the persons responsible for the work within a period of thirty (30) days of the date the Public Works Director or their designee issues an inspection report defining the faulty or defective work. Upon satisfactory completion of all improvements, allowing for minor "punch list" items, the Public Works Director shall issue to the subdivider an Improvements Completion and Acceptance Report. The warranty period shall begin once the Improvements Completion and Acceptance Report has been issued by the Public Works Director.
 - 5) Whenever, in the judgment of the Public Works Director, the subdivision improvements cannot be seen, tested, or otherwise properly inspected, such as when the area is covered with snow, he may postpone and/or delay inspection of the subdivision improvements, including the Acceptance Inspection, until such time as the improvements requiring inspection can be appropriately seen/tested/inspected.

21.14.40 Building Permit Issuance

- A) No building permit for construction of any building on any lot within a subdivision shall be issued until after:
- 1) All improvements required by Parts 1 and 2 are completed or the subdivider has executed a Subdivision Development Agreement with the City setting forth a schedule to complete all required improvements prior to the issuance of any building permit; and
 - 2) An Improvement Completion Assurance is in place, pursuant to this title.

21.14.50 Guarantee Of Work

- A) The subdivider shall warrant and guarantee that the improvements provided for hereunder, and every part thereof, will be completed to the satisfaction of the City and thereafter remain in good condition by providing the assurances described hereunder, for the subdivision and for each phase thereof, as applicable.

B) Financial Guaranty

- 1) Improvements Improvement Completion Assurance. The subdivider shall provide an Improvement Completion Assurance stating that 100% of all agreed upon improvements shall be completed in accordance with the Subdivision Development Agreement and this ordinance. The work covered by this guaranty shall begin with the Notice to Proceed for the subdivision and shall end with the issuance of an Improvements Completion and Acceptance Report by the Public Works Director whereby the improvements are accepted by the City. No specific time period is associated with the Improvement Completion Assurance. It must remain in place until the issuance of the Improvements Completion and Acceptance Report by the PUBLIC WORKS DIRECTOR and the Warranty Bond has been provided.
- 2) Warranty Bond. The Warranty Bond shall ensure that the improvements constructed are free from defective material or workmanship for a period of one year following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director ("Guaranty Period"). This Warranty Bond shall be filed with the Public Works Director and shall secure the subdivider's agreement to make all repairs to and maintain the improvements and every part thereof in good condition during that time, with no cost to the City. The City reserves the right, as appropriate, to extend the Guaranty Period to a period of two (2) years following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director, in accordance with the provisions of Utah Code § 10-9a-604.5, as amended.
- 3) Repair of Work
 - i) The Public Works Director shall determine when repairs or maintenance are required for improvements which have not been accepted by the City, or for improvements which have been accepted by the City, based on the Improvements Completion and Acceptance Report, but which are not free of defective materials or workmanship for the one (1) year Guaranty Period. Unless unreasonable, arbitrary or capricious, the Public Works Director's decision shall be binding on the subdivider. Required repairs or maintenance to improvements may extend to, but is not limited to, the street base, and all pipes, joints, valves, backfill and compaction, as well as the working surface, curbs, gutters, sidewalks and other accessories which are or may be affected by the construction operations.
 - ii) Whenever, in the judgment of the Public Works Director, the work needs repair, maintenance or rebuilding, he shall cause a written notice to be served on the subdivider and thereupon, the subdivider shall undertake and complete such repairs,

maintenance or rebuilding. If the subdivider fails to do so within thirty (30) days from the date of the service of such notice, the Public Works Director may have such repairs made and the costs of such repairs shall be charged to the subdivider with an additional twenty-five percent (25%) of the cost of the repairs levied for stipulated damages resulting from such failure on the part of the subdivider to make the repairs.

