



## NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, September 17, 2020 – 6:30 p.m.

1. Opening Ceremonies (Mayor Dustin)
2. Call to Order and Roll Call (Chair)
3. Approval of the Previous Meeting Minutes and Current Agenda (Chair)
4. Public Comment Period<sup>1</sup> (Chair)
5. **Discussion & Consideration** – Resolution 20-12: Adopting Fraud Risk Policies (Second Reading)
6. **Discussion & Consideration** – Resolution 20-14: Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association (Second Reading)
7. **Discussion & Consideration** – Ordinance 20-16: An Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) Requirements (Second Reading)
8. **Council and Staff Reports**

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

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



**Agenda Item #5**

|                       |                                                                                                                      |
|-----------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Description</b>    | <b>Discussion &amp; Consideration</b> – Resolution 20-12: A Resolution Adopting Fraud Risk Policies (Second Reading) |
| <b>Department</b>     | Administration                                                                                                       |
| <b>Presenter</b>      | David Zook, City Manager                                                                                             |
| <b>Recommendation</b> | Move to approve Resolution 20-12 A Resolution Adopting Fraud Risk Policies                                           |
| <b>Reviewed By</b>    | Mayor, City Manager, City Treasurer                                                                                  |

**Background:**

The State of Utah's State Auditor has developed a new Fraud Risk Assessment for cities to use to assess their risk of fraud. The guidelines promulgated by the assessment encourage cities to adopt a number of policies related to limited the risk of fraud. The office provided sample policies which have been adapted to Nibley's needs and which will be presented for adoption. The policies address topics such as:

1. Conflict of Interest
2. Procurement
3. Ethical Behavior
4. Reporting Fraud and Abuse
5. Travel
6. Credit/Purchasing Cards
7. Personal Use of Entity Assets
8. IT and Computer Security
9. Cash Receipting and Deposits

## **RESOLUTION 20-12**

### **A RESOLUTION ADOPTING FRAUD RISK POLICIES**

WHEREAS, Nibley City strives to instill a culture rewarding high ethical standards and desires to establish a written policy and strong practices that addresses a standard of ethical behavior, including prohibited activities, required disclosures, and clear directions on how and to whom disclosures should be submitted and reviewed; and

WHEREAS, the Nibley City Council should evaluate policies to make sure they establish proper oversight and direct the organization toward the desired outcomes; and

WHEREAS, the adoption of Fraud Risk Policies are intended to deter or prevent the misuse of public funds; and

WHEREAS, the adoption of Fraud Risk Policies is designed to help measure and reduce the risk of undetected fraud, abuse, and noncompliance in Nibley City; and

WHEREAS, entities should seek to reduce risk to an acceptable level.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE NIBLEY CITY COUNCIL THAT:

1. The attached Nibley City Fraud Risk Policies are hereby enacted and adopted.
2. This resolution shall become effective immediately upon passage.

PASSED and ADOPTED BY THE NIBLEY CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

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Shaun Dustin, Mayor

ATTEST:

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David Zook, City Recorder

# Conflict of Interest and Ethical Behavior Policy

## Overview

The Nibley City Council and the officers, appointees and employees of Nibley City should individually commit themselves in their official capacity to ethical, business-like, and lawful conduct, including acting with decorum and ensuring the appropriate use of their authority. Nibley City representatives must avoid even the appearance of impropriety to ensure and maintain public confidence in Nibley City. Representatives owe a fiduciary duty to Nibley City and must not act in a manner that is contrary to that duty or to the interests of Nibley City. They must place the interests of Nibley City over their own personal interests with respect to the governance, policy, strategic direction and operations of Nibley City.

## Policy

It is the intent of Nibley City to meet and exceed those protections against conflicts of interest contained in State law. Under this policy, a conflict of interest arises when an officer has a personal interest in a matter that is or may be in conflict with or contrary to Nibley City's interests and objectives to such an extent that the officer is or may not be able to exercise independent and objective judgment within the context of the best interest of Nibley City. For the purposes of this policy, an officer's personal interest includes those of his or her relatives, business associates or other persons or organizations with whom he or she is closely associated.

1. The following provisions shall serve as a guide to officers with respect to the affairs of Nibley City:
  - a. Nibley City officers shall not receive, accept, take or solicit, directly or indirectly, anything of economic value as a gift, gratuity, or favor from a person or entity if it could be reasonably expected that the gift, gratuity, or favor would influence the officer's vote, action, or judgment, or be considered as part of a reward for action or inaction.
  - b. The complete confidentiality of proprietary business information must be respected at all times. Officers are prohibited from knowingly disclosing such information, or in any way using such information for personal gain or advancement, or to the detriment of Nibley City, or to individually conduct negotiations or make contacts or inquiries on behalf of Nibley City unless officially designated by Nibley City Council.
  - c. Officers are prohibited from acquiring or having a financial interest in any property that Nibley City acquires, or a direct or indirect financial interest in a

supplier, contractor, consultant, or other entity with which the Nibley City does business. This does not prohibit the ownership of securities in any publicly owned company, except where such ownership places the officer in a position to materially influence or affect the business relationship between Nibley City and such publicly owned company. Any other interest in or relationship with an outside organization or individual having business dealings with the Nibley City is prohibited if this interest or relationship might tend to impair the ability of the officer(s) to be independent and objective in his or her service to Nibley City.

- d. If members of the immediate family of an officer have a financial interest as specified above, such interest shall be fully disclosed to Nibley City Council, which shall decide if such interest should prevent Nibley City from entering into a particular transaction, purchase, or engagement of services. The term “immediate family” means officer’s spouse, parent, dependent children, and other dependent relatives.
- e. When a conflict of interest exists, the officer shall publicly declare the nature of the conflict, file a disclosure statement, and recuse himself or herself on any official action involving the conflict.
- f. Officers may not realize, seek, or acquire a personal interest in a business that does business with Nibley City.
- g. Officers shall complete a Conflict of Interest Disclosure Form annually by the end of January. This Form shall be signed and notarized. Completed Forms shall be submitted to Nibley City’s Records Officer and shall be made available to the public upon request.
- h. The Nibley City Records Officer shall provide copies of all completed Forms to the governing body at the end of January each year.
- i. The Nibley City Council shall review all completed forms and consider the disclosures. The Nibley City Council should make changes to assignments, duties, or contracts deemed appropriate to eliminate or mitigate conflicts of interest within Nibley City.

# Procurement Purchasing Procedures

A. Purchases of equipment, materials, supplies and services exceeding one thousand dollars (\$1,000.00) shall be supported by at least two (2) verbal quotations, or written sole source justification, which shall be recorded with the invoice of the purchased items.

B. Purchases of equipment, materials, supplies and services exceeding twenty-five thousand dollars (\$25,000.00) shall be opened for competitive bidding and the award made by the city council. Inclusion of a specific item or service in an adopted budget shall be considered as approved by the council, but such inclusion shall not remove the requirement to competitively bid that item or service.

C. The council may waive the bid requirements provided herein if it determines such action to be in the best interest of the city and in compliance with state law, so long as justification for waiving the bid requirement is specified and made public.

D. The following items are excepted from bidding requirements: telephone services, utility services, payroll and employee benefits vendors, incidental and routine purchases for supplies and materials not exceeding one thousand dollars (\$1,000.00) per month per vendor. Also excepted are taxes, bond and loan payments, and authorized travel expenses approved by the city council in the budget. Purchases of ongoing professional services, including those of city attorney, bond council, and the city financial advisor are exempted from bidding requirements so long as the city council authorizes funds for such services in the budget.

E. Purchases for items more than five hundred dollars (\$500.00) shall be approved by the city manager.

F. The city manager may recommend a particular brand or style of an item or service that may satisfy the long-term needs and goals of the city. This may be done to achieve uniformity in design or ease in replacement of an item. If it can be determined that there is more than one vendor available for a designated brand or style, the city shall follow the appropriate competitive bidding requirements of this chapter. The city council shall be notified of such items and those items shall be exempt from competitive bidding requirements of this chapter.

G. Items or services available through the state of Utah, division of purchasing contracts may be purchased at the state contract prices and not be subject to other requirements concerning bidding contained in this chapter.

H. All public works projects not being constructed by Nibley City employees shall be advertised twice in a local paper or appropriate trade journal and, where practicable, sent to at least three (3) available vendors. Bid receipt deadlines shall not be less than

ten (10) days following the last publication. All bids received shall be sealed. They shall be opened in a public setting that bidders and other interested parties may attend.

I. All equipment purchases over twenty-five thousand dollars (\$25,000.00) shall be appropriately noticed in order that multiple vendors may have the opportunity to submit their proposals. Written bids shall be required.

J. If a contract is awarded to other than the lowest qualified bidder, the reason for accepting a higher bid must be specified and made public.

K. Credit cards maintained by the city shall be closely and carefully monitored to make sure the original invoice is matched with the credit card billing and that all purchases are accounted for as legitimate city purchases.

# Nibley City Fraud & Abuse Reporting Policy

## Definition

"Improper governmental action" means any action by a Nibley City officer or employee:

- 1) That is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and
- 2) That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety or is a gross waste of public funds.

## Reporting Fraud or Abuse

Employees who become aware of improper governmental actions should raise the issue first with their supervisor. If requested by the supervisor, the employee shall submit a written report to the supervisor, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee may raise the issue directly with the city manager or such other person as may be designated by the city manager to receive reports of improper governmental action.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate person or agency with responsibility for investigating the improper action.

The city manager shall take prompt action to assist Nibley City in properly investigating the report of improper governmental action. Nibley City officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

Nibley City employees may report information about improper governmental action directly to the mayor if the employee reasonably believes that an adequate investigation was not undertaken to determine whether an improper governmental action occurred, or that insufficient action has been taken to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

Nibley City employees who fail to make a good-faith attempt to follow procedures in reporting improper governmental action shall not receive the protections provided by Nibley City in these procedures.

## Complaints, Investigations, Review and Enforcement

- A. Any person may file a complaint alleging a violation of this policy.
- B. The complaint shall be in writing and shall, except as described in section C below, be signed by the complainant. The written complaint should state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and name of the person(s) charged with the violation(s). The complaint shall be filed with the City Manager. The complainant shall provide the City Manager with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.
- C. This policy is intended to protect employees who choose to come forward in good faith with complaints about governmental actions and conduct of Nibley City employees. Anonymous complaints have the potential to subject the person who is the subject of the complaint to an investigation that may, at the least, cause stress and embarrassment, and may, at most, result in discipline or termination of employment. Nibley City is reluctant to begin an investigation based on an anonymous complaint due to the fact that evidence will be difficult to obtain and verify, and it will be impossible to assess the complainant's credibility. Complainants and whistleblowers have protection from retaliation under Nibley City policy. A thorough investigation of complaints is Nibley City's goal. It may not be possible to conduct a thorough investigation when a complainant remains anonymous. Therefore, Nibley City reserves the right to decline to investigate any complaint that is provided anonymously.

If a complaint is received anonymously it shall be directed to the City Manager for a recommendation on the processing of the complaint. Upon review of the complaint, the City Manager will recommend to the Audit Committee either that the complaint has no merit or that it should be investigated. Such a recommendation will be made within ten (10) days of receipt of the complaint, if possible. Upon receipt of the City Manager's recommendation the Audit Committee shall make the final determination on whether or not to continue the investigation, end the investigation, or refer the matter to an outside entity.

