



NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, October 22, 2020 – 6:00 p.m.

6:00 p.m. - Nuisance Ordinance Violation Appeal Hearing

6:30 p.m. - Adjourn to Regular City Council Meeting

1. Opening Ceremonies (Councilmember Laursen)
2. Call to Order and Roll Call (Chair)
3. Approval of the Previous Meeting Minutes and Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Approval of Items on the Consent Agenda²
 - 7-a. **Resolution 20-17:** Appointments to the Nibley City Fraud Audit Committee
 - 7-b. **Resolution 20-20:** Calling a Special Election on June 22, 2021, to Vote on the Firefly Estates Referendum
6. Planning Commission Report
7. **Presentation** – Introduction of Larry Jacobsen as Nibley Representative on the Cache Mosquito Abatement District Board of Trustees
8. **Presentation and Discussion** – Regarding the Purchase of Public Works Equipment and Public Park Amenities Related to Covid Funding
9. **Discussion & Consideration** – Ordinance 20-18: Annexation Petition for 1 Parcel on 25.86 Acres, Contained Within Parcel Tax ID: 03-014-0025, Located North of 3200 South, and West of 1600 West, and East of the Hyrum Slough (Second Reading)
10. **Discussion & Consideration** – Ordinance 20-13: Accessory Dwelling Unit Standards (Second Reading)
11. **Workshop** – Ordinance 20-16: Amendments to the Nuisance Ordinance
12. **Council and Staff Reports**

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

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

² Items on the Consent Agenda are considered to be routine and/or non-controversial, and will be approved in one vote.



**Nuisance Ordinance Violation Appeal
Hearing**

Description	Request to appeal City Staff determination for violation of Nibley City Code Section 7.02.020(B)(15)
Department	Administration
Presenter	Levi Roberts, Planner
Recommendation	Deny request for appeal
Reviewed By	Mayor, City Manager, City Planner

Background:

Mark and Tami DeCoursey recently received a nuisance compliance letter for Nibley City Code Section 7.02.020(B)(15), which describes '*obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the city council*' as a nuisance that must be abated.

Apple Creek Subdivision was designed as a Low Impact Development in relation to stormwater management. The park strips in this subdivision are designed to carry stormwater for a calculated volume of runoff. Specifically, they should be approximately 16 inches deep at the bottom with a gentle slope toward the center. City Staff performed a visual inspection of all swales in Apple Creek on September 17 and determined that several swales, including the DeCoursey's, no longer meet the depth requirement that was approved with the subdivision. Mark and Tami DeCoursey have since requested an appeal with the City Council.

The City's code provides a process for the City to follow, which includes a hearing before the City Council. Importantly, this is a hearing to determine whether the City's code and standards have been violated, and it is an opportunity for the residents to show whether their actions were permitted or authorized by the City. It is not a hearing to modify or amend the City's code or to alter the original conditions and requirements of subdivision approval, which included the swales. In short, the hearing is to enforce code, not to grant exceptions to it.

For the hearing, Staff should have an opportunity to explain the nature of the violation and the DeCoursey's should have an opportunity to explain why they feel that this violation should be appealed. Based upon this, the City Council needs to determine whether to appeal the violation or uphold it. If a determination is not made by the end of the hearing, the City Council may deliberate in closed session on the matter to make a final determination.

#5 Approval of Items on the Consent Agenda

Description	Consent Agenda – 7-a. Resolution 20-17: Appointments to the Nibley City Fraud Audit Committee 7-b. Resolution 20-20: Calling a Special Election on June 22, 2021, to Vote on the Firefly Estates
Department	Administration
Presenter	Mayor Dustin
Recommendation	Move to approve the items included on the Consent Agenda.
Reviewed By	Mayor, City Manager

Background:

With this agenda, the City will use a Consent Agenda. Items are placed on the consent agenda that are considered to be routine and/or non-controversial. Discussion is not anticipated on these items and all of the items on the consent agenda can be approved with a single vote. If a council member would like to discuss any of the consent agenda items during the meeting, a council member may request to move that item from the consent agenda to the regular portion of the agenda.

a. Resolution 20-17: Appointments to the Nibley City Fraud Audit Committee

At the 9-17-2020 City Council meeting, the City Council approved fraud policies to protect the financial assets of the City. One of the proposals in that policy was to create an Audit Committee. The policy says the audit committee shall have three members appointed by the mayor, including:

1. A person familiar with government financial operations,
2. A community member, and
3. A City Council member.

***b.* Resolution 20-20: Calling a Special Election on June 22, 2021, to Vote on the Firefly Estates**

RESOLUTION 20-17

A RESOLUTION APPOINTING REPRESENTATIVES TO THE NIBLEY CITY FRAUD AUDIT COMMITTEE

WHEREAS, Nibley City strives to instill a culture rewarding high ethical standards and has established written policies and strong practices that address standards of ethical behavior, prohibit activities, require disclosures, and give clear direction on how and to whom disclosures should be submitted and reviewed; and

WHEREAS, Nibley City's Conflict of Interest and Ethical Behavior Policy necessitates the creation of an Audit Committee; and

WHEREAS, the Nibley City Audit Committee facilitates the handling, investigation, and resolution of complaints and reports of improper government action and assists the governing body in its financial oversight responsibilities; and

WHEREAS, the Audit Committee should include three (3) members appointed by the mayor, include a person familiar with government financial operations, a community member, and a City Council member.

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

1. ??? is hereby appointed to serve as a representative familiar with government financial operations, on the Nibley City Audit Committee.
2. ??? is hereby appointed to serve as a community member representative on the Nibley City Audit Committee.
3. ??? is hereby appointed to serve as a City Council representative on the Nibley City Audit Committee.

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

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

Agenda Item #7

Description	Presentation– Introduction of Larry Jacobsen as Nibley Representative on the Cache Mosquito Abatement District Board of Trustees
Department	Administration
Presenter	Mayor Dustin
Recommendation	Give Mr. Jacobsen direction regarding his duties and role on the Cache Mosquito Abatement District Board of Trustees
Reviewed By	Mayor, City Manager, City Treasurer, Public Works Director

Background:

The Council will meet Mr. Jacobsen and have the opportunity to give him direction regarding his role on the Cache Mosquito Abatement District Board of Trustees

Agenda Item #8

Description	Presentation and Discussion – Regarding the Purchase of Public Works Equipment and Public Park Amenities Related to Covid Funds
Department	Administration
Presenter	Justin Maughan
Recommendation	Give Mr. Maughan direction and approval to proceed with the purchase of a public works playground sanitizer and public picnic tables.
Reviewed By	Mayor, City Manager, City Treasurer, Public Works Director

Background:

Staff met together last week to discuss opportunity to spend CARES Act Money. Purchasing Policy requires any purchases over \$25k be approved by City Council. Staff would like to purchase an additional 40 aluminum picnic tables, to allow for greater social distancing at City and private events. The tables would be distributed around to various parks around the City at a cost \$25,100. We would also like to purchase a piece of equipment and an attachment for that equipment that would allow a disinfection mist to be sprayed on the playground equipment. The equipment would also be utilized as a mower when not in use to sanitize. The cost would be \$30,250.00.

Agenda Item #9

	Discussion & Consideration – Ordinance 20-18: Annexation Petition for 1 Parcel on 25.86 Acres, Contained Within Parcel Tax ID: 03-014-0025, Located North o 3200 South, and West of 1600 West, and East of the Hyrum Slough (Second Reading)
Department	Planning
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 20-18: Annexation Petition for 1 Parcel on 25.86 Acres, Contained Within Parcel Tax ID :03-014-0025, Located North of 3200 South, and West of 1600 West, and East of the Hyrum Slough.
Reviewed By	Mayor, City Manager, City Attorney, City Planner

Background:

Malouf has filed an annexation petition for a property located at approximately 1525 West 3200 South, directly south and adjacent to their existing property. This property is currently in unincorporated Cache County. The annexation would be contiguous with existing City boundaries and would not create any islands or peninsulas. It is within the City's annexation declaration boundary of the City's annexation policy plan. The applicant has indicated that they intend to connect to utilities from the north, which the public works director has indicated is appropriate for the site. The applicant proposes a commercial use, which is consistent with the Future Land Use Map of the General Plan.

The City Council accepted the petition for further consideration on July 30. The City Attorney then reviewed the petition and the City Recorder/City Manager certified the petition on August 20 and published and provided notice of certification and a 30 day protest period, as provided in UCA 10-2-406 and 10-2-407. There have been no protests filed for the annexation. On August 20, the Nibley City Planning Commission recommended approval of the annexation with a commercial zoning designation.

ORDINANCE 20-18

AN ORDINANCE APPROVING ZONING AND THE ANNEXATION PETITION FOR 1 PARCEL ON 25.86 ACRES, CONTAINED, WITHIN PARCEL TAX ID: 03-014-0025, LOCATED NORHT OF 3200 SOUTH, AND WEST OF 1600 WEST, AND EAST OF THE HYRUM SLOUGH

BE IT ORDAINED BY THE NIBLEY CITY COUNCIL LOCATED AT NIBLEY, UTAH, THAT:

1. The attached Annexation Petition, with the following legal description, be approved to annex into the City.

A portion of the SE1/4 of Section 19, Township 11 North, Range 1 East, Salt Lake Base & Meridian, located in Nibley, Utah, more particularly described as follows: Beginning at the East 1/4 Corner of Section 19, T11N, R1E, S.L.B. & M. (Basis Bearing: N0°32'00"W along the Section line between the East 1/4 Corner and the Northeast Corner of said Section 19), said Corner being the southeast corner of HERITAGE BUSINESS PARK, PHASE 1 Subdivision, and the northwest corner of MEADOW VIEW P.U.D. Subdivision, according to the Official Plats thereof on file in the Office of the Cache County Recorder, and a point on the current Corporate Limits of Nibley City; thence along said Corporate Limits the following 3 (three) courses and distances: S0°29'11"E 1,076.59 feet; thence N89°14'46"W 228.25 feet; thence S0°12'46"E 99.01 feet to the southerly line of 3200 South Street as described and monumented as part of ZOLLINGERS' MINOR SUBDIVISION, according to the Official Plat thereof on file in the Office of the Cache County Recorder; thence N89°14'46"W (plat: N89°02'W) along the southerly line of 3200 South Street 594.68 feet; thence N0°45'14"E 99.00 feet; thence along the extension of, and along an existing fence line the following 8 (eight) courses and distances: N4°44'30"E 69.05 feet; thence N5°15'00"E 341.30 feet; thence N16°51'00"W 30.00 feet; thence N20°13'30"W 76.00 feet; thence N22°02'00"W 36.50 feet; thence N32°09'00"W 14.00 feet; thence N48°14'00"W 86.00 feet; thence N50°59'00"W 76.15 feet; thence S39°21'00"W 61.50 feet to the centerline of an existing slough; thence along the centerline of said slough the following 19 (nineteen) courses and distances: N46°07'00"W 26.00 feet; thence N72°30'00"W 54.00 feet; thence N53°53'00"W 98.00 feet; thence N23°57'00"W 70.00 feet; thence N59°56'00"W 54.00 feet; thence S45°18'00"W 26.00 feet; thence S67°39'00"W 43.00 feet; thence S57°19'00"W 29.00 feet; thence N72°00'00"W 45.00 feet; thence N19°00'00"W 158.00 feet; thence N51°41'00"W 78.00 feet; thence N66°29'00"W 58.00 feet; thence S67°17'00"W 79.00 feet; thence S56°07'00"W 38.00 feet; thence S76°58'00"W 29.00 feet; thence S53°26'00"W 21.00 feet; thence N56°45'00"W 47.00 feet; thence N40°33'00"W 82.00 feet; thence N69°29'00"W along the centerline of said slough and the extension thereof 91.10 feet to the southerly line of RACCOON RIDGE MINOR Subdivision, according to the Official Plat thereof on file in the Office of the Cache County Recorder and a point on the current Corporate Limits of Logan City; thence along said plat and Corporate Limits of Logan City the following 3 (three) courses and distances: N52°51'46"E (plat: N52°26'31"E) 59.22 feet; thence N89°31'32"E (plat: N89°06'17"E) 189.42 feet; thence S89°39'57"E (plat: N89°54'48"E) 330.58 feet to the southwest corner of said HERITAGE BUSINESS PARK, PHASE 1 Subdivision and a common point with said Corporate Limits of Nibley City; thence N89°56'00"E along said Plat and Corporate Limits of Nibley City 1,269.63 feet to the point of beginning.

2. The area above shall be assigned the zone as Commercial

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

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder



**PETITION FOR ANNEXATION OF REAL PROPERTY
INTO THE MUNICIPAL BOUNDARIES OF NIBLEY
CITY, UTAH**

Petition No.: _____
Date: _____
Receipt No.: _____
Filing Fee: _____
(non-refundable)

To the Mayor and City Council
Nibley City
455 W. 3200 S.
Nibley, UT 84321

Mayor and Council Members:

I/We, the undersigned, do hereby petition the Mayor and the City Council of Nibley City, Utah, to annex the stated property as follows:

Legal Description¹: See Attachment

Cache County Tax I.D. Number (if applicable): _____

Address/General Location or Street Network: Parcel ID . 03 - 014 - 0025
about 1525 W. & 3200 S. (please use legal description)

Proposed Land Use(s) and Residential Densities: Commercial

Size of Parcel (in acres): 25.86

Existing Land Use: AGRICULTURAL

Surrounding Land Use: North: Commercial East: Residential
South: agricultural West: agricultural

Utility Extension and Schedule:
Sewer: All utilities will be stubbed in from lots in Nibley city
Water: to the North
Drainage: _____
Other: _____

- If the Petition contains multiple properties, each under separate ownership, include the signature of each separate owner, with a reference to which property belongs to each owner.
- If the property is owned/held by a trust, please include the signatures of all trustees

¹Attach a surveyed legal description of the property proposed for annexation to this application, together with a surveyed plat showing the property and its surrounding area.

Acknowledgement

I understand that this petition/application, if approved, applies only to the land use and is not approval or assurance of compliance with any other City regulation, code, or ordinance. Any information, technical assistance, or review comments by any City official are intended solely as informal guidance, and are neither a determination of compliance nor binding on any agency with code enforcement responsibilities or the City.

Current Owner's Name: Sam Malouf

Signature [Signature]

Date 6-26-2020 Phone _____

Address 91525 W. 2960 S.

City/State/Zip Nibley, UT, 84321

Signature [Signature]

Date _____ Phone _____

Address _____

City/State/Zip _____

Signature _____

Date _____ Phone _____

Address _____

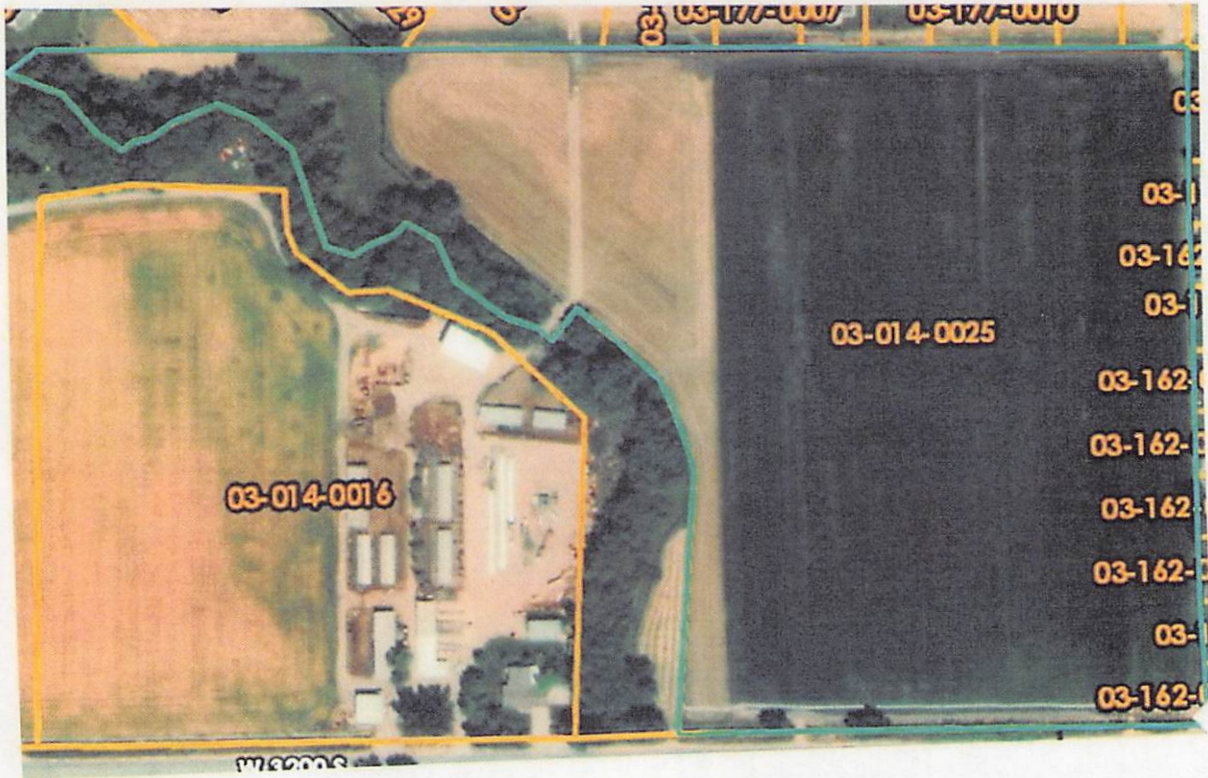
City/State/Zip _____

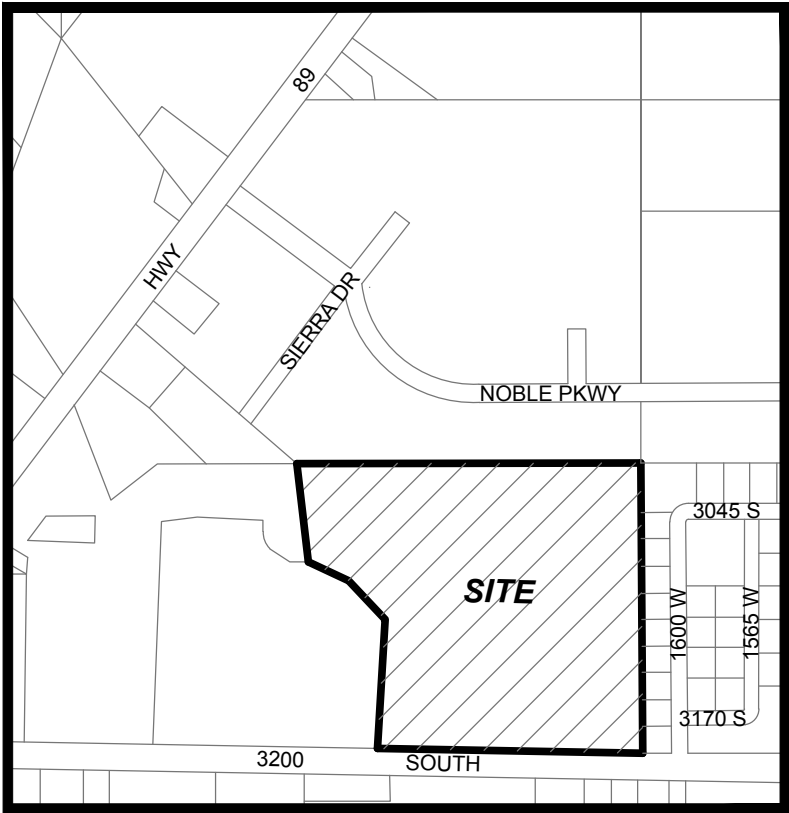
Legal Description:

BEG AT E/4 COR OF SEC 19 T 11N R 1E & AT SE COR OF HERITAGE BUSINESS PARK PH 1 & NW COR OF MEADOW VIEW PUD & TH S00°29'11"E 1072.50 FT TH N89°31'11"W 228.21 FT TH S00°12'46"E 3.0 FT TO N LN OF 3200 S ST TH N89°14'46"W 593.0 FT TH N04°44'30"E 69.05 FT TH N05°15'00"E 341.30 FT TH N16°51'00"W 30.0 FT TH N20°13'30"W 76.0 FT TH N22°02'00"W 36.5 FT TH N32°09'00"W 14.0 FT TH N48°14'00"W 86.00 FT TH N50°59'00"W 76.15 FT TH S39°21'00"W 61.5 FT TO CL OF SLOUGH TH ALG SLOUGH IN 19 COURSES: N46°07'00"W 26.0 FT TH N72°30'00"W 54.00 FT TH N53°53'00"W 98.0 FT TH N23°57'00"W 70.0 FT TH N59°56'00"W 54.0 FT TH S45°18'00"W 26.00 FT TH S67°39'00"W 43.0 FT TH S57°19'00"W 29.0 FT TH N72°00'00"W 45.0 FT TH N19°00'00"W 158 FT TH N51°41'00"W 78.0 FT TH N66°29'00"W 58 FT TH S67°17'00"W 79.0 FT TH S56°07'00"W 38.0 FT TH S76°58'00"W 29.0 FT TH S53°26'00"W 21.0 FT TH N56°45'00"W 47.0 FT TH N40°33'00"W 82.0 FT TH N69°29'00"W 91.10 FT TO S LN OF RACON RIDGE MINOR SUBD TH N52°51'46"E 59.22 FT TH N89°31'32"E 189.42 FT TH S89°39'57"E 330.58 FT TO SW COR TO SD HERITAGE BUSINESS PARK PH 1 TH N89°56'00"E 1269.63 FT TO BEG CONT 25.86 AC M/B

