



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, December 10, 2020 – 6:30 p.m.

In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall, 455 West 3200 South, Nibley, Utah. The public may participate in the meeting via the Zoom meeting link provided at www.nibleycity.com. Public comment should be submitted to cheryl@nibleycity.com by 6:30 p.m. and will be read into the public record.

1. Opening Ceremonies (Councilmember Sweeten)
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
 - 5-a. **Resolution 20-22:** 2021 City Council Meeting Schedule
 - 5-b. **Resolution 20-23:** Appointment to the Nibley City Planning Commission and Appointments of the 2021 Planning Commission Chair and Vice-Chair
 - 5-c. **Resolution 20-24:** Authorizing Purchases Funded by the Cares Act (Pressure Washer)
6. **Presentation** – Stormwater Department
7. **Public Hearing** – Ordinance 20-22: Amending Water Supply Requirements for Development
8. **Discussion & Consideration** – Ordinance 20-22: Amending Water Supply Requirements for Development (First Reading)
9. **Discussion & Consideration** – Adoption of a Notice of Impeding Boundary Action
10. **Discussion & Consideration** – Ordinance 20-13: Accessory Dwelling Unit Standards (Second Reading)
11. **Workshop** – Ordinance 20-17: Amendments to the Nuisance Ordinance
12. **Workshop** – Ordinance 20-20: Establishing a Time Limit and Deposit to Install Landscaping for New Construction
13. **Council and Staff Report**

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.



#5 Approval of Items on the Consent Agenda

Description	Consent Agenda: 5-a. Resolution 20-22: 2021 City Council Meeting Schedule 5-b. Resolution 20-23: Appointment to the Nibley City Planning Commission and Appointments of the 2021 Planning Commission Chair and Vice-Chair 5-c. Resolution 20-24: Authorizing Purchases Funded by the Cares Act (Pressure Washer)
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 20-22: 2021 City Council Meeting Schedule

State law requires that the City Council meet at least once per month and that it should adopt an annual schedule of those meetings by its first meeting of the year. The proposed schedule plans for two meetings per month, normally on the second and fourth Thursdays of each month. However, there are a few proposed exceptions, as follows:

- There is only one meeting scheduled in April so Councilmembers can attend the ULCT Mid-Year conference being held April 21-23. The Cache County School District's spring break is also scheduled during the Council's first meeting in April on the 8th (spring break is April 5-9). The Council is required to meet at least once each month, so the first April meeting is still proposed on the schedule. However, the Council can determine to hold a meeting at another time in April if it desires.
- There is only one meeting scheduled in October. The CCSD's fall break is October 14-15 so there is no meeting proposed for October 14.
- The schedule proposes only one meeting in the months of November and December to observe Thanksgiving and Christmas Eve.

The schedule presented to Council for adoption also proposes the meeting time remain at 6:30 p.m.

b. Resolution 20-23: Appointment to the Nibley City Planning Commission and Appointments of the 2021 Planning Commission Chair and Vice-Chair

Mayor Dustin will propose Matt Logan be reappointed and continue as a member of the Nibley City Planning Commission. This would be Matt's second term. He will complete his first 5-year term on February 4, 2021. Mayoral appointments to the planning commission require the advice and consent of the City Council. Ordinance 18-01 made a few changes to the role and organization of the Planning Commission. Instead of the Planning Commission picking their own chairman and other officers, this power was given to the Mayor to appoint these officers annually, with approval from the City Council. Mayor Dustin proposes that the current Nibley City Planning Commission Chair (Tyler Obray) and Vice-Chair (Karina Brown) continue in their current roles for the next year.

c. Resolution 20-24: Authorizing Purchases Funded by the Cares Act (Pressure Washer)

The U.S. Congress adopted the CARES Act earlier this year to provide funding to cities to support costs related to responding to the Coronavirus pandemic. Staff have identified a needs and appropriate use to be a pressure washer. Staff would like to purchase a specialized mobile pressure washer. This piece of equipment will be used to sanitize restrooms, playground equipment and other structures. The pressure washer will cost \$43,000. The City's Purchasing Policy requires purchases over \$25,000 to be approved by the City Council.