- D. Within thirty (30) days after receipt of a complaint, the City Manager or another person appointed by the Audit Committee shall conduct a preliminary investigation. If the City Manager or a member of the Audit Committee or the governing board are implicated in the complaint, the Audit Committee will determine an independent person who will conduct the investigation. Criminal allegations will be referred to the proper law enforcement agency.
- E. If the City Manager determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the City Manager

shall advise the Audit Committee to dismiss the complaint. If the Audit Committee does dismiss the complaint, it shall do so in writing, setting forth the facts and provisions of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant, to the person charged with the violation and to the governing board.

## Whistleblower Protection

*Utah Code* § 67-21-3 prohibits public employers from taking adverse action against their employees for reporting in good faith government waste or violations of law to the appropriate authorities. A public entity employee, public body employee, legislative employee, or judicial employee, is presumed to have communicated in good faith if they have given written notice or otherwise formally communicated the conduct to the person in authority over the person alleged to have engaged in the illegal conduct.

# Nibley City Fraud & Abuse Hotline Policy

## Introduction

The Nibley City Fraud and Abuse Hotline provides an avenue for citizens, including public employees and contractors, to report improper governmental activities, including:

- Waste or misuse of public funds, property, or manpower
- Violations of a law, rule, or regulation applicable to the government
- Gross mismanagement
- Abuse of authority
- Unethical conduct

## Filing a Complaint

Complaints should be submitted in writing to [wsinv@utah.gov](mailto:wsinv@utah.gov). Complainants should also submit any evidence that supports the complaint. Essential information includes specifics on 'who, what, where, when' as well as any other details that may be important such as information on other witnesses, documents, and pertinent evidence. Due to limited resources, Nibley City is unable to accept complaints that are not supported by evidence or do not provide a means for the City to investigate the problem further. Such complaints shall not be accepted.

Email:

[wsinv@utah.gov](mailto:wsinv@utah.gov)

Complainants may call the Utah Public Assistance Fraud hotline at 800-955-2210 or Nibley City offices at 435-752-0431 for more information.

## Entity Processing of a Hotline Complaint

1. After receipt of the complaint, the Nibley City Manager will review the allegation and any evidence provided by the complainant. The list below represents some of the factors that are considered during the screening and prioritization process.
  - a. Does the complaint involve actions by a person subject to the Nibley City's authority?
  - b. Does the complaint pertain to improper governmental activities? Disagreements with management decisions or actions taken by elected officials that are within the law will not be investigated.
  - c. Has the complainant taken appropriate steps to resolve the issue with the entity? If the entity is not responsive, the concern relates to top management, or the complainant desires anonymity, consideration will be increased.

- d. What is the timing and frequency of alleged improper activity? Allegations of improper activities that are recent and/or on-going may receive a higher priority.
  - e. Should the allegation be investigated by another entity? Are there other agencies that have oversight of the complaint? Is a member of the governing body or the audit committee being accused?
  - f. Can the complaint be efficiently and effectively investigated? Overly broad or vague complaints or complaints where evidence is unavailable may be declined or receive a low priority.
2. The City Manager communicates to the Audit Committee:
  - a. The allegation of the complaint
  - b. Any facts supporting or refuting the complaint
  - c. A recommendation based upon preliminary inquiry
3. The Audit Committee decides the appropriate next action (if a member of the Audit Committee is the subject of the complaint they may not be included in this process):
  - a. Discontinue the investigation
  - b. Continue with the investigation
  - c. Refer the investigation to another agency
4. If the investigation proceeds, the audit committee sets the following:
  - a. Time and resource budget
  - b. Scope of the audit
5. The Auditor completes the audit
6. The Auditor creates a report outlining the work performed and conclusions
7. The Auditor provides the report to the Audit Committee
8. The Audit Committee reports investigation results to the whole governing body (if a separate audit committee exists).
9. The city will address any findings as appropriate

## Confidentiality

The identity of the complainant is considered protected information under the Utah Government Records Access and Management Act (GRAMA) and will be kept confidential if requested by the complainant. (See *Utah Code* Section [67-3-1](#)(15)).

Complaints may be submitted anonymously to the Hotline. However, it is preferable that the complainant provide their name and contact information to allow for follow-up questions and reporting the results back to the complainant. Whistleblower protections do not apply to anonymous complaints.

# Nibley City Travel Policy

1. General Policy - All travel expenses incurred while conducting Nibley City business shall be paid by Nibley City.
2. Pre-Approval - Approval from department heads or the city manager is required prior to incurring travel-related expenses, unless the travel is already included on the annual training schedule.
3. Documentation - After travel expenses have been incurred, the employee must submit a Travel Reimbursement Form, which details the reason for the trip and the specific travel expenses. Travel Reimbursement Forms must be signed by the employee and approved by the direct supervisor.
4. Travel-related expenses include:
  - a. Costs to travel to and from the business destination.
  - b. Transportation costs while at the business destination.
  - c. Lodging, meals, and related expenses.
5. Transportation
  - a. Nibley City Vehicles – Nibley City vehicles may be used for travel associated with official business if the employee is authorized to use such vehicles through the city driver policy.
  - b. Personal Vehicle Use - An employee who uses his or her personal vehicle for Nibley City business will be reimbursed for mileage in accordance with the rate currently authorized by the IRS for out-of-state travel or State of Utah for in-state travel.
  - c. Alternative Travel Arrangements - Employees may structure alternative travel and lodging to reduce costs or to accommodate personal preferences if the alternatives provide a documented cost savings to Nibley City or the employee pays the increased costs. If an employee chooses to drive rather than fly for out-of-state travel, Nibley City will reimburse the employee based on the least expensive method of travel, rather than actual mileage.
  - d. Rental Cars - Employees should obtain a rental car if the total cost of the rental car plus fuel is less than mileage reimbursement amount. Groups of employees at the same location shall share rental vehicles where practical. When a rental car is used, the State of Utah CDP should be used, which should include rental agency liability and collision/loss damage coverage.
    - i. Rental car insurance should be covered in the CDP rental cost and should not to be purchased separately if already included in the negotiated rate.
6. Travel Related Meals
  - a. Meal Per Diems - Employees shall be paid for meals at the Utah rate for in-state travel and the IRS rate for out of state travel:

- b. If a meal is provided by the conference attended or hotel where the employee is staying, the employee will not be given a per diem for that meal.
  - c. Per diem may be paid to employees prior to leaving for the travel destination but must be reimbursed to the City if the travel does not occur or if the actual expenses vary from the anticipated expenses.
- 7. Incidental Expenses - Incidental expenses are not considered part of a meal per diem reimbursement and, therefore, substantiation is required. Incidental expenses include ground transportation, parking, and related tips; fax, telephone, internet, or copy charges; and other business-related expenses. Other tips are not reimbursable.
- 8. Lodging - Travel that requires an overnight stay must pre-approved by the department head or city manager of the employee. Nibley City will pay for lodging up to the rate negotiated with the host hotel per night with applicable taxes. Detailed receipts are required to be submitted to the accounts payable clerk.
- 9. Personal Expenses - Personal expenses, including entertainment will not be reimbursed by Nibley City unless authorized by contract or other agreement. Expenses for alcohol will not be reimbursed by the City.
- 10. Employee expenses paid by other entities – Nibley City employees who provide services to other entities, either formally or informally, may represent the interest of those entities as well as Nibley City while traveling on official Nibley City business. Where possible, the shared benefit of the employee activities while traveling should be determined and costs of that travel proportionally split between the benefiting entities.

If any employee travel-related expenses are paid directly by another entity, those payments must be documented and disclosed to Nibley City. Any travel-related expenses that are paid by another entity must not be submitted to Nibley City for reimbursement to the employee.
- 11. If upon review of travel expenses, inappropriate or fraudulent expenses have been incurred, the employee may be subject to disciplinary action, including; recovery of funds, fines, inability to travel, suspension or termination.
- 12. Requesting Reimbursement - employees are responsible for submitting supporting documentation with a reimbursement request, including conference agendas, map to and from traveled location, receipts etc.

# Nibley City Employee Credit Card Use Agreement

Nibley City officers or employees issued a City purchasing card shall read and sign an agreement similar to the following:

*Being issued a credit card represents the City's trust in you. You are empowered as a responsible agent to safeguard the City's assets. Your signature below is verification that you have read this use agreement and agree to comply with it. It also acknowledges that you have received Zions Bank Visa® Commercial Card Last Four # \_\_\_\_\_.*

1. I understand that the card is for City approved purchases only, and I agree not to charge personal purchases or those not authorized by the city budget or purchasing policy. Initial: \_\_\_\_\_
2. Improper use of this card can be considered misappropriation of City funds. This may result in disciplinary action, up to and including termination of employment, and/or criminal prosecution. Initial: \_\_\_\_\_
3. If the card is lost or stolen, I will immediately notify Zions Bank by telephone. I will confirm the telephone call by email with a copy of the notification to my supervisor and the City Treasurer. Initial: \_\_\_\_\_
4. I agree to surrender the card immediately upon request or termination of employment, whether for retirement, voluntary or involuntary reasons. Initial: \_\_\_\_\_
5. The card is issued in my name. I am responsible for any and all charges against the card. Initial: \_\_\_\_\_
6. All charges will be billed directly to and paid directly by the City. The bank cannot accept any monies from me directly; therefore, any personal charges billed to the company could be considered criminal misappropriation of company funds. Initial: \_\_\_\_\_
7. As the card is City property, I understand that I may be periodically required to comply with internal control procedures designed to protect City assets. This may include being asked to produce the card to validate its existence and account number. Initial: \_\_\_\_\_
8. I understand it is my responsibility to produce receipts on ALL purchases to the Nibley Accounts Payable Clerk on a monthly basis. If receipts are turned in late or

are lost, purchase card privileges may be revoked and I will be held responsible to pay for those charges. Initial: \_\_\_\_\_

9. I will receive a Monthly Reconciliation Statement either in paper form or by logging onto my account via the web, which will report all activity during the statement period. Since I am responsible for all charges on the card, I will resolve any discrepancies by either contacting the supplier, the bank, or working with the Nibley City Accounts Payable Clerk. Initial: \_\_\_\_\_
10. The charges made against my card will be assigned to an account number using Nibley City's general ledger account numbers, as assigned in the city budget. I understand that I am responsible for assigning a GL account to each transaction, which will be reviewed by the City Recorder/Manager. Initial: \_\_\_\_\_
11. I understand that the Zions Bank Commercial Card is not necessarily provided to all employees. Assignment is based on my need to purchase materials for City use. My card may be revoked based on change of assignment or policy. I understand that the card is not an entitlement nor reflective of title or position. Initial: \_\_\_\_\_
12. I have read and understand the requirements of H.B 431. I understand that the requirements of H.B. 431 apply to my Zions Bank Credit Card and agree to abide by them. Initial: \_\_\_\_\_
13. H.B. 431 requires that a public official who uses a government card for personal use must pay a 50% penalty, in addition to the charged amount. Initial: \_\_\_\_\_
14. I also understand that this reimbursement and penalty may be withheld from my wages. Initial: \_\_\_\_\_
15. I have received a copy of my department budget(s), the Purchasing Policy, and H.B. 431. Initial: \_\_\_\_\_

\_\_\_\_\_  
*Employee Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Employee Printed Name*

\_\_\_\_\_  
*Witness Signature*

\_\_\_\_\_  
*Date*

# Personal Use of Entity Assets Policy

## Use and Care of Equipment

1. The use of Nibley City equipment or tools for private purposes is not authorized.

The following guidelines should be followed in the use and care of equipment.