21.14.60 Guarantee Of Improvements

- A) Prior to the recording of the Final Plat, where after lots may be sold, and before the issuance of any building permit within the subdivision, the subdivider shall guarantee, by an Improvement Completion Assurance, the installation and construction of any payment for the required improvements. Prior to the City's acceptance of the improvements and the final release of the Improvement Completion Assurance, the subdivider shall guarantee, by a Warranty Bond, that the improvements shall be maintained in a state of good repair, free from defective material or workmanship for the Guaranty Period. The provisions of both such guarantees, regardless of form, shall be as approved by the Public Works Director as to the amount of the bond and as approved by the City Attorney as to the form of the guarantee and shall provide for the following:
- B) The Improvement Completion Assurance shall be in an amount equal to one hundred percent (100%) of the cost of all improvements as estimated by the subdivider and verified by the City Engineer. The estimated improvements costs shall include only those costs for which the subdivider is responsible including the installation and construction of, and payment for such improvements within the time period required by the City, and based on the circumstances of each subdivision and set forth in an agreement between the City and subdivider. The estimated cost upon which the Improvements Security is based shall not include the subdivision processing fees, the fee for the initial seal coat application for roads built as part of the subdivision, or any improvements for which the subdivider has no responsibility such as those improvements to be done at another time, those to be done by the City or other entity, or as otherwise agreed upon in the process of approving the subdivision.
- C) The subdivider shall have the right to partial release(s) against the Improvement Completion Assurance with the municipality providing however that a sum equal to ten percent (10%) of the estimated costs of all improvements installed in the subdivision shall remain with the municipality until after the issuance of an "Improvements Completion and Acceptance Report" by the City Engineer and the Warrantee Bond has been provided. The subdivider must show evidence of payment of all costs for the improvements and show that the lots and the improvements thereto are free from any liens before any release (partial or full) of funds from the Improvement Completion Assurance. The City Engineer may release a portion of this remaining part of the Improvement Completion Assurance (meaning the 10% above the estimated costs of all the improvements) if, in his opinion, there remains encumbered a sufficient amount of the Improvement Completion Assurance to ensure the completion of the required subdivision improvements. The Warrantee Bond provided to the City is to guarantee that improvements are correctly installed, constructed, and are maintained through the Guarantee Period and to secure the City as to the costs of any required corrections of defects of such improvements.
- D) During said Guarantee Period, if all or any part of the required improvements are found not to be correctly installed, constructed and maintained, and paid for according to the standards required in this title and Nibley City Design Standards and Specifications, the City shall

notify the subdivider in writing of the defects or any other problems and shall make demand on the subdivider that defects/problems be corrected and paid for. If the defects are not corrected and paid for within thirty (30) days the municipality may correct the defects and charge to the subdivider the costs of correcting the defects as provided above, including administrative costs. There shall be no draw(s) made by the subdivider against the Warrantee Bond. The cost of correcting any deficiencies must be borne by the subdivider without access to the Warrantee Bond.

- E) After eleven (11) months of the Guarantee Period have expired, the subdivider shall call for Final Inspection by the City Engineer. If the required improvements remain substantially free from defects, or other problems, and free from liens, the municipality shall certify such fact to the subdivider and the municipality shall discharge the subdivider of its obligation to the municipality within thirty (30) days from the time of Final Inspection by releasing the Warrantee Bond. Any items that need correcting following the Final Inspection must be corrected within thirty (30) days to have the Warrantee Bond released. Any items not completed at the end of these last thirty (30) days, or in other words one year from the date of initial acceptance of the improvements, shall require an additional, or extension of the, Warrantee Bond be established to ensure the completion of any corrections, and/or the City may obtain draw(s) against the Warrantee Bond for such purpose.

