

11-1: General Provisions and Administration

11-1-1: PURPOSES:

The purposes of this title are:

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

11-1-2: VIOLATION:

- A. No person shall subdivide any tract or parcel of land located wholly or in part in the City, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
- B. Whoever shall violate any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in section 1-4-1 of this code.
- C. Any parcel of land created, purchased, sold or exchanged in violation of this title shall not be eligible for building permit or other development approval until full compliance with the provisions of this title is achieved.
- D. Any person or corporation that allows to continue any violation of any provision of this title shall be guilty of a misdemeanor for each and every day the violation continues, and each day shall be a separate violation.
- E. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or the issuance of a building permit.

Comment [SP1]: BLJ suggested this language addition in the event someone challenges their ability to freely sell.

- F. Any owner or agent of the owner of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded in the office of the Cache County Recorder, consistent with the requirements of this title, and applicable state and federal requirements, is guilty of a violation of this title, and of §10-9a, Utah Code Annotated, for each lot or parcel transferred or sold.
- G. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, Nibley City land use ordinances, or the laws of the State of Utah.

11-1-3: PERMITS

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

Comment [SP2]: This had been removed from a previous draft because it is covered by 11-6-4. BLJ suggested adding it back in to clarify the rule in multiple places.

11-1-4: GENERAL REQUIREMENTS

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

F. The Planning Commission shall act as an advisory agency to the City Council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the Nibley City General Plan and land use ordinances, and other pertinent documents. The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary and final plats to the City Council.

G. The City, in conjunction with the City engineer and City attorney, shall approve the form of the final plat, that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report.

H. The Nibley City Council has final jurisdiction in the approval of subdivision plats; the establishment of requirements for the Nibley City Design Standards & Specifications; and the acceptance of lands and public improvements that may be proposed for dedication.

1. The amendment and alteration of the Nibley City Design Standards & Specifications may, by resolution, be delegated to the Public Works Director and the City Engineer.

Comment [SP3]: The City has historically allowed the PWD and CE to make the needed changes to the Standards/Specs.

11-1-5: SITE PREPARATION AND WORK PROHIBITED

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

Comment [SP4]: This has been added in at the request of Justin M so that we don't have developers going out and doing work as soon as a plat has been approved.

11-1-6: COMPLETE SUBMITTAL REQUIRED

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

11-1-7: EFFECT OF APPROVAL

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

11-1-8: PHASING

A. When developing a large tract of land, subdividers may choose to construct the subdivision in phases rather than develop the entire property at once. Subdividers opting to phase the subdivision shall have one year from the date of preliminary approval to present the subdivision for final approval.

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

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

D. Choosing to phase the subdivision does not relieve developers of the requirement to present the entire subdivision, in its phases, for final approval by the Planning Commission and City Council within one year of receiving approval of the preliminary plat by the City Council, as outlined in §11-3-8 of this Title.

11-1-98: FEES:

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

11-1-10: APPEAL

Any person disagreeing with the actions of the Planning Commission or City Council relative to the approval, approval with conditions, or disapproval of a proposed subdivision plat may appeal such actions by following the procedures for appeal outlined in §10-3 "Appeal" of the Nibley City Code.

Comment [SP5]: Although it is implied that any action of the City is appealable, BLJ felt it important to specifically state such in the ordinance.

11-1-119: ENFORCEMENT:

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

11-1-120: INSPECTION

Appropriate agencies and departments of the City shall inspect or cause to be inspected all public improvements in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by the City engineer. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector, and at the responsible person's cost and expense.

Comment [SP6]: After meeting with BLJ today, I need to spend time comparing land use definitions in our current subdivision ordinance, our recently revised land use ordinance, and 10-9a of state code. BLJ says the City needs to make sure that all of our bases are covered. I thought I had pulled everything over from both, but his review shows I seem to have missed a couple. He feels that Title 10 is the best place for them so what will likely happen is that I will bring an ordinance to you in conjunction with the ordinance to approve this subdivision update. That ordinance will have a set of definitions to include in Title 10. I will have that draft for the next review of the subdivision ordinance.

11-2: DEFINITIONS

For purposes specific to this title, all terms shall have the same definition as provided by §10-9a-103, Utah Code Annotated, 1953, as amended and also in Title 10-2 of the Nibley City Code.