1. An employee must receive proper training and explanation of proper use, maintenance, job hazards, safety procedures and training on all equipment, tools, etc., necessary for the accomplishment of the employee's job description.
2. A commercial driver's license (CDL) is required for operators of commercial motor vehicles. Any employee operating a motor vehicle on the job must have a valid Utah driver's license.
3. Operators and passengers in a Nibley City vehicle equipped with seat belts must wear them when the vehicle is in operation, and all employees operating vehicles shall observe all local traffic laws.

# Nibley City Information Technology and Computer Security Policy

## Statement

Nibley City furnishes computers for employees' use in conducting Nibley City business.

This includes access to e-mail and the Internet. The internet contains many useful features, including email to non-Nibley City resources, access to research materials, and information exchange. The purpose of this policy is to establish basic rules for employees' use of the Nibley City's computer system, including the Internet and email.

## Computer System, Internet and E-mail Use Policies

The Internet can be misused in a variety of ways, including but not limited to:

1. Downloading files that contain viruses, thereby endangering Nibley City's information services;
2. Accessing objectionable material;
3. Wasting work time by accessing no- business-related information, social media or games.

### Individual Responsibilities:

Internet users are responsible for complying with this and all other Nibley City policies when using the Nibley City's resources for accessing the Internet. Violation of this policy is grounds for disciplinary action, up to and including termination.

### General Policies for Use of the City's Computer System, Including the Internet:

An employee does not have a right to privacy when using the Internet via City resources and employees should not expect or assume any privacy regarding the content of email communications. The City reserves the express right to monitor and inspect the activities of the employee while accessing the Internet at any time, and to read, use and disclose e-mail messages. In addition, all software, files, information, communications, and messages (including emails) downloaded or sent via the Internet using Nibley City resources are Nibley City's records and property of Nibley City; such records maybe subject to potential review and disclosure under the public disclosure law of the State of Utah. Even after an email message has been "deleted," it may still be possible to retrieve it.

Nibley City has the right to restrict or prohibit any employee from Internet access for violation of the policy. Violations may also result in disciplinary action, up to and including termination.

Internet use via Nibley City resources is for Nibley City business. Except as outlined here, use of Nibley City's computer, Internet and email services are for Nibley City business only. Some limited personal use is permitted, so long as it only results in a de minimus cost to Nibley City, does not interfere with the performance of duties, is brief in duration and frequency, does not distract from the conduct of Nibley City business and does not compromise the security or integrity of Nibley City information or software. Such limited use shall not occur on "paid time," but is permitted immediately before or after work hours and during an employee's breaks. Examples of allowable personal use include accessing information on the internet or transmitting email. Any personal use of Nibley City's computer, Internet and email services must comply with all applicable laws and Nibley City policies, including anti-discrimination policies and internet usage policy.

Internet use must comply with applicable laws and Nibley City policies including but not limited to all federal and state laws, and Nibley City policies governing sexual harassment, discrimination, intellectual property protection, privacy, public disclosure, confidentiality, misuse of Nibley City resources, information and data security.

All Internet use must be consistent with the Nibley City's Personnel Policies Manual.

Nibley City's computer system permits employees to perform jobs, share files, and communicate internally and with selected outside individuals and entities in the performance and conduct of Nibley City business. Employees are prohibited from gaining unauthorized access to another employee's email messages or other software platforms, or sending messages or entering or modifying data using another employee's password.

In order to prevent potential liability, it is the responsibility of all Internet users to clearly communicate to the recipient when the opinions expressed do not represent those of Nibley City.

Nibley City has the capability and reserves the right to access, review, copy, modify and delete any information transmitted through or stored in its computer system. Nibley City may disclose all such information to any party (inside or outside the City) it deems appropriate and in accordance with applicable law. Accordingly, employees should not use the computer system to send, receive or store any information they wish to keep private. Employees should treat the computer system like a shared file system—with the expectation that files sent, received or stored anywhere in the system will be available for review by any authorized representative of Nibley City for any purpose, as well as the public if a proper request is made for public records.

Good judgment should always be employed in using Nibley City's email and Internet systems. Employee email messages may be read by someone other than the person(s) to whom they were sent. Email inconsistent with Nibley City's policies must be avoided. For example, it is prohibited to make jokes or comments which could offend someone on the basis of gender, race, age, religion, national origin, disability or sexual orientation. These comments would be in direct conflict with Nibley City's policies prohibiting discrimination and harassment. Accordingly, employees should create and

send only courteous, professional and businesslike messages that do not contain objectionable offensive or potentially discriminatory material.

Caution should be taken in transmitting confidential information on the computer system. Employees should use due care in addressing email messages to assure messages are not inadvertently sent to the wrong person inside or outside the city. Email creates a written record subject to court rules of discovery and may be used as evidence in claims or legal proceedings. Once sent, email cannot be retracted. Even after deletion at a workstation, email can be retrieved and read.

The safety and security of Nibley City's network and resources must be considered at all times when using the Internet. Software programs must not be downloaded or installed without prior permission from the IT Director and without being properly scanned for viruses. Employees are not to share or reveal individual passwords.

There is a wide variety of information on the Internet. Some individuals may find information on the Internet offensive or otherwise objectionable. Individual users must be aware that Nibley City has no control over available information on the Internet and cannot be responsible for the content of information.

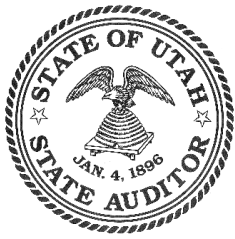
#### Prohibited Uses of the Internet:

The following is a non-exclusive list of prohibited uses of the Internet and email:

- Commercial use – any form of commercial use of the Internet is prohibited;
- Solicitation – the purchase or sale of personal items or non-business items through advertising on the Internet is prohibited;
- Copyright violations – the unlawful reproduction or distribution of copyrighted information, regardless of the source, is prohibited;
- Discrimination / Harassment – the use of the Internet to send messages or other content which is harassing, derogatory or unlawfully discriminatory to employees, citizens, vendors or customers is prohibited;
- Political – the use of the Internet for political purposes is prohibited;
- Aliases / Anonymous messages / misrepresentation – the use of aliases or transmission of anonymous messages is prohibited. Also, the misrepresentation of an employee's job title, job description, or position with the Nibley City is prohibited;
- Misinformation / Confidential Information – the release of untrue, distorted, or confidential information regarding Nibley City business is prohibited;
- Viewing or Downloading of Non-Business Related Information - the accessing, viewing, distribution, downloading, or any other method for retrieving non-Nibley City related information is prohibited. This includes, but is not limited to, entertainment sites, pornographic sites, sexually explicit sites, chat rooms and bulletin boards;
- Unauthorized attempts to access another's network or e-mail account;
- Display or transmission of sensitive or proprietary information to unauthorized persons or organizations;

- Spamming email accounts from the Nibley City's email services or Nibley City's machines.

Nothing in this chapter prohibits the use and access of the described systems for bona fide law enforcement and investigation purposes.



OFFICE OF THE  
STATE AUDITOR

# Questionnaire

Revised March 2020

## Fraud Risk Assessment

### INSTRUCTIONS:

- Reference the *Fraud Risk Assessment Implementation Guide* to determine which of the following recommended measures have been implemented.
- Indicate successful implementation by marking "Yes" on each of the questions below.
- Total the points of the questions marked "Yes" and put on the "Total Points Earned" line below.
- Using the points earned, circle the risk level on the "Risk Level" line below.

Total Points Earned: \_\_\_\_\_ Risk Level: 

|          |         |          |         |           |
|----------|---------|----------|---------|-----------|
| Very Low | Low     | Moderate | High    | Very High |
| > 355    | 316-355 | 276-315  | 200-275 | < 200     |

|                                                                                                                                                                                                                  | Yes | Pts |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|
| 1. Does the entity have adequate basic separation of duties or mitigating controls as outlined in the attached Basic Separation of Duties Questionnaire?                                                         |     | 200 |
| 2. Does the entity have written policies in the following areas:                                                                                                                                                 |     |     |
| a. Conflict of interest?                                                                                                                                                                                         |     | 5   |
| b. Procurement?                                                                                                                                                                                                  |     | 5   |
| c. Ethical behavior?                                                                                                                                                                                             |     | 5   |
| d. Reporting fraud and abuse?                                                                                                                                                                                    |     | 5   |
| e. Travel?                                                                                                                                                                                                       |     | 5   |
| f. Credit/Purchasing cards (where applicable)?                                                                                                                                                                   |     | 5   |
| g. Personal use of entity assets?                                                                                                                                                                                |     | 5   |
| h. IT and computer security?                                                                                                                                                                                     |     | 5   |
| i. Cash receipting and deposits?                                                                                                                                                                                 |     | 5   |
| 3. Does the entity have a licensed or certified expert as part of its management team? (CPA, CGFM, CMA, CIA, CFE, CGAP, CPFO)                                                                                    |     | 20  |
| a. Do any members of the management team have at least a bachelor's degree in accounting?                                                                                                                        |     | 10  |
| 4. Are employees and elected officials required to annually commit in writing to abide by a statement of ethical behavior?                                                                                       |     | 20  |
| 5. Have all of the board members completed the State Auditor online training at least once in the last four years?                                                                                               |     | 20  |
| 6. Regardless of license or formal education, does at least one member of the management team receive at least 40 hours of formal training related to accounting, budgeting, or other financial areas each year? |     | 20  |
| 7. Does the entity have or promote a fraud hotline?                                                                                                                                                              |     | 20  |
| 8. Does the entity have a formal internal audit function?                                                                                                                                                        |     | 20  |
| 9. Does the entity have a formal audit committee?                                                                                                                                                                |     | 20  |

Certified By: \_\_\_\_\_ Certified By: \_\_\_\_\_

\* MC = Mitigating Control

# Basic Separation of Duties

See page 2 of this questionnaire for instructions and definitions.

|                                                                                                                                                                                                                                                         | Yes | No | MC* | N/A |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|-----|-----|
| 1. Does the entity have a board chair, clerk, and treasurer who are three separate people?                                                                                                                                                              |     |    |     |     |
| 2. Are all the people who are able to receive cash or check payments different from all of the people who are able to make general ledger entries?                                                                                                      |     |    |     |     |
| 3. Are all the people who are able to collect cash or check payments different from all the people who are able to adjust customer accounts? If no customer accounts, check "N/A".                                                                      |     |    |     |     |
| 4. Are all the people who have access to blank checks different from those who are authorized signers?                                                                                                                                                  |     |    |     |     |
| 5. Does someone other than the clerk and treasurer reconcile all bank accounts OR are original bank statements reviewed by a person other than the clerk to detect unauthorized disbursements?                                                          |     |    |     |     |
| 6. Does someone other than the clerk review periodic reports of all general ledger accounts to identify unauthorized payments recorded in those accounts?                                                                                               |     |    |     |     |
| 7. Are original credit/purchase card statements received directly from the card company by someone other than the card holder? If no credit/purchase cards, check "N/A".                                                                                |     |    |     |     |
| 8. Does someone other than the credit/purchase card holder ensure that all card purchases are supported with receipts or other supporting documentation? If no credit/purchase cards, check "N/A".                                                      |     |    |     |     |
| 9. Does someone who is not a subordinate of the credit/purchase card holder review all card purchases for appropriateness (including the chief administrative officer and board members if they have a card)? If no credit/purchase cards, check "N/A". |     |    |     |     |
| 10. Does the person who authorizes payment for goods or services, who is not the clerk, verify the receipt of goods or services?                                                                                                                        |     |    |     |     |
| 11. Does someone authorize payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".                                                                                                            |     |    |     |     |
| 12. Does someone review all payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".                                                                                                           |     |    |     |     |