Land Type

LAND
GREENBELT

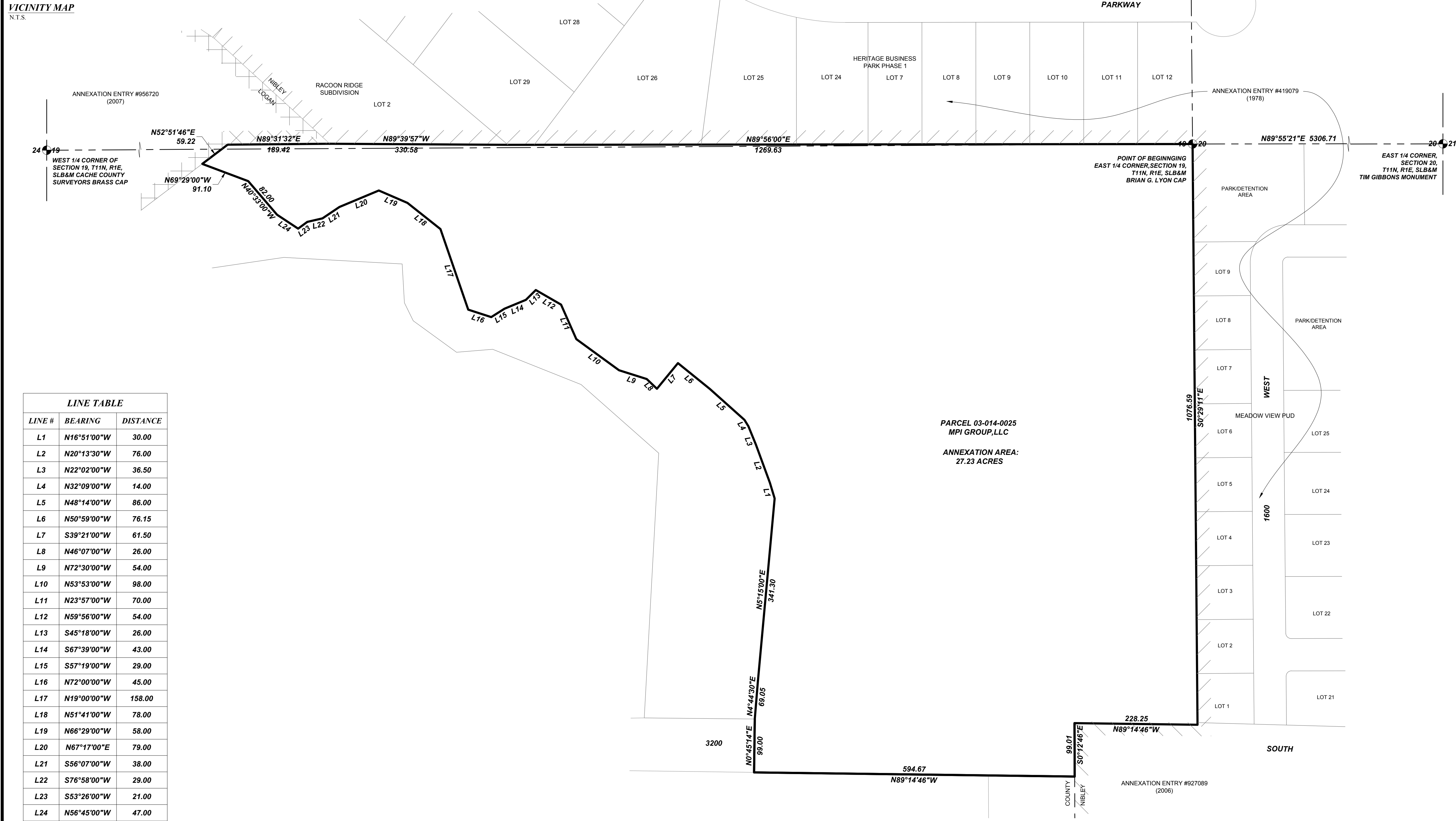
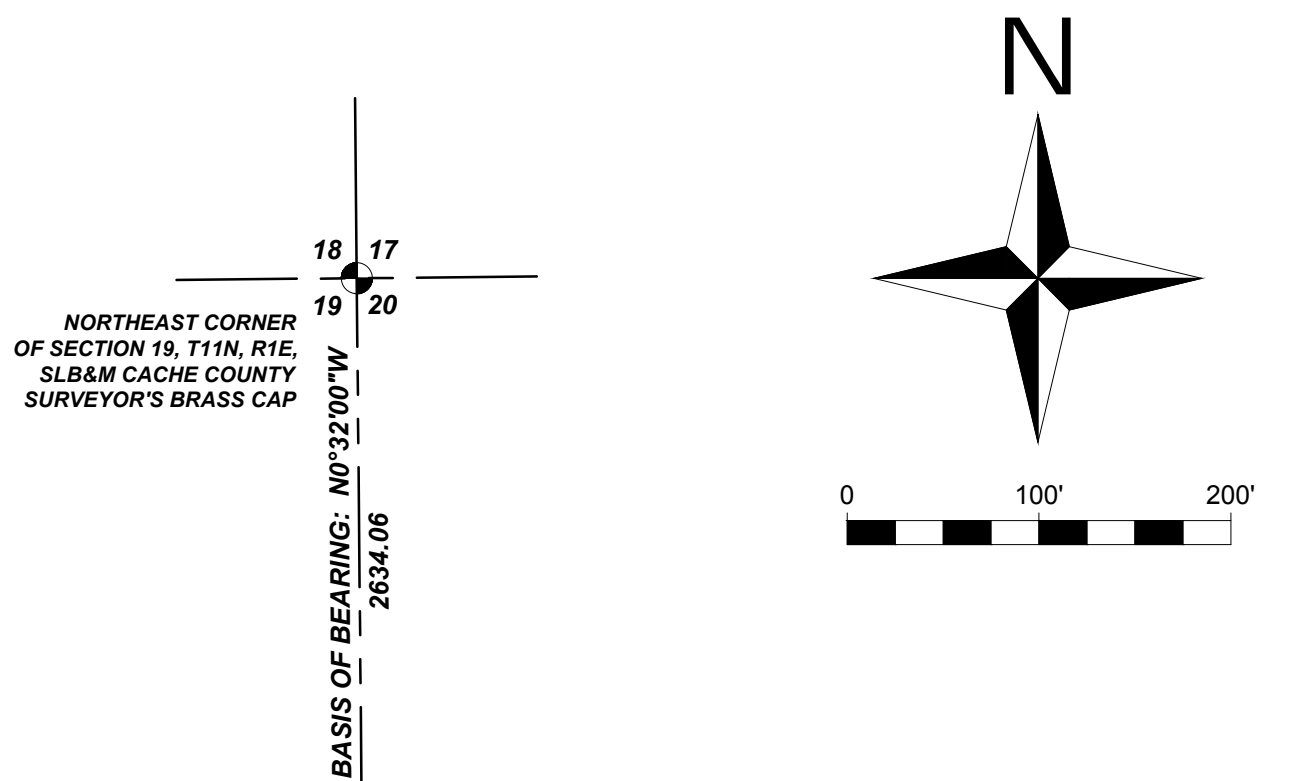




VICINITY MAP
N.T.S.

ANNEXATION PLAT
MPI GROUP, INC ADDITION II

NIBLEY CITY, CACHE COUNTY, UTAH



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N16°51'00"W	30.00
L2	N20°13'30"W	76.00
L3	N22°02'00"W	36.50
L4	N32°09'00"W	14.00
L5	N48°14'00"W	86.00
L6	N50°59'00"W	76.15
L7	S39°21'00"W	61.50
L8	N46°07'00"W	26.00
L9	N72°30'00"W	54.00
L10	N53°53'00"W	98.00
L11	N23°57'00"W	70.00
L12	N59°56'00"W	54.00
L13	S45°18'00"W	26.00
L14	S67°39'00"W	43.00
L15	S57°19'00"W	29.00
L16	N72°00'00"W	45.00
L17	N19°00'00"W	158.00
L18	N51°41'00"W	78.00
L19	N66°29'00"W	58.00
L20	N67°17'00"E	79.00
L21	S56°07'00"W	38.00
L22	S76°58'00"W	29.00
L23	S53°26'00"W	21.00
L24	N56°45'00"W	47.00

SURVEYOR'S CERTIFICATE
I, DENNIS P. CARLISLE, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 172675 IN ACCORDANCE WITH TITLE 58, CHAPTER 22 OF UTAH STATE CODE. I FURTHER CERTIFY THAT THIS PLAT IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED INTO NIBLEY CITY, UTAH.

