



NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, May 14, 2020 – 6:30 p.m.

In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Bernhardt)
2. Call to Order and Roll Call (Chair)
3. Approval of the Previous Meeting Minutes and Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning Commission Report
6. **Presentation** – The Nibley City Parks and Recreation Committee
7. **Discussion & Consideration** – Resolution 20-05: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2019-20, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2020-21 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (First Reading)
8. **Discussion & Consideration** – Resolution 20-06: A Supplement to the Nibley City Emergency Operations Plan - Pandemic Response Plan (First Reading)
9. **Discussion & Consideration** – Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards (Second Reading)
10. **Discussion & Consideration** – Resolution 20-04: Interlocal Agreement Regarding Wastewater Services (Third Reading)
11. **Workshop** – Discuss reinstatement of the Nibley Redevelopment Agency and a plan for creating a project area and providing incentives
12. **Council and Staff Reports**
13. **Adjourn to Closed Session** – Discuss personnel pursuant to Utah Code 52-4-205

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



**Nibley City Council
Agenda Report for
May 14, 2020**

Agenda Item #6

Description	Presentation – Nibley City Parks and Recreation Committee
Department	Recreation
Presenter	Chad Wright, Recreation Director
Recommendation	Receive the presentation. Make Comments. Ask questions.
Reviewed By	City Manager, Recreation Director, PARC

Background

Department staff provide periodic reports to the City Council to provide updates on initiatives and projects. The Recreation Director and the Park and Recreation Committee will provide an update on recreation operations, including plans for Heritage Days.

Agenda Item #7

Description	Discussion & Consideration – Resolution 20-05: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2019-20, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2020-21 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (First Reading)
Department	City Council
Presenter	David Zook, City Manager
Recommendation	Make a motion to approve Resolution 20-05: A Resolution Amending the Budget for Various Funds of Nibley City for Fiscal Year 2019-20, Adopting the Budget for the Various Funds of Nibley City and Other Budgetary Matters for Fiscal Year 2020-21 and Adjusting Certain Fees and Payments for Services (First Reading)
Reviewed By	Mayor, City Manager, City Treasurer, and Department Heads

Background

The first draft of the budget for the next fiscal year will be presented to the City Council and public. Staff will present and review various changes and proposals in the budget. A public hearing regarding the budget will be held at a future meeting. State law requires the City Council to adopt the first draft of the annual budget by the Council's first meeting in May. By state law, the budget will also need to be adopted by the first meeting in June if there is not a tax increase, or by the second meeting in August if there is a tax increase.

Upon final adoption, this resolution would adopt the budget for the next fiscal year, as well as make any final adjustments to the current-year budget. Approval of this resolution would increase the stormwater fee from \$7.50 to \$7.75 per month per residence and proposes to keep the property tax rate at its current rate of 0.001667. If Cache County certifies a tax rate lower than this rate, which is likely based on real estate value increases over the past year, this rate will not become the final adopted rate until after the City holds a truth in taxation hearing on August 27.

Additional changes will be made to the first draft of the budget before final adoption.

RESOLUTION 20-05

A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2019-20, AND ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2020-21 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES

BE IT RESOLOVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The attached Fiscal Year 2019-20 current-year budget is hereby adopted and approved as the amended budget for the current fiscal year ending June 30, 2020, with amendments, if any, as reflected in the attached budget document and the minutes of this meeting.
2. The attached budget, entitled Nibley City Budget Fiscal Year 2020-21, is hereby adopted and approved for the fiscal year ending June 30, 2021, with amendments, if, any, as reflected in the budget document and the minutes of this meeting.
3. The monthly charge for storm water shall be \$7.75 per month per residential utility customer effective July 1, 2020.
4. The adopted property tax rate is 0.001667.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____ 2020.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

Agenda Item #8

Description	Discussion & Consideration – Resolution 20-06: A Supplement to the Nibley City Emergency Operations Plan - Pandemic Response Plan (First Reading)
Department	Emergency Management
Presenter	David Zook, City Manager
Recommendation	Make a motion to approve Resolution 20-06: A Supplement to the Nibley City Emergency Operations Plan - Pandemic Response Plan.
Reviewed By	Mayor, City Manager, City Emergency Manager, County Emergency Manager, Bear River Health Department, City Staff

Background

The latest version of the Nibley Emergency Response Plan was adopted in 2018 as Resolution 18-11. However, that plan did not include a pandemic response plan. In response to the recent COVID-19 Pandemic, a supplement was written to add a pandemic response plan to the emergency response plan.

The purposes of the pandemic response plan include:

- Assign specific functional responsibilities
- Identify hazards that may be produced by a pandemic
- Plan for and reduce the impact of the outbreak
- Maintain operations during and after an outbreak
- Advise senior officials, department heads, employees, the community, consultants, vendors, and sub-contractors on the things they can do to mitigate the impact of an outbreak on the community and themselves and to become more pandemic-resistant

RESOLUTION 20-06

SUPPLEMENT TO THE NIBLEY CITY EMERGENCY OPERATION PLAN – PANDEMIC RESPONSE PLAN

WHEREAS, Nibley City is exposed to a variety of natural hazards, including flood, fire, blizzard, pandemic and other threatening conditions; and

WHEREAS, emergency operation plans allow individuals and cities to maintain an orderly flow of information and maximize its resources during a pandemic emergency; and

WHEREAS, the Nibley City Emergency Operations Plan – Pandemic Response Plan further clarifies the roles and responsibilities of Nibley City during a pandemic; and

WHEREAS, it is in the best interest of the City to have a plan of operation for those occasions when pandemic emergency circumstances arise.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The attached document, entitled *Supplement to the Nibley City Emergency Operations Plan – Pandemic Response Plan* is adopted and incorporated into the *Nibley City Emergency Operations Plan*.
2. The Pandemic Response Plan shall serve as the guiding document for how Nibley City conducts its operation in times of pandemic.
3. The *Nibley City Emergency Operation Plan – Pandemic Response Plan* as part of the *Nibley City Emergency Operations Plan* may be revised from time-to-time, as circumstances and resources change.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____ 2020.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

APPENDIX F PANDEMIC RESPONSE PLAN

I. INTRODUCTION

This Pandemic Guidance document is designed to work in harmony with the City's Emergency Operations Plan and provides specific information relating to the implementation of activities and operating procedures related to pandemic events that may affect the City.

Departments within the City should become familiar with this document. As appropriate, each department should formulate their own action plans, checklists, and other standard operating procedures as required for maintaining essential services. This guidance is based upon the best available current data and will be updated as new information becomes available.

II. PURPOSE

The Pandemic Guidance document is designed to provide an operational framework and general guidance to all employees of the City in the event that a pandemic event occurs that disrupts the normal operating conditions of the community.

The goal of this plan is to protect employees, the community, facilities, systems, property and operations during a pandemic and to maintain normal operations, to the extent possible, consistent with those goals. If normal operations cannot be maintained, the goals will be to maximize the continuity of the government's essential services to the community. Finally, the goal of the plan is to provide for a return to full operations and services as quickly as possible.

III. SCOPE

This plan is intended to anticipate the potential issues that might impact the government, its employees, the community and City operations that may be affected by a pandemic. The nature of a pandemic is that it will primarily impact the employees, the community, and their security. Unlike most other potential disasters, the primary threat is not physical destruction of facilities caused by the disaster event. This plan, therefore, will focus only on the threats that are reasonably related to a pandemic.

IV. MISSION OF THE PLAN

The mission of this plan is to:

- Be applicable to all City Departments
- Establish policies, strategies, and assumptions
- Establish a concept of operations
- Assign specific functional responsibilities
- Identify hazards that may be produced by a pandemic
- Plan for and reduce the impact of the outbreak
- Maintain operations during and after an outbreak
- Advise senior officials, department heads, employees, the community, consultants, vendors, and sub-contractors on the things they can do to mitigate the impact of an outbreak on the community and themselves and to become more pandemic-resistant

V. SITUATIONS & ASSUMPTIONS

A. *Situations*

The City has been and will be exposed to conditions that have the potential to disrupt the community, interrupt essential services, and create casualties.

B. Assumptions

- 1) When a pandemic starts, public health officials will determine the severity of the pandemic and recommend actions to protect the community's health.
- 2) The Bear River Health Department will be the lead agency regarding pandemic-related information in Cache County.
- 3) Protecting City employees during a pandemic will depend on educating and emphasizing proper hygiene (cleaning hands and decontaminating surfaces), personal protective equipment and practicing social distancing.
- 4) In addition to occupational exposure risks, employees will also have non-occupational exposure risks that may include exposure to family members, commuting to and from work on public transportation, attending public events (sporting events, concerts, plays, etc.) or other exposures like shopping or attending religious services.
- 5) Increased absenteeism may result from employees being sick or staying home to take care of family members or others, which may require the City to provide services with limited staff.
- 6) A pandemic may have substantial impacts on the need for and delivery of City and other community services.
- 7) The City may not be able to rely on mutual aid from other agencies.
- 8) The Incident Command System, as part of NIMS, will enable efficient incident management during pandemic situations.
- 9) Travel may be restricted, and employees may need to work remotely. Some City functions, such as administrative functions, can be performed remotely, while others, such as public works, require in-person work.
- 10) Public facilities, public meetings and events may be impacted.
- 11) Providing accurate information to the public will be important in order to address rumors, provide public education and inform the public of service availability.
- 12) Pandemic-related financial stress, potential civil unrest, and enhanced opportunities will increase the risk of physical, financial and cyber security threats.
- 13) The pandemic may cause an economic slowdown, the scope and duration of which are unknown, but which could affect City finances.

VI. CONCEPT OF OPERATIONS

Nibley City will monitor the situation and follow guidance provided by federal, state and local public health agencies and will implement its response based on best available information. Through a coordinated effort, the following are potential trigger points that could indicate the need to implement this plan. The City may establish other trigger-points to help guide implementation of the plan.