RESOLUTION 20-22

A RESOLUTION ADOPTING THE 2021 ANNUAL MEETING SCHEDULE FOR THE NIBLEY CITY COUNCIL

WHEREAS, the Open and Public Meetings Act, in section 52-4-202 (2) of the Utah Code, requires that a public body, which holds regular meetings that are scheduled in advance over the course of a year, shall give public notice at least once each year of its annual meeting schedule; and

WHEREAS, adopting an annual meeting schedule can make it easier for citizens to be involved in civic affairs by making them aware of normal City Council meeting times.

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

Regular meetings for the Nibley City Council shall be held according to the dates and times listed on the attached schedule at Nibley City Hall, which is located at 455 West 3200 South in Nibley.

BE IT FURTHER RESOLVED THAT:

The City Council may also convene special or emergency meetings pursuant to the provisions of the Open and Public Meetings Act.

Dated this _____ day of _____, 2019

Shaun Disting, Mayor

ATTEST

David Zook, City Recorder

The following is hereby adopted as the 2021 Nibley City Council meeting schedule.

The below meeting dates all fall on a Thursday and the normal meeting start time is 6:30 p.m.

2021 City Council Meeting Dates
January 14
January 28
February 11
February 25
March 11
March 25
April 8
• CCSD Spring Break, April 5-9
April 22
• ULCT Mid-Year Conference, April 21-23
May 13
May 27
June 10
June 24
July 8
July 22
August 12
August 26
September 9
September 23
October 28
November 11
December 9
January 13, 2022

The normal schedule for Council meetings is for meetings to be held at 6:30 p.m. on the second and fourth Thursdays of each month. However, exceptions occur due to holidays, scheduling conflicts or other needs.

There may be circumstances that arise which may cause a meeting to be cancelled or for a special or emergency meeting to be scheduled, pursuant to the provisions of the Open and Public Meetings Act. Notification will be made as soon as reasonably possible in the event of a cancellation or special/emergency meeting.

RESOLUTION 20-23

APPOINTMENT TO THE NIBLEY CITY PLANNING COMMISSION AND APPOINTMENT OF 2021 PLANNING COMMISSION CHAIR AND VICE-CHAIR

WHEREAS, Nibley City code 3.02.010 establishes a creates a planning commission of five (5) members. The Mayor, with advice and consent of the City Council, shall appoint all members and alternates to the Planning Commission; and

WHEREAS, it has become necessary for Mayor Dustin to appoint a new representative to the Nibley City Planning Commission; and

WHEREAS, Nibley City wishes to appoint Matthew Logan as a representative to the Nibley City Planning Commission; and

WHEREAS, Nibley City code 3.02.030 establishes that the Mayor shall annually appoint a chairperson and such other officers of the Nibley City Planning Commission as deemed necessary with the advice and consent of the City Council; and

WHEREAS, it has become necessary for Mayor Dustin to appoint a new chairperson and vice-chairperson to the Nibley City Planning Commission; and

WHEREAS, Nibley City wishes to appoint _____ as Chairperson of the Nibley City Planning Commission and _____ as Vice-Chairperson of the Nibley City Planning Commission.

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

1. Matthew Logan is hereby appointed to serve as a Nibley City Planning Commissioner to serve for a term of five (5) years, on the first Monday in February, 2026.
2. _____ is hereby appointed to serve as a Nibley City Planning Commission Chairperson beginning January 1, 2021 and ending December 31, 2022.
3. _____ is hereby appointed to serve as Nibley City Planning Commission Vice-Chairperson beginning January 1, 2021 and ending December 31, 2022.

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

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

CERTIFICATE OF APPOINTMENT

State of Utah}
County of Cache}
City of Nibley}

Be it ordained by the Nibley City Council that **Matt Logan** has been appointed by the Nibley City Council to the Nibley City Planning Commission, to serve for a term of five (5) years, ending February, 2026.

Subscribed and sworn before me this ____th day of _____ 2020.