BOUNDARY DESCRIPTION
A portion of the SE1/4 of Section 19, Township 11 North, Range 1 East, Salt Lake Base & Meridian, located in Nibley, Utah, more particularly described as follows:
Beginning at the East 1/4 Corner of Section 19, T11N, R1E, S.L.B.& M. (Basis Bearing: N0°32'00"W along the Section line between the East 1/4 Corner and the Northeast Corner of said Section 19), said Corner being the southeast corner of HERITAGE BUSINESS PARK, PHASE 1 Subdivision, and the northwest corner of MEADOW VIEW P.U.D. Subdivision, according to the Official Plats thereof on file in the Office of the Cache County Recorder, and a point on the current Corporate Limits of Nibley City; thence along said Corporate Limits the following 3 (three) courses and distances: S0°29'11"E 1,076.59 feet; thence N89°14'46"W 228.25 feet; thence S0°12'46"E 99.01 feet to the southerly line of 3200 South Street as described and monumented as part of ZOLLINGERS' MINOR SUBDIVISION, according to the Official Plat thereof on file in the Office of the Cache County Recorder; thence N89°14'46"W (plat: N89°02'W) along the southerly line of 3200 South Street 594.68 feet; thence N0°45'14"E 99.00 feet; thence along the extension of, and along an existing fence line the following 8 (eight) courses and distances: N4°44'30"E 69.05 feet; thence N5°15'00"E 341.30 feet; thence N16°51'00"W 30.00 feet; thence N20°13'30"W 76.00 feet; thence N22°02'00"W 36.50 feet; thence N32°09'00"W 14.00 feet; thence N48°14'00"W 86.00 feet; thence N50°59'00"W 76.15 feet; thence S39°21'00"W 61.50 feet to the centerline of an existing slough; thence along the centerline of said slough the following 19 (nineteen) courses and distances: N46°07'00"W 26.00 feet; thence N72°30'00"W 54.00 feet; thence N53°53'00"W 98.00 feet; thence N23°57'00"W 70.00 feet; thence N59°56'00"W 54.00 feet; thence S45°18'00"W 26.00 feet; thence S67°39'00"W 43.00 feet; thence S57°19'00"W 29.00 feet; thence N72°00'00"W 45.00 feet; thence N19°00'00"W 158.00 feet; thence N51°41'00"W 78.00 feet; thence N66°29'00"W 58.00 feet; thence S67°17'00"W 79.00 feet; thence S56°07'00"W 38.00 feet; thence S76°58'00"W 29.00 feet; thence S53°26'00"W 21.00 feet; thence N56°45'00"W 47.00 feet; thence N40°33'00"W 82.00 feet; thence N69°29'00"W along the centerline of said slough and the extension thereof 91.10 feet to the southerly line of RACCOON RIDGE MINOR Subdivision, according to the Official Plat thereof on file in the Office of the Cache County Recorder and a point on the current Corporate Limits of Logan City; thence along said plat and Corporate Limits of Logan City the following 3 (three) courses and distances: N52°51'46"E (plat: N52°26'31"E) 59.22 feet; thence N89°31'32"E (plat: N89°06'17"E) 189.42 feet; thence S89°39'57"E (plat: N89°54'48"E) 330.58 feet to the southwest corner of said HERITAGE BUSINESS PARK, PHASE 1 Subdivision and a common point with said Corporate Limits of Nibley City; thence N89°56'00"E along said Plat and Corporate Limits of Nibley City 1,269.63 feet to the point of beginning.

Contains: 27.23 +/- acres

SURVEYOR'S SEAL	
DENNIS P. CARLISLE PROFESSIONAL LAND SURVEYOR CERTIFICATE NO. 172675	
DATE	

ACCEPTANCE OF LEGISLATIVE BODY
THIS IS TO CERTIFY THAT WE, THE UNDERSIGNED NIBLEY CITY COUNCIL HAVE RECEIVED A PETITION SIGNED BY THE MAJORITY OF THE OWNERS OF THE TRACT OF LAND SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF NIBLEY AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR THE FILING HERewith ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTATED (1979) 10-1-04 THROUGH 423, (AS REVISED) AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREafter AS THE **MPI GROUP, INC ADDITION II** TO NIBLEY CITY.

DATED THIS _____ DAY OF _____ A.D. 20 ____.

RECORDER'S SEAL	
ATTEST: _____ RECORDER	

APPROVAL BY DEPUTY COUNTY SURVEYOR
THIS PLAT HAS BEEN REVIEWED BY THE COUNTY SURVEYOR AND IS HEREBY APPROVED AS A FINAL LOCAL ENTITY PLAT, PURSUANT TO UTAH CODE ANNOTATED 17-23-20 AMENDED.

SURVEYOR'S SEAL	
DEPUTY COUNTY SURVEYOR	
DATE	

ANNEXATION PLAT

MPI GROUP, INC ADDITION II
NIBLEY CITY, CACHE COUNTY, UTAH

RECORDED # _____
STATE OF UTAH, COUNTY OF CACHE, RECORDED AND FILED AT THE REQUEST OF: _____

DATE: _____ TIME: _____ BOOK: _____ PAGE: _____

\$ _____
FEE _____ CACHE COUNTY RECORDER

Mayor
Shaun Dustin



Council Members
Kay Sweeten
Norman Larsen
Nathan Laursen
Kathryn Beus
Tom Bernhardt

Annexation Certification Notification

An Annexation Petition has been filed with Nibley City. Nibley City Council received certification of the Annexation Petition on August 17, 2020. The annexation pertains to 25.86 acres located North of 3200 S, West of 1600 W, and East of the Hyrum Slough. The Annexation Petition contains Parcel 03-014-0025. The complete application is available for inspection and copying at Nibley City Hall. The City Council may grant the petition unless, within 30 days after the City Council received notice of the certified petition, a written protest is filed with the Cache County Boundary Commission and a copy of the written protest is delivered to the City Recorder. All protest must be filed by September 16, 2020. All protest must be delivered to:

Cache County Boundary Commission
County Executive's Office
199 North Main
Logan, Utah 84321

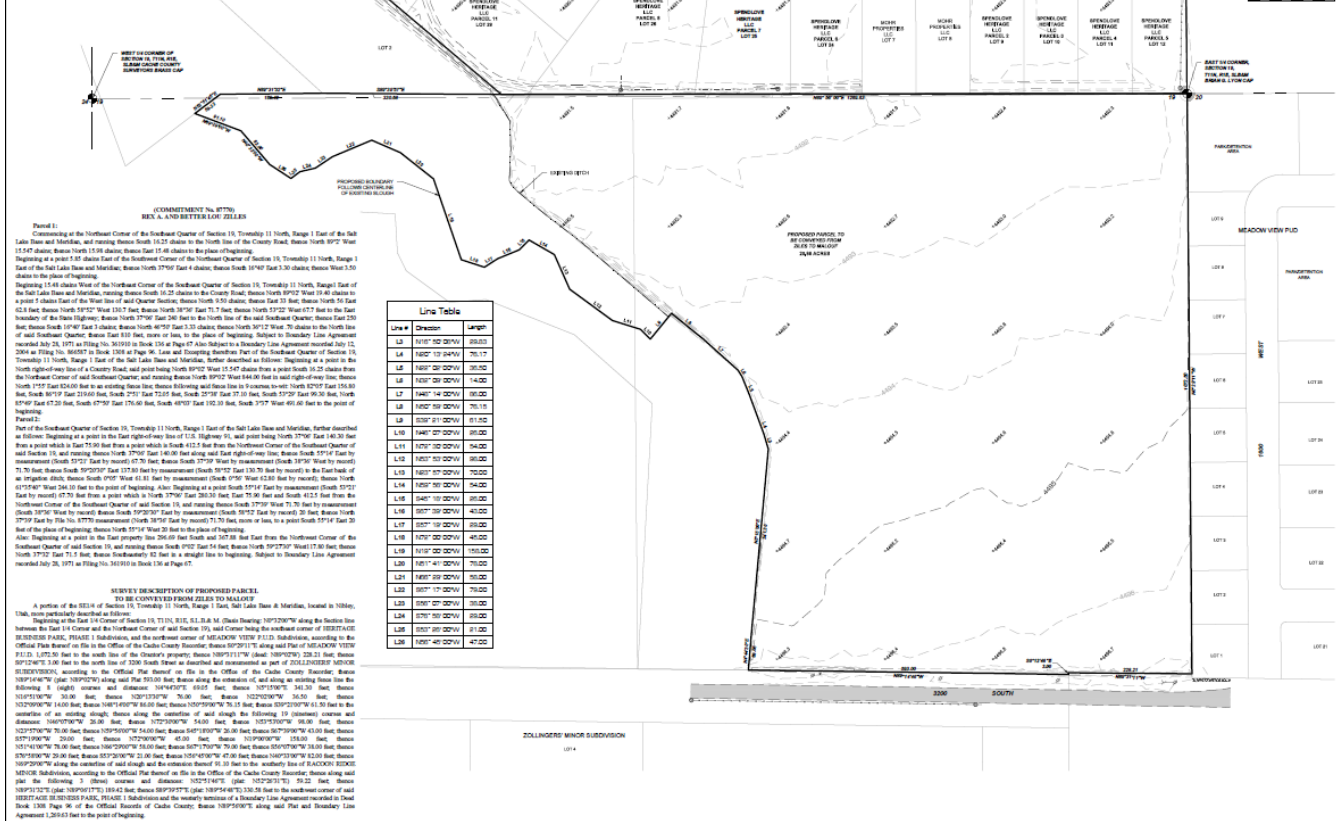
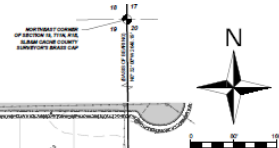
Nibley City Recorder
455 W 3200 S
Nibley, Utah 84321

For more information please see www.nibleycity.com or visit Nibley City Hall.

Levi Roberts, AICP
Nibley City
City Planner

— CD —	EXISTING STORM DRAIN	— EV —	EXISTING WATER VALVE	(BEARING AND/OR DISTANCE) DENOTES RECORD DEED
— W —	EXISTING WATER LINE	— FV —	EXISTING FIRE HYDRANT	RAC DENOTES REBAR AND CAP
— SS —	EXISTING SEWER LINE	— SD —	EXISTING STORM DRAIN BOX	
— C —	EXISTING CURB	— M —	EXISTING SEWER MANHOLE	
— A —	EXISTING ASPHALT	— S —	EXISTING STORM DRAIN MANHOLE	
— C & S —	EXISTING CURB & GUTTER	— W —	EXISTING WATER METER	
— X —	EXISTING FENCE	— S —	SECTIONAL MONUMENTATION	
— C —	EXISTING CONCRETE			