11-3: APPROVAL PROCESS

11-3-1: COMPLIANCE REQUIRED:

Before dividing any tract of land into a "subdivision" as defined in section 11-2-1 of this title, a subdivider shall follow the procedure outlined in this chapter, except as may be provided for in §10-9a-605, Utah Code Annotated, 1953, as amended .

11-3-2: STANDARDS AND LOT SIZE

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

11-3-3: CONCEPT PLAN REVIEW:

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

11-3-4: SUBMISSION OF PRELIMINARY PLAT:

The subdivider shall submit five (5) paper copies and one (1) electronic copy, in a format that is readable, of the proposed preliminary plat to the Planning Commission at least fourteen (14) days prior to the date of the Planning Commission meeting at which the preliminary subdivision plan is to be reviewed. The Planning Commission shall circulate copies of the proposed preliminary plat to all affected departments and to any districts which may be providing special services for comment and review.

The preliminary plat shall conform to the development standards outlined in §11-4-1 of this Title.

11-3-5: PUBLIC HEARING REQUIRED

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

11-3-6: NOTIFICATION OF ADJACENT PROPERTY OWNERS:

Written notice of the time, date and place where the Planning Commission and City Council will hold public hearings and consider giving preliminary approval to the subdivision shall be given to adjacent property owners within three hundred (300') feet of the proposed subdivision in accordance with

section 10-1A-7 of this code. The written notice shall also advise the property owner that he or she has the right to be present and to comment on the proposed subdivision. The applicant shall provide the Planning Commission with the names of all persons to whom the notice was mailed.

11-3-7: AUTHORIZATION TO PROCEED:

Upon approval of the preliminary plat by the Planning Commission and the City Council, copies of the approved preliminary plat with written conditions attached shall be delivered to the City Planner and to the subdivider. Receipt of same shall be authorization for the subdivider to proceed with the preparation of the final plat and plans and specifications for the improvements required in the final plat.

Prior to the construction of any improvements required by this title, the subdivider shall provide the City engineer with all plans, information and data necessary to install and construct the improvements. This information shall be examined by the City engineer and shall be approved if he determines them to be in accordance with the requirements of City ordinances.

11-3-8: FINAL PLAT APPROVAL:

- A. Within one year of receiving approval of the preliminary plat by the City Council, developers shall present the entire subdivision for final approval by the Planning Commission and the City Council. Planning Commission shall make a recommendation to the City Council for the final subdivision approval, approval with conditions, or disapproval.
- B. The final subdivision shall consist of the following:
 - 1. Final plats for each of the subdivision's proposed phases, prepared according to this ordinance and to the Nibley City Design Standards & Specifications;
 - 2. Construction drawings for the subdivision, prepared according to this ordinance and to the Nibley City Design Standards & Specifications; and
 - 3. Three (3) hard copies of the final plats and construction drawings and one (1) electronic copy of the same.
- C. Upon a subdivider's failure to receive approval within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the Applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.
- D. Developers are not required to record all phases of the subdivision, once final approval has been given. They are required only to receive final approval for the entire subdivision and then they may construct the subdivision in phases.
- E. Final approval shall be valid for three (3) years. If a subdivision, or phase thereof, has not been constructed within three (3) years of the date of final approval by the City Council, the Public Works Director shall suspend the Notice to Proceed and the developer shall be required to resubmit the final plats and construction drawings for review and compliance with City standards and specifications in effect at that time.

Comment [SP7]: The reason for 3 years is that APWA standards are reviewed/updated every 3 years. We are working on updating our standards/specs and tying them to APWA, so I thought it would be best to tie this deadline to their review schedule.

F. At the time final approval is requested, the City and the developer shall enter into a development agreement outlining the roles and responsibilities of each respective to the development. Regardless of how the developer chooses to phase the subdivision, the development agreement shall encompass the entirety of the project and shall be recorded with the first recorded phase of the subdivision.

Comment [SP8]: We are very lacking on the discussion of development agreements. BJ and I felt it was wise to include something minor so that a developer is aware it is a requirement and we also felt it would be best to do this when the final project comes in so that there is one development agreement which covers the entire project- this allows the terms of development to survive changes in ownership of various phases.