Shaun Dustin, Mayor

David Zook, Recorder

RESOLUTION 20-24

AUTHORIZING PURCHASES FUNDED BY THE CARES ACT

WHEREAS, Nibley City is responding to the COVID-19 pandemic; and

WHEREAS, the Utah Division of Purchasing, under the direction of Governor Gary Herbert, issued an Emergency Procurement Declaration that allows Utah agencies to purchase equipment and supplies to help slow the spread of COVID-19; and

WHEREAS, the funding for COVID spending comes from the Federal CARES Act program and refunds from FEMA; and

WHEREAS, Nibley City staff have determined that the purchase detailed in the attached Agenda Item Report will facilitate the City's response to the pandemic.

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

1. The Nibley City Council authorizes Nibley City staff to purchase a pressure washer for use by the Public Works department.

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

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

Agenda Item #6

Description	Presentation – Stormwater Department
Department	Administration
Presenter	Justin Maughan, Public Works Director
Recommendation	Receive the presentation. Give direction on proceeding.
Reviewed By	Mayor, City Manager, Public Works Director

Background:

A presentation will be given regarding the use of low impact designs for stormwater management, include the use of roadside swales.

Agenda Item #7 & 8

Description	Public Hearing – Ordinance 20-22: Amending Water Supply Requirements for Development and Discussion & Consideration – Ordinance 20-22: Amending Water Supply Requirements for Development (First Reading)
Department	Planning
Presenter	Levi Roberts, City Planner
Recommendation	Move to waive second reading and adopt Ordinance 20-22: Amending Water Supply Requirements for Development
Reviewed By	Mayor, City Manager, City Planner, City Attorney

Background:

Currently, Nibley City requires water shares or water rights to be supplied to the City to serve the culinary needs of a subdivision. However, City Code does not currently require water supply for development which may occur outside of the subdivision process, such as new construction outside of a subdivision or a change of use within an existing subdivision that may be more water-intensive than what was originally approved in the subdivision. To ensure the City's water supply is sufficient to service growth in the community, staff recommends broadening the application that a developer must supply water to the City to include all construction or change of use. Additional water would only be required in instances that the water was not already provided previously.

The Planning Commission discussed this item at length and determined that this requirement for water supply for developments outside of subdivisions should only apply to commercial and industrial development and not to residential. The recommended amendment reflects this recommendation.

Recommended Findings:

1. New development and changes of use, both within a new subdivision and outside of a new subdivision, may require additional water.
2. Requiring water supply of new development and changes of use is an appropriate exaction, which is proportionate to the impact.

Planning Commission Recommendation

Adoption of Ordinance 20-22 Amending Water Supply Requirements for Development

ORDINANCE 20-22
AMENDMENT TO WATER SUPPLY REQUIREMENTS

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

WHEREAS, Nibley City works to ensure that sufficient water is provided to the City.

WHEREAS, new development and changes of use, both within and outside of a new subdivision, may require additional water to service the needs of a proposed use.

WHEREAS, requiring water supply of new development and changes of use is an appropriate exaction, which is proportionate to the impact of the development.

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

1. The attached proposed amendment to NCC 21.12.020 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

21.12.020 Water Supply

1. All subdivisions shall be required to connect to the Nibley City culinary water system. Subdividers shall, at their own expense, install water mains, fire hydrants and service laterals to each lot within the subdivision in accordance with the Nibley City Design Standards and Specifications. The subdivider must also install the necessary pipeline from the subdivision to the nearest City water line. In addition, the following minimum standards shall apply:
2. Subdividers and developers shall be required, in all zones, to provide Nibley City with water shares or water rights sufficient to serve the culinary needs of the subdivision or development. Water rights or shares shall be required for all new subdivisions, and new commercial or industrial construction or any change of commercial or industrial use that requires additional water to service the proposed use. The amount required shall be determined by the City Engineer as part of the preliminary plat or site plan review.
 1. In calculating the amount of water needed, the City shall follow Utah Administrative Code Rule R309-510: Facility Design Operation: Minimum Sizing Requirements, as may be amended.