COMMITMENT NO. 4770



Line #	Description	Length
L1	N 10° 00' 00" W	25.00
L2	N 10° 00' 00" W	25.00
L3	N 10° 00' 00" W	25.00
L4	N 10° 00' 00" W	25.00
L5	N 10° 00' 00" W	25.00
L6	N 10° 00' 00" W	25.00
L7	N 10° 00' 00" W	25.00
L8	N 10° 00' 00" W	25.00
L9	N 10° 00' 00" W	25.00
L10	N 10° 00' 00" W	25.00
L11	N 10° 00' 00" W	25.00
L12	N 10° 00' 00" W	25.00
L13	N 10° 00' 00" W	25.00
L14	N 10° 00' 00" W	25.00
L15	N 10° 00' 00" W	25.00
L16	N 10° 00' 00" W	25.00
L17	N 10° 00' 00" W	25.00
L18	N 10° 00' 00" W	25.00
L19	N 10° 00' 00" W	25.00
L20	N 10° 00' 00" W	25.00
L21	N 10° 00' 00" W	25.00
L22	N 10° 00' 00" W	25.00
L23	N 10° 00' 00" W	25.00
L24	N 10° 00' 00" W	25.00
L25	N 10° 00' 00" W	25.00
L26	N 10° 00' 00" W	25.00
L27	N 10° 00' 00" W	25.00
L28	N 10° 00' 00" W	25.00
L29	N 10° 00' 00" W	25.00
L30	N 10° 00' 00" W	25.00
L31	N 10° 00' 00" W	25.00
L32	N 10° 00' 00" W	25.00
L33	N 10° 00' 00" W	25.00
L34	N 10° 00' 00" W	25.00
L35	N 10° 00' 00" W	25.00
L36	N 10° 00' 00" W	25.00
L37	N 10° 00' 00" W	25.00
L38	N 10° 00' 00" W	25.00
L39	N 10° 00' 00" W	25.00
L40	N 10° 00' 00" W	25.00
L41	N 10° 00' 00" W	25.00
L42	N 10° 00' 00" W	25.00
L43	N 10° 00' 00" W	25.00
L44	N 10° 00' 00" W	25.00
L45	N 10° 00' 00" W	25.00
L46	N 10° 00' 00" W	25.00
L47	N 10° 00' 00" W	25.00
L48	N 10° 00' 00" W	25.00
L49	N 10° 00' 00" W	25.00
L50	N 10° 00' 00" W	25.00
L51	N 10° 00' 00" W	25.00
L52	N 10° 00' 00" W	25.00
L53	N 10° 00' 00" W	25.00
L54	N 10° 00' 00" W	25.00
L55	N 10° 00' 00" W	25.00
L56	N 10° 00' 00" W	25.00
L57	N 10° 00' 00" W	25.00
L58	N 10° 00' 00" W	25.00
L59	N 10° 00' 00" W	25.00
L60	N 10° 00' 00" W	25.00
L61	N 10° 00' 00" W	25.00
L62	N 10° 00' 00" W	25.00
L63	N 10° 00' 00" W	25.00
L64	N 10° 00' 00" W	25.00
L65	N 10° 00' 00" W	25.00
L66	N 10° 00' 00" W	25.00
L67	N 10° 00' 00" W	25.00
L68	N 10° 00' 00" W	25.00
L69	N 10° 00' 00" W	25.00
L70	N 10° 00' 00" W	25.00
L71	N 10° 00' 00" W	25.00
L72	N 10° 00' 00" W	25.00
L73	N 10° 00' 00" W	25.00
L74	N 10° 00' 00" W	25.00
L75	N 10° 00' 00" W	25.00
L76	N 10° 00' 00" W	25.00
L77	N 10° 00' 00" W	25.00
L78	N 10° 00' 00" W	25.00
L79	N 10° 00' 00" W	25.00
L80	N 10° 00' 00" W	25.00
L81	N 10° 00' 00" W	25.00
L82	N 10° 00' 00" W	25.00
L83	N 10° 00' 00" W	25.00
L84	N 10° 00' 00" W	25.00
L85	N 10° 00' 00" W	25.00
L86	N 10° 00' 00" W	25.00
L87	N 10° 00' 00" W	25.00
L88	N 10° 00' 00" W	25.00
L89	N 10° 00' 00" W	25.00
L90	N 10° 00' 00" W	25.00
L91	N 10° 00' 00" W	25.00
L92	N 10° 00' 00" W	25.00
L93	N 10° 00' 00" W	25.00
L94	N 10° 00' 00" W	25.00
L95	N 10° 00' 00" W	25.00
L96	N 10° 00' 00" W	25.00
L97	N 10° 00' 00" W	25.00
L98	N 10° 00' 00" W	25.00
L99	N 10° 00' 00" W	25.00
L100	N 10° 00' 00" W	25.00

Agenda Item #10

Description	Discussion & Consideration – Ordinance 20-13: Accessory Dwelling Unit Standards (Second Reading)
Department	Planning
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 20-13: Accessory Dwelling Unit Standards
Reviewed By	Mayor, City Manager, City Planner

Background:

Update for October 8

During the August 13 City Council meeting, a workshop was held regarding this ordinance. Several concerns were discussed regarding the potential impact of accessory dwelling units. At the conclusion of the discussion, it was determined that Mayor Dustin and Councilmember Beus discuss specific concerns with Staff.

Levi Roberts, City Planner, met with Mayor Dustin and Councilmember Beus to discuss specific concerns with the ordinance. Based upon this discussion and a review by the City Attorney, the following changes have been made to the draft ordinance:

1. The definition of 'bona fide temporary absence' has been modified with more specificity regarding the maximum length of time for an absence.
2. Allow impact fees to be waived if the applicant can certify that they are charging rent which is affordable to low-income households for a period of at least 5 years. This is a departure from a previous approach which was being considered, which reduced the impact fee by 70% for all ADUs. This approach is still justifiable, but may be less effective at ensuring the production of affordable housing.
3. Notification must be sent to abutting property owners with an opportunity to comment for a period of 14 days.

In addition to these recommendations, the City Council requested Staff to conduct a high level feasibility analysis of detached ADUs for various property types in Nibley City.

Staff had conducted this analysis of six randomly-selected residential lots within Nibley City. This was also presented in the August 13 meeting. Based upon this analysis, it appears that detached ADUs, including required parking, are feasible in various settings throughout the City. The results of the analysis are attached to the meeting materials.

The City Council held a Workshop on June 25 to discuss the Accessory Dwelling Unit Ordinance. The following changes have been added to the draft ordinance based upon the discussion.

1. Definition for 'Bona fide temporary absence' added. **This has since been modified, as noted above.**
2. Clarification that building permits are required for new or remodeled units.
3. Construction and certificate of occupancy with inspection and certificate of occupancy is required for all ADUs
4. Clarification added that impact fees and utility base rates will be charged for ADUs. **The current draft includes a provision that impact fees could be waived by charging rent which is affordable, as noted above.**

During the June 18, 2020 meeting, the Planning Commission recommended approval of an ordinance establishing standards for Accessory Dwelling Units. An Accessory Dwelling Unit (ADU) is a secondary dwelling unit that is located on the same property as a primary dwelling unit. These take the form of basement apartments, guest houses, an apartment above the garage, etc. Nibley City's Moderate Income Housing Plan states the following as its first goal to address moderate income housing:

Allow for and reduce regulation related to accessory dwelling units in residential zones.

Nibley City currently allows for attached accessory dwelling units (ADUs). These ADUs mostly take the form of basement apartments. Nibley City should consider expanding allowances for detached ADUs within most residential zones. ADUs can be a great way to expand moderate income housing stock with minimal impacts to neighborhoods. As established above, many of Nibley City lots are larger than half an acre, which could create the opportunity for construction of ADUs throughout the city.

Moderate Income Housing Considerations

1. *How large would the City allow an ADU to be in reference to the primary structure*
2. *In what zones and lot sizes would a detached ADU be allowed?*
3. *Parking requirements? Having no or minimal parking requirements would allow for more homeowners to build ADUs*
4. *Property owner habitation*
5. *Making ADUs for short-term rentals as a prohibited use*

6. *Registration of ADUs so the City could track the number of units.*

Timeframe: Early 2020

(Nibley City Moderate Income Housing Plan, 2019, p 18)

The 2016 Nibley City General Plan estimated that Nibley has anywhere from 20-30 ADUs in the City, all in the form of attached apartments. These apartments can serve as a way to provide affordable housing throughout the community and can allow property owners to more fully realize the value of their property.

Cache County Monthly Planning Newsletter, February 2020 also provides some great information about ADUs: [Cache County Monthly Newsletter: February 2020](#).

Based upon discussions with the Planning Commission during workshop sessions and research on best practices, the draft ordinance includes the following provisions:

- A. ADUs are permitted in all zones
- B. Permit required for all ADUs to ensure compliance with chapter
- C. Short-term rentals are prohibited in ADUs
- D. Lot owner must live on property
- E. Must comply with all fire, building and health codes
- F. Separate addresses and mailboxes required
- G. Parking required: 2 additional to what is required for primary, that does not obstruct access to primary unit parking
- H. Limited to 1 ADU per lot for residential, 2 for commercial
- I. No ADUs on wetland or floodplain
- J. Minimum size for all ADUs: 300 sq. ft. Maximum for detached: 1,200 sq. ft.
- K. Maximum height of 2 stories or not exceed height of primary dwelling

Planning Commission Recommendation

During the June 18, 2020 meeting, the Planning Commission recommended to approve Ordinance 20-13: Accessory Dwelling Unit Standards with the following change.

1. Regarding setbacks, clarify that 10 feet for side and rear yards is the 'minimum setback' for detached accessory dwelling units, not in addition to the already established setbacks for accessory structures.

ORDINANCE 20-13
ACCESSORY DWELLING UNIT STANDARDS

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

WHEREAS, Nibley City recently adopted a Moderate-income Housing Plan as an appendix to the General Plan with a stated goal to allow for and reduce regulation related to accessory dwelling units in residential zones; and

WHEREAS, Nibley City promotes the provision of a variety of affordable moderate-income housing options; and

WHEREAS, Nibley City promotes the preservation of existing neighborhoods, while providing for population growth within the City.

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

1. The attached Nibley City Code 19.24.250 and the proposed amendment to NCC 19.20.020 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

Chapter 19.24.250

Accessory Dwelling Units

A. Purpose

1. This chapter establishes approval criteria and outlines processing procedures for accessory dwelling units.
2. The purpose of this chapter is to allow accessory dwelling units in zoning districts specified in this title, to establish the conditions under which accessory dwelling units are regulated under this chapter, and to set forth criteria and standards to be required of accessory dwelling units when this chapter is applicable.

B. Definitions

1. Accessory Dwelling Unit: A residential dwelling unit, but not a Mobile Home as defined by Utah State Code, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall be developed in accordance with the standards set forth in this chapter and only in those zoning districts where the use is listed as a permitted use.
~~—Bona fide temporary absence: A specified time in which a person is living away from the home for a period of time but intends to return to the home when the reason for the temporary absence is accomplished. Examples include military service, religious mission service or time spent at a vacation or second home.~~
2. ~~OR...~~ A specified time during which a property is not owner occupied. Such time shall be resident is living away from home for a period of no more than 90 days within any 180 day period. Longer absences are allowed for military, humanitarian, or religious service.
- ~~4.3.~~ Owner Occupied: The owner(s) of the property or an individual related to an owner of the property within and including two degrees of consanguinity residing on the property in either the primary dwelling or the accessory dwelling unit.

C. Accessory Dwelling Unit Approval Required

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

D. Application

1. Persons shall make application for an accessory dwelling unit on forms prepared by Nibley City. No accessory dwelling unit application shall be processed without

the submission of the application, all supporting materials as required by this chapter, and the processing fee. Incomplete applications shall not be processed under any circumstances.