11-4 STANDARDS OF APPROVAL

11-4-1: PRELIMINARY PLAT:

- A. As part of the submittal of the preliminary plat, subdividers shall provide Nibley City with the following information:
1. A list containing the names and mailing addresses of person(s) or other entities who are the owners of record of property located within three hundred feet (300') of any portion of the property proposed for development.
 2. A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.
- B. Description: The preliminary plat shall be drawn to a scale not smaller than one hundred feet to the inch (1" = 100') on standard twenty four inch by thirty six inch (24" x 36") paper and shall include the following information in the title block:
1. The proposed name of the subdivision.
 2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project..
 3. A legal description of the property.
 4. The names and addresses of the owner, subdivider if other than owner, and the engineer or surveyor of the subdivision.
 5. Date of preparation.
 6. Scale.
- C. Existing Conditions: The plat shall show:
1. The location of the nearest benchmark and property monuments.
 2. All property contiguous to the proposed subdivision under the control of the subdivider, even if only a portion is being subdivided.
 3. The location, width and names of all existing streets, railroads, open spaces, sewers, water mains, culverts or other utility lines and rights-of-way, and permanent buildings and structures located within the tract and within three hundred feet (300') of the outermost boundary of the subdivision.
 4. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract.
 5. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.
 6. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
 - a. Prior to approval of the preliminary plat, the subdivider shall provide the City with documentation that any affected canal company has had the chance to review plans related to the alteration of affected canals, and further, that the canal company understands they have thirty (30) days from the date of notification to bring any concerns to the City.

7. Identification of known natural features including, but not limited to, wetlands as identified by the US Army Corps of Engineers, areas which would be covered in the event of a 100-year storm event, all water bodies, floodways and drainageways, slopes exceeding twenty percent (20%) and any other natural features as may be required by the Planning Commission or City Council for the subdivision, including the acreage in each required feature.
8. Boundary lines of adjacent tracts of land, showing ownership where possible.
9. Contour map at vertical intervals of not more than five feet (5') where the slope is greater than ten percent (10%) and not more than two feet (2') where the slope is less than ten percent (10%).
10. A plan outlining how the subdivider intends to phase construction of the project, if phasing is intended.

D. Proposed Development: In addition to the above-listed items, the preliminary plat shall show:

1. The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.
2. The layout, numbers and typical dimensions of lots.
3. Open space intended to be dedicated for public use or set aside for the private use of property owners in the subdivision.
4. Building setback lines, including dimensions of said lines.
5. Easements, including dimensions, for water, sewer, drainage, utility lines and other purposes as required by the Planning Commission or by City law.
6. A tentative plan or method for the subdivision's groundwater, fire hydrant, sewer and stormwater drainage facilities.
7. Where the plan submitted covers only part of the subdivider's tract, the preliminary plat shall include a sketch of the prospective future street system which shall be considered in light of the future street system of the larger area.

D. Approval Of Preliminary Plat:

1. Conditions Of Approval: The Planning Commission shall approve only those preliminary plats which it finds have been developed in accordance with the standards and criteria specified in this title, Title 10 of the Nibley City Code and all other applicable City ordinances.
2. Soil Controls: The Planning Commission shall determine from the preliminary plat the possible need for environmental impact analysis. The Planning Commission may require the applicant to provide soil erosion and sedimentation control plans and specifications prepared by a registered civil engineer, if the Commission determines that such are warranted.
3. Approval Or Disapproval By Planning Commission: The Planning Commission shall, within forty five (45) days after the preliminary plat is filed with the Planning Commission, approve the preliminary subdivision plan if it finds that the subdivision complies with City ordinances. The Planning Commission may conditionally approve a preliminary subdivision plat imposing such conditions as required in order to bring the subdivision plat into compliance with the requirements of City ordinances. In the event the Planning Commission disapproves the preliminary plat, it shall do so within forty five (45) days after the date the subdivider made application for approval and shall state in writing each reason for the disapproval. All comments and recommendations shall be forwarded to the City Council within the prescribed time limit.

4. Approval Or Disapproval By City Council: The City Council shall, within thirty (30) days after receiving the preliminary plan with recommendations from the Planning Commission, approve, approve with conditions, or disapprove the preliminary plan. A representative of the Planning Commission shall meet with the City Council to discuss and clarify the Planning Commission's position. The final conditions of approval or reasons for disapproval shall be stated in writing to the subdivider.

5. Plats not acted upon within the above time frames shall be deemed to have been approved. A plat shall be deemed to be acted upon if it is approved, denied, approved with conditions, continued for further review or tabled.