Agenda Item #9

Description	Discussion & Consideration – Adoption of a Notice of Impending Boundary Action
Department	Community Redevelopment Authority
Presenter	David Zook, City Manager
Recommendation	Move to adopt the Notice of Impending Boundary Action
Reviewed By	Mayor, City Manager, City Attorney

Background:

On May 28, 2020, Nibley City created a community reinvestment agency in an effort to support the expansion of the Malouf headquarters. As part of that agency creation process, the Lt. Governor's office has requested that the City adopt the attached "Notice of Impending Boundary Action" to officially finalize the agency creation. The notice will be given to the Lt. Governor's office to request that that office issue a Certificate of Agency Creation. This notice certifies to that office that the City has met all of the requirements for creation of the Agency.

NOTICE OF IMPENDING BOUNDARY ACTION

TO: The Lieutenant Governor, State of Utah

NOTICE IS HEREBY GIVEN that the City Council of Nibley City, Utah (the "Council"), at a regular meeting of the Council, duly convened pursuant to notice, on May 28, 2020, adopted an ordinance to create a community reinvestment agency for the benefit of the City and its residents. A true and correct copy of which is attached as EXHIBIT "A" hereto and incorporated by this reference herein (the "Agency Ordinance").

Pursuant to Utah Code Ann. Section 17C-1-201.5(2)(b), and Ordinance No. 20-10, the boundaries of the Agency are, and shall always be, coterminous with the geographic boundaries of the City.

WHEREFORE, the Council hereby respectfully requests the issuance of a Certificate of Agency Creation pursuant to and in conformance with the provisions of Utah Code Ann. §17C-1-102. As required by Utah Code Ann. Section 67-1a-6.5(3)(e)(i), we certify that the City has met all of the requirements for creation of the Agency.

DATED this ____ day of _____, 2020.

CITY COUNCIL, NIBLEY CITY, UTAH

By: _____ Mayor

VERIFICATION

STATE OF UTAH) :ss.

County of Cache)

The undersigned, being duly sworn upon oath, says that the facts set forth in the foregoing Notice of Impending Boundary Action are true, accurate, and complete to the best of the undersigned's knowledge and belief.

_____, Mayor, City Council, Nibley City, Utah SUBSCRIBED AND
SWORN to before me this ____ day of _____, 2020.

_____, NOTARY PUBLIC

Exhibit "A"
Copy of Agency Ordinance

ORDINANCE 20-10

**AN ORDINANCE OF THE NIBLEY CITY COUNCIL CREATING A
COMMUNITY REINVESTMENT AGENCY**

WHEREAS under the "Limited Purpose Local Government Entities - Community Reinvestment Agency Act" found in Title 17C of the Utah Code Ann. (2019) (the "Act"), a community legislative body has authority to create a community reinvestment agency for all the purposes set forth in the Act; and

WHEREAS the Nibley City Council (the "Legislative Body") of Nibley (the "City") desires to create a community reinvestment agency as provided in Section 17C-1-201.5 of the Act, for the benefit of Nibley and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF NIBLEY AS FOLLOWS:

1. There is hereby created a community reinvestment agency, as defined in the Act, to be known as the Nibley Community Reinvestment Agency (the "Agency"). The Agency is given all powers, rights, authorities, and privileges provided under the Act with no limitations.
2. Unless otherwise provided in the Act: (a) the Executive Director of the Agency will be the same person who contemporaneously serves at any time, from time to time, as the City Manager of Nibley, (b) the governing board of the Agency will be comprised of the same persons who contemporaneously serve at any time, from time to time, on the Legislative Body, and (c) the boundaries of the Agency will at all times be coterminous with the boundaries of Nibley, and any change to the boundaries of Nibley at any time will automatically constitute a similar change to the boundaries of the Agency.
3. Nibley staff and consultants are directed to provide notice to the lieutenant governor, and to record with the County Recorder a certificate of creation, and to take all other steps as are necessary to carry out the creation and operation of the Agency under the Act.
4. This ordinance will take effect immediately upon publication or posting in compliance with applicable law.