## Agenda Item #6

|                       |                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Description</b>    | <b>Discussion &amp; Consideration</b> – Resolution 20-14:<br>Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association Sheridan Ridge |
| <b>Department</b>     | Public Works – Water Department                                                                                                                                  |
| <b>Presenter</b>      | Justin Maughan, Public Works Director                                                                                                                            |
| <b>Recommendation</b> | Move to approve Resolution 20-14: A Resolution Approving a Water Share Use Agreement with the Sheridan Ridge Homeowners Association                              |
| <b>Reviewed By</b>    | Mayor, City Manager, Public Works Director, City Attorney                                                                                                        |

### Background:

When the Sheridan Ridge residential development was approved more than a decade ago, the developer discussed with Nibley City the option of leasing back irrigation water shares in order to provide water for the development's secondary water irrigation system. It has come to the City's attention that no agreement was ever entered to facilitate the HOA's use of such water shares. However, the HOA and residents have installed and have been using a secondary irrigation system. The irrigation company has advised the HOA that they do not have a right to use their water and have asked to cease withdrawing water unless they obtain shares or an agreement to access water using the City's shares.

An agreement is proposed to allow the HOA to use water from the irrigation company using 16 of the City's shares. The water use agreement is similar to those that have been used with other developments in the city. The HOA would be responsible for paying the annual assessment fee for the shares, in addition to a \$25 fee per share per year. That fee would increase by \$5 annually. The agreement would continue for 5 years and could be automatically extended for increments of 5 years, unless either party withdraws from the agreement.

## **RESOLUTION 20-14**

### **A RESOLUTION APPROVING A WATER SHARE USE AGREEMENT WITH SHERIDAN RIDGE HOMEOWNERS ASSOCIATION**

WHEREAS, multiple property owners in the City currently use secondary water from water shares owned by the City; and

WHEREAS, Nibley City Code 11-5-2 Water Supply states that the City shall supply water to subdividers to support a secondary system if they meet the conditions and standards within the code; and

WHEREAS, if secondary water is available, secondary water may be less expensive to provide to a property for irrigation purposes than culinary water, and

WHEREAS, Nibley City has previously approved subdividers, individual property owners, and homeowners associations to use water based on shares owned by the Nibley City; and

WHEREAS, Nibley City wishes to enter into official agreements with the property owners that are using secondary water based on shares that are owned by Nibley City and the City has the ability to enter into new agreements.

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

1. Nibley City Council approves the attached agreement with the Sheridan Ridge homeowners association for the purpose of supplying secondary water to private property.

PASSED and ADOPTED BY THE NIBLEY CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST:

\_\_\_\_\_  
David Zook, City Recorder

## **WATER AGREEMENT**

THIS AGREEMENT, made and entered into as of this 1 day of September, 2020, by and between NIBLEY CITY, a Utah Municipal Corporation (hereinafter referred to as “the City” or “Nibley City”), and The Sheridan Ridge Homeowners Association, (hereinafter referred to as the “Property Owner”).

### **WITNESSETH:**

WHEREAS, the City is empowered and authorized under Utah law to supply water to persons or entities inside and outside of the municipal limits of the City; and

WHEREAS, the City provides culinary water to the Property Owner; and

WHEREAS, the City has the right to divert and utilize certain Shares of water in the Nibley Blacksmith Fork, Clear Creek, Spring Creek-Cache, College Ward, Logan-Providence, Providence Blacksmith Fork, and Millville Irrigation Company; and

WHEREAS, the Property Owner wishes to also be supplied with secondary/irrigation water from the City via the number of the City’s Shares (the “Shares”) of the Irrigation Company for use for a reasonable charge for exclusive use at the Place of Use in the Property Owner’s own secondary water system (the “System”) as set forth on the following chart:

|                           |                                                               |
|---------------------------|---------------------------------------------------------------|
| Irrigation Company        | Nibley Blacksmith Fork                                        |
| Number of Shares          | 16                                                            |
| Place of Use              | The Sheridan Ridge Subdivision. Plat attached as Attachment A |
| Point of Diversion        | 3703 South 250 West                                           |
| Description of Diversion  | Pump Station                                                  |
| Total Water Allowed in AF | 48                                                            |
| Allowed Uses              | Irrigation or Stock Water                                     |

WHEREAS, the City wishes to provide water to the Property Owner via the Shares of the Irrigation Company for use for a reasonable charge for exclusive use at the Place of Use in the System as set forth in the above chart; and,

WHEREAS, the City and the Property Owner wish to formalize the agreement for the supply of water via the Shares and that this Agreement constitutes the writing to be accepted by both parties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein undertaken, it is agreed between the parties as follows:

1. The City, for the term and upon the provisions, conditions and covenants hereinafter set forth, shall supply the Property Owner with water via, and to the extent of, the Shares; and the Property Owner, on said provisions, conditions and covenants and for said term, shall pay the City the sums below for the supply of water via the Shares.

2. Term. The City shall supply the water to the Property Owner for a period of five (5) years from the date of this Agreement. Thereafter, this Agreement shall automatically renew for successive five (5) year terms, upon such terms and conditions as are then agreed to unless a notice of termination is provided by either party prior to expiration of the five (5) year term.

3. Payment. It is agreed that the cost for supplying the water on an annual basis shall be equal to the amount of the annual assessment fee, plus any special assessments, assessed to the City by the Irrigation Company for the Shares, plus a fee of \$25.00 per share, and shall be paid within thirty (30) days after invoiced from the City. The fee shall increase by \$5.00 per share per year. In the event that any payment is not paid on or before its due date, the City shall have the absolute right, within its sole discretion, to terminate this Agreement upon written notice to the Property Owner specifying the basis for such termination to be a failure to make a payment by the date when it was due. The City also expressly reserves the right to terminate this Agreement, in the event of a default under the terms hereof by the Property Owner, other than a failure to make an annual payment, should such default remain uncured 30 days after the date of a written notice from the City to the Property Owner which specifies the default.

4. Conditions. The City cannot anticipate what type of scenario may arise which would require the use of said water for other municipal purposes; and, therefore, it is further expressly agreed that the City retains the right to terminate this Agreement upon giving written notice to the Property Owner. Upon termination, the Property Owner shall be solely responsible for connecting to the culinary system or acquiring replacement shares.

5. Nature of Agreement. Both parties clearly understand that this document is an agreement for the temporary supply of water via the Shares and that it does not involve the sale or lease of the Shares themselves in any way whatsoever from the City to the Property Owner.

6. Assignment. The Property Owner may assign its rights under this Agreement to subsequent owners of the Property, but shall not encumber any such rights or record this Agreement (or any document or interest relating thereto), and shall not delegate any performance under this Agreement, except with the prior written consent of City to any of the same. City may withhold consent to such encumbrance, or delegation for any or no reason in its sole and absolute discretion. Regardless of City's consent, the Property Owner shall not be released from any obligations for matters arising during the time when this Agreement was in effect. Any purported assignment or encumbrance of rights or delegation of performance in violation of this Section is void. This Agreement is binding on the Property Owner's successors or assigns that have been authorized pursuant to this Section, provided the Property to be served by the System cannot be expanded. The assignee of any assignment under this section shall deliver actual notice of the assignment to the City within 60 days of the assignee's receipt of the assignment from the Property Owner.

7. Compliance. The Property Owner shall use the water from the Shares solely for the Allowed Uses at the Place of Use and for no other purpose. The Property Owner further agrees to use the water from the Shares in accordance with all schedules, bylaws, rules and regulations set forth by the Irrigation Company, as well as any federal, state and local laws governing the Shares. The Property Owner acknowledges that the water supply of the Irrigation Company is subject to availability and the City makes no warranty or representation with respect to the volume of water or what method of use of the water will be available from or acceptable to the Irrigation Company.

8. New Diversions. The City agrees that The Property Owner may incorporate new diversion structures within the System, with the prior consent of the City, to make full use of the water supplied hereby and to meet the particular needs for which it is using the water. Diversions, piping plans, and other infrastructure for the secondary systems shall be designed and constructed in compliance with the Irrigation Company and Nibley City standards. Plans shall be submitted to the City and kept on file with this agreement.

9. Right of Entry. The Property Owner agrees that the City may enter on the Property Owner's property where the water is diverted and/or utilized for purposes of inspecting the manner in which the Property Owner is utilizing said water and to verify compliance with the terms and provisions of this Agreement. Theses inspection shall included ensuring the Property Owner system complies with back flow prevention according to state law.

10. Share Rights. Other than the right to utilize the water as outlined herein, all other rights associated with the Shares, including but not limited to voting rights, are retained by the City.

11. Indemnification. The Property Owner agrees to assume all liability associated with any actions on its part or on the part of its agents, employees and representatives in connection with its utilization of the water supplied pursuant to the terms of this Agreement and the work to be undertaken as contemplated herein in order for it to utilize said water, and will indemnify and hold the City and its agents, officials, employees and representatives harmless from any claim or damage which might arise or result pursuant to any activities undertaken by the Property Owner, its agents, employees and representatives by reason of or relating in any way to the terms and provisions of this Agreement. The Property Owner is specifically responsible for any and all legal and/or notation costs resulting from the diversion or use of the water, including impacts on the Irrigation Company, the City, or other impacted parties.

12. Binding. The terms of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and/or legally-permissible assigns.

13. Notice. Any notice required hereunder or which may be required in pursuing any remedy given by the laws of the State of Utah to the parties hereto shall be deemed sufficient if given by registered mail, postage prepaid, and addressed as follows:

TO THE CITY:

NIBLEY CITY  
455 West 3200 South  
Nibley, UT 84321

TO THE PROPERTY OWNER:

Sheridan Ridge Homeowners Association  
3700 S 450 W  
Nibley, UT 84321

The above addresses may be changed at any time by giving notice to the other party in writing, and the notice shall be deemed as having been given when given personally or upon depositing the notice with the U.S. Postal Service as required herein.

14. Attorneys Fees. Should any of the parties default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, in obtaining possession of the premises and water covered hereby, or in pursuing any remedy provided hereunder or by the laws of the State of Utah, whether such remedy is pursued by filing of suit or otherwise.

15. All parties agree that any disputes relating to this Agreement shall be resolved in accordance with Utah law, and that the appropriate court for the resolution of any disputes, if a court need be involved, shall be the First Judicial District Court for Cache County, State of Utah, located in Logan, Utah.

16. The parties agree to execute and deliver all documents and take whatever other steps which might prove necessary to properly finalize and put the terms and conditions hereof into full effect and operation.

DATED this \_\_\_\_\_ day of September, 2020.