2. Supporting Materials. The accessory dwelling unit application shall be submitted with the materials listed herein.
 - a. Notarized letter: a notarized letter of application shall be provided by the property owner stating that ~~such owner will occupy~~ the property will be owner-occupied except for bona fide temporary absences
 - b. Floor Plan: A floor plan showing the floor in which the accessory dwelling unit will be located shall be provided
 - c. Parking Plans: A parking plan shall be submitted showing the location of dedicated off-street parking for the accessory dwelling unit and the primary residence.
 - d. Fire Extinguisher(s): Evidence of a fire extinguisher in the accessory dwelling unit shall be provided.
 - e. Fee: The processing fee as required by the consolidated fee schedule as approved by the City council shall be paid in full.
3. ~~For new or remodeled construction, a~~ building permit is required for all new or remodeled accessory dwelling units.
4. ~~Prior to approval of all accessory dwelling unit application, a~~ certificate of occupancy will be required prior to occupancy of any accessory dwelling unit to ensure compliance with fire, building and health codes.
- e-5. Notification must be sent to abutting property owners with an opportunity to comment to Nibley City Staff within a period of fourteen (14) days from the date of notification.

Formatted

Commented [RP1]: Don't they have to approve, build, then get the COO?

Commented [LR2R1]: That is correct for those that are building a new unit, but we added the provision that everyone needs to get a COO regardless if they need a building permit to determine that they are meeting health, fire and building codes.

Formatted

Commented [LR3]: This was recommended by mayor. If we do a public hearing, would we need to notify everyone within 300 feet or could we limit this to abutting properties?

E. Approval Criteria

1. Proposed accessory dwelling units in compliance with the following criteria to ensure the health and safety of occupants.
2. Owner Occupation: ~~The property shall be owner occupied the owner(s) of the residence or an individual with a 1st or 2nd degree of consanguinity shall live either in the primary dwelling in which the accessory dwelling unit was created or the accessory dwelling unit,~~ except for bona fide temporary absences.
3. Fire, building, and health codes. The design and size of the accessory dwelling unit shall conform to all applicable standards in the fire, building, and health codes. All necessary permits shall indicate the area to be designated for accessory dwelling unit use.
4. Separate addresses and mailboxes shall be placed on all accessory dwelling units regulated by this chapter as required for public safety purposes.

5. All entrances to attached accessory dwelling units shall be located on the rear or side of the building.
6. Parking: Off-street parking for two vehicles, shall be provided for use by the tenants of the accessory dwelling unit. This parking shall be provided in addition to the required parking for the primary dwelling unit and shall not obstruct access to the parking of the primary dwelling unit. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.
7. One Accessory Dwelling Unit: Only one accessory dwelling unit shall be allowed for each single-family dwelling lot.
8. Detached Structures: Accessory dwelling units may be permitted in a detached structure.
9. Short Term Rental, as defined within this title, shall be a prohibited use within accessory dwelling units.

10. No accessory dwelling unit shall be built on a registered wetland or flood plain

11. Installation of separate water and sewer meters for accessory dwelling units shall be prohibited.

12. Accessory dwelling units shall be charged the base rate for water and sewer usage in accordance with the Nibley City Fee Schedule.

13. Impact Fees: Accessory dwelling units shall be subject to impact fees for residential buildings in accordance with the Nibley City Impact Fee Schedule.

a. Impact fees shall be waived for accessory dwelling units which provide rent which is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of five (5) years.

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

2. The applicant shall include within any rental contract subject to this ordinance a statement that the rent amount is controlled by this ordinance, a description of how the rent was calculated, and information for the renter to contact the City if the renter believes the rent has been improperly calculated or charged.

10-3. The applicant shall provide rental contract documentation to Nibley City Staff to determine affordability and compliance with this ordinance on an annual basis for a period of five (5) years. Those that do not provide such verified documentation shall be notified in writing of the need to provide documentation or be subject to the full impact fee. If documentation is not provided within 21 days of such notice, the impact fee shall be assessed and

Commented [RP4]: This is fine, especially since we have the normal adjustment provisions in the impact fee ordinances. However, we should make sure to have some discussion/findings as part of adopting this ordinance just in case someone wants to challenge this. Need to be able to explain the basis for imposing fewer fees on ADUs.

Commented [LR5R4]: After a discussion with Mayor and Kathryn, the following approach was suggested in place of the discounted rate. I could see this being a bit burdensome to track administratively, but I like to tie to low-income housing, which is the primary purpose of the ordinance.

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Not Highlight

Formatted

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

[immediately payable. The City may enforce and collect the impact fee using any actions or remedies available to it.](#)

F. Size, Height and Zoning

1. Accessory dwelling units shall have the following requirements:
 - a. Shall have the minimum size of 300 sq. ft.
 - b. No detached accessory dwelling units shall be larger than 1,200 sq. ft.
 - c. Detached accessory dwelling units shall follow the sizing and setback requirements for other accessory buildings as listed in NCC 19.24. For new detached accessory dwelling unit structures, a minimum rear and side setback of 10 feet is required.
 - d. Detached accessory dwelling units shall not be permitted on lots smaller than 12,000 sq. ft.
 - e. The total square footage of all detached accessory dwelling units shall not occupy more than twenty five percent (25%) of the rear yard.
 - f. Detached accessory dwelling units shall be limited to two stories and shall not exceed the height of the primary single-family dwelling.
2. Accessory Dwelling Unit Use within Commercial, Neighborhood Commercial, and Industrial Zones
 - a. Commercial buildings within Neighborhood Commercial Zones shall be allowed to have up to two attached accessory dwelling units. Accessory dwelling units shall be attached to the building. Dwelling Units shall be located either on the rear of the building or on the second story.
 - b. Any Commercial Building shall supply two additional off-street parking for each accessory dwelling unit, in addition to parking required by the commercial use.
 - c. Each accessory dwelling unit shall have a separate access apart from the commercial access to the building
 - d. Each accessory dwelling unit must meet all applicable building, zoning, and fire code requirements.

G. Noncompliance

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

aggrieved by the revocation of their permit may use the appeal process to have their grievances heard.

19.20.020 Land Use Chart
Nibley City Land Use Chart

Key

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

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Residential										

Formatted: Font: 8 pt

Assisted Living Facility	C	C	NP	NP	NP	NP	NP	NP	Formatted: Font: 8 pt		
Artisan Shop	C	C	C	C	C	C	NP	NP	Formatted: Font: 8 pt		
Bed and Breakfast Inn	C	C	C	C	NP	NP	NP	NP	Formatted: Font: 8 pt		
Building moved from another site	C	C	C	C	C	C	C	C	Formatted: Font: 8 pt		
Group Living Facility ¹	C	C	C	C	C	C	NP	NP	Formatted: Font: 8 pt		
Home Occupation	C	C	C	C	C	C	NP	NP	Formatted: Font: 8 pt		
Home Office	P	P	P	P	P	P	NP	NP	Formatted: Font: 8 pt		
Housing, Short-Term Rental	C	C	C	C	C	C	NP	NP	Formatted: Font: 8 pt		
Housing, Single-Family	P	P	P	P	P	P	NP	NP	Formatted: Font: 8 pt		
Housing, Two-Family	P	P	P	P	P	P	NP	NP	Formatted: Font: 8 pt		
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	Formatted: Font: 8 pt		
Nursing Home	C	C	C	C	C	C	NP	C	C	NP	
Temporary Office/Model Home	C	C	C	C	C	C	NP	C	C	C	
Accessory Dwelling Unit ³	P	P	P	P	P	P	P	P	P	P	
Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I	
Agricultural/Animal											
Ag Implement Sales and Service	C	NP	NP	NP	NP	NP	NP	C	NP	C	
Agricultural Production	P	P	P	P	P	P	P	C	C	C	
Animal Crematorium	NP	NP	NP	NP	NP	NP	NP	C	NP	C	
Arboretum/Nature Center	C	C	C	C	C	C	C	C	C	C	
Farmers' Market	C	C	C	NP	NP	NP	C	C	C	C	
Florist/Garden Center	C	C	NP	NP	NP	NP	NP	C	P	C	
Veterinary Clinic, Large Animal	P	NP	NP	NP	NP	NP	NP	C	NP	C	

[illegible]

Business Equipment Sales and Service	NP	NP	NP	NP	NP	NP	NP	C	C	C
Car Wash	NP	NP	NP	NP	NP	NP	NP	P	P	P
Check Cashing/Credit Services	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Construction Sales and Service	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Daycare/Preschool, Commercial	NP	NP	NP	NP	NP	NP	NP	P	P	P
Funeral Home	NP	NP	NP	NP	NP	NP	NP	P	P	P
Gasoline Service Station	NP	NP	NP	NP	NP	NP	NP	P	P	P
Gasoline, Wholesale	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Hotel/Motel	NP	NP	NP	NP	NP	NP	NP	C	C	C
Laundry Service	NP	NP	NP	NP	NP	NP	NP	C	C	C
Liquor Store	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Low Power Radio Service/Cell Tower	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Medical/Dental Offices and Clinic	NP	NP	NP	NP	NP	NP	NP	P	P	P
Medical Sales and Service	NP	NP	NP	NP	NP	NP	NP	P	P	P
Personal Instruction Services	C	C	C	C	C	C	C	C	C	C
Motor Vehicle Sales and Service	NP	NP	NP	NP	NP	NP	NP	C	C	C
Office, Corporate	C	NP	NP	NP	NP	NP	NP	C	C	C
Offices, Professional	NP	NP	NP	NP	NP	NP	NP	P	P	P
Parking, Commercial	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Plumbing Services	NP	NP	NP	NP	NP	NP	NP	P	C	P
Printing/Copying, Commercial	NP	NP	NP	NP	NP	NP	NP	P	P	P
Protective Services	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Recreation/Entertainment, Commercial	NP	NP	NP	NP	NP	NP	C	C	C	C

[illegible]

Welding/Machine Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
----------------------	----	----	----	----	----	----	----	----	----	----	---

Notes

1. Group living facilities are governed by NCC 19.42

2. Any land use not listed is not permitted

3. Accessory dwelling units are governed by NCC 19.24.250

19.22.010 Space Requirements Chart

		A	R-E	R-1	R-1A	R-2	R-2A	C	
A.	Minimum lot area	5 acres	2 acres	1 acre	3/4 acre	1/2 acre	12,000 sq. ft. (10) See note 9	--	--
	Minimum lot width, measured at setback line	200	200	200	150	100	100	--	--
B.	Setback principal uses								
	Front yard	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	20	50
	Side yard, interior	15 ³	15	10	10	10	10	0(10) ³	0(50) ⁴
	Side yard, street	25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³	20	25(35) ³
	Rear yard	30	30	30	30	25	25	0(10) ³	0(50) ⁴
C.	Setback accessory uses <u>buildings and structures</u>								
	Front yard	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	20	50
	Side interior yard,	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	0(10) ⁴	0(10) ⁴
	Side street yard,		25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³	20	25(35) ³
	Rear yard	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁴	1(10) ⁴
D.	<u>Setback accessory dwelling units</u>								