APPROVED AND ADOPTED this 28 day of May, 2020.


Shaun Dustin, Mayor

ATTEST:


David Zook, City Recorder



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 December 10

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 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.
2. Bona fide temporary absence: A specified time during which a property is not owner occupied. Such time shall be no more than 90 days within any 180 day period. Longer absences are allowed for military, humanitarian, or religious service.
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.

Deleted: 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.¶
OR...

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

- a. Notarized letter: a notarized letter of application shall be provided by the property owner stating that the property will be owner-occupied except for bona fide temporary absences
- b. 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. A building permit is required for all new or remodeled accessory dwelling units.

4. A certificate of occupancy is required prior to occupancy of any accessory dwelling unit to ensure compliance with fire, building and health codes.

5. Notification must be sent to abutting property owners with an opportunity to comment to Nibley City Staff within a period of fourteen (14) days from the date of notification.

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, 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.

Deleted: such owner will occupy

Deleted: For new or remodeled construction, a

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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.

Deleted: Prior to approval of all accessory dwelling unit application

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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?

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Deleted: 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,

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

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.

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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

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Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Residential										
Assisted Living Facility	C	C	NP	NP	NP	NP	NP			
Artisan Shop	C	C	C	C	C	C	NP			
Bed and Breakfast Inn	C	C	C	C	NP	NP	NP			
Building moved from another site	C	C	C	C	C	C	C			
Group Living Facility ¹	C	C	C	C	C	C	NP			

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Home Occupation	C	C	C	C	C	C	NP			
Home Office	P	P	P	P	P	P	NP			
Housing, Short-Term Rental	C	C	C	C	C	C	NP			
Housing, Single-Family	P	P	P	P	P	P	NP			
Housing, Two-Family	P	P	P	P	P	P	NP			
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP			
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 ¹	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
Veterinary Clinic, Small Animal	P	NP	NP	NP	NP	NP	NP	C	C	C
Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Public, Institutional, and Civic Uses										
Bus/Transit Terminal	NP	NP	NP	NP	NP	NP	P	C	C	C

[illegible]

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Sexually Oriented Business	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Transportation Services	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Temporary Vendor/Food Trucks	C	NP	NP	NP	NP	NP	C	P	P	P
Use	A	R-E	R-I	R-1A	R-2	R-2A	P/S	C	C-N	I
Industrial										
Junk/Salvage Yard	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Manufacturing, Heavy	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Manufacturing, Industrial	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Manufacturing, Light	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Mineral Extraction	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Pest Control	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Recycling Collection Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sign Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sports Facilities	NP	NP	NP	NP	NP	NP	C	C	NP	C
Storage Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing, Residential Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Welding/Machine Shop	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 buildings and structures								
	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.	Setback accessory dwelling units								
	Front yard	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	20	
	Side interior yard,	10	10	10	10	10	10	10	10
	Side street yard,	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

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

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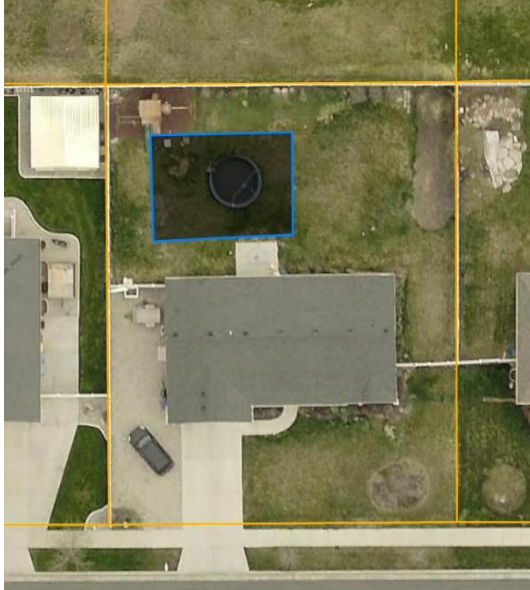
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E.	Height maximum								
	Principal uses	40	40	40	40	40	40	40	50(70)10
	Accessory uses	30	30	30	30	20	20	30	30
F.	Fences and walls maximum height								
	Front yard, property line to setback line	4	4	4	4	4	4	4	4
	Rear yard	7(8)8	7(8)8	7(8)8	7(8)8	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