**“THE CITY” or “NIBLEY CITY”:**

NIBLEY CITY, a Utah Municipal  
Corporation

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
David Zook, City Recorder

**THE PROPERTY OWNER:**

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
Its: President

\_\_\_\_\_  
Witness

## Agenda Item #7

|                       |                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Description</b>    | <b>Discussion &amp; Consideration</b> – Ordinance 20-16: An Ordinance Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) requirements (Second Reading) |
| <b>Department</b>     | Planning                                                                                                                                                                                   |
| <b>Presenter</b>      | Levi Roberts, City Planner                                                                                                                                                                 |
| <b>Recommendation</b> | Move to approve Ordinance 20-16: An Ordinance Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) requirements.                                         |
| <b>Reviewed By</b>    | Mayor, City Manager, City Planner, Planning Commission                                                                                                                                     |

### Background:

#### Update for September 17

During the September 10 City Council meeting, it was discussed to clarify that the developer must provide documentation that any substitutions of required amenities meet or exceed the value and use of required amenities. Specifically, the following language was suggested for : *“These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the required amenity. The burden shall be on the developer to provide justification and is subject to review and acceptance by staff prior to Council consideration. An applicant may include additional amenities beyond the requirements of this section.”* This change has been made to the attached ordinance.

#### Update for September 10

During the August 27 City Council meeting, a Workshop was held regarding Ordinance 20-16. During the workshop, it was expressed that the City Council wanted to add public restrooms to the list of required open space amenities. Staff recommends requiring 1 restroom for developments with 201-300 units and 2 restrooms for developments with

301-500 units. Those with more than 500 units would need to provide the adequate and proportional number of restrooms, as is required with other amenities. In addition, a definition and standards for public restrooms has been added to the recommended ordinance.

Although this was included in previous versions of the ordinance, it should be noted that it is recommended to delete the provision that guest parking for townhome units may be provided as on-street parking, as this explanation was not provided earlier. This provision of guest parking becomes difficult to manage as streets are required to be public and the provided parking would be private. Furthermore, parking on street during the hours of 12:00 AM and 6:00 AM is prohibited during the months of November-April to facilitate safe and adequate snow removal. This makes it impractical to allow on-street parking to be provided as guest parking as guests may be staying for later hours or overnight. Below is further information provided previously regarding the proposed ordinance.

Nibley City has received three applications for the new Residential Planned Unit Development (R-PUD), two of which have been approved thus far. There has been a desire to make some changes to the ordinance to clarify the open space calculation, the application process, and housing unit mix requirements.

The existing code can be accessed here:

[Nibley City Code 19.32 Residential Planned Unit Developments](#)

At the City Council meeting held on March 26, 2020, the City Council passed *Ordinance 20- 08: Residential Planned Unit Development Moratorium*. This ordinance puts a six-month hold on all new R-PUD applications and will be lifted on September 22.

The Planning Commission has discussed the Update of the R-PUD Ordinance during four workshop sessions and a joint session with City Council. During the joint session, topics were discussed regarding the value of R-PUD developments and provisions in the ordinance to consider changing. There was general consent that despite limited locations, the City supports potential R-PUDs in the remaining delineated locations and we should pursue revisions to the ordinance, rather than rescinding it. In particular, the following revisions were suggested:

- The allowance for open space within park strips and areas within the right-of-way should be removed.
- The City can consider adjusting the ratio for unit type. However, the City Council would like to have some flexibility with the ratio.

- The minimum size for an R-PUD should be increased to improve the viability of the maintenance of amenities and offer opportunities for a greater mix of housing options. Mayor suggested a minimum of 40 acres, which would still allow for R-PUDs in the potential locations.

In addition to these workshops, Staff has met with individual Council members to discuss the deficiencies of the ordinance with a summary noted below. Also included below is information compiled previously regarding this update. During the workshop sessions, the Planning Commission requested a financial analysis to support the provision of R-PUDs and potential adjustment. Staff has performed an analysis of revenue and costs associated with utility infrastructure to inform this question. The general conclusion is that higher density development in the City generally pays for a greater share of the cost of infrastructure in the City than lower density development.

Based upon the workshop discussions, there was general consent expressed during the August 6 Planning Commission workshop that the following changes should be made to the ordinance:

- Remove the allowance for open space within park strips and areas within the right-of-way
- 40% minimum allowance of single-family residential units, with 60% maximum of townhomes (60/40)
- The minimum size for R-PUDs should be 20 acres. The Commission considered a 40 acre minimum, but felt that there would still be a significant benefit to the City with a 20 acre development that preserves 35% open space.
- Required Open space should be kept at 35% with no use of open space within the setbacks
- Clarify that other amenities of equal value that are in support of Nibley City's Park and Recreation goals can be used toward open space amenity requirements.

### Open Space and Amenities

There has been general concern and agreement on updating the definition of open space within the development. Currently, the R-PUD code allows for open space to count any public landscaping contained within setbacks and within the right-of-way. At the recommendation of the Planning Commission, Staff has eliminated the clause within the definition that would allow for open space within the right-of-way.

### Proposed Open Space Definition

- A. *Open Space: Any space in an R-PUD that does not contain any structures or amenities, except for park amenities, as defined herein. All Open Space must be completely landscaped with sod, trees, xeriscape, gardens or agricultural use. Natural features such as wetlands, meadows, tree stands and constrained, and sensitive lands may also be considered Open Space. Buildings, streets, parking*

*lots, private yards, and landscaping within the rights-of-way shall not be counted as Open Space.*

Landscaping within the ROWs and setbacks shall still be required, but not counted toward minimum open space requirements.

### Unit Type Requirements

There is consensus among the Planning Commission that the current ordinance, which allows for up to 80% of townhomes, provides for a high number of relatively high-density units that does not blend within the context of Nibley City. During public hearings, several residents have expressed concerns about the potential impacts of this additional density. That said, there is a demonstrated demand for townhome units, which are generally more affordable than single-family homes. Providing a greater variety of housing options will provide for the diverse needs of residents. More compact development will accommodate necessary population growth while preserving a higher portion of open space. In addition, in order for a development to be financially viable, while still providing a significant amount of preserved open space and supportive amenities, there needs to be an allowance for clusters of higher density housing (compared to conventional single-family lots). Based upon the workshop discussions with the Planning Commission, Staff recommends a 40% minimum provision of single-family homes with a maximum of 60% townhomes. This is expected to provide a more balanced split of housing options, while blending in within the context of Nibley City neighborhoods.

### Other Proposed Amendments

In addition to those amendments listed above, Staff recommends the following additional amendments to the ordinance to clarify some sections of the ordinance.

- Clarify that single-family, patio homes, townhomes and condominiums are permitted uses within the town center area.
- Delete the provision that commercial use must be concentrated in one location.
- **Delete the allowance to provide guest parking for townhomes as on-street parking**
- Decrease the maximum density to 10 units/net developable acre. Based upon Staff analysis, it is not feasible to provide a greater density of units, given the other constraints of the ordinance.
- Delete the requirement for an HOA office as part of the development, which is not practical for many developments.
- Clarify that a Preliminary Maintenance Plan is required with R-PUD application.
- Clarify that the R-PUD Overlay Zone is not final until the development agreement is recorded.
- Clarify that streets with sidewalks meet the pedestrian connectivity requirement.

## **Planning Commission Recommendation**

Approve Ordinance 20-16: An Ordinance Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) requirements with the following condition:

- That the R-PUD ordinance be rescinded if not approved before the expiration of the moratorium (September 22)

**ORDINANCE 20-16**

**AMENDMENT TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (R-PUD) REQUIREMENTS**

WHEREAS, Nibley City regulates land use within Nibley City boundaries; and

WHEREAS, Nibley City has adopted an ordinance to provide for Residential Planned Unit Developments which intends to provide an alternative to traditional subdivision design by encouraging innovation and offering some flexibility in the design of residential developments, which may incorporate the permanent preservation of amenities, agricultural lands and other valuable natural and cultural resources, as well as providing a variety of amenities for the enjoyment and benefit of the citizens of Nibley; and

WHEREAS, Nibley City promotes the provision for open space which current and future residents may more fully enjoy and which more effectively preserves sensitive lands; and

WHEREAS, Nibley City promotes providing housing which accommodates existing and future demand, while appropriately building upon and transitioning from existing neighborhoods.

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

1. The attached proposed amendment to NCC 19.32 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST: \_\_\_\_\_  
David Zook, City Recorder

**19.32 Residential Planned Unit Developments (PUD)**[19.32.010 Purpose And Intent](#) [19.32.020](#)[Definitions And Standards](#) [19.32.030](#)[Use Regulations](#)[19.32.040 Area And Density Regulations](#)[19.32.050 Open Space Amenities](#) [19.32.060](#)[General Requirements](#)[19.32.070 Approval Process](#)[19.32.080 Development Standards](#)**HISTORY***Repealed by Ord. 11-07 on**7/7/2011 Amended by Ord. 18-10**on 5/23/2019***0 Purpose And Intent**

- A. Intent: This section provides enabling authority and standards for the review and approval of applications for Residential Planned Unit Developments (R-PUD's). The intent of this ordinance is to provide an alternative to traditional subdivision design by encouraging innovation and offering some flexibility in the design of residential developments, which may incorporate the permanent preservation of amenities, agricultural lands and other valuable natural and cultural resources, as well as providing a variety of amenities for the enjoyment and benefit of the citizens of Nibley.
- B. Purpose: An R-PUD is an overlay rezone. That is, applicants apply for the overlay to be applied, allowing them to receive the density outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The Planning Commission and City Council may approve, deny or approve the R-PUD with conditions, and no applicant has any entitlement to the approval of an R-PUD.

**HISTORY***Adopted by Ord. 18-10 on 5/23/2019***19.32.020 Definitions And Standards**

- A. Amenity: Natural or man-made feature which enhances the development. These include features such as picnic areas, walking paths/trails outside of required sidewalks, playgrounds, sports fields, club houses, swimming pools, splash pads, etc.
- B. Buffer: A landscape and planted area along a public right-of-way, street, or neighboring development, a buffer must be at least thirty (30') feet wide. Buffers must be landscaped, at the sole cost of the developer, and shall provide for every hundred (100) linear feet of buffer six trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or R-PUD boundary where required. Irrigation system shall be installed by the developer and shall be designed and installed to Nibley City Standards. Buffer areas shall be owned and maintained by an Owners Association.
- C. Condominium: A multiple-unit dwelling containing individually-owned dwelling units and jointly- owned shared areas and facilities, which dwelling, or development is subject to the provisions of state and local laws.