A. Trigger Points

The following events should be considered trigger events for implementation of all or portions of this plan:

- Determination by the State Public Health Department that a pandemic is imminent or has begun
- Directive of the local board of health to implement a response protocol
- Irrefutable evidence that an outbreak has occurred within the community, in which event the City will notify the appropriate state and local public health agencies
- Excessive employee absenteeism, whether pandemic-induced or not, that results in the government being in jeopardy of experiencing pandemic related business

- crises
- Confirmation of employee exposure to pandemic contagions

B. Direction & Control

Much of the direction and control of a pandemic event will come from the national Centers for Disease Control and Prevention (CDC), the Utah Department of Health (UDH), and/or the Bear River Health Department (BRHD). Working in coordination with the CDC, UDH and the BRHD, direction and control of the emergency management organization, when activated, will be vested in the City Manager or successor and will follow the guidelines outlined in the City's Emergency Operations Plan.

C. Coordination with other agencies

Nibley City will coordinate and share information as needed with other agencies as required by the situation. Primary agencies that may be involved in a pandemic include:

- National Centers for Disease Control and Prevention
- Utah Department of Health
- Bear River Health Department
- Utah Department of Public Safety, Division of Emergency Management
- Cache County Emergency Management
- Local First Responder – Sheriff, Fire, EMS
- Cache County School District
- Non-Government Organizations, ie. the Red Cross, churches, food bank etc.

D. Declaration of Local State of Emergency

The process for declaring a state of emergency, if required, is outlined in the City's Emergency Operations Plan.

E. Activation of Emergency Operations Center

The process for activating the Emergency Operations Center, if required, is outlined in the City's Emergency Operations Plan. In the case of a pandemic, a virtual EOC may be required.

F. Public Information Procedures

Effective communications with the public, community leaders and the media is important to maintain public awareness, avoid social disruption, and to provide information on evolving pandemic response activities.

All media and public information concerning Nibley City activities during a pandemic outbreak will be managed and coordinated by the City Manager / Public Information Officer.

G. Response Procedures

The pandemic outbreak concerns addressed within this document will not have clearly-defined 'trigger-points' to guide the community toward implementing its Pandemic Plan. The City's response to pandemic events will be based on the following six areas of focus:

1. Education

2. Policy
3. Maintaining Continuity of Operations
4. Preventing the Spread of the Pandemic
5. Assisting Public Health Officials with Providing Medical Care
6. Security

1. Education

The City will participate in providing employees and the public with current information regarding educational materials prepared by credible agencies and/or sources and current status updates regarding the situation.

All media and public information concerning Nibley City activities during a pandemic outbreak will be managed and coordinated by the City Manager / Public Information Officer.

2. Policy

As required, the City Manager, in coordination with the Mayor and City Council, may suspend or adopt new policies to provide for the essential services provided by the City, based on assessment, feedback, and evaluation of feasibility of such actions.

3. Continuity of Operations

It is the goal of Nibley City to protect employees, the community, facilities, systems, property and operations during a pandemic and to maintain normal operations, to the extent possible, without creating additional or new risks. However, the City also recognizes that this may not be possible, because of staff illnesses, the directives of state or local government (which may include travel restrictions and a full or partial isolation or quarantine or shelter-in-place), public health agency-mandated isolation or quarantine policies, and the disruption of essential services, communications and supply chains.

All City personnel are considered essential workers and might be called upon in any emergency to provide essential services. Consequently, all City personnel should be allowed passage to provide such service during stay-at-home orders, quarantines, etc.

The City identifies the following core functions that must be sustained to maximize the City's ability to recover from the pandemic and resume normal operations after it has ended:

- Public Works, including water, sewer, and streets
- Public Safety, including law enforcement, firefighting, emergency medical services, and emergency management, and
- Administration, including City Council, communications, human resources and finance

For both enduring and recovering from a pandemic, appropriate recreation services should be considered, especially when extended isolation from quarantine, loss of employment, or significant fatalities are involved, in order to support mental and emotional health, which is critical for citizen and employee function and recovery.

The Nibley City Emergency Operations Plan provides direction for continuity in government by providing a procedure for succession in offices where elected officials or other key personnel are absent or unavailable during the course of any major natural

disaster or occurrence. The plan provides a clear line of authority and succession assuming the unavailability, temporarily or permanently, of elected and appointed officials in order to ensure a lawful continuity of government and a prompt response to an emergency situation.

All City Departments shall have in place a viable Continuity of Operations Plan (COOP) that ensures the performance of their essential functions during any emergency or situation that may disrupt normal operations. Key elements of a viable COOP capability may include:

- Identification of essential functions
- Plan for completing essential functions with limited staff
- Implementation of alternative/remote work and communication methods
- Delegation of authority
- Orders of succession
- Evacuation, accountability, notification
- Alternate facilities
- Interoperable communications and
- Vital records and databases protection

4. Preventing the Spread of the Pandemic

The City will take steps necessary to prevent the spread of the pandemic in Nibley City by protecting employees and the public. Key elements to prevent the spread may include:

- Following guidance from public health officials
- Social Distancing, including:
 - Cancelling events and meetings
 - Closing facilities, including gathering spaces, playgrounds etc.
 - Implementing remote work arrangements and remote meetings
 - Implementing isolation procedures for personnel who may have been exposed
 - Implementing orders related to activities of the public, such as stay-at-home orders, quarantines, or closing businesses or other facilities.
- Assure proper hygiene, facility cleaning and the provision of personal protective equipment (PPE)

Personal Protective Equipment (PPE)

PPE will be made available to all employees according to job function as required and if requested by the employee. Employees that are issued PPE based on job function will follow department procedures established for the use and care of such equipment.

5. Assisting Public Health Officials with Providing Medical Care to the Public

Public health officials may need assistance in providing medical care to those affected by the pandemic. This could include:

- Supporting Medical Testing
- Supporting Vaccinations
- Supporting Triage Locations
- Transporting Patients or Care Providers
- Transporting Supplies
- Supporting the siting, set up and operations of field hospitals
- Supporting Morgue Operations

- Providing traffic control and management around critical facilities
- Providing support to other first responders as needed

6. Security

Social disruption and civil unrest may be among the byproducts of a pandemic. To mitigate those risks for Nibley City, the City will evaluate the security risks throughout the community, based on their location and past vulnerability history, and will arrange for enhanced security measures as needed. These enhanced measures may include, but not be limited to:

- Requesting additional security personnel from the County Sheriff or State of Utah
- Adding electronic security equipment
- Implementing curfews or stay-at-home orders
- Developing protocols for securing City buildings or other facilities that are closed temporarily.
- In collaboration with law enforcement, providing training or direction to staff and the public on how to stay safe.
- Monitoring or addressing cybersecurity threats

i) Cyber Security

To strengthen computer and data security measures and address the vulnerabilities a pandemic could create, Nibley City could take the following steps:

- Maintain awareness of current cyber security threats and that bad actors may try to take advantage during times of disaster
- Ensure that traditional cyber security measures are in place
- Work with IT staff to address issues that might arise
- Ensure backup or remote opportunities for information technology
- Beware of risks that might come with remote work arrangements
- Provide direction and training to staff as needed

ii) Financial Security

It is impossible to predict the likely economic effects of a pandemic, but the economic impacts of a large-scale pandemic may be massive and widespread, affecting the entire community, state, nation or the entire world. Nibley City should be aware of the following in relation to financial security:

- Maintain awareness of current financial threats and that bad actors may try to take advantage during times of disaster
- Ensure that traditional financial security measures are followed related to receiving and recording payments, making bank deposits, purchasing and holding funds
- Work with financial professionals to address issues that might arise, especially in relation to investments
- Beware of risks that might come with remote work arrangements
- Provide direction and training to staff as needed
- Record losses and expenditures in order to potentially claim reimbursement for them later
- Maintain awareness of federal, state or local financial assistance that might become available

7. OTHER ORGANIZATIONAL ASSIGNMENTS & RESPONSIBILITIES

Emergency Management

- Lead pandemic planning and preparedness efforts for Nibley City in conjunction with local, state and federal response partners.
- Conduct training, drills and evaluate exercises to enhance the City's readiness to respond to a pandemic.

Human Resources

- Monitor employee absenteeism.
- Provide policy guidance on the use of leave and matters of attendance, alternative work arrangements, and hiring flexibilities during a pandemic.
- Assist in providing educational information to employees.
- Recruit additional staff and/or volunteers required to meet the objectives outlined in this plan
- Support Employee Mental Health
 - A pandemic may affect the mental health of employees. Supervisors and coworkers should monitor employees for signs of stress and address needs appropriately, such as through referrals to the City's Employee Assistance Plan.

Public Works

- Maintain the safe and efficient operational status of city infrastructure
- Support equipment, facilities and logistical needs of the city
- Close facilities as required

Recreation

- Assist with public information efforts
- Adjust planned events and activities as required
- Provide logistical support as needed
- Provide notification to participants of programs and the general public regarding adjusted, postponed, or canceled programs and events
- In coordination with the parks department, provide support in educating the public regarding limited, or suspended use of park facilities and other recreation related facilities and amenities
- Provide notification to organizations utilizing athletic fields and or other recreation related facilities of limited or suspended use of these amenities
- Provide social, emotional, and mental support to the community through innovative methods that are within the scope of health department regulations

Administration

- Lead the emergency response effort
- Coordinate with the Policy Group on emergency response needs
- Coordinate with other agencies and assess the need to request or provide mutual aid
- Oversee financial needs, procurement, expenditures and reporting
- Assess the need for emergency declarations or other policy changes
- Oversee public information and education efforts
- Keep staff apprised of coordinated efforts of the city and other agencies in the response to the pandemic and related management efforts

Agenda Item #9

Description	Discussion & Consideration – Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards (Second Reading)
Department	Planning
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 20-09: An Update to Nibley City Commercial and Neighborhood Commercial Zoning Standards.
Reviewed By	City Manager, City Planner, Planning Commission, Public Works Director, City Engineer, City Attorney



Background

The Planning Commission has reviewed the commercial and neighborhood commercial zones and has made recommended changes as summarized below. The item has been discussed in City Council for the first reading. In addition to those changes recommended below, Staff has incorporated changes discussed

during the first reading.