Formatted Table

Commented [LR6]: For clarity, I thought it was worth adding ADUs to this chart

Formatted: Font: Bold

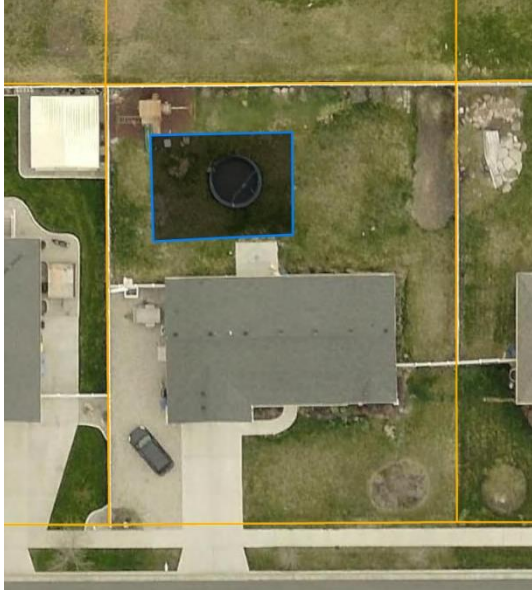
Formatted: Font: Bold

	Front yard	$30(35)^3$	$30(35)^3$	$30(35)^3$	$30(35)^3$	$30(35)^3$	$30(35)^3$	20	50
	Side yard, interior	10	10	10	10	10	10	10	10
	Side yard, street	$25(35)^3$	$25(35)^3$	$25(35)^3$	$25(35)^3$	$25(35)^3$	$25(35)^3$	20	$25(35)^3$
	Rear yard	10	10	10	10	10	10	10	10
DE.	Height maximum								
	Principal uses	40	40	40	40	40	40	40	50(70)10
	Accessory uses	30	30	30	30	20	20	30	30
EE.	Fences and walls maximum height								
	Front yard, property line to setback line	4	4	4	4	4	4	4	4
	Rear yard	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8
	Side yard	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8	7(8)8
	Corner lots	See NCC 19.24.090(B)							

Notes:

1. In all zones in a platted subdivision, lot width is 100 feet minimum, at setback line, but lot area must be 1/2 acre.
2. All measurements are in feet unless otherwise specified.
3. Greater distance required where yard faces arterial road.
4. Greater distance required where property line is adjacent to residential zone or residential dwelling unit.
5. Lesser distance allowed where accessory building is at least 10 feet behind the rear of main building and not less than 10 feet from any dwelling unit on adjacent property.
6. Greater distance required where rear yard faces side yard of adjacent property.
7. Principal use is defined as a dwelling unit in R-E, R-1 and R-2.
8. 8 foot height allowed for a transparent fence, e.g., chainlink, as defined in NCC 19.24.090.
9. The average lot size for the entire subdivision phase and portion thereof shall average at least fourteen thousand (14,000) sq. ft.
10. Greater maximum height allowed if building is at a minimum of 300' from a residential zone.

ADU Illustrative Sample Feasibility Analysis



Example 1: Country Cove Estates: 0.3 acres (~13,000 sq. ft)

ADU: 1,200 sq ft feasible

Can use existing additional parking space



Example 2: Elkhorn Ranch: 0.52 acres (~22,500 sq/ ft)

ADU: 1,200 sq ft

Can use existing additional parking space



Example 3: Nibley Garden Estates: 0.28 acre (~12,000 sq. ft.)

ADU: 500 sq ft (larger possible with modifications)

Sufficient parking with existing lay-out



Example 4: Quarter Circle: 0.76 acre

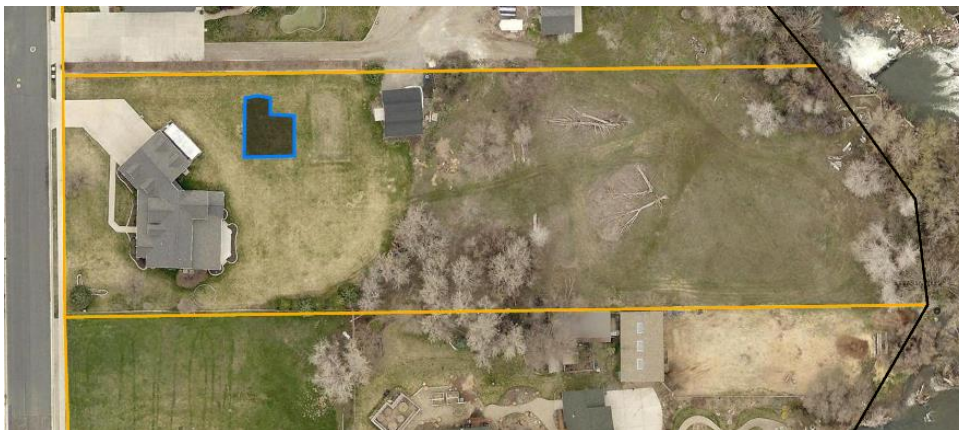
ADU: 1,200 sq ft

New parking needed, but feasible



Example 5: Hollow Rd: 1.13 acres

Legally non-conforming lot. Detached ADU not allowed.



Example 6: Brook Field Meadows: 2 acres

ADU: 1,200 sq ft

New parking needed, but feasible

Background and Discussion

In consideration of the proposed accessory dwelling unit (ADU) standards and to better understand the feasibility of constructing detached ADUs, Nibley City Staff performed a high-level analysis of six residential properties within Nibley City. The six properties were chosen at random. The objective of the analysis was to determine if a detached ADU could feasibly and legally be built on each property given the space and regulatory constraints of each property. It appears that five of the six lots could feasibly accommodate the

construction of a detached ADU. Only Example 5 could not build a detached ADU, primarily because it is a legal, nonconforming lot, which does not allow for the construction of accessory structures. In all but one of the feasible lots (Example 3), the proposed maximum square footage for accessory dwelling units (1,200 sq ft) could conceivably be constructed without violating proposed setback or space requirements. In three of the examples, additional parking would not be needed to meet the proposed minimum parking requirement. Two of the examples would need to add additional parking, but it appears that they could accommodate the parking in the side yard, adjacent and connected to existing driveways.

Although conditions vary across the City, it appears that detached accessory dwelling units could feasibly be constructed in various settings, given the constraints of the proposed ordinance.

Accessory Dwelling Unit (ADU) Standards

City Council- October 8, 2020

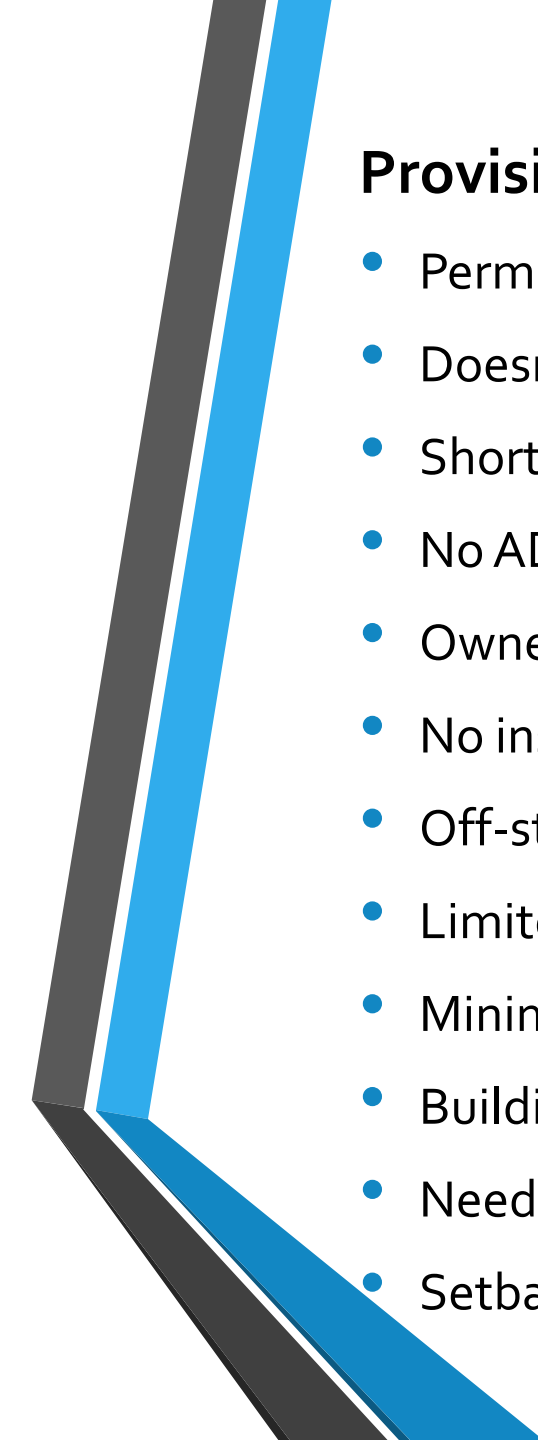


Accessory Dwelling Units (ADUs)

Background & Purpose

- Primary purpose: provide opportunities to develop affordable moderate-income housing
- Reducing regulations for ADUs were one of the strategies for Nibley's updated moderate-income housing plan
- Definition: a residential dwelling unit located on the same lot as a single-family dwelling unit (attached or detached)
- Preserve single-family neighborhood character while providing additional housing options
- Establish standards and allow for detached accessory dwelling units





Provisions

- Permitted use with permit required
- Doesn't include mobile homes
- Short term rentals are prohibited
- No ADU within wetland or flood plain
- Owner of residence shall live in either primary dwelling or ADU, except for
- No installation of separate utility meters
- Off-street parking for two vehicles that doesn't block access of primary unit parking
- Limited to one ADU for residential, two attached for commercial
- Minimum lot size: 12,000 sq. ft.
- Building Size: Min. 300 sq. ft. (all ADUs)– Max. 1,200 sq. ft. (detached)
- Needs to conform to fire, building and health codes
- Setbacks follow those of other accessory buildings in addition to 10 ft for side and rear yards

Updated Provisions

- Definition for 'Bona fide temporary absence' tightened.
- Clarification added that impact fees and utility base rates will be charged for ADUs. Those that can provide documentation that they are charging rent which is below 50% AMI would have impact fees waived.
- Requirement added to notify abutting properties prior to approving ADU.
- Clarification that building permits are required for new or remodeled ADUs
- Construction and certificate of occupancy with inspection and certificate of occupancy is required for all ADUs