- D. **Constrained and Sensitive Land:** Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limited to Federal, State, or municipally designated wetlands, water bodies, floodplains, slopes greater than 20%, faults, canals, and other geologically or environmentally sensitive features that require mitigation, special insurance, or permits from government authorities to allow development. This land may be used as amenities if it complies fully with conditions within this chapter for qualification of amenities.
- E. **Dwelling Unit:** Any building or portion thereof which is designed for or occupied by one family for living, sleeping, and/or eating purposes. A dwelling unit may include up to two (2) persons per unit to whom rooms are rented in addition to a family related by blood, marriage or adoption, but if the number of such additional persons exceeds two (2) or if they use or are furnished separate cooking facilities, whether temporary or permanent, such additional persons shall be considered a separate dwelling unit.
- F. **Meadows:** Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
- G. **Net Developable Land:** Net Developable land shall include the total area of the proposed development minus land that is required by Nibley City Ordinance to be dedicated to the City, including, but not limited to:
1. Public access rights-of-way, including roadways and sidewalks
  2. Land required to be dedicated along waterways
  3. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (public and private parks, trails, etc.)
  4. Constrained and Sensitive Land, as defined herein
  5. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without public access.
  6. Constrained and Sensitive Land, land dedicated along waterways, and other natural landscape or open space land may be considered net developable land when calculating for density if such land can be enhanced with trails, public access, picnic areas, park amenities, or other improvements.
- H. **Open Space:** Any space in an R-PUD that does not contain any structures or amenities, except for park amenities, as defined herein. All Open Space must be completely landscaped with sod, trees, xeriscape, gardens or agricultural use. Natural features such as wetlands, meadows, tree stands and constrained, and sensitive lands may also be considered Open Space. Buildings, streets, parking lots, private yards, and landscaping within the rights-of-way for streets shall not be counted as Open Space.
- I. **Patio Home:** A detached, single-family unit situated on a reduced-size lot and with reduced setbacks.
- J. **Private Parks:** A tract of land presently owned or controlled and used by a private entity or group and to which only members of that private entity or group have access or use rights. Private Parks must contain at least one amenity as defined herein. Private Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. Sod and tree requirement may be altered for approved club houses, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses.
- K. **Owners' Association:** A community association which is organized within a development in which individual owners share common interest and responsibilities for open space, landscaping, or

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facilities.

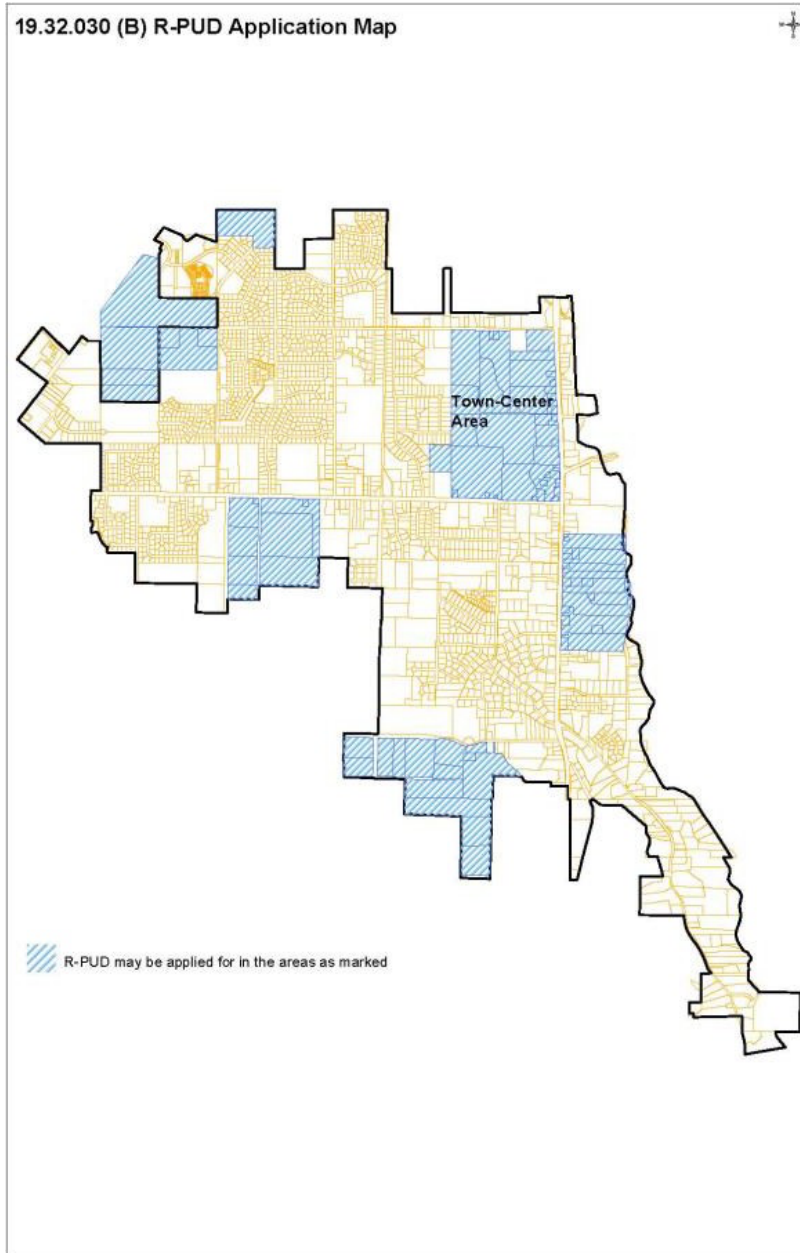
- L. Public Park: A publicly-owned tract of land landscaped and developed for the general public. Public Parks, as defined for R-PUD, must contain at least one amenity as defined herein. Public Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. All landscaping must meet Nibley City Standards. Sod and tree requirement may be altered for approved, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses. Public Parks shall be placed on the border of each development so that it may easily be accessed by the community as a whole. Each public park must contain a public bathroom.
- M. Single Family Dwelling Unit: A dwelling unit owned in fee and located on an individual lot and which is not attached to any other dwelling unit by any means.
- N. Town Center Area: The area as labeled on R-PUD Application Map as "Town Center Area."
- O. Townhome: A dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Each townhome unit must be on its own parcel.
- P. Tree Stand: A group or cluster of trees within a geographic location that are occurring naturally or artificially.
- Q. Waterway: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
- R. Planned Unit Development: For the purpose of this chapter "residential planned unit development" (R-PUD) means an integrated design for the development of residential uses to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed general requirements, as specified by this chapter.

#### HISTORY

*Adopted by Ord. 18-10 on  
5/23/2019 Amended by Ord. 19-16  
on 10/10/2019*

#### **0 Use Regulations**

- A. An R-PUD may be applied for by following the steps listed in 19.32.070 (A) on properties designated on the R-PUD Application Map in NCC 19.32.030(B). These areas keep their base zoning, with that zoning's standards, conditions, and restrictions, unless the City Council approves the use of the R-PUD through an R-PUD application process. R-PUDs are prohibited in all other areas. The City Council, with a recommendation from the Planning Commission, may make changes to what parcels are labeled on the R-PUD Application Map by following proper ordinance change procedures.
- B. R-PUD Application Map



C. The following are permitted uses in an R-PUD:

1. Single Family and Townhome dwelling units may be permitted uses, as defined within this ordinance. 2. Within the Town Center, Single Family, Patio Homes, Townhomes and Condominiums may be permitted uses, as defined within this ordinance.

3. All other uses not defined within this chapter shall comply with the underlying zone, lot size, and the Land Use Chart in NCC 19.20, unless otherwise specified within this ordinance.

D. Any uses not specifically permitted or conditionally permitted are prohibited.

E. Animal Use: All animal uses shall be in accordance with Nibley City Code.

F. Up to 30% of the Net Developable Area may be approved for neighborhood commercial use as part of an R-PUD. These uses shall comply with Nibley's City's Neighborhood Commercial Zone Use Chart and standards as listed in NCC 19.14.050. These parcels shall be labeled on the plat as Neighborhood Commercial.

G. When calculating density for dwelling units, any Neighborhood Commercial area shall be subtracted from the Net Developable Area of the R-PUD.

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## HISTORY

Adopted by Ord. 18-10 on

5/23/2019 Amended by Ord. 19-16

on 10/10/2019

## 0 Area And Density Regulations

A. Minimum development size: The minimum total area for an R-PUD shall be 20 acres

B. Housing Types: Only single-family homes and town homes are allowed in the R-PUD in residential areas, except as allowed in the Town-Center Area. The density shall be based on Net Developable Acres of the development as follows:

1. Single Family Homes: Equal to or less than 5 units per Net Developable Acre

a. Single Family Home R-PUD must contain a minimum of 50 units.

2. A Mix of Single Family and Townhomes: Equal to or less than 10 units per Net Developable Acre. Up to 60% of dwelling units can be townhomes.

a. A Mix of Single Family and Townhomes R-PUD must contain a minimum of 120 units.

C. Town-Center: The area as marked on R-PUD Application Map in NCC 19.32.030 (B) as Town- Center Area shall have the following Housing Requirements.

1. Single Family Home Development and Mix of Single Family and Townhome Development shall be governed by NCC 19.32.040 (A).

2. A Mix of Single Family, Townhomes and Condominiums: Equal to or less than 10 units per Net Developable Acres. Up to 40% of the units can be condominiums, and a minimum of 40% of homes must be single family homes.

Commented [L3]: Based upon calculations, it is not possible to go above 10 units/acre with 60% townhomes/40% single-family. The maximum for 50% split is approximately 8.75 units/acre

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D. A proposed R-PUD adjacent to existing single-family homes must place single family homes adjacent to the established single-family homes unless otherwise buffered by an arterial roadway or 300-foot width of open space including a landscaped Buffer as defined within this chapter.

E. The City may approve single family homes that do not meet the required setbacks and lot size, i.e.patio homes. These homes shall not be counted toward the single-family home requirements contained in this section and shall be counted toward the number of townhomes.

**HISTORY**

Adopted by Ord. 18-10 on

5/23/2019 Adopted by Ord. 19-16

on 10/10/2019

**0 Open Space Amenities**

A. Each R-PUD shall provide the following types and amounts of open space and amenities:

| Min Open Space Requirement                         |                                                                                      |
|----------------------------------------------------|--------------------------------------------------------------------------------------|
| Dwelling Type                                      | Percentage of Net Developable Acres Required to be used for Amenities and Open Space |
| Single Family                                      | 20%                                                                                  |
| A Mix of Single Family, Townhomes and Condominiums | 35%                                                                                  |

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| Minimum Amenity |           |                 |          |           |            |                                                            |                     |
|-----------------|-----------|-----------------|----------|-----------|------------|------------------------------------------------------------|---------------------|
| Number of Units | Park Area | Public Restroom | Pavilion | Swing Set | Playground | Clubhouse, Pool, or Splashpad                              | Sports Court/Fields |
| Less Than 100   | 1.5 Acres | =               | —        | —         | 1          | —                                                          | —                   |
| 101-150         | 2.5 Acres | —               | —        | 1         | 1          | —                                                          | —                   |
| 151-200         | 3.5 Acres | =               | —        | 1         | 2          | —                                                          | 1                   |
| 201-250         | 4.5 Acres | <u>1</u>        | 1        | 1         | 2          | —                                                          | ← 1                 |
| 251-300         | 5.5 Acres | <u>1</u>        | 1        | 1         | 2          | 1 of the above options                                     | ← 1                 |
| 301-400         | 6.5 Acres | <u>1</u>        | 2        | 2         | 3          | 2 of the above options<br>(At least one pool or Splashpad) | ← 2                 |
| 401-500         | 7.5 Acres | <u>2</u>        | 2        | 2         | 3          | 2 of the above options<br>(At least one pool or Splashpad) | ← 2                 |
| 501+            | *         | <u>*</u>        | *        | *         | *          | *                                                          | ← *                 |

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1. This chart does not include all potential amenities. The applicant may apply for other amenities that would benefit the R-PUD and are in support of Nibley City's Parks and Recreation goals. Any proposed amenities not listed, must be approved by the City Council. The City Council may also

Commented [SN5]: List as number one.

allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the required amenity. The burden shall be on the developer to provide justification and is subject to review and acceptance by staff prior to Council consideration. An applicant may include additional amenities beyond the requirements of this section.

2.

3. Development over 500 units must supply adequate and proportional amenities based on the table above.

4. Development containing under a total of 20 gross acres must provide a minimum open space as follows:

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- a. Single Family: 20% open space as defined within this Chapter or 3 acres of open space, whichever is greater
- b. Mix: 35% Open space as defined within this Chapter or 5.5 acres of open space, whichever is greater

5. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public and Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. An applicant may also provide an escrow or bond for improvements according to Nibley City Standards. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

**Commented [SN6]:** Outline that developers may bring in a single phase at a time.

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6. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.

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7. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of .25 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-PUD shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.

**Deleted:** <#>This chart does not cover all potential amenities. The applicant may apply for other amenities that would benefit the R-PUD. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the require amenity. An applicant may add additional amenities above and beyond the requirements of this section.\*

8. All amenities shall meet any federal, state, city, or other standards that apply.

9. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.

10. Picnic Area: Two or more picnic tables for use by 10 or more persons.

11. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.

12. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.

13. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.

14. Pool: A recreation facility designed and intended for water contact activities that serves an R-PUD. No pool shall be less than 800 sq. ft.

15. Public Restroom: a room or small building with toilets and sinks that is available for use by the general public. One (1) public restroom shall contain at minimum 2 individual rooms with toilets and sinks (male/female or unisex). Larger restroom facilities may be required depending on the amount of activity projected at a particular open space/park area. All restroom facilities shall be built in compliance with the Americans with Disabilities Act (ADA).

16. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.

#### B. Maintenance of Amenities

1. All R-PUDs must establish and maintain in perpetuity an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed.
2. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property that is part of the R-PUD or Owners Association.
3. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat for proposed maintenance of amenities within the development. This plan shall outline the following:
  - a. The proposed ownership and responsibility for maintenance of the amenities;
  - b. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
  - c. The size of each amenities parcel; and
  - d. The proposed concept plan for landscaping of the amenities.
4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
  - a. Documents and plans as listed in for the Preliminary Maintenance Plan.
  - b. A description of the use of the amenities and how that use complies with this Chapter;
  - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
  - d. The estimated staffing needs, insurance requirements, and associated costs.
  - e. The landscaping plans for parcels that will be owned by an Owners Association or by the City.
5. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.

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6. The developer shall offer an approved letter of credit, bond or escrow for all proposed

improvements as set forth in NCC 21.14.

7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.
8. Corrective Action: The City may enter onto any amenity provided as part of an R-PUD and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.
9. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
10. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-PUD to allow the owner of the property to have sufficient access.

#### HISTORY

Adopted by Ord. 18-10 on  
5/23/2019 Amended by Ord. 19-16  
on 10/10/2019



#### **0 General Requirements**

- A. The R-PUD should be compatible with surrounding land uses, building types and physical features of the site. Specific requirements are included below:
- B. Determination of Net Developable Land:
  1. In calculating what portion of the project is considered developable, areas designated as constrained and sensitive land may not be included in the project size.
  2. If the constrained and sensitive land, property along waterways or other natural landscapes may reasonably be turned into a publicly-accessible amenity, it may be re-

included in the project size.

3. Net Developable Land must comply with the definition within this chapter.

C. Site Development Standards: The following shall serve as the setback/site development standards for each proposed R-PUD.

|                                    | Single-Family Home | Townhome | Patio Home | Condo |
|------------------------------------|--------------------|----------|------------|-------|
| Minimum Lot Size (sq. ft.)         | 4,500              | —        | —          | —     |
| Minimum Frontage                   | 50'                | —        | —          | —     |
| <b>Primary-Use Setbacks</b>        |                    |          |            |       |
| Front Yard                         | 20'                | 20'      | 20'        | 30'   |
| Front Porches                      | 10'                | 10'      | 10'        | 10'   |
| Side Yard                          | 5'                 | 10'      | 0'         | 10'   |
| Side Yard Porches, Deck, Overhangs | 5'                 | 5'       | 0'         | 5'    |
| Side Yard Adjacent to Streets      | 20'                | 20'      | 20'        | 25'   |
| Rear Yard                          | 15'                | 15'      | 15'        | 15'   |
| Maximum Height                     | 40'                | 40'      | 40'        | 40'   |

| <b>Accessory-Use Setbacks</b> | Single-Family Home | Townhome | Patio Home | Condo |
|-------------------------------|--------------------|----------|------------|-------|
| Front Yard                    | 20'                | 20'      | 20'        | 20'   |
| Side Yard                     | 3'                 | 3'       | 3'         | 3'    |
| Side Yard Street              | 20'                | 20'      | 20'        | 20'   |
| Rear Yard                     | 1'                 | 1'       | 1'         | 1'    |
| Maximum Height                | 15'                | 15'      | 15'        | 15'   |

1. Setback and frontage requirements shall apply to each building, and not each dwelling unit
2. All other setbacks shall comply with Nibley City Code.
3. All buildings and landscaping shall comply with NCC 19.24.110 Clear View of Intersecting Streets as amended.

D. Signs: Any signs proposed for the development, other than traditional street signs, must conform to Nibley City Code.

E. All property developed as Townhomes or Condominiums, must be subject to covenants, conditions and restrictions and must be subject to and governed by an owner's associations in compliance with Utah Code Annotated Title 57.

1. In addition, each owner's association must have a governing board made up of property owners within the R-PUD, but general administration and maintenance of the development may be handled with a property manager. Any R-PUD that contains

townhome must have onsite management, outside professional management or onsite point of contact.

F. Amenities and Open Space: Maintenance and ownership of amenities and Open space may be provided for under one of the following options as approved by the City Council in the City Council's discretion. The City may require any Amenities or Open Space within the R-PUD to be dedicated to Nibley City in order to fulfill goals listed in the Parks, Trails, and Recreation and Open Space Master Plan, or to further public good and advance goals within the General Plan or other Master Plans of the Nibley City:

1. Dedication of the land to Nibley City as a public park or parkway system; or
2. Granting to the city a permanent amenities easement on and over the said private amenities to guarantee that the amenities remain perpetually in recreation use, with ownership and maintenance being the responsibility of a homeowners' association established with articles of association and bylaws; or
3. Adoption of covenants, conditions, and restrictions and creation of an owners' association that provides for the payment of common expenses for the upkeep of common areas and facilities.

G. Bond: For each phase, the developer shall be required to provide guarantees as set forth in NCC 21.14.

H. Subsequent Subdivision: If the R-PUD is to be subsequently divided either as a subdivision into phase development parcels or separately owned and operated units, such division boundaries shall be indicated on the development plan and preliminary subdivision approval concurrently obtained in the case of a subdivision.

I. Subdivision Regulations: Any part of an R-PUD that is proposed as a subdivision is subject to the provisions of the subdivision title and the standards, conditions, and restrictions of the base zoning, unless superseded by the provisions of this ordinance.

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## HISTORY

Adopted by Ord. 18-10 on  
5/23/2019 Amended by Ord. 19-16  
on 10/10/2019

## **0 Approval Process**

A. An R-PUD is an overlay zone. That is, developers apply for the overlay to be applied, allowing them to receive the density bonuses outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The City Council, with a recommendation from the Planning Commission, may approve, deny or approve with conditions as a legislative action and no applicant has any entitlement to the approval of an R-PUD.

B. Application Submission: An application for an R-PUD shall be submitted to the City with all required documents, maps, plats and plans as listed below.

C. Procedure:

1. An R-PUD shall go through the following process to gain approval:
  - a. Development Committee: An applicant shall have a preliminary meeting with a development committee composed of applicable City staff, and other elected and appointed official as appointed by the Mayor and approved by the City Council.

Overlay Zone Application: Applicants shall submit an R-PUD Overlay Zone and preliminary plat application with the following:

- (1) A complete development plan application that is duly signed by the property owner or the owner's representative and that includes a legal description of the property and a nonrefundable application fee.
- (2) A vicinity map showing the approximate location of the subject parcel in relation to other major areas of the city.
- (3) A general description of the proposed development, together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, and how the project is coordinating with existing and planned trails, sidewalks and pedestrian walkways and any other important elements within or adjacent to the project.
- (4) [Preliminary Maintenance Plan as defined within this Chapter](#)
- (5) Sufficient detail to indicate how the proposed development complies with the development standards for residential and nonresidential uses according to Nibley City Code and Design Standards.
- (6) A description of architectural design standards that will apply to all buildings within the development plan.
- (7) A data table showing the total number of lots/units. Existing and proposed infrastructure including proposed roadways, utility locations and capacities and the estimated impacts of the proposed development plan on all public utilities including culinary water, secondary water, wastewater, transportation, storm drainage, fire protection, solid waste, parks and recreation demands of the proposed project.
- (8) Existing physical characteristics of the site including all constrained and sensitive land
- (9) Identify how environmental issues, if any, will be protected or mitigated, i.e., wetlands, historical sites, endangered plants and animals.
- (10) Conceptual information relating to storm drainage including 100-year 24- hour drainage flows, 10-year 24-hour stormwater flows and proposed storm drainage facilities.
- (11) Major street layout that meets Nibley City standards.
- (12) A general description of controlling entities and methods such as the use of CC&Rs, Owners Associations, architectural or design review committees or associations proposed to ensure that internal compatibility related to issues such as site design and architecture will be maintained over the life of the project.
- (13) A list of property owners' names and addresses within three hundred feet (300') of the subject property and stamped and pre-addressed envelopes (return address to be left blank) for all property owners within three hundred feet (300') of the propose development.
- (14) A list of land adjacent in the same ownership.
- (15) An electronic file of all submitted plans in PDF format or other electronic format determined by city staff. Such other information shall be included as may be necessary to determine that the contemplated arrangement of

uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this title.

b. Preliminary Plat: A preliminary plat that complies with Nibley City Subdivision Code and all other applicable code for the subdivision. Preliminary plat approval may be granted at the same time of approval of the overlay zone.

c. Approval with Development Agreement:

(1) Before an R-PUD Overlay Zone can be approved, the City Council and applicant must enter into a development agreement which shall be recorded on title to the real property that is the subject of the development and which shall be binding upon and shall run with that property. ~~The R-PUD Overlay Zone and development agreement may be approved at the same time, provided that the R-PUD Overlay Zone shall not be final or take effect until the development agreement is recorded.~~ The development agreement must include the following provisions:

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- (A) That the development must be developed in a way that is substantially similar to the site plan and proposed amenity improvements and open space.
- (B) That the preliminary site plan and all supporting documentation shall be attached to the development agreement.
- (C) That any development of the proposed real property shall not exceed the number of units as listed on the preliminary plat.

(2) The applicant shall provide the necessary documentation to establish that any holders of interests that are superior on title to the development agreement, including, but not limited to, liens, mortgages, deeds of trust, and other similar devices have been made subordinate to the development agreement.