Quick Links: [Nibley City Design Standards for Commercial and Institutional Uses](#)

Nibley City Commercial Codes: [19.14 Commercial Zone](#)
[19.20 Land Use Chart](#)
[19.28 Conditional Use](#)

Site Improvements

Since the City updated the Land Use Chart last year, staff and the Planning Commission wanted to adopt more standards within the city's commercial code that would give the City more control over uses that would be permitted. Most of these uses would be built into a subdivision that would have the required infrastructure and amenities already built and installed. However, the Planning Commission and staff have recommended that those items be included within the commercial code as well. Some of these standards are street improvements, providing enough water to the city for the proposed use etc.

Home Remodels

One of the other items that the Planning Commission has added is the ability for a single-family residence to be remodeled for commercial use without having to comply with all of Nibley City Commercial facade requirements. This could allow homes along 165 to remodel and apply for commercial rezoning. These remodels would require a conditional use permit, and the building would still need to comply with all commercial fire and ADA standards. As discussed in the previous meeting, the proposed code, limits the exception to homes along collector and arterial streets.

Neighborhood Commercial

The Planning Commission recommended some changes to the Neighborhood Commercial code. The Planning Commission cut the requirements that a Neighborhood Commercial area needed to be 2-5 acres in size, to give more flexibility to the ordinance.

One of the other major changes recommended is to lower the setback requirement from 30' to 20', to allow businesses to be placed closer to the right-of-way.

As requested by the council, the Accessory Dwelling Unit section has been removed.

Commercial Condominiums

Staff recommends that the City Council consider allowing commercial non-residential condo units within the neighborhood commercial zone. Staff is proposing the following language, which has been clarified since the last meeting:

J. Commercial Condominiums

1. Commercial Condominiums, shall be a permitted use in the Neighborhood Commercial zone, as set forth herein.
2. All shared or common properties, landscaping, parking lots, roadways, and other non-public amenities or improvements that serve the commercial condominium shall be maintained by an owners association, pursuant to duly adopted and recorded agreements.
3. If a development chooses to build condominiums, they must provide sufficient parking and landscaping for each unit, consistent with current City Commercial standards at the time of the rezone application.
4. Front, rear, and side setbacks shall be measured from the foundation walls of the building
5. There shall be a maximum of five commercial condominium units per acre.

ORDINANCE 20-09

**AN UPDATE TO NIBLEY CITY COMMERCIAL AND NEIGHBORHOOD
COMMERCIAL ZONING STANDARDS**

WHEREAS, Nibley City wants to encourage commercial development within Nibley City; and

WHEREAS, the City wants to eliminate some barriers to developing in commercial and neighborhood commercial zones; and

WHEREAS, commercial and economic development can have positive and negative impacts on residents of Nibley City; and

WHEREAS, Nibley City also wants to ensure businesses and commercial developments provide needed infrastructure to offset their impact.

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

1. The attached ordinance is hereby adopted as Nibley City Code 19.14
2. Nibley City Code 19.24.170 (C) title shall be titled “Commercial, Neighborhood Commercial and Industrial”.
3. All ordinances, resolutions and polices 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 and law, order, resolution or ordinance or part thereof.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF _____ 2020.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

Stephen Nelson 4/7/2020 9:28 PM

Comment [1]: I have added this to ensure that it is clear that our landscaping code is the same for each zone.

19.14.010 Purpose

The purpose of the commercial zone is to provide suitable areas for the location of commercial activities needed to serve the people and commerce of the city. Retail commercial activities which serve the residents of the city will be encouraged.

19.14.020 Use Regulations

A. Use Permit

1. Each Commercial Development and Use shall obtain a business license from Nibley City. Commercial Uses as listed in NCC 19.20 as a conditional use shall also obtain a Conditional Use Permit before construction of new developments or operation of a business for existing commercial developments and buildings.

B. Traffic and Connectivity

1. Roadways and intersections shall maintain a Level of Service (LOS) C. Commercial applicants may be required to make any road updates in order to ensure the roadway will maintain LOS C.
2. Site plans must comply with the Transportation and Trails Master Plan.
3. Applicants may be required to provide an additional vehicle access to the site for one or more of the following reasons
 - a. There is only one vehicle access road to the site
 - b. Allow for greater emergency access to the site
 - c. Provide for better connectivity and enhance the safety of surrounding roadways and intersections.
 - d. Construction access to minimize impact to existing homes and infrastructure

C. Utilities

1. Prior to the issuance of a business license or conditional use permit, utility lines shall be updated to comply with water, sewer and stormwater master plans within the application property and adjacent rights-of-way.
2. A business license or conditional use permit shall only be granted if the City can reasonably supply water and sewer services to the applicant for their proposed use. The City may require an applicant to surrender water shares or water rights.
3. Applicants shall connect to service lines needed to supply the use of an application and shall be responsible for all associated costs.
 - a. If no utility lines are available or current utility lines and services are determined to be insufficient for the proposed use by the City Engineer, the applicant shall build or install for the needed infrastructure before a business license or conditional use permit may be granted.

D. Each Commercial building shall be built to the standards in Nibley City Design Standards for Commercial and Institutional Uses except for Remodeled Residential Units as stated within this chapter.

E. All commercial buildings shall comply with fire code and are subject to inspection of the Fire Marshall before a business license or conditional use permit is granted. New commercial buildings shall also be inspected by the Fire Marshal before a certificate of occupancy can be given. All commercial buildings shall be subject to an annual

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Comment [1]: Surrender

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Comment [2]: Remove

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- inspection by the Fire Marshal, and any license, permit, or certificate issued for a building or use may be revoked for failure to comply with fire code.
- F. All site plans shall be approved by the City's Engineer and Public Works departments. All site plans shall comply with Nibley City Design Standards and all projects located in Commercial and Neighborhood Commercial Zone shall comply with Nibley City Design Standards for Commercial and Institutional Use.
- G. Residential Units Remodeled for Commercial Use:
1. Nibley City Design Standards for Commercial and Institutional Use facade treatments shall not apply to single family homes that have been remodeled for commercial use. Such homes may be referred to as "Remodeled Residential Units."
 2. Remodeled Residential Units must comply with landscaping, parking, fire code, the Americans with Disability Act (ADA) requirements, building permit requirements, inspections, and all other standards and requirements described within this title.
 3. Any business taking place in a remodeled residential unit is considered a conditional use and shall obtain a conditional use permit prior to beginning operations, regardless of the use within the building. Any change in the business or use of the Remodeled Residential Unit shall require a new conditional use permit.
 4. The Commercial Use shall be the primary use of the building
 5. The exceptions for Remodeled Residential Units shall only apply to buildings on lots which front collector or arterial streets, as defined by the Nibley City Master Streets Plan.
- H. The City may require the placement of fences or walls to enhance security and mitigate aesthetic or other impacts at facilities adjacent to residential areas.
- I. In Commercial Zones, warehousing and storage may be allowed as part of business if it is attached to offices, retail, or other permitted or conditional use allowed within a Commercial Zone.
- J. All Commercial developments shall comply with landscaping code within NCC 19.24.170

Robert Patterson 3/11/2020 8:53 PM

Deleted: inspection must be passed annually thereafter.

Stephen Nelson [2] 3/13/2020 12:12 PM

Deleted: <#>Hours of Operation: The city may put limits of hours of operation from 7:00 a.m. to 10:00 p.m. on a conditional use application to mitigate noise and traffic to nearby residential zones. .

Stephen Nelson [2] 3/13/2020 12:23 PM

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Stephen Nelson [2] 3/13/2020 12:23 PM

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Robert Patterson 4/6/2020 6:00 PM

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Robert Patterson 4/6/2020 6:01 PM

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Robert Patterson 4/6/2020 6:27 PM

Comment [4]: Something to consider. Is a CUP for a specific business, or just for the Unit to be operated as a commercial building? If the former, then I suggest making clear that changes in uses need new CUPs, along these lines. If the latter, then delete this suggestion.

Stephen Nelson [2] 4/7/2020 9:34 PM

Comment [5]: I believe the intent was for the business.

Robert Patterson 4/6/2020 6:09 PM

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Stephen Nelson [2] 3/13/2020 12:24 PM

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19.14.030 Space Requirements

See NCC 19.22.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.14.040 Parking Requirements

See NCC 19.24.160.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.14.050 Neighborhood Commercial Zone C-N

A. Purpose

1. The neighborhood commercial zone C-N is established to provide areas in which the primary use of land is for commercial and service uses to:
 - a. Serve the daily convenience needs of the adjacent residential neighborhoods.
 - b. Provide economic stability.
 - c. Enhance property values.
 - d. Establish strategies for achieving good community design.
 - e. Stabilize areas/zones.
 - f. Reduce traffic congestion and promote walkable communities.
 - g. Promote the policies of the general plan.
2. This C-N zone shall be located in areas deemed appropriate and approved by the city council for services to the residents of the city. The zone will create a minimum of detriment, hazard, noise or inconvenience to surrounding residential development.
3. The C-N zone shall be characterized by harmonious grouping and architectural offset of building mass of commercial stores and shops which will be architecturally designed for, and will function as, an integrated unit. Clean parking lots and attractive well maintained shops with appropriate landscaping will also be characteristic of this zone.
4. Lighting will be of low intensity, low profile and fully shielded to protect the surrounding residential areas. The architectural design and character will be compatible with that of the surrounding residential environment.
5. Heavy commercial uses within this zone have been excluded and are not permitted.

B. Permitted Uses: See NCC 19.20.

C. Conditional Uses:

1. Regular Conditional Uses: See NCC 19.20.
2. Temporary Accessory Uses: Temporary accessory uses and structures are permitted in the C-N zone, provided they are incidental to, and do not substantially alter the character of, the permitted use or structure. Such permitted accessory uses and structures include, but are not limited to, the following: Storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto and provided further that such shall be permitted only during construction period and thirty (30) days thereafter.

3. Use Limitations: All other uses not listed are not permitted.

4. Residential Units Remodeled for Commercial Use:

- a. Nibley City Design Standards for Commercial and Institutional Use facade treatments shall not apply to single family homes that have been remodeled for commercial use. Such homes may be referred to as "Remodeled Residential Units."
- b. Remodeled Residential Units must comply with landscaping, parking, fire code, the Americans with Disability Act (ADA) requirements, building permit requirements, inspections, and all other standards and requirements described within this title.

Stephen Nelson 12/3/2019 11:15 AM

Deleted: Each neighborhood commercial zone shall be small in area, containing from two (2) to five (5) acres and will have sidewalks and provide streetscape improvements for present and provide streetscape improvements for present and future pedestrian access.

Robert Patterson 4/6/2020 6:27 PM

Comment [6]: This isn't very clear to me. One building? Strip mall? Multiple buildings in some kind of unifying plan?

Stephen Nelson [2] 4/6/2020 11:00 PM

Comment [7]: I added the condo section to help clarify.

Stephen Nelson [2] 4/7/2020 9:33 PM

Comment [8]: Changes copied from above based on Robs changes.

Stephen Nelson [2] 4/6/2020 10:33 PM

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Stephen Nelson [2] 4/6/2020 10:33 PM

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c. Any business taking place in a remodeled residential unit is considered a conditional use and shall obtain a conditional use permit prior to beginning operations, regardless of the use within the building. Any change in the business or use of the Remodeled Residential Unit shall require a new conditional use permit.

- D. Area Density Requirements: Each single lot or parcel of land in the C-N zone shall contain a minimum of one-fourth (1/4) acre to allow for the building, site development, parking, required landscaping and stormwater detention. Stormwater detention can be planned as one shared basin.
- E. Lot Frontage: The combined, contiguous parcels or lot of land in the C-N zone shall abut a public street for a minimum distance of one hundred feet (100').
- F. Lot Coverage: No building, structure or group of buildings with their accessory buildings shall cover more than seventy percent (70%) of the lot or parcel.
- G. Minimum Lot Standards: The following minimum yard requirements shall apply to the C-N zone:
1. Front Yard: Each yard or parcel in the C-N zone shall have a store front yard of not less than twenty feet (20').
 2. Side Yard: Each yard or parcel of land in the C-N zone shall have a side yard of not less than ten feet (10'). The minimum side setback from an adjacent residential zone shall be ten feet (10').
 3. Side Yard; Corner Lots: On corner lots the side yard contiguous to the street shall not be less than twenty feet (20') in width and shall not be used for vehicular parking. Said area shall be appropriately landscaped except those permitted accesses or driveways.
 4. Rear Yard: Each lot or parcel of land in the C-N zone shall have a rear yard of not less than five feet (5'), but at a minimum shall match the space requirements for the rear yard setback of the adjoining zone except the rear yard setback shall be thirty feet (20') adjacent to a residential zone.
- H. Building Height: No lot or parcel of land in the C-N zone shall have a building or structure which exceeds the height of two (2) stories with a maximum height of thirty five feet (35') and comply with NCC 19.24.080, "Public Buildings, Additional Height Allowed".
- I. Building Size: The maximum size building footprint allowed shall not exceed a total of fifteen thousand (15,000) square feet. Commercial Condominiums
1. Commercial Condominiums, shall be a permitted use in the Neighborhood Commercial zone, as set forth herein.
 2. All shared or common properties, landscaping, parking lots, roadways, and other non-public amenities or improvements that serve the commercial condominium, shall be maintained by an owners association, pursuant to duly adopted and recorded agreements.
 3. If a development chooses to build condominiums, they must provide sufficient parking and landscaping for each unit, consistent with current City Commercial standards at the time of the rezone application.

Robert Patterson 4/6/2020 6:27 PM

Comment [9]: Something to consider. Is a CUP for a specific business, or just for the Unit to be operated as a commercial building? If the former, then I suggest making clear that changes in uses need new CUPs, along these lines. If the latter, then delete this suggestion.

Robert Patterson 4/6/2020 6:27 PM

Comment [10]: Once we finalize the language above, we should copy it her ... [1]

Stephen Nelson [2] 3/13/2020 12:24 PM

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Stephen Nelson 12/3/2019 1:11 PM

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Stephen Nelson 12/3/2019 1:14 PM

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Stephen Nelson [2] 3/6/2020 8:36 AM

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Stephen Nelson 12/3/2019 1:14 PM

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Stephen Nelson [2] 3/6/2020 8:36 AM

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Stephen Nelson 12/3/2019 1:14 PM

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Stephen Nelson [2] 3/6/2020 8:36 AM

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Stephen Nelson 12/3/2019 1:15 PM

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Stephen Nelson [2] 3/6/2020 8:37 AM

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Stephen Nelson 12/3/2019 1:19 PM

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Stephen Nelson [2] 4/6/2020 10:39 PM

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Levi Roberts 5/5/2020 11:31 AM

Comment [11]: The way it is define ... [7]

Levi Roberts 5/5/2020 11:31 AM

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Robert Patterson 4/6/2020 6:27 PM

Comment [12]: This isn't super clea ... [9]

Stephen Nelson [2] 4/6/2020 11:00 PM

Comment [13]: The C-N zone is no ... [10]

Robert Patterson 4/6/2020 6:21 PM

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Robert Patterson 4/6/2020 6:23 PM

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Robert Patterson 4/6/2020 6:27 PM

Comment [14]: Do we have a star ... [12]

Stephen Nelson [2] 4/6/2020 10:54 PM

Comment [15]: Yes, in code 19.24 ... [13]

4. Front, rear, and side setbacks shall be measured from the foundation walls of the building

5. There shall be a maximum of five commercial condominium units per acre.

J. Off Street Parking, Loading, And Access:

1. The requirements of design standards for commercial and institutional uses and NCC 19.24.160, "Parking Requirements", shall apply.
2. The site shall be developed to provide for shared access.
3. The developer/owner of a neighborhood commercial development located along a state owned highway will cause the required traffic impact study to be performed in conformance with the requirements of the Utah department of transportation. Provide to the city a valid copy of the UDOT letter of approval.

K. Signs: The requirements of design standards for commercial and institutional uses shall apply to this zone. Only monument signage will be allowed, and only in the twenty foot (20') "front yard" setback.

L. Site Plan Review And Approval Process: The requirements of design standards for commercial and institutional uses and the provisions of this title shall be enforced for any uses requiring site plan review.

1. Approval Process: All proposals for a commercial, neighborhood commercial or institutional development shall be required to conform to the provisions of this subsection. At each stage of site plan/design compliance process, applicants shall be required to submit relevant application forms and pay applicable fees. At all stages of the process, applicable fees must be paid in full prior to the site plan being presented to either planning commission or city council. All proposals governed by this subsection shall be required to conform to the Nibley City design standards for commercial and institutional development.
 - a. Preapplication Conference: Prior to presenting a concept plan to the planning commission, developers shall meet with the city planner in order to become acquainted with the development requirements, procedures and schedules, as well as to discuss potential issues with the project.
 1. At this time, developer shall present the city planner with a general site plan and inform the city planner of plans for the development.
 - b. Concept Presentation: Following determination of compliance at the preapplication conference, all proposals shall be required to present and receive approval on a concept plan from the planning commission.
 1. At this time, the planning commission may give preliminary input on the development concept. This input shall be based on the concept's compliance with the Nibley City general plan and all applicable state and local ordinances.
 - c. Preliminary Site Plan Approval: Upon receiving approval of a concept, developers shall be required to present and receive preliminary site plan approval from the planning commission and city council. Such plans shall be submitted a minimum of fourteen (14) days prior to the date of the meeting at which developer is requesting approval.
 1. At the time of presentation to the planning commission and city council, developer shall be required to submit the following plans,

Stephen Nelson [2] 3/13/2020 12:28 PM

Deleted: Minimum size requirements, separate access requirement, other building code requirements

Stephen Nelson 12/3/2019 1:24 PM

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Stephen Nelson 12/3/2019 1:24 PM

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drawn to a scale not to exceed one inch equals three hundred feet (1" = 300'):

1. Overall site plan, including location of buildings, open space, parking, landscaping and pedestrian and traffic circulation.
 1. The overall site plan shall also show all existing residences, buildings, existing streets and proposed streets within three hundred feet (300') of the site in all directions.
 2. Architectural renderings and elevations, demonstrating building materials and colors.
 3. General drainage and utility layout with topography, showing all topographic features.
- d. Required Approvals: Developer is required to receive approval from both the planning commission and the city council. Either body may approve the preliminary site plan, deny the plan, or approve with conditions.
 1. If the preliminary site plan is denied, whichever body denies the plan shall give the developer specific reasons for the denial.
 2. If the site plan is approved with conditions, all conditions imposed must be completed prior to submittal of the final site plan.
 1. City staff shall review the final site plan to ensure such conditions are met prior to the final site plan being presented.
- e. Preliminary Approval Time Limitations: Approval of the preliminary plan by the planning commission and/or city council shall be valid for one year from the date of approval. Extensions of time may be granted by the planning commission and/or city council for a period of not longer than one year upon submittal of a request for extension of time, and showing of good cause prior to the expiration of the initial approval. Self-imposed or economic hardships shall not be a basis for granting an extension.
 1. If the final site plan has not been submitted within the one year, the preliminary plan must be submitted again with appropriate fees to the planning commission and city council for reapproval.
- f. Site Plan Modifications And Amendments: Except as may be provided for elsewhere in this chapter, no element of an approved site plan shall be changed or modified more than five percent (5%) without first obtaining approval of an amended site plan as follows:
 1. An amended site plan shall be submitted to the city planner for review and approval whenever changes more than five percent (5%) are proposed. A written report shall accompany the plans detailing all changes that were made.
 2. The procedure for approval of an amended site plan shall be the same as the procedure for approval of an original site plan as set forth in this chapter.
- g. Final Site Plan Approval: Once preliminary site plan approval has been received, developer shall be required to receive final site plan approval

- from the planning commission and city council. Such plans shall be submitted a minimum of fourteen (14) days prior to the date of the meeting at which developer is requesting approval.
- h. Final Site Plan Specifications: The final site plan shall be prepared, submitted and reviewed in accordance with the Nibley City design standards for commercial and institutional development.
 - 1. As part of the final site plan submission, developer shall be required to submit those construction drawings outlined in the Nibley City engineering design standards and specifications.
 - i. Time Limitations: Developer shall have one year from the date of final site plan submittal to obtain final plan approval. Extensions of time may be granted by the planning commission and/or city council for a period of not longer than one year upon submittal of a request for extension of time, and showing of good cause prior to the expiration of the initial approval or an approved extension of time. A second time extension may be requested, and if granted, the extension can be no longer than six (6) months. No other time extensions shall be granted. Developer shall have to start the design review process over. Self-imposed and economic hardships shall not be a basis for granting an extension.
 - M. Fencing And Screening: Fencing and screening shall meet the requirements of design standards for commercial and institutional uses; NCC 19.22.010(E), "Fences and walls maximum height"; NCC 19.24.090, "Fence Regulations"; and NCC 19.24.170(C), "Commercial And Industrial Zones" (landscape requirements), shall be required of all fences and landscape screening in this zone.
 - N. Storage; Displays: All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user, not able to be stored within the commercial structure shall be stored in a completely enclosed building.
 - O. Storage; Trash:
 - 1. No trash, garbage, used materials or wrecked, inoperable or abandoned vehicles or equipment shall be stored in an open area. All such materials shall be kept in an enclosed building(s) or structure.
 - 2. All structures built to accommodate the storage shall be constructed using a design compatible with the primary structure and meeting all of the architectural design standards outlined in the design standards for commercial and institutional uses. Within a development of multiple structures a common structure shall be constructed suitable for use by all tenants or businesses.
 - P. Preapplication And Concept Development Reviews: The requirements of design standards for commercial and institutional uses and provisions of this title shall apply to this zone.
 - Q. Development Standards: The development standards of the C-N zone shall conform to design standards for commercial and institutional uses. No development shall proceed nor building permit issued in the C-N zone until the commercial and institutional design standards are enacted.

19.14.010 Purpose

The purpose of the commercial zone is to provide suitable areas for the location of commercial activities needed to serve the people and commerce of the city. Retail commercial activities which serve the residents of the city will be encouraged.

19.14.020 Use Regulations

A. Use Permit

1. Each Commercial Development and Use shall obtain a business license from Nibley City. Commercial Uses as listed in NCC 19.20 as a conditional use shall also obtain a Conditional Use Permit before construction of new developments or operation of a business for existing commercial developments and buildings.

B. Traffic and Connectivity

1. Roadways and intersections shall maintain a Level of Service (LOS) C. Commercial applicants may be required to make any road updates in order to ensure the roadway will maintain LOS C.
2. Site plans must comply with the Transportation and Trails Master Plan.
3. Applicants may be required to provide an additional vehicle access to the site for one or more of the following reasons
 - a. There is only one vehicle access road to the site
 - b. Allow for greater emergency access to the site
 - c. Provide for better connectivity and enhance the safety of surrounding roadways and intersections.
 - d. Construction access to minimize impact to existing homes and infrastructure

C. Utilities

1. Prior to the issuance of a business license or conditional use permit, utility lines shall be updated to comply with water, sewer and stormwater master plans within the application property and adjacent rights-of-way.
2. A business license or conditional use permit shall only be granted if the City can reasonably supply water and sewer services to the applicant for their proposed use. The City may require an applicant to surrender water shares or water rights.
3. Applicants shall connect to service lines needed to supply the use of an application and shall be responsible for all associated costs.
 - a. If no utility lines are available or current utility lines and services are determined to be insufficient for the proposed use by the City Engineer, the applicant shall build or install for the needed infrastructure before a business license or conditional use permit may be granted.

D. Each Commercial building shall be built to the standards in Nibley City Design Standards for Commercial and Institutional Uses except for Remodeled Residential Units as stated within this chapter.

E. All commercial buildings shall comply with fire code and are subject to inspection of the Fire Marshall before a business license or conditional use permit is granted. New commercial buildings shall also be inspected by the Fire Marshal before a certificate of occupancy can be given. All commercial buildings shall be subject to an annual

inspection by the Fire Marshal, and any license, permit, or certificate issued for a building or use may be revoked for failure to comply with fire code.

- F. All site plans shall be approved by the City's Engineer and Public Works departments. All site plans shall comply with Nibley City Design Standards and all projects located in Commercial and Neighborhood Commercial Zone shall comply with Nibley City Design Standards for Commercial and Institutional Use.
- G. Residential Units Remodeled for Commercial Use:
 - 1. Nibley City Design Standards for Commercial and Institutional Use facade treatments shall not apply to single family homes that have been remodeled for commercial use. Such homes may be referred to as "Remodeled Residential Units."
 - 2. Remodeled Residential Units must comply with landscaping, parking, fire code, the Americans with Disability Act (ADA) requirements, building permit requirements, inspections, and all other standards and requirements described within this title.
 - 3. Any business taking place in a remodeled residential unit is considered a conditional use and shall obtain a conditional use permit prior to beginning operations, regardless of the use within the building. Any change in the business or use of the Remodeled Residential Unit shall require a new conditional use permit.
 - 4. The Commercial Use shall be the primary use of the building
 - 5. The exceptions for Remodeled Residential Units shall only apply to buildings on lots which front collector or arterial streets, as defined by the Nibley City Master Streets Plan.
- H. The City may require the placement of fences or walls to enhance security and mitigate aesthetic or other impacts at facilities adjacent to residential areas.
- I. In Commercial Zones, warehousing and storage may be allowed as part of business if it is attached to offices, retail, or other permitted or conditional use allowed within a Commercial Zone.
- J. All Commercial developments shall comply with landscaping code within NCC 19.24.170

19.14.030 Space Requirements

See NCC 19.22.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.14.040 Parking Requirements

See NCC 19.24.160.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.14.050 Neighborhood Commercial Zone C-N

A. Purpose

1. The neighborhood commercial zone C-N is established to provide areas in which the primary use of land is for commercial and service uses to:
 - a. Serve the daily convenience needs of the adjacent residential neighborhoods.
 - b. Provide economic stability.
 - c. Enhance property values.
 - d. Establish strategies for achieving good community design.
 - e. Stabilize areas/zones.
 - f. Reduce traffic congestion and promote walkable communities.
 - g. Promote the policies of the general plan.
2. This C-N zone shall be located in areas deemed appropriate and approved by the city council for services to the residents of the city. The zone will create a minimum of detriment, hazard, noise or inconvenience to surrounding residential development.
3. The C-N zone shall be characterized by harmonious grouping and architectural offset of building mass of commercial stores and shops which will be architecturally designed for, and will function as, an integrated unit. Clean parking lots and attractive well maintained shops with appropriate landscaping will also be characteristic of this zone.
4. Lighting will be of low intensity, low profile and fully shielded to protect the surrounding residential areas. The architectural design and character will be compatible with that of the surrounding residential environment.
5. Heavy commercial uses within this zone have been excluded and are not permitted.

B. Permitted Uses: See NCC 19.20.

C. Conditional Uses:

1. Regular Conditional Uses: See NCC 19.20.
2. Temporary Accessory Uses: Temporary accessory uses and structures are permitted in the C-N zone, provided they are incidental to, and do not substantially alter the character of, the permitted use or structure. Such permitted accessory uses and structures include, but are not limited to, the following: Storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto and provided further that such shall be permitted only during construction period and thirty (30) days thereafter.
3. Use Limitations: All other uses not listed are not permitted.
4. Residential Units Remodeled for Commercial Use:
 - a. Nibley City Design Standards for Commercial and Institutional Use facade treatments shall not apply to single family homes that have been remodeled for commercial use. Such homes may be referred to as "Remodeled Residential Units."
 - b. Remodeled Residential Units must comply with landscaping, parking, fire code, the Americans with Disability Act (ADA) requirements, building permit requirements, inspections, and all other standards and requirements described within this title.

- c. Any business taking place in a remodeled residential unit is considered a conditional use and shall obtain a conditional use permit prior to beginning operations, regardless of the use within the building. Any change in the business or use of the Remodeled Residential Unit shall require a new conditional use permit.
- D. Area Density Requirements: Each single lot or parcel of land in the C-N zone shall contain a minimum of one-fourth (1/4) acre to allow for the building, site development, parking, required landscaping and stormwater detention. Stormwater detention can be planned as one shared basin.
- E. Lot Frontage: The combined, contiguous parcels or lot of land in the C-N zone shall abut a public street for a minimum distance of one hundred feet (100').
- F. Lot Coverage: No building, structure or group of buildings with their accessory buildings shall cover more than seventy percent (70%) of the lot or parcel.
- G. Minimum Lot Standards: The following minimum yard requirements shall apply to the C-N zone:
 - 1. Front Yard: Each yard or parcel in the C-N zone shall have a store front yard of not less than twenty feet (20').
 - 2. Side Yard: Each yard or parcel of land in the C-N zone shall have a side yard of not less than ten feet (10'). The minimum side setback from an adjacent residential zone shall be ten feet (10').
 - 3. Side Yard; Corner Lots: On corner lots the side yard contiguous to the street shall not be less than twenty feet (20') in width and shall not be used for vehicular parking. Said area shall be appropriately landscaped except those permitted accesses or driveways.
 - 4. Rear Yard: Each lot or parcel of land in the C-N zone shall have a rear yard of not less than five feet (5'), but at a minimum shall match the space requirements for the rear yard setback of the adjoining zone except the rear yard setback shall be thirty feet (20') adjacent to a residential zone.
- H. Building Height: No lot or parcel of land in the C-N zone shall have a building or structure which exceeds the height of two (2) stories with a maximum height of thirty five feet (35') and comply with NCC 19.24.080, "Public Buildings, Additional Height Allowed".
- I. Building Size: The maximum size building footprint allowed shall not exceed a total of fifteen thousand (15,000) square feet.
- J. Commercial Condominiums
 - 1. Commercial Condominiums, shall be a permitted use in the Neighborhood Commercial zone, as set forth herein.
 - 2. All shared or common properties, landscaping, parking lots, roadways, and other non-public amenities or improvements that serve the commercial condominium shall be maintained by an owners association, pursuant to duly adopted and recorded agreements.

3. If a development chooses to build condominiums, they must provide sufficient parking and landscaping for each unit, consistent with current City Commercial standards at the time of the rezone application.
 4. Front, rear, and side setbacks shall be measured from the foundation walls of the building
 5. There shall be a maximum of five commercial condominium units per acre.
- K. Off Street Parking, Loading, And Access:
1. The requirements of design standards for commercial and institutional uses and NCC 19.24.160, "Parking Requirements", shall apply.
 2. The site shall be developed to provide for shared access.
 3. The developer/owner of a neighborhood commercial development located along a state owned highway will cause the required traffic impact study to be performed in conformance with the requirements of the Utah department of transportation. Provide to the city a valid copy of the UDOT letter of approval.
- L. Signs: The requirements of design standards for commercial and institutional uses shall apply to this zone. Only monument signage will be allowed, and only in the twenty foot (20') "front yard" setback.
- M. Site Plan Review And Approval Process: The requirements of design standards for commercial and institutional uses and the provisions of this title shall be enforced for any uses requiring site plan review.
1. Approval Process: All proposals for a commercial, neighborhood commercial or institutional development shall be required to conform to the provisions of this subsection. At each stage of site plan/design compliance process, applicants shall be required to submit relevant application forms and pay applicable fees. At all stages of the process, applicable fees must be paid in full prior to the site plan being presented to either planning commission or city council. All proposals governed by this subsection shall be required to conform to the Nibley City design standards for commercial and institutional development.
 - a. Preapplication Conference: Prior to presenting a concept plan to the planning commission, developers shall meet with the city planner in order to become acquainted with the development requirements, procedures and schedules, as well as to discuss potential issues with the project.
 1. At this time, developer shall present the city planner with a general site plan and inform the city planner of plans for the development.
 - b. Concept Presentation: Following determination of compliance at the preapplication conference, all proposals shall be required to present and receive approval on a concept plan from the planning commission.
 1. At this time, the planning commission may give preliminary input on the development concept. This input shall be based on the concept's compliance with the Nibley City general plan and all applicable state and local ordinances.
 - c. Preliminary Site Plan Approval: Upon receiving approval of a concept, developers shall be required to present and receive preliminary site plan approval from the planning commission and city council. Such plans shall be submitted a minimum of fourteen (14) days prior to the date of the meeting at which developer is requesting approval.

1. At the time of presentation to the planning commission and city council, developer shall be required to submit the following plans, drawn to a scale not to exceed one inch equals three hundred feet (1" = 300'):
 1. Overall site plan, including location of buildings, open space, parking, landscaping and pedestrian and traffic circulation.
 1. The overall site plan shall also show all existing residences, buildings, existing streets and proposed streets within three hundred feet (300') of the site in all directions.
 2. Architectural renderings and elevations, demonstrating building materials and colors.
 3. General drainage and utility layout with topography, showing all topographic features.
- d. Required Approvals: Developer is required to receive approval from both the planning commission and the city council. Either body may approve the preliminary site plan, deny the plan, or approve with conditions.
 1. If the preliminary site plan is denied, whichever body denies the plan shall give the developer specific reasons for the denial.
 2. If the site plan is approved with conditions, all conditions imposed must be completed prior to submittal of the final site plan.
 1. City staff shall review the final site plan to ensure such conditions are met prior to the final site plan being presented.
- e. Preliminary Approval Time Limitations: Approval of the preliminary plan by the planning commission and/or city council shall be valid for one year from the date of approval. Extensions of time may be granted by the planning commission and/or city council for a period of not longer than one year upon submittal of a request for extension of time, and showing of good cause prior to the expiration of the initial approval. Self-imposed or economic hardships shall not be a basis for granting an extension.
 1. If the final site plan has not been submitted within the one year, the preliminary plan must be submitted again with appropriate fees to the planning commission and city council for reapproval.
- f. Site Plan Modifications And Amendments: Except as may be provided for elsewhere in this chapter, no element of an approved site plan shall be changed or modified more than five percent (5%) without first obtaining approval of an amended site plan as follows:
 1. An amended site plan shall be submitted to the city planner for review and approval whenever changes more than five percent (5%) are proposed. A written report shall accompany the plans detailing all changes that were made.
 2. The procedure for approval of an amended site plan shall be the same as the procedure for approval of an original site plan as set forth in this chapter.

- g. Final Site Plan Approval: Once preliminary site plan approval has been received, developer shall be required to receive final site plan approval from the planning commission and city council. Such plans shall be submitted a minimum of fourteen (14) days prior to the date of the meeting at which developer is requesting approval.
 - h. Final Site Plan Specifications: The final site plan shall be prepared, submitted and reviewed in accordance with the Nibley City design standards for commercial and institutional development.
 - 1. As part of the final site plan submission, developer shall be required to submit those construction drawings outlined in the Nibley City engineering design standards and specifications.
 - i. Time Limitations: Developer shall have one year from the date of final site plan submittal to obtain final plan approval. Extensions of time may be granted by the planning commission and/or city council for a period of not longer than one year upon submittal of a request for extension of time, and showing of good cause prior to the expiration of the initial approval or an approved extension of time. A second time extension may be requested, and if granted, the extension can be no longer than six (6) months. No other time extensions shall be granted. Developer shall have to start the design review process over. Self-imposed and economic hardships shall not be a basis for granting an extension.
- N. Fencing And Screening: Fencing and screening shall meet the requirements of design standards for commercial and institutional uses; NCC 19.22.010(E), "Fences and walls maximum height"; NCC 19.24.090, "Fence Regulations"; and NCC 19.24.170(C), "Commercial And Industrial Zones" (landscape requirements), shall be required of all fences and landscape screening in this zone.
- O. Storage; Displays: All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user, not able to be stored within the commercial structure shall be stored in a completely enclosed building.
- P. Storage; Trash:
 - 1. No trash, garbage, used materials or wrecked, inoperable or abandoned vehicles or equipment shall be stored in an open area. All such materials shall be kept in an enclosed building(s) or structure.
 - 2. All structures built to accommodate the storage shall be constructed using a design compatible with the primary structure and meeting all of the architectural design standards outlined in the design standards for commercial and institutional uses. Within a development of multiple structures a common structure shall be constructed suitable for use by all tenants or businesses.
- Q. Preapplication And Concept Development Reviews: The requirements of design standards for commercial and institutional uses and provisions of this title shall apply to this zone.
- R. Development Standards: The development standards of the C-N zone shall conform to design standards for commercial and institutional uses. No development shall proceed nor building permit issued in the C-N zone until the commercial and institutional design standards are enacted.

Agenda Item #10

Description	Discussion & Consideration – Resolution 20-04: Interlocal Agreement Regarding Wastewater Services (Third Reading)
Department	Administration
Presenter	Shaun Dustin, Mayor
Recommendation	Provide input regarding any proposed changes and make a motion to adopt Resolution 20-02: Interlocal Agreement Regarding Wastewater Services
Reviewed By	Mayor, City Manager

Background:

At the February 27 City Council meeting, Mayor Dustin presented the concept of an interlocal agreement between cities on the south end of the valley, which could be formed to collaboratively address wastewater collection and treatment. That interlocal agreement was presented to the City Council for a first reading on March 12, 2020 and is now before the Council for discussion and consideration on its second reading.

The interlocal agreement includes Hyrum, Nibley and Millville. Other cities could potentially join the group in the future.

The intent of the interlocal agency that would be formed by adoption of this interlocal agreement would be to investigate and plan for the potential use of an expanded Hyrum Wastewater treatment plant, which would serve each of the partnering cities.

RESOLUTION 20-04

INTERLOCAL AGREEMENT REGARDING WASTEWATER SERVICES

WHEREAS, Hyrum City, as authorized by law, operates and maintains a wastewater treatment facility; and

WHEREAS, Nibley desires to form an interlocal agency to consider options for jointly owning, expanding, modifying, and operating Hyrum's existing wastewater treatment plant and other wastewater facilities and infrastructure.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The attached Interlocal Wastewater Agreement is hereby adopted.
2. Mayor Shaun Dustin and _____ are appointed as Nibley's representatives on the South Cache Valley Reclamation Facility Board.

PASSED BY THE NIBLEY CITY COUNCIL THIS _____ day of _____, 2020.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

INTERLOCAL WASTEWATER AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”), pursuant to the authority and power delegated to the parties under the Utah Interlocal Cooperation Act, is entered into as of this ____ day of _____, 2020, by and between the CITY OF NIBLEY, hereinafter referred to as “NIBLEY”, the CITY OF MILLVILLE, hereinafter referred to as “MILLVILLE”, and the CITY OF HYRUM, hereinafter referred to as “HYRUM” and collectively as the “Parties”.

I. RECITALS

WHEREAS, the parties are three municipal corporations organized, existing, and operating under the laws of the State of Utah, with power and authority to construct, operate, and maintain systems for the collection, treatment, and disposal of wastewater; and

WHEREAS, the Utah Interlocal Cooperation Act, Utah Code Annotated § 11-13-1 *et seq.* as amended, authorizes and empowers the Parties to contract with each other to construct, acquire, finance, and operate wastewater treatment works and facilities to benefit public health, safety, and welfare; and

WHEREAS, NIBLEY operates and maintains a citywide municipal wastewater collection system and currently receives wastewater treatment services from Logan City; and

WHEREAS, HYRUM operates and maintains a citywide municipal wastewater collection and a wastewater treatment system for the collection and disposition of its wastewater (“**Hyrum Facility**”). The Hyrum Facility has design capacity of two (2) million gallons per day, treats approximately one (1) million gallons per day (MGD), and receives its flow from Hyrum City, which has a Utah Pollutant Discharge Elimination System permit (“**UPDES Permit**”) to discharge the treated water; and

WHEREAS, MILLVILLE does not currently have a citywide municipal wastewater collection or treatment system but anticipates constructing a collection system in the near future; and

WHEREAS, NIBLEY’s wastewater transmission system is located between MILLVILLE and HYRUM and between MILLVILLE and Logan City, which have wastewater treatment facilities, capable of handling and treating the wastewater generated by NIBLEY and MILLVILLE; and

WHEREAS, infrastructure and legal agreements are in place to accept and transport wastewater for treatment from NIBLEY to Logan; and

WHEREAS, infrastructure is in place to accept and transport wastewater for treatment from MILLVILLE through NIBLEY to Logan; and

WHEREAS, NIBLEY and MILLVILLE have entered into certain agreements and understandings for sewer improvements to allow MILLVILLE to transport its wastewater to and through NIBLEY for treatment elsewhere; and

WHEREAS, MILLVILLE has determined that it may be more cost-efficient and advisable for MILLVILLE to transport wastewater collected by its own wastewater collection system through a portion of NIBLEY's wastewater collection system and through a transmission system shared with NIBLEY for delivery to a treatment facility in HYRUM; and

WHEREAS, NIBLEY has determined that it may be more cost-efficient and advisable for NIBLEY to transport wastewater collected by its own wastewater collection system and through a transmission system shared with MILLVILLE for delivery to a treatment facility in HYRUM; and

WHEREAS, infrastructure is not in place to transport wastewater for treatment from NIBLEY to HYRUM; and

WHEREAS, NIBLEY and MILLVILLE desire to consider options for jointly transporting wastewater to HYRUM for treatment; and

WHEREAS, NIBLEY, MILLVILLE and HYRUM desire to consider and investigate options and terms for jointly owning, expanding, modifying, and operating HYRUM's existing wastewater treatment plant and other wastewater facilities and infrastructure through an interlocal agency to serve the Parties and potentially other cities, communities, or other entities, including obtaining and maintaining all necessary reviews, inspections, approvals, and permits: and

WHEREAS, the Utah Conservation and Use of Sewage Effluent Act, Utah Code Annotated § 73-3c-1 *et seq.*, as amended (the "**Reuse Act**"), provides for the beneficial reuse of water reclaimed from wastewater, and the Parties recognize that it may be beneficial to promote the beneficial reuse of water treated at the Hyrum Facility; and

WHEREAS, the Parties have determined that to investigate and potentially pursue the purposes set forth above, it is in the best interest of their respective communities and the public to form an independent interlocal entity pursuant to the provisions of 11-13-2 of the Utah Code Annotated and the Utah Interlocal Cooperation Act, codified at Utah Code Annotated Title 11 Chapter 13, to provide for the governance of that entity by a Board of Trustees to facilitate the Parties' consideration of changes to the Parties' existing wastewater facilities and systems,

including the Parties' potential joint management and operation of the Hyrum Facility for the Parties' mutual benefit through the interlocal entity.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings hereinafter stated, to which each party hereby binds and commits itself, it is agreed as follows:

II. SOUTH CACHE VALLEY WATER RECLAMATION FACILITY

1. Creation of Regional Government Entity. Pursuant to the Utah Interlocal Cooperation Act, codified as Utah Code Annotated Title 11 Chapter 13, the Parties hereby create an interlocal entity to be known as the SOUTH CACHE VALLEY WATER RECLAMATION FACILITY (hereinafter, "**South Cache Valley**"). South Cache Valley shall be a separate legal entity and shall have all powers and duties under the law and specifically those powers and duties set forth in Utah Code Annotated § 11-13-205.

2. Purpose. The Parties hereby create South Cache Valley to investigate and plan for the potential opportunity to operate, expand, improve, maintain, repair, finance and carry out other necessary actions needed for the Hyrum Facility to serve all of the Parties.

3. Description of South Cache Valley. South Cache Valley shall serve Nibley, Millville, and Hyrum, and shall be authorized, according to the terms of this Agreement, to investigate the acquisition of the Hyrum Facility, together with all necessary real and personal property, rights-of-way, permits, and easements.

4. Term of Agreement. The term of this Agreement shall begin on the date that it is signed and executed by each of the Parties and shall run for a period of three (3) years, unless the Parties agree in writing to renew the agreement pursuant to such terms and conditions that are mutually acceptable to the parties and permitted by law, and unless terminated, as set forth in **Section V** of this Agreement.

5. Investigation of Purchase of Hyrum Facility.

a. Authorization to Investigate Purchase. The Parties, by executing this Agreement, hereby authorize South Cache Valley to investigate the requirements and potential terms of South Cache Valley's acquisition of the Hyrum Facility, costs to connect to the facility, and costs for the future operations of the facility. Such investigation shall include costs of acquisition, permitting and approval requirements, potential liabilities, timelines and costs for construction and development, rate studies and other factors relevant to the Parties' decision to authorize the mutual acquisition and operation of the Hyrum Facility and related facilities, properties, and interests. The results of that investigation shall be presented to the City Councils of each of the Parties and the purchase of the Hyrum Facility shall not occur unless agreed to by the City Councils of each of the Parties.

b. Support of Investigation. The Board established in Section IV shall determine the budget necessary to carry out the investigation authorized by this Section and shall present that budget to each of the Parties for approval. Upon approval by all Parties, the Parties shall each be responsible for an equal share of the budget and shall provide funding, administrative support, and other assistance to the Board as set forth therein.

c. Price Established By Appraisal. An independent appraiser, mutually agreed upon in writing and paid for by the Parties in equal shares, shall determine the purchase price for the Hyrum Facility and all other necessary property and interests. In the event that any of the Parties object to the appraised value, the Parties shall each appoint and pay for their own individual appraiser to perform three separate appraisals. The Purchase Price shall then be the average of the three appraisals. Any appraiser retained by the Parties individually or collectively shall be a certified general appraiser in good standing with the Utah Department of Commerce, Division of Real Estate.

d. Terms of Acquisition to Be Established. The Parties shall, after reviewing the results of the investigation and any other data or factor that Party considers material, determine whether to authorize South Cache Valley's acquisition of the Hyrum Facility and any other property or interests deemed necessary. If the decision is made to purchase the Hyrum Facility and any other property or interests, the Parties and the Board established in Section III shall adopt a separate agreement executed with the same formality as this Agreement addressing the terms of such purchase and shall provide South Cache Valley with the funds needed to acquire the Hyrum Facility and any other property or interests. The costs of such purchase shall be split equally among the Parties, with each Party receiving a credit for its share of the purchase price of any property owned by the Party that is being acquired.

III. SOUTH CACHE VALLEY WATER RECLAMATION FACILITY BOARD

1. Name. An administrative board is hereby created to be known as the "South Cache Valley Water Reclamation Facility Board" ("**Board**") which shall govern, direct, and otherwise have full authority to exercise all powers granted to South Cache Valley by law or agreement and to administer this Agreement.

2. Board Membership. Each of the Parties shall appoint in writing to the Board Two (2) members of its elected officials, such as a mayor or city councilmember, unless otherwise agreed to in writing by the Parties, for a total of Six (6) Board members. Each of the Parties shall designate its respective Board members by action of its governing body. Each appointed Board member shall serve at the pleasure of the governing body making the appointment, so long as the appointee remains an elected official of that body. The Parties may designate alternates, who need not be elected officials, in the event that their appointed Board

member is unable to attend a Board function, provided that the Party designating an alternate notify the other Parties in writing prior to the Board function. It is not the intent of this Agreement to allow alternates to become regular members of the Board, and alternates shall only have the right to represent his or her respective Party in the absence of a Board member. In the event of removal and/or resignation or death of any Board member, the governing body which appointed that member shall appoint a new representative in writing to the Board to fill the vacancy as soon as reasonably practicable. All such representatives and alternates shall continue to serve on the Board until their respective successors are appointed.

3. Officers. South Cache Valley's officers shall consist of: (1) a Chairman to be the presiding officer of the Board; (2) a Vice-Chairman to serve in the absence of the Chairman and fulfill other tasks as assigned by the Chairman; and (3) a Secretary-Treasurer to oversee South Cache Valley's finances and budget, under the direction and in consultation with the Chairman and Vice-Chairman, and fulfill other tasks as assigned by the Chairman. The Officers shall serve one-year terms that coincide with the fiscal year. Unless otherwise agreed upon in writing, the Board shall follow an order of succession in which the officer positions shall rotate among the Parties effective July 1 of each year, with the Chairmanship falling to the Party whose representative served as Vice-Chairman, the Vice-Chairmanship falling to the Party whose representative served as Secretary-Treasurer, and Secretary-Treasurer position falling to the party whose representative served as Chairman during the prior fiscal year. The Board shall select its officers and determine the order of succession among the Parties within thirty (30) days of the execution of this Agreement. In the event that additional cities and communities join South Cache Valley, the Board shall have authority to modify the selection and succession process for officers subject to the Parties' written approval.

4. Board Compensation. Board membership shall be a voluntary, uncompensated position, unless otherwise agreed upon in writing by the Parties.

5. Removal for Cause. The Board shall have the authority to remove any member for cause with a majority vote, provided that in the event any Party does not have a Board member or alternate Board member it has appointed to the Board, the Board shall not take any further action until the Party whose representative has been removed has named a successor, which it shall do in writing within fifteen (15) days of the date the Board removed its previous representative, unless otherwise agreed upon in writing by the Parties.

6. Voting. Each of the Parties' representatives on the Board shall have one vote.

7. Required Majority. All actions that the Board shall undertake require a majority vote of four (4) members. In the event that additional cities or communities join South Cache Valley, the Board shall determine the required majority vote for Board actions subject to the Parties' written approval.

8. Meetings. The Board shall determine the frequency in which it will meet and the process by which Board members will be notified of meetings, provided that the Board shall meet at least once per quarter. The Chairman may also call special meetings upon ten (10) days' written notice to the Board. Meetings shall be held in any location that the Board chooses.

9. Quorum. A Quorum is required for the Board to conduct business. A quorum shall be deemed to exist if Four (4) of the Parties' appointees or their duly named alternates are present. In the event that additional cities or communities join South Cache Valley, the Board shall determine new Quorum requirements subject to the Parties' written approval.

10. Conduct of Meetings. The Board shall conduct its meetings under Robert's Rules of Order, Revised, unless otherwise agreed upon in writing by the Board.

11. Rulemaking Authority. The Board is authorized to adopt and/or amend such rules, regulations, and surcharge penalties as are deemed necessary for the orderly and proper operation and maintenance of South Cache Valley and accomplishing the business of the Board.

12. Enforcement Powers. The Board is entitled to prosecute actions in the name of South Cache Valley to protect the contractual and statutory rights of the Board and its best interests.

13. Records Subject to Inspection. The books and records of the Board shall be open for inspection by the duly authorized officers and/or agents of each of the governing bodies of the Parties during all reasonable business hours. The Board's books and records shall also be open to the public and to the extent required by the Government Records Access and Management Act (GRAMA).

14. Utah Public Open Meeting Law. South Cache Valley is subject to the Utah Open Public Meetings Act and as such, notice of agenda, items, minutes of such meetings and actual meetings must be open to the public as required by law.

IV. POWERS OF SOUTH CACHE VALLEY WATER RECLAMATION FACILITY

1. General Powers.

a. The Parties hereby jointly and severally confer and delegate to the South Cache Valley such rights, duties, powers, privileges, and obligations necessary for the investigation and planning of the potential financing, and acquisition of real and personal property, construction, maintenance, expansion, improvement, or operation of South Cache Valley.

V. TERMINATION OF AGREEMENT

1. **Right to Terminate.** Any Party shall have the right to terminate its interest in this Agreement and in South Cache Valley as provided herein.

2. **Notice.**

a. Any Party that desires to terminate its interest in this Agreement and in South Cache Valley prior to the Party's authorization of South Cache Valley's acquisition of any interest in the Hyrum Facility or any other real or personal property under Section II, that Party shall provide the Board and the mayors and city councils for the other Parties with thirty (30) days written advance notice of its intent to terminate. Upon receiving such notice, the non-terminating Parties may mutually agree to continue, amend, or terminate this Agreement.

3. **Property.** Unless agreed to in a writing executed with the same formality as this Agreement:

a. Neither the Parties nor South Cache Valley shall acquire, hold, or dispose of any real property pursuant to this Agreement, and at all times and upon termination of this Agreement, all real property shall remain the property of the Party that originally acquired or provided it.

b. Neither the Parties nor South Cache Valley shall acquire, hold, or dispose of any personal property except as necessary and authorized to carry out the terms of this Agreement, and at all times and upon termination of this Agreement, all personal property shall remain the property of the Party that originally acquired or provided it.

VI. MISCELLANEOUS

1. **Amendment and Modification.** This Agreement shall not be modified or amended except in writing, which shall be signed by the duly authorized representative of each Party after the adoption of a resolution of each Party approving the modification or amendment.

2. **Written Notice.** For the purposes of this Agreement, written notices shall include hand-delivery, a letter, or email delivered to the city recorder of each Party.

3. **Binding and Successors.** This Agreement shall be binding upon each of the Parties and their respective assigns and successors-in-interest.

4. **Warranty.** Each individual executing this Agreement represents and warrants that such person is authorized to do so and, upon executing this Agreement, this Agreement shall

be binding and enforceable in accordance with its terms upon the Party for whom such person is acting.

5. Good Faith. Each of the Parties hereto agrees to cooperate in good faith with each other, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

6. Integration. This Agreement and any exhibits hereto constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations, and understandings of the Parties hereto on the subject matter set forth in this Agreement, whether oral or written, express or implied, are hereby superseded and merged herein.

7. Effective Date. This Agreement shall become effective upon the latter of a resolution approving the Agreement being duly adopted by the respective governing bodies of all Parties to this Agreement and upon execution of this Agreement by the duly authorized representatives of each Party and delivery of the fully executed Agreement to each Party. A copy of the resolutions approving this Agreement by the Parties is attached hereto as **Exhibit A**.

8. Filing of Agreement. Executed copies of this Agreement shall be deposited with and remain in the office of each of the Parties during the effective term hereof.

9. Copies. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

10. Dispute Resolution. In the event of a dispute between any or all of the Parties related to this Agreement, the affected Parties shall submit the matter to formal mediation before any judicial action may be initiated thereon, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. The Parties involved shall agree upon a mediator and shall mediate the matter in good faith. Each Party shall be responsible for their own costs and shall split the cost of the mediator between them by dividing the total costs of the mediator by the number of Parties involved.

11. Savings. If any term or provision of this Agreement is held to be or becomes invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12. Choice of Law. This Agreement and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah and any applicable federal laws.

To the extent that any provision of this Agreement imposes requirements or obligations that are more stringent than those under provisions of Utah or federal law, the provisions of this Agreement shall control.

13. Incorporation of Exhibits. All exhibits attached hereto are incorporated into and made a part of this Agreement as though set forth herein.

14. Utah Interlocal Cooperation Act. In the event any provision herein is contrary to or prohibited by the Interlocal Cooperative Act, currently found at Title 11, Chapter 13 of the Utah Code, the Act as currently in force or as amended will supersede and control.

[Signatures appear on the next page]

CITY OF NIBLEY

ATTEST:

By _____
Its Mayor

City Recorder

Attorney approval

CITY OF MILLVILLE

ATTEST:

By _____
Its Mayor

City Recorder

Attorney approval

CITY OF HYRUM

ATTEST:

By _____
Its Mayor

City Recorder

Attorney approval

Agenda Item #11

Description	Workshop – Discuss reinstatement of the Nibley Redevelopment Agency and a plan for creating a project area and providing incentives
Department	Administration
Presenter	David Zook, City Manager
Recommendation	Received the presentation, ask questions and discuss steps required to reinstate Nibley's Redevelopment Agency
Reviewed By	Mayor, City Manager, City Attorney, Economic Development and Finance Consultant

Background:

Malouf was founded in Logan, Utah in 2004 and moved to its current world headquarters in Nibley in 2015. During the past 15 years, Malouf has become a world leader in the furniture and bedding industry. Growing from its original two founders, Sam and Kaci Malouf, to now more than 1200 employees, including 500 with Malouf and 700 with recently acquired companies. Malouf has a presence in 22 countries. It has 3.3 million square feet of warehouse/distribution space in multiple states, sells nearly 12,000 unique products with more than 7 million products sold annually. Malouf recently acquired several other companies, including Downeast, Salt Flat and Impact Collective. Due to the company's significant growth, it is in need of a new, larger headquarters building.

Malouf has been in discussion with the State of Utah, as well as other states, about the best place for the construction of its new headquarters. Malouf was offered significant incentives to relocate out of Utah. Utah has also offered incentives to Malouf to encourage the company to stay in Utah. The incentives from the State of Utah are contingent on Nibley also offering incentives. Incentives offered by cities are usually in the form of property tax increment funding. Tax increment funds are the new, additional property taxes generated by a property after it is improved. For example, before the current Malouf building was constructed, the site was used for agricultural purposes and only generated approximately \$20 per year in property taxes for Nibley City. After construction of the current building, that property tax payment to Nibley

increased to approximately \$20,000. This \$20,000 increase in property tax revenue is referred to as the incremental growth. If Nibley had incentivized Malouf to come to Nibley when it originally moved to Nibley, the City could have given some of that new tax revenue back to Malouf in order to help Malouf pay for costs associated with constructing their new facility. Tax increment financing usually also includes contributions from county and school district property taxes. Nibley City and Malouf have been in discussions with the county and school district about participating in the financing and both agencies have verbally agreed to support the project with incentive financing. The governing bodies of both of those organizations will have to take formal action in order to officially authorize the financing.

Staff will present options for the City to incentivize Malouf's expansion in the City. In order to provide such an incentive, the City must provide tax increment financing through a Redevelopment Agency, which is a separate legal entity, similar to the City's Municipal Building Authority. Nibley formed a Redevelopment Agency in 2008. However, no projects were ever undertaken by the agency. In addition, redevelopment laws in Utah have changed. Consequently, the City Attorney and the City's economic development and finance consultant recommend that the City reinstate or recreate the redevelopment agency under current laws. Staff will review the steps necessary to accomplish that and the Council will have an opportunity at a future meeting to adopt the necessary documents.