Agenda Item #11

Description	Workshop – Ordinance 20-16: Amendments to the Nuisance Ordinance
Department	Planning
Presenter	Levi Roberts, Planner
Recommendation	Discuss the proposed amendments and direct staff to bring the ordinance back for first reading
Reviewed By	Mayor, City Manager, Public Works Director

Background:

Nibley City's nuisance ordinance provides a mechanism to address conditions on private property which are dangerous, noxious or unsightly. This ordinance is in need of revision to incorporate recent revisions to State code, address discrepancies and contradictions, and to adjust the appeal procedures. Staff is currently working on drafting the following specific changes:

1. Reduce the penalty for a declared nuisance from a Class C misdemeanor to an infraction to be consistent with Utah Code 10-3-703(1)(b), (4). The City could charge an offender with a misdemeanor if the nuisance affects health/safety or the city has fined the person 3 times over the past 12 months (but no more than 1 time per 2 weeks).
2. Change the appeal authority from the City Council to the administrative appeals officer. Staff believes that due to the quasi-judicial nature of appeals, the appeals officer would be a more appropriate appeal authority. This person is already trained to address land use appeals. Appeals regarding nuisances could be addressed in a similar fashion as land use appeals.
3. Adjust some of the timeframes for compliance and appeals. Some of the set timeframes seem unreasonable and staff recommends adjusting them. For example, the code stipulates that appeals must be heard within 5 days from notice of hearing.
4. Consolidate the definitions and examples for what constitutes a nuisance. Currently, the code includes 2 definitions for a nuisance with examples of what constitutes a nuisance in various sections. This becomes difficult for the code

enforcement officer to administer. Consolidating definitions will clarify the code and make it easier for City Staff and the General Public to interpret.

The purpose of this workshop is to discuss these potential changes and any other considerations regarding the nuisance ordinance.

7.02 Nuisances

[7.02.010 Definitions](#)

[7.02.020 Declaration Of Nuisance](#)

[7.02.030 Restroom Or Sewer Facilities](#)

[7.02.040 Restrictions On Blocking Water](#)

[7.02.050 Nuisances On Property](#)

[7.02.060 Abatement Procedure](#)

[7.02.070 Penalty For Failure To Comply](#)

7.02.010 Definitions

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

AUTHOR: Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

NUISANCE: Whatever is dangerous to human life or health, deleterious, injurious, noxious, unsightly and whatever renders soil, air, water or food impure or unwholesome, ~~which includes but is not limited to conditions described in this chapter. any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on or scattering over the premises any of the following:~~

~~— Lumber, junk, trash or debris.~~

~~Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans, containers or other discarded items not currently in use is declared to be a nuisance and unlawful. It shall be unlawful for any person either as an owner, agent or occupant to create or aid in creating or contributing to or maintaining a nuisance.~~

HISTORY

Adopted by Ord. 1977 Code Code §§ 10-311, 10-312 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

7.02.020 Declaration Of Nuisance

Statement: Every act or condition made, permitted, allowed or continued in violation of NCC 7.02.010, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided. ~~No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any~~

Commented [1]: (2) Definitions for Nuisance in same chapter; Section 7.02.010 & 7.02.050

Commented [2]: Add Section 7.02.50(B)(C)(D) Nuisances on Property; Consolidate

manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

Specified: Nuisances include, but are not limited to:

Befouling Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.

Privies, Cesspools: Allowing any privy vault or cesspool, or other individual wastewater disposal system, to become a menace to health or a source of odor or contamination to air or water.

Garbage Containers, ~~Offensive~~: Permitting any garbage container that has become unclean and offensive, to remain on premises without disposal, for a period of no longer than fourteen (14) days.

~~when it has become unclean and offensive.~~

Garbage Accumulation: Allowing ~~vegetable waste~~, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area, except when it is temporarily deposited for immediate removal.

Unsheltered Storage of Personal Property: The keeping, depositing and scattering over the premises any objects or equipment, which are not sheltered within a building or canopy. Exceptions include home decor, outdoor furniture and garbage containers .

Parked vehicles in front yard: Parking of vehicles, trailers or recreational vehicles in the front yard area outside of a driveway and unsheltered. , # of operational vehicles allowed unsheltered w/registration. Non operational vehicles must be sheltered out of site???

Inoperable vehicles & machinery: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the city.

Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept.

Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.

Discharging Offensive Water Or Liquid Waste: Discharging or placing any offensive water, chemical spray, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.

Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.

Flies And Mosquitoes: Having or permitting upon any premises any fly- or mosquito-producing condition.

Public Drinking Vessels: Keeping any drinking vessel for public use without providing a method of decontamination between uses.

Formatted: Space After: 0 pt

Formatted: Not Highlight

Formatted: Space After: 0 pt

Formatted: Highlight

Ablutions Near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.

Boarding House Or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.

Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults and cesspools or other individual ~~wastewater~~~~waste water~~ disposal systems within twenty (20) days after notice from an enforcement officer or official of the city.

Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.

Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the city council.

Enumeration: The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

HISTORY

Adopted by Ord. 1977 Code Code §§ 10-313, 10-314 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

7.02.030 Restroom Or Sewer Facilities

All restrooms or sewer facilities shall be constructed and maintained in accordance with Utah law and city ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

HISTORY

Adopted by Ord. 1977 Code Code § 10-315 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

7.02.040 Restrictions On Blocking Water

It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.

Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

HISTORY

Adopted by Ord. 1977 Code Code § 10-316 on 1/1/1977

7.02.050 Nuisances On Property

~~Definition: For the purpose of this section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on or scattering over the premises any of the following:~~

~~— Lumber, junk, trash or debris.~~

~~— Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans, containers or other discarded items not currently in use.~~

~~Duty Of Maintenance: No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.~~

~~Storage Of Personal Property: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the city, is hereby declared to be a nuisance and dangerous to the public safety.~~

~~Abatement By Owners: The owner, owners, tenants, lessees or occupants of any lot within the city on which such "storage", as defined in subsection C of this section, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the city.~~

Commented [3]: 2nd Definition

HISTORY

Adopted by Ord. 1977 Code Code §§ 10-331, 10-332, 10-333, 10-334 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

7.02.060 Abatement Procedure

Code Enforcement Officer~~Nuisance Inspector:~~

Established: There is hereby established the position of code enforcement officer~~nuisance inspector~~, whose duties it shall be to enforce the provisions of this chapter. Until a code enforcement officer~~another person~~ is designated, the city manager~~building inspector~~ or the city's law enforcement agency shall enforce the provisions of this chapter. ~~More than one person may be appointed to act as nuisance inspector under this section.~~

Duties: The code enforcement officer~~building inspector~~ or the city's law enforcement agency is authorized to:

Perform all functions necessary to enforce the provisions of this chapter.

Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

Existence Of Objectionable Condition: If the administrative appeal officer~~he~~ concludes there exists an objectionable condition in violation of this chapter, the code enforcement officer~~building inspector~~ or the city's law enforcement agency shall:

Ascertain the names of the owners and occupants and descriptions of the premises where such objects and/or conditions constituting a nuisance exist.

Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the ~~code enforcement officer~~building inspector or the city's law enforcement agency may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than ~~thirty~~twenty (30)(20) days, as determined by the ~~code enforcement officer~~building inspector or the city's law enforcement agency following the date of service of such notice, to correct the objectionable condition. The notice shall:

Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.

Inform the owner, occupant or other person that in the event he/she disagrees with the determination of the ~~code enforcement officer~~building inspector or the city's law enforcement agency and does not wish to comply with the provisions of the notice or that he/she objects to the factual or legal basis for the notice, he/she may request, in writing, an informal hearing before the administrative appeal officer~~city council~~ at a time and place to be set by the city council. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice.

Inform the person that in the event he fails or neglects to correct the objectionable condition, the city will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.

In the event the owner or occupant makes such request for a hearing, the ~~administrative appeal officer~~city council shall set the time and place for hearing objections and the city recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof, in writing, of the time and place at which they may appear and be heard. The hearing shall be heard within less than ~~twenty-five~~ (205) days from the date of service or mailing of the notice of hearing.

Hearing:

Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the administrative appeal officer~~city council~~ shall conduct an informal hearing ~~(which need not be reported)~~, wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly

within the purview of this chapter. The ~~administrative appeal officer~~~~city council~~ shall also permit the presentation of evidence and argument by the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency and other interested parties. Thereafter, ~~within not less than five (5) nor more than ten (10) days~~, the ~~administrative appeal officer~~~~code enforcement officer~~~~city council~~ shall, ~~over the signature of the mayor, or such other member of the city council as it may designate~~, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by ~~the building inspector or~~ the city's law enforcement agency.

Notice Of Decision; Abatement By Owner Or Occupant: In the event the decision of the ~~administrative appeal officer~~~~city council~~ upholds the determination of the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency, the notice originally given by the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency.

Time Period For Compliance: In the event that the decision of the ~~administrative appeal officer~~~~city council~~ either overrules or modifies the determination of the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency, the written decision of the ~~administrative appeal officer~~~~city council~~ shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the ~~city manager~~~~city council~~ within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency, unless additional time is authorized by the ~~city manager~~~~city council~~.

Filing Of Amended Notice: The ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

Failure To Comply; Abatement By City: If any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency ~~may~~~~shall~~ employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the city.

Itemized Statement: The ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property.

Failure To Make Payment: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the city treasurer within

Formatted: Space After: 0 pt

the twenty (20) days, the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency may either cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

Collection:

Lawsuit: In the event collection of expenses of destruction and removal are pursued through the courts, the city shall sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

Taxes: In the event that the ~~code enforcement officer~~~~building inspector~~ or the city's law enforcement agency elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he/~~she~~ shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Utah Code § 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

~~Civil~~~~Criminal~~ Proceedings: The commencement of ~~civil~~~~criminal~~ proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

HISTORY

Adopted by Ord. 1977 Code §§10-351, 10-352, 10-353, 10-354, 10-355, 10-356, 10-357, 10-358 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

7.02.070 Penalty For Failure To Comply

~~Infraction~~~~Class C Misdemeanor~~: Any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of an ~~infraction-class C misdemeanor~~ and, upon conviction thereof, subject to penalty as provided in NCC 1.08.010 for each offense, and further sum of ten dollars (\$10.00) for each and every day such person fails to comply beyond the date fixed for compliance.

~~Civil~~~~Criminal~~ Proceedings: Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of ~~civil~~~~criminal~~ proceedings as provided in this chapter shall not be admissible in any ~~civil~~~~criminal~~ proceeding brought pursuant to this section.

Formatted: Space After: 0 pt

Formatted: Highlight

This Page Intentionally Left Blank