(3) Signing and recording of the development agreement, and the subordination to the development agreement of any superior interests on title, must be accomplished before an R-PUD Overlay Zone may be approved.

d. Final Subdivision Approval: Once the overlay zone and development agreement have been ~~approved and~~ recorded, an applicant may apply for final plat approval. An applicant shall provide the following:

- (1) An applicant shall follow the standards as listed in NCC §21 for Final Plat approval of a subdivision.
- (2) An applicant must submit all construction and civil engineering drawings and detailed plans for all amenities for the proposed phase of the development. These shall include landscape drawings and details. The City Engineer shall review and ensure all plans meet Nibley City standards.
- (3) A maintenance plan and ownership plan for all improvements, amenities, and open space that complies with the terms of this chapter.
- (4) The Planning Commission shall review and make a recommendation for final plat approval, approve with conditions, or denial to the City Council.
- (5) The City Council shall approve, approve with conditions, or deny the final plat application base on the standards listed within Nibley City Code, Design Standards, and the applicant's compliance with the Development Agreement.

D. R-PUD Considerations: In approving with conditions, denying or approving an R-PUD proposal, the Planning Commission and City Council shall consider the following in addition to all other considerations required by law:

1. Design of Buildings: The architectural design of buildings and their relationship on the site and their relationship to development beyond the boundaries of the development.
2. Streets and Parking: Which streets shall be public, and which shall be private, the entrances and exits to the development, and the provisions for internal and external traffic circulation and off-street parking.
3. Type, Size, and Location of Amenities.
4. Landscaping and Screening: The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.
5. Signs: The size, location, design and nature of signs, if any, and the intensity and direction or area of floodlighting.
6. Ability to Complete Project: The demonstrated ability of the proponents of the R-PUD to financially carry out the proposed project under total or phase development proposals within the time limit established.
7. Criteria for Issuing Conditional Use Permit: Criteria used in NCC 19.28 of this title.

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E. Revisions: In the event an approved preliminary or final site plan requires revision by the developer, the site plan, and its revision shall be approved by the Nibley City Council with the recommendation of the Planning Commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the Planning Commission that a revision has been submitted and will be considered by the Planning Commission.

F. Building Permit Issuance: The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed, including completion of amenities. Time Limit: Unless there is substantial action leading toward completion of a R-PUD or an approved phase thereof within three years from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved by the City Council.

## HISTORY

Adopted by Ord. 18-10 on  
5/23/2019 Amended by Ord. 19-16  
on 10/10/2019

## **0 Development Standards**

These standards are intended to create R-PUD developments that will establish permanent neighborhoods and provide a sense of community. To meet the intent of this section, the following provisions shall be applied to all new multi-family residential and mixed-use developments. For exterior remodels, these standards shall be required. Commercial areas of an R-PUD must comply with Nibley City Commercial design standards for commercial developments.

### A. Townhome, Patio Homes, and Condominium Architectural Standards

1. General Design Concepts. New development shall be designed for its specific context within Nibley City. Developments shall possess a similar design theme, and the site shall

be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.

2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block (CMU), fiber cement siding, concrete, composite siding, or other durable building material as approved by the City Council. EIFS or untreated concrete block (CMU) may be allowed as an accent or secondary material only. The Planning Commission may approve metal as an exterior building material and as a primary material on a case-by-case basis if an applicant can show that the type of metal is of a high grade and provides architectural quality to a building.
4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods
5. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.
6. Variation. Townhome dwellings units shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the building. The following architectural features shall be incorporated into the design of the building:
  - a. Change in building materials;
  - b. Building projections measuring at least twelve(12) inches in depth based on the scale of the proposed building;
  - c. Awnings and lighting, or another architectural variation as approved on a case-by- case basis that creates visual interest.
7. Garages. Townhomes shall be designed oriented toward exterior public roads with rear loading garages accessed by a paved parking area or alleyway, except along Highway 165 and 89/91 as approved. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

#### B. Site Design Standards.

1. Natural features. R-PUDs shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features.
2. A landscaping plan for the front yards shall be included. The landscaping plan shall include at least one (1) tree for every dwelling unit, and two (2) shrub of five (1) gallon

size for each dwelling units. Coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.

3. Connectivity. R-PUD shall provide connectivity with the surrounding area and throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.

- a. Street Design: All street designs shall comply with the General Plan and Transportation Master Plan including Nibley City's street standards and connectivity requirements. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.
- b. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.
- c. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
- d. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct from streets.
  - (1) Private drives shall be a minimum width of 20 ft.
  - (2) All private drives shall be perpendicular, within 10 degrees, to the street they connect to.
  - (3) Driveways that access a single dwelling unit are not considered private drives or an alleyway
- e. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use as determined by the land use authority. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8') trail or sidewalks on public streets that meet Nibley City standards.
- f. No dwelling units in an R-PUD shall have driveway access to any arterial roadway as listed in Nibley's Transportation Master Plan. Townhome units may face and have frontage along arterial roadways but must have rear loading garages. Public and private parks, open space or Buffering as defined within this chapter may also be along arterial roads.

4. Pedestrian circulation. R-PUD shall provide a circulation map and show the following improvements to for pedestrian circulation and safety:

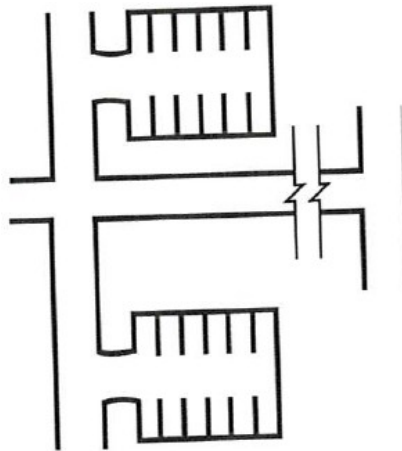
- a. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where

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applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.

- b. Walkways shall be hard surfaced with concrete.
  - c. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
  - d. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.
5. Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guesting parking may be provided in parking courts maintained by the owner association.

- a. Individual parking courts shall contain no more than 20 parking spaces and shall be physically and visually separated by a landscape area a minimum of 10 feet in width from any adjacent right-of-way. The separation shall be landscaped with grass, trees, or xeriscape plants.



- b. A parking court of any length shall consist of no more than one double-loaded parking aisle.
- c. Parking courts shall be located in the interior of the development and located between or in the rear of buildings for townhome developments.
- d. Parking Courts shall be paved and built to Nibley City parking lot standards.

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**Deleted:** or on street parking

**Deleted:** <#>On-street parking shall be limited to local roads only. On-street parking shall have dedicated and marked spaces and must be approved by the City Engineer,

6. Landscaping: All portions of the lot not improved with structures or other impervious surfaces shall be maintained with suitable landscaping of plants, trees, shrubs, grasses, or similar landscaping materials.

- a. Landscaping shall also be installed in all park strips to the same standards as other onsite landscaping. Asphalt, concrete, bricks, pavers, railroad ties, and other nonvegetative material are not allowed in the park strip area between the curb and sidewalk. Xeriscaping is permitted. The developer should plant street trees of an approved species and size along all street. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.
- b. Buffering: R-PUD developments shall provide buffering along Highway 89/91 or Highway 165, or along the boundary of an R-PUD that is adjacent to commercial, or industrial zones. Buffering landscaping is not required if commercial or industrial zones are separated by a public street from the R-PUD. Buffering shall meet the standards within this ordinance.
- c. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.

7. Fences:

- a. Permitted Fences: Dwelling units are allowed to install and construct fences in compliance with NCC 19.24.090. Vinyl fences are only permitted in an R-PUD for the purpose to mark property lines of individual dwelling units.
- b. Fencing to mark the boundary of the development or amenities must meet the following standards:
  - (1) Opaque fences or walls must only be 4 feet tall. Any fencing above 4 feet must be at a minimum 80% transparent.
  - (2) Fencing and walls must be constructed out of concrete, bricks, rock, or metal bars. Chain link and vinyl fences are prohibited unless used to mark the property boundary of the dwelling unit. Wood may only be used in a rail or agricultural-type fencing. Other materials may be approved by the Planning Commission based on the longevity of the material and if the material will aesthetically enhance the property. Walls and fencing shall also comply with NCC 19.24.090 and other fencing setback requirements as contained within Nibley City Code.

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HISTORY

*Adopted by Ord. 18-10 on  
5/23/2019 Amended by Ord. 19-16  
on 10/10/2019*



# R-PUD Ordinance Updates

September 10, 2020



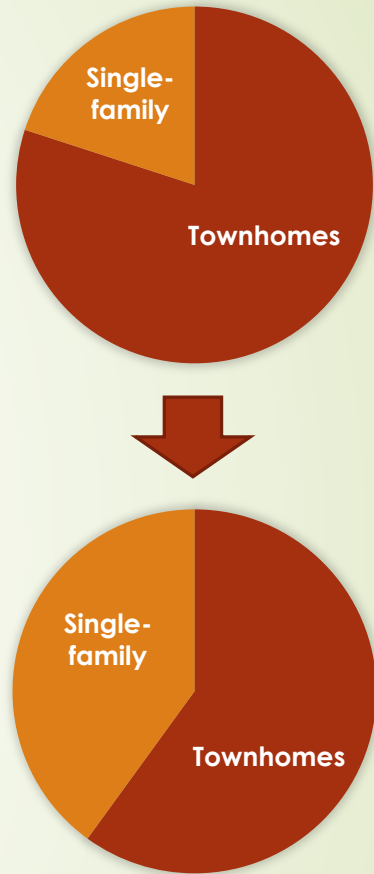
# R-PUD Ordinance Updates

- Background
  - R-PUD Ordinance put on 180-day moratorium- March 26 (Expires September 22)
  - Several workshops held with Planning Commission. Joint Workshop held with City Council to discuss the existing ordinance and potential changes
  - Planning Commission recommends changes to:
    - Address concerns related to open space provisions, housing density and housing unit type
    - Clarify requirements and definitions

# R-PUD Ordinance

## ► Proposed changes

- Adjust minimum provision of single-family homes from 20% to 40% with a maximum of townhomes adjusted from 80% to 60%(60/40 split)
- Reduce maximum density from 12 units/net developable acre to 10 units/net developable acre
- Delete the allowance to count open space provided in public rights-of-way toward open space requirement
- Add a 20 acre minimum development size for R-PUDs
- Clarify that alternative amenities in support of City's park & recreation goals can substitute open space amenity requirements
- Delete the allowance to count on-street parking as guest parking for townhomes
- Add 'public restrooms' to the list of required open space amenities





# R-PUD Ordinance

## ➤ **Proposed changes (continued)**

- Clarify single-family, patio homes, townhomes and condominiums are permitted uses in town center
- Delete provision that commercial needs to be concentrated in one area
- Delete requirement for onsite HOA office
- Clarify that Preliminary Maintenance Plan is required with R-PUD app
- Clarify that Overlay Zone is not final until development agreement is recorded
- Clarify that streets with sidewalks meet pedestrian connectivity requirement



# R-PUD Ordinance

## ► **Planning Commission Recommendation**

- Recommend approval of Ordinance 20-16, as presented with the following condition:
  - To rescind the ordinance if City Council does not approve the update before the moratorium is lifted (September 22).

## ► **Staff Recommendation**

- Approve Ordinance 20-16: An Ordinance Update to Nibley City Code 19.32 Amending Residential Planned Unit Development (R-PUD) requirements. Staff recommends waiving the second reading to approve the ordinance within the moratorium deadline.