11-4-2: FINAL PLAT:

- A. Description: The final plat shall be drawn to a scale not smaller than one hundred feet to the inch (100' = 1") on standard twenty four inch by thirty six inch (24"x36") paper and shall include the following information:
1. The proposed name of the subdivision.
 2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
 3. A legal description of the property.
 4. The names and addresses of the owner, subdivider, if other than owner, and the engineer or surveyor of the subdivision.
 5. Date of preparation.
 6. Scale
 7. The base heading of true north.
- B. The plat shall contain the following information:
1. Accurate dimensions for each lot, street, alley, easement, areas to be dedicated as open space and other important features. Dimensions shall be shown in feet and hundredths. Lot sizes shall be expressed in acreage.
 2. The street address for each lot. Lots on the north and west sides of the street shall have odd numbers. Lots on the south and east sides of the street shall have even numbers.
 3. A description and delineation of other angles, distances, points, monuments, markers, boundaries and other geometries as described in the Nibley City Design Standards and Specifications.
 4. Standard signature forms, the wording of which is found in the Nibley City Design Standards and Specifications, for the following:
 - a. Registered land surveyor's certificate of survey, as applicable under Utah law;
 - b. Owner's signature of dedication;
 - c. Notary public acknowledgement;
 - d. City engineer's certificate of approval;
 - e. Utility companies' approval;
 - f. Planning Commission approval;
 - g. City approval, signed by the Mayor and City Recorder;
 - h. City attorney approval;
 - i. A block for use by the County Recorder containing the required recording information. The following note regarding agricultural uses of property:
 - i. This property is located in the vicinity of property that is used for agricultural purposes. It may be anticipated that such uses and activities may or may not in the

future be conducted in this area and such uses are previously existing uses. Agricultural uses and situations must be sound agricultural practices and not bear a direct threat to public health and safety.

- j. The following note regarding groundwater:
 - i. Areas in Nibley have groundwater problems due to the varying depth of a water table. The City's approval of a **final plat**, building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building site, remains solely with the building permit application, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which may occur, nor for such concerns including, but not limited to, building location and/or elevation, site grading and drainage.

C. Additionally, construction plans shall be submitted with the final plat. These plans shall detail the size, design, type and location of all infrastructure improvements proposed for construction as part of the phase, including, but not limited to, streets, sidewalks, curbs, utility pipes and other infrastructure. Construction plans shall be prepared in accordance with the Nibley City Design Standards and Specifications.

11-4-3: LOT LINE ADJUSTMENTS

An agreement to adjust lot lines between adjoining properties, whether in a subdivision or on unsubdivided parcels of land, may be executed by the owners of record of said properties and recorded upon execution, if the following conditions are met:

- ~~F.A.~~ No new lot results from the lot line adjustment.
- ~~G.B.~~ No previously existing lot is eliminated as a result of the adjustment.
- ~~H.C.~~ If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and Title 10 of the Nibley City code.
- ~~I.D.~~ No lot is made undevelopable without a variance or other special consideration.
- ~~J.E.~~ All property owners directly affected by the lot line adjustment give their consent.
- ~~K.F.~~ The lot line adjustment does not result in a remnant piece of land that did not exist previously.
- ~~L.G.~~ The lot line adjustment does not result in the violation of any applicable zoning ordinance.
- ~~M.H.~~ The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.

Provided the above conditions are met, no municipal land use authority approval is required.

11-5 INFRASTRUCTURE IMPROVEMENTS

11-5-1: COMPLIANCE REQUIRED:

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

In lieu of completion of the infrastructure requirements, surety may be provided as described herein.

11-5-2: WATER SUPPLY:

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:

~~A. **Line Diameter:** The minimum diameter of all main water lines serving fire hydrants shall be eight inches (8"). If greater than an 8" main water line is required, the City will pay the cost difference between an 8" line and the needed size.~~

Comment [SP9]: Justin M suggested removing this because it already says water mains and hydrants so it is easier to just reference the Design Standards/Specs.

~~B. **Fire Hydrant Placement:** Fire hydrants shall be placed such that no lot is more than four hundred feet (400') from a fire hydrant or as specified by the City engineer.~~

~~C.A.~~ Subdividers shall be required, in all zones, to provide Nibley City with water shares sufficient to serve the culinary needs of the subdivision. The amount required shall be determined by the City Engineer as part of the preliminary plat review.