21.14.70 Form And Method Of Guarantee Of Improvements

- A) The form and method of the guarantee of improvements, for both the Improvement Completion Assurance and the Warrantee Bond shall be as approved by the City Engineer as to the amount of the bond, escrow, letter of credit or deposit with the municipality and as approved by the City Attorney as to the form of said guarantee documents. All guarantee methods shall provide surety in accordance with this Title and may consist in the form of one or more of the following:
- B) Bond. The subdivider may furnish and file with the City Recorder a bond issued by a licensed, reputable corporate surety in an amount as required by this ordinance. The bond agreement must include a provision that the bond may only be released, in whole or in part, by an order executed by an authorized officer of the City, subject to the requirements of subsection (E), below.
- C) Escrow. The subdivider may deposit with a licensed, reputable and/or duly chartered insurance company, bank, title company or savings and loan institution in an escrow account an amount as required by this ordinance. The escrow agreement must include a provision that the funds in escrow may only be released, in whole or in part, by an order executed by an authorized officer of the City, subject to the requirements of subsection (E), below.
- D) Irrevocable Letter of Credit. The subdivider may file with the municipality an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount as required by this ordinance. The letter of credit must include a provision that the guaranteed credit amount may only be reduced by an order executed by an authorized officer of the City, subject to the requirements of subsection (e), below.
- E) Any of the above Forms and Methods for Guarantee of Improvements shall be subject to approval by the City Attorney, as to form and content of the documents used, and shall be signed by the subdivider, the municipality, and the entity providing the surety bond or holding the escrow, or the financial institution providing the letter of credit, or by the subdivider and municipality for a deposit with the municipality, as applicable. The Guarantee

of Improvement may include provisions that allow for partial release or reduction of the funds by an authorized officer of the City for partial completion of work. The Guarantee of Improvements utilized must name the City as the payee or beneficiary, in the event of default or non-performance and shall provide for the City's access to all or any remaining funds, without the subdivider's approval, for both Improvement Completion Assurance and Warrantee Bond purposes, in the event of default or non-performance by the subdivider. In the case of both the Improvement Completion Assurance and Warrantee Bond, the provisions shall provide for use of all or any remaining funds by the City in accordance with subsection (4), above, in order to complete required improvements and/or make repairs not completed in a timely manner by the subdivider. The Guarantee of Improvements documents used shall also include provisions whereby the subdivider agrees to pay all administrative costs, legal fees, and other costs of enforcement incurred by the City pursuant to the agreement.

21.16 Notice To Proceed And Authorization To Begin Work On The Subdivision

21.16.010 Preconstruction

- A) The Public Works Director may require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to beginning work.

21.16.20 Conditions Prior To Authorization

- B) Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:
- 1) The final plat shall have been approved by the City. All required contract and construction documents shall be completed and filed with the City Engineer.
 - 2) Fee simple title to all necessary off-site easements or dedications required for public facilities, not shown on the final plat or final site plan, must be conveyed separately to the City, or other agency approved by the City, with proper signatures affixed. The originals of each document, and filing fees as determined by the City shall be delivered to the City Engineer prior to approval and release of the construction documents.
 - 3) The Improvement Completion Assurance and other documents required to be accomplished in accordance with this ordinance and the development plan, and any applicable ancillary agreements shall be completed and filed with the City Engineer.
 - 4) The final plat and development agreement shall be filed with the County Recorder as required in this Title.

21.16.030 Authorizing Work To Begin An A Subdivision Without Improvement Completion Assurance

- A) The Public Works Director may authorize work to begin on a subdivision without an Improvement Completion Assurance if all other conditions in NCC 21.16.020 have been met. Until the City has signed the final plat, or if a minor subdivision the Approval Document, no plat shall be filed with the County Recorder and therefore no lots may be sold. The final plat or Approval Document shall be signed by the Mayor and filed with the County Recorder only after all subdivision improvements have been completed and the 10% Warrantee Bond has been established and filed with the City Engineer.

- 1) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.
- 2) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.
- 3) All applicable fees must be paid to the City prior to issuance of the Notice to Proceed.