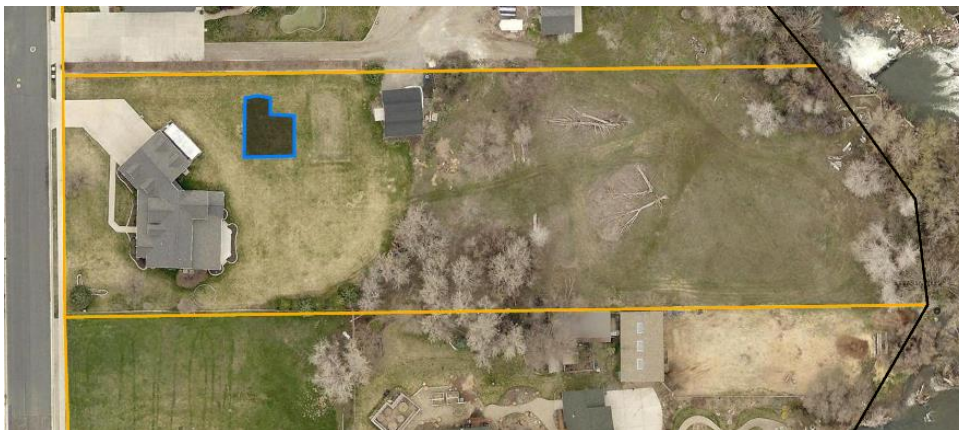
ADU: 1,200 sq ft

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](#)

[7.02.060 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.

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 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.

Deleted: [7.02.050 Nuisances On Property](#)

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

Deleted: 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.

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

Garbage Containers, 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.

Deleted: Offensive:

Garbage Accumulation: Allowing 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.

Deleted: when it has become unclean and offensive

Deleted: vegetable waste

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.

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Parked vehicles in front yard: Parking of vehicles, trailers or recreational vehicles in the front yard area outside of a driveway and unsheltered.

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Inoperable vehicles & machinery: Unsheltered storage of old, unused, stripped and junked machinery, vehicles, 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. Any unregistered passenger vehicle shall be considered unused.

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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.

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 disposal systems within twenty (20) days after notice from an enforcement officer or official of the city.

Deleted: waste water

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.

Dead or Diseased Trees: Any dead or diseased trees which constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.

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

HISTORY

Deleted: 7.02.050 Nuisances On Property

Deleted: <#>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.¶

Deleted: <#>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.

Deleted: Storage Of Personal Property: Unsheltered 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, 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.

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Adopted by Ord. 1977 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:

Established: There is hereby established the position of code enforcement officer, whose duties it shall be to enforce the provisions of this chapter. Until a code enforcement officer is designated, the city manager, or the city's law enforcement agency shall enforce the provisions of this chapter.

Duties: The code enforcement officer 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 Objectional Condition: If the code enforcement officer or city's law enforcement agency, concludes there exists an objectionable condition in violation of this chapter, the code enforcement officer 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, 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 (30) days, as determined by the code enforcement officer, 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, 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. 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

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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 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, (20) days from the date of service or mailing of the notice of hearing.

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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 shall conduct an informal hearing, 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 shall also permit the presentation of evidence and argument by the code enforcement officer, or the city's law enforcement agency and other interested parties. Thereafter, the administrative appeal officer shall 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 city's law enforcement agency.

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Notice Of Decision; Abatement By Owner Or Occupant: In the event the decision of the administrative appeal officer upholds the determination of the code enforcement officer, or the city's law enforcement agency, the notice originally given by the code enforcement officer 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, or the city's law enforcement agency.

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Time Period For Compliance: In the event that the decision of the administrative appeal officer either overrules or modifies the determination of the code enforcement officer, or the city's law enforcement agency, the written decision of the administrative appeal officer 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 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 or the city's law enforcement agency, unless additional time is authorized by the city manager.