Comment [SP10]: BLJ wants us to be aware of the fact that this may be challenged under State Code:
http://le.utah.gov/xcode/Title10/Chapter9A/10-9a-S508.html?v=C10-9a-S508_1800010118000101

~~D.B.~~ In areas where flood irrigation or pressurized irrigation is available, subdividers may choose to install a secondary water system, in addition to the required hook-on to the Nibley City culinary system. Subdividers shall notify Nibley City of their intent to install a secondary system at the time the preliminary plat is submitted and shall submit plans for the design and operation of the secondary system. The City Engineer shall take the secondary system into account when determining the amount of water shares the subdivider is required to provide.

It may be that someone challenges the water exaction if they can demonstrate the City already has enough water in order to serve the subdivision.

I am working with the engineer to reference the guidelines the City uses to calculate water.

11-5-3: SEWAGE DISPOSAL:

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

11-5-4: STORM DRAINAGE:

A. A storm drainage system shall be provided and must meet the approval of the City engineer. This system must be independent of any sanitary sewer system. No ditch or canal shall be approved as suitable for use as storm drainage without the written permission of the appropriate ditch or canal company, and/or the affected water users. If permission is obtained, ditches and canals must be adequately improved to handle such water as might reasonably be expected to flow from normal irrigation and spring water, storm runoff water, and any other water expected to reach such ditch or canal.

B. Any use of the irrigation canal system owned by the Nibley Blacksmith Fork Irrigation Company (NBFI) for stormwater drainage shall be approved as provided in the Operating Agreement between the City and NBFI dated August 21, 2014.

Comment [SP11]: BLJ had originally thought it would be necessary to go into more detail but on further review, decided that a simple reference to the canal agreement would suffice.

C. Nibley City storm drainage regulations are governed by the State of Utah Construction General Permit. (CGP) and the Nibley City Municipal Separate Storm Sewer System (MS4). All plans related to storm drainage, including but not limited to, a Stormwater Pollution Prevention Plan, shall be designed and constructed in accordance with the CGP and the MS4, as well as the Nibley City Design Standards and Specifications.

Comment [SP12]: Even though following the CGP is required, Justin M and I felt it was a good idea to reference these two documents to make sure developers are aware of them.

D. Developers may choose to utilize Low Impact Development (LID) techniques in developing their plan(s) for storm drainage. Prior to approval of any LID techniques, the developer must be able to demonstrate how such techniques will satisfy the subdivision's storm drainage needs. Any LID technique must be approved by the City Engineer.

11-5-5: STREETS:

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

Half streets¹ (completed only to centerline) are allowed only when the City engineer has reviewed the proposed half street design and can attest that public safety issues have been satisfied. A minimum of twenty feet (20') of asphalt shall be required on all half-streets.

B. Streets To Conform To Transportation Master Plan: Arterial and collector streets shall conform to the Transportation Master Plan. Whenever a subdivision is in an area for which a major or collector street plan has not been adopted, major or collector streets shall be provided as determined by staff and the City engineer.

1. Residential and neighborhood roads are typically not planned out in the Transportation Master Plan. Subdividers shall ensure that residential and/or neighborhood roads are adequate for the proposed development. No residential or neighborhood road shall be approved if such road interferes with an arterial or collector street which is part of the Transportation Master Plan.

Comment [SP13]: There has been significant discussion regarding the impact of 10-9a-406. BLJ and I discussed this at length in our meeting. He and I agree that if this section (11-5-5(B)(1)) is added to the general plan, then it will satisfy the concerns and requirements of 10-9a-406.

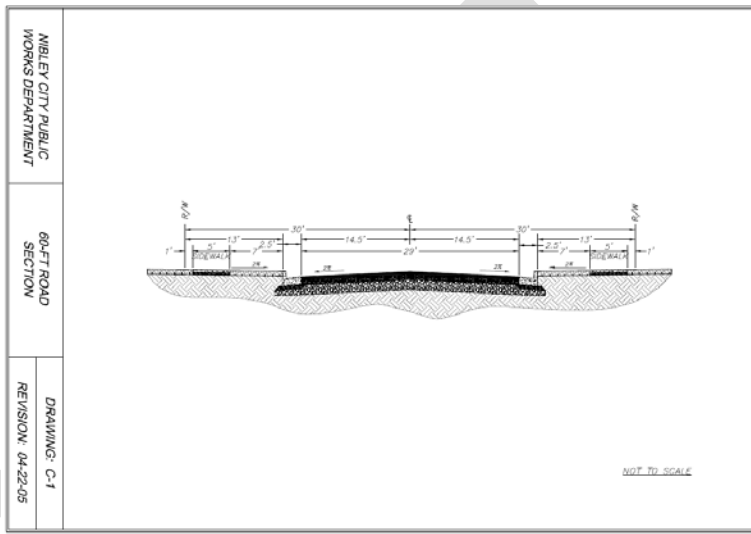
C. Minimum Street Widths: The minimum street widths shall be:

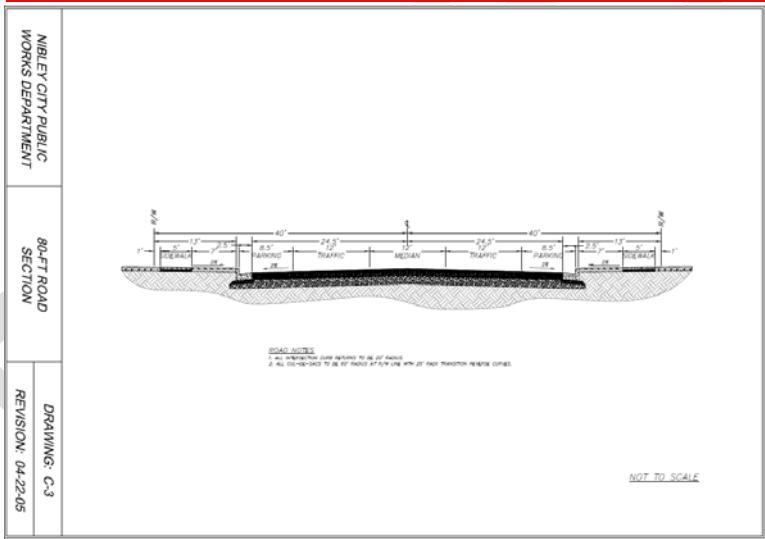
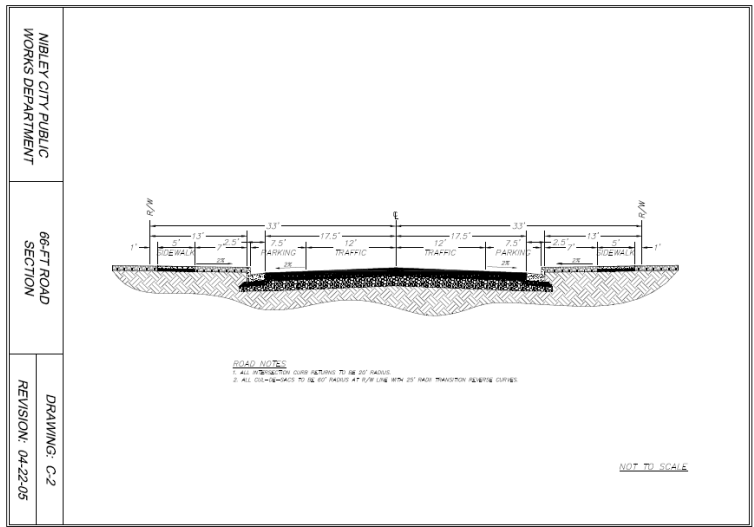
Road Type	Right Of Way Width	Pavement Width
Arterial	99 feet	66 feet
Collector	80 feet	49 feet
Residential	66 feet	35 feet

Neighborhood	60 feet	29 feet
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1. The neighborhood street may be used in areas that would not generally be considered a through street or a street that would carry significant amounts of traffic other than that generated on that street. A cul-de-sac may be a neighborhood street.
2. All sidewalks shall be a minimum of five feet (5') in width. Planting strips shall be at least seven feet (7') in width.
3. The design of road types shall be in accordance with the Nibley City Design Standards & Specifications, and as follows:

Comment [SP14]: Because the need for road base is different from one area of town to another, Justin M and I think that it would be better if the drawings reflect only what is to go above the ground.





- E. Curb, Gutter And Sidewalks: The subdivider shall be required to install curb and gutter on all new and existing streets within or adjoining the proposed subdivision.
1. Sidewalks may be required by the Planning Commission, if deemed necessary for public safety.
 2. The above requirements may be waived in rural estate and agricultural zones, if it is felt that curb, gutter and sidewalks would detract from the rural setting of the subdivision.
 3. The requirement for curb and gutter on existing streets may be waived only if future changes to the street are anticipated that would make the installation of curb and gutter unwise. In such cases, the Planning Commission may require that the subdivider pay to the City a sum equal to the best estimate of the cost of the improvements not installed to