21.18 Acceptance Of The Completed Subdivision

21.18.10 Applicant's Submittal Of Completed Subdivision

- A) Applicant's Submittal of Completed Subdivision. Subdivider may notify the City in writing of the completion of the subdivision and request Final Inspection when the subdivider believes that they have done the following:
- 1) Completed all infrastructure work in the subdivision or development, as prescribed in the Nibley City Design Standards and Specifications and per approved construction drawings.
 - 2) Provided to the City the required as-built drawings, and
 - 3) Otherwise complied with all conditions required by the City Council or this ordinance as preconditions to approval of the Development Agreement, Final Plat, and Construction Drawings.

21.18.20 -Built Drawings

- A) The subdivider shall provide to the City as-built drawings and specifications for all infrastructure improvements in the subdivision. Drawings and specifications shall include but not necessarily be limited to roads, curb/gutter, sidewalks, drainage systems, irrigation systems, waterlines, and sewer lines. Standards for as-builts shall be the same as called for in construction drawings in the Nibley City Design Standards and Specifications. The drawings and specifications, certified by a registered engineer, shall be submitted to and approved by the City Engineer before final release of funds established by the subdivider to ensure improvement completion under any Improvement Completion Assurance provided.. One (1) reproducible mylar copy of drawings shall be provided to the City. In addition the subdivider shall provide either:
- 1) A Computer Assisted Design file of the subdivision (must be readable by AUTOCAD as updated) or ArcMap file of the subdivision; and
 - 2) Electronic PDF copies of the as-built drawings

21.18.030 Public Works Director Review

- A) The Public Works Director shall conduct such review as he/she considers appropriate to determine whether the subdivision is complete and whether the Applicant has satisfied all applicable conditions. If the Public Works Director finds that the Applicant has completed the subdivision and has satisfied all applicable conditions, and that all other requirements of applicable law have been met, the Public Works Director shall approve the as-built drawings and shall forward to the City Recorder a copy of the Improvements Completion and Acceptance Report, and notify him that the Improvement Completion Assurance has been released.

21.18.040 Partial Release Of Improvement Completion Assurance

- B) The Public Works Director is authorized from time to time, at the request of the subdivider or his successors in interest, and with recommendation from the City Attorney to release all or a portion of a subdivider's Improvement Completion Assurance up to the amount of one hundred percent (100%) of the value of the improvements. The remaining percent (10%) may only be released in accordance with this Title.

21.18.050 Final Release Of Warrantee Bond

- C) Release Submittal and Approval. Following a review of the subdivider's request to have the subdivision's Warrantee Bond released, the Public Works Director shall forward to the City Council a recommendation for the release of the Warrantee Bond and the City Council shall release, in accordance with section 12D-501 (5), the subdivider's Warrantee Bond, with respect to the subdivision.

Agenda Item #8

Description	Discussion and consideration of Ordinance 19-11: Establishing Rules and Regulations Governing the Use of Parks, Trails, and Outdoor Recreational Facilities (Second Reading)
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve Ordinance 19-11: Establishing Rules and Regulations Governing the Use of Parks, Trails, and Outdoor Recreational Facilities
Reviewed By	Mayor, City Manager, City Parks Superintendent, City Recreation Director, City Planner, City Attorney, County Prosecutor, Parks, and Recreation Advisory Committee

Background

Nibley currently has 11 developed parks containing about 62 acres of land, with one more park scheduled to finish soon that contains about .5 acres total. In addition, Nibley City has a developing trail system within the City. Nibley City code has very few regulations regarding activities that can take place within Nibley's parks, trails, and open space. With the opening of a new nature park, Nibley City staff and the Parks and Recreation Committee (PaRC) are recommending the Nibley City Council consider items within the attached ordinance for adoption.



The PaRC can serve as a recommendation body to the City Council about the items within the ordinance for the City Council to consider. This responsibility can be found in Nibley City Code 3.10.090 (E)(F) Specific Duties And Responsibilities, which reads:

E. To study, investigate, counsel, and report suggestions and feedback to City Council and City Staff in matters of Parks and Recreation.

F. Upon request of city staff, shall consider, investigate, make finding, report and recommend upon any special matter of question regarding parks, recreation, trails, and publicly owned open space.

The PaRC reviewed the proposed ordinance during their April and May meetings and have made a positive recommendation to the City Council for the adoption of the proposed ordinance.

Nibley City Council made several changes to the proposed ordinance on the June 13 meeting. Those changes are highlighted within the ordinance. One recommendation that was given outside the meeting to staff was to allow hammocks in some location. This recommendation came because some of the youth council had set up a hammock by the pavilion at Anhder Park during Heritage Days and is reflected as a recommended change within the ordinance. Staff has also made a few minor grammatical hanges.

Purpose

The goal of the proposed ordinance is to provide clear regulations in order to protect and maintain the public open space within the City that is owned by Nibley City. This takes the shape of protecting City amenities, waterways, wildlife, vegetation, and most importantly the general public.

A couple of the highlights include hours of use, disturbance of natural resources and wildlife, regulations of dogs, regulation of motorized vehicles, drug use, noise, and other nuisances.

Protection of Wildlife and Natural Resources

Nibley City has recently built a 20-acre nature park, Firefly Park. This park contains fireflies, a couple of dozen species of birds, and wetland habitat. In addition, Nibley City owns several other parcels throughout the City that contain wetlands, waterways, tree stands, and other wildlife. This ordinance would prohibit the disturbance of wildlife within the park, including fireflies. There is an exception to fishing in public waterways.

The proposed code also contains a section that would protect City trees. It would prohibit connecting or hanging anything on our trees including items like slacklines, signs, and

hammocks, unless an area is specifically designated for such use. It does allow Nibley City to attach birdhouses and signs when needed.

Dogs

This ordinance would clarify that dogs are allowed in all City parks and trails, except for Firefly Park. It also states that all dogs must be on a leash, that owners must clean up after their dogs and that they must be in possession of a bag for such purposes when on Nibley City property with their dog. The ordinance also allows the City to create off-leash areas or dog parks within the City, and also park areas that prohibit dogs.



Nuisance Regulation

One of the first items this ordinance addresses is hours of operation, which would be from 6:00 a.m. to 10:00 p.m. There may be special extended hours for special events, like Heritage Days, or for viewing fireflies, wildlife, or star gazing. It would also become unlawful to park or store any vehicle or trailer in a Nibley City park/parking lot overnight except for construction vehicles working on a project in the park.

A few other items this code further clarifies, prohibits, and defines are as follows: littering, no use of motor vehicles within Nibley Parks and

Trails, except for a pre-approved purpose, disorderly conduct, alcohol, tobacco, drugs and e-cigarettes, noise restrictions, fires except in fire pits, fireworks, inflatable attractions, mechanical rides, the use of weapons, etc. Some of these items may be allowed with a special event permit or at City-sponsored events. Most of these regulations are being implemented in order to protect community safety and to limit liability.

ORDINANCE 19-11

**AN ORDINANCE ESTABLISHING REGULATIONS GOVERNING THE
USE OF PARKS, TRAILS AND OUTDOOR RECREATIONAL
FACILITIES**

WHEREAS, the Utah Municipal Code authorizes the City to provide and regulate the use of parks, trails, and outdoor recreational facilities for the beneficial use of citizens; and

WHEREAS, the City has determined that it is necessary for the health, safety, comfort, and welfare of the citizens of the City to preserve and protect the public property and forms of nature found in and around the City's parks, trails, and outdoor recreational facilities; and

WHEREAS, the City wishes to adopt regulations to govern the use of the City's parks, trails, and outdoor recreational facilities in order to preserve and protect the public property and nature in and around the City's parks, trails, and outdoor recreational facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF NIBLEY, UTAH THAT:

1. The following Chapter be added to Title 13, of the Nibley City Code to read as attached.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2019.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

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ATTEST:

David Zook, City Recorder

Shaun Dustin, Mayor



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13.16 Parks, Trails and Outdoor Recreational Facilities

13.16.010 Purpose

It is the purpose of this chapter to establish rules and regulations for the protection and preservation of citizens, public property and nature found in and around City parks, trails, and outdoor recreational facilities.

13.16.020 Definitions

As used in this Chapter:

PARK: A specific piece of property, either within the City or that is under the ownership or control of the City, that is operated and maintained by the City and set apart for the use of the general public, whether developed or undeveloped, including natural parks and open space, and that may or may not be planted with trees, lawns and other shrubbery, including any areas identified as parks in the City's Parks, Trails, Recreation, & Open Space Master Plan.

TRAIL: A corridor of property maintained by the City for the purposes of non-motorized transportation, such as hiking, walking, jogging, running, horseback riding, cycling, or other similar uses, including any trails identified in the City's Parks, Trails, Recreation, & Open Space Master Plan or in a recorded subdivision plat, whether now constructed or planned for future construction

OUTDOOR RECREATIONAL FACILITY: Improvements owned or maintained by the City for leisure activity or diversion including, but not limited to, parks, trails, pavilions, amphitheaters, theaters, recreation centers, gymnasiums, athletic fields or courts and equipment attached thereto, playgrounds, community gardens, cemeteries, schoolyards, public seating areas, public plazas, parking lots, and agricultural heritage farms and any improvements or structures associated therewith, including any outdoor recreational facilities identified in the City's Parks, Trails, Recreation, & Open Space Master Plan.

13.16.030 Hours of Use

- A. Unless otherwise noticed by sign or other written communication by the City; City parks, trails, and outdoor recreational facilities may be used by the public every day of the year between the hours of six o'clock (6:00) a.m. and ten o'clock (10:00) p.m. Any section or part of any park, trail, or outdoor recreational facility may be declared closed to the public by the City Manager, or designee, at any time and for any interval of time, either temporarily or at regular and stated intervals, and either entirely or for certain uses as the City Manager, or designee, may find necessary to protect the safety and welfare of the public or the integrity of the park, trail, or outdoor recreational facility and related natural

Commented [RP1]: This definition excludes private parks. I assume that's the intent, just making sure

Commented [RP2]: This is a better definition of trail than the one use in the fence ordinance

Commented [RP3]: Linear has a couple of meanings, and I wouldn't want confusion over whether a trail that curves is a linear trail

Commented [RP4]: I suggest adding this or perhaps a different clause that states that the parks cannot be closed by the City Manager in an attempt to restrict speech. A Park is a "public forum" where government is pretty limited in how it restricts activities and speech. While this paragraph is not focused on speech issues, the broad discretion here does raise a potential issue. Courts really don't like too broad of discretion given to public officials to close public fora or limit their use by certain people.

resources and wildlife, subject to any modifications approved, if any, by the City Council. The City Manager, or designee, may extend hours of use for public events such as for viewing fireflies, wildlife, or star gazing; or for special events that have obtained a permit.

- B. It is unlawful for any person to enter or use City parks, trails, or outdoor recreational facilities outside of the hours of use set forth in this Section without written authorization from the City.
- C. It is unlawful for any person to park or store any vehicle, trailers, or equipment at a park facility or park parking area overnight unless given direct permission by the City Manager, or designee. The City Manager, or [designee](#), may grant permission for the purpose of public events, construction, and maintenance projects.

13.16.040 General Conduct

- A. Destruction Or Defacement Of Outdoor Recreational Facilities Or Signs: It is unlawful for any person to deface, vandalize, or remove recreation facility property, buildings, or equipment, or to deface, destroy, cover, damage, or remove any placard notice, or sign or parts thereof, whether permanent or temporary, posted or exhibited by the City in or on any City park, trail, or outdoor recreational facility.
- B. Disturbance Of Natural Resources: It is unlawful for any person to remove, alter, injure, or destroy any natural resource, including trees and landscaping, in or on any City park, trail or outdoor recreational facility without authorization from the City Manager, or [designee](#), excepting actions of the City and its agents as directed by the City Manager, or [designee](#), taken to protect the peace, safety, well-being and general welfare of the City and its citizens.
- C. Trees: No items shall be attached, tied, or hung by ropes, cords, nails, screws, or another method to trees in City parks and trails including swings, slacklines, hammocks, unauthorized signs, etc. The City Parks Superintendent may make exceptions for bird houses, notification signs, [historic and heritage trees plaques](#), [hammocks](#), or for tree maintenance.
- D. Disturbance Of Wildlife: Unless otherwise noticed by sign or other written communication by the City, it is unlawful for any person to kill, trap, hunt, pursue, or in any manner disturb or cause to be disturbed, or have in possession any species of wildlife found in or on any City park, trail, or outdoor recreational facility. For the purpose of this subsection, the term wildlife includes any and all species of firefly. Nibley City may remove wildlife if such wildlife is deemed to be a nuisance or danger to the general public and patrons who visit the park.

Commented [SN5]: Allow for hammocks on some trees in park. Youth Council set up a hammock during heritage days at Anhder Park

Commented [SN6]: Sign for historic trees.

1. Fishing is allowed in the Blacksmith Fork River, designated fishing ponds, and public bodies of water as governed by State law.

Commented [SN7]: Is the stream in firefly park public bodies of water.

- E. Dogs: Dogs are permitted in all parks and on Nibley City Trails unless otherwise posted, except that dogs are not allowed in Firefly Park. All dogs must be under control and except for in designated off-leash areas or dog parks as may be designated by the City on a leash. All dog owners or person with the dog shall clean up after their dog's waste and dispose of it in proper garbage receptacle and must be in possession of a bag for such purposes whenever walking a dog on City property. Retractable and wireless leashes and leashes longer than eight (8) feet are not permitted in Nibley City parks.

Commented [SN8]: Inputs Mayors proposal. Get wording from Cheryl.

- F. No motorized vehicles, including recreational vehicles, side-by-sides, motorcycles, minibikes, snowmobiles, ATVs, etc, shall be permitted to drive in or on City Parks or trails except for public parking areas. Any motorized vehicles within Nibley City park or trail parking areas must be properly licensed for public street use. The City Manager, or designee, may make exceptions for maintenance and construction vehicles, and vehicles used to set up for special or city events. This code shall not apply to emergency vehicles responding to an emergency event. The City may establish speed limits and enact prohibitions for all City trails to govern the use of bicycles, electric scooters, and other permitted non-motorized vehicles.

Commented [SN9]: No bikes, scoters, or other vehicles within Firefly Park

Commented [SN10R9]: Allow the City to create prohibition for vehicles on City Trails and Parks.-Larry.

What can we do to allow runners with Dogs, Bikers, and everything else.

- G. Littering: It is unlawful for any person to deposit, scatter, drop, or abandon in or along any City park, trail, or outdoor recreational facility any paper, bottles, cans, sewage, waste, trash, or other debris including dirt, soil, rocks, leaves and other plant material, except in receptacles provided by the City Public Works Department for such purpose. No person shall deposit in any receptacle in any City park, trail, or outdoor recreational facility any accumulation of waste or trash generated outside the boundaries of the City park, trail, or outdoor recreational facility.

Commented [SN11]: Get wording from Cheryl

- H. Disorderly Conduct: It is unlawful for any person to engage in fighting or indulge in riotous, disorderly, threatening, or indecent conduct or use any abusive, threatening, profane, or indecent language, or to play music audible to others with such language, while in or on a City park, trail, or outdoor recreational facility.

Commented [RP12]: Just so you're aware, any court looking at this will necessarily construe these restrictions to match the limits of the First Amendment, which allow the government to regulate obscene and threatening conduct and acts (pretty high standards), but not merely offensive or indecent language or conduct.

- I. Alcohol, Tobacco And Controlled Substances: Unless otherwise noticed by sign or other written communication by the City, it is unlawful for any person to use, possess, or sell any alcoholic beverages, tobacco products, including e-cigarettes, drugs or other illegal or controlled substances while in or on a City park, trail, or outdoor recreational facility.

- J. **Noise Restrictions:** It is unlawful for any person to play or cause to be played amplified music or sound in or on a City park, trail, or outdoor recreational facility without a special event permit issued by the City. Such permission or license may be denied by the City where it is reasonably believed that such noise would disturb other patrons of the City park, trail, or outdoor recreational facility, annoy residents neighboring the same, or disturb wildlife. Issuance of a permit under this subsection does not exempt the holder or permittee from all other rules, regulations, ordinances or statutes, whether State, County or City.
- K. **Fires and Fireworks:** It is unlawful for any person to burn an open fire in a City park, trail, or outdoor recreational facility, except in barbecue, grill or fire pit areas provided by the City. No fireworks shall be allowed within a public park, including parking lots, without a special event permit issued by the City. Such permission or license may be denied by the City where it is reasonably believed that such use would disturb other patrons of the City park, trail, or outdoor recreational facility, annoy residents neighboring the same, or disturb wildlife or the environment. Issuance of a permit under this subsection does not exempt the holder or permittee from all other rules, regulations, ordinances or statutes, whether State, County or City.
- L. **Weapons:** The use of all weapons, including firearms, bows, arrows, axes, and hatchets, blow darts, swords, staves, spears or anything designed or used for inflicting bodily harm or physical damage is prohibited within Nibley City Parks. The City may make exceptions for special events, or designated shooting or archery ranges. This section does not apply to tools that are used to maintain the park by maintenance crews.
- M. **The City may restrict allowed uses for the protection and preservation of public health, safety and welfare, and any public or private property facilities.**
- N. **Grazing:** It is unlawful to use any City park, trail, or outdoor recreational facility for the purposes of grazing domestic livestock, such as horses, donkeys, mules, llamas, cattle, sheep, or goats or similar livestock without written authorization from the City.
- O. **Concessions:** It is unlawful for any person to operate any dispensary or concessions stand in or on any City park, trail, or outdoor recreational facility without the express written consent of the City.
- P. **Inflatable Attractions, Mechanical Rides, Water Slides:** It is unlawful for any person to set up a private attraction, including, but not limited to: inflatable bounce houses, water slides, mechanical bulls, and carnival type rides in or on any City park, trail, or outdoor recreational facility without written authorization from the City. The City may only

Commented [RP13]: Again, just as an FYI, this provision bumps up against First Amendment concerns. Annoying your neighbors isn't generally enough of a justification to limit speech, but reasonable limits on the time, place, and manner of speech to protect the public and wildlife should be fine.

allow such uses at City sponsored events or events that have been issued a special event permit and provided sufficient insurance for these uses.

- Q. Camping: It is unlawful for any person to camp, lodge, or remain overnight in or on any City park, trail, or outdoor recreational facility without written authorization from the City.

13.16.050 Enforcement and Penalty

- A. Enforcement: Law enforcement officers, in connection with their duties imposed by law, shall enforce the provisions of this Chapter and may issue citations, arrest and/or evict any persons acting in violation of the provisions of this Chapter. These law enforcement officers shall have the authority to seize, confiscate and impound any substance, plant, animal, or other similar article that is used or possessed in violation of this Chapter.
- B. Penalty: Any person found in violation of the provisions set forth herein shall be guilty of an infraction and shall be subject to applicable civil penalties.