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Filing Of Amended Notice: The code enforcement officer, 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.

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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, or the city's law enforcement agency may 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, 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 the twenty (20) days, the code enforcement officer, 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 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 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.

Criminal Proceedings: The commencement of 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.

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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: 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** 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.

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

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Nuisance Ordinance Update

OCTOBER 22, 2020 CITY COUNCIL

Background

- Nibley City Nuisance Ordinance (NCC 7.02) provides a mechanism to address conditions on private property which are dangerous, noxious or unsightly.

Purpose

- Be consistent with state code
- Adjust appeal authority
- Improve clarity and enforceability of ordinance

Provisions

- Reduce penalty of nuisance from Class C Misdemeanor to Infraction
- Change appeal authority to administrative appeals officer
- Consolidate and clarify definitions and descriptions of nuisances to improve administration of code

Agenda Item #12

Description	Workshop – Ordinance 20-20: Establishing a Time Limit and Deposit to Install Landscaping for New Construction
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:

One of the Planning Commission Goals for 2020 is to review landscaping requirements for residential and commercial developments. NCC 19.24.170 provides landscaping requirements for residential, commercial and industrial zones, including the provision that 60% of a front or side yard adjacent to a street must be landscaped. Although these requirements are in code, in many cases there is not a sufficient process in place to ensure that landscaping is installed in a timely manner with new development. The City currently does not require landscaping to be installed prior to issuing a certificate of occupancy. This would not be appropriate, as homes are completed at various times of year, which are not necessarily feasible times to plant.

In order to ensure landscaping is appropriately installed, the following provisions are recommended to be incorporated into Nibley City Code:

- Requiring landscaping to be completed within 18 months of occupancy.
- Requiring a landscaping deposit for building permits, which would be refunded upon completion of landscaping.

The City currently requires a \$1,000 deposit for building site clean-up and damage repair (Resolution 03-11). Staff recommends adding an additional \$1,000 to this deposit for each residential unit. For commercial and industrial development, it is recommended that a deposit of \$1,000 per total acreage be applied at the time of building permit

issuance. Staff has determined that this amount is proportionate to the minimum required cost of improvements and is a reasonable incentive to complete such improvements. The actual deposit amount will need to be incorporated into the City's consolidated fee schedule to be approved by the City Council.

Recommended Findings

- In order to effectively ensure compliance with landscaping requirements of Nibley City Code and Design Standards, a completion deadline and deposit is needed.
- City Council should establish the deposit amount of \$1,000 for residential development and \$1,000 per acre for commercial/industrial development, in addition to the already established \$1,000 deposit for building site clean-up and damage repair

Planning Commission Recommendation

The Planning Commission moved to recommend approval of Ordinance 20-20: Establishing a Time Limit and Deposit to Install Landscaping for New Construction. There was brief discussion if \$1,000 was enough of an incentive. The Planning Commission decided to watch how well \$1,000 would motivate the public knowing that the fee could be changed later in Nibley City's Consolidated Fee Schedule. The motion passed unanimously with all five Planning Commissioners in favor.

19.24.170 Landscaping

1. Landscaping Requirements:

1. Purpose: The purpose of the landscaping requirements in this section shall be to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise and glare through the proper placement of green plants and trees.
2. Yard Requirements For Residential Zones: At least sixty percent (60%) of the area contained within a required front or side yard adjacent to a street in any residential zone shall be landscaped.
3. Scope Of Requirements: Where landscaping is required, such landscaping shall comply with the requirements set forth in this section for the specific use and location.
4. Maintenance: Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition.
- 4.5. Completion: All required landscaping on both private property and public rights of way is required to be installed within eighteen (18) months of receiving certificate of occupancy for all new construction. A landscaping deposit assessed at the time of building permit issuance shall be withheld until the building inspector or designee determines that such improvements have been completed according to Nibley City Code and Design Standards. If required landscaping improvements are not complete within eighteen (18) months of certificate of occupancy, the applicant shall forfeit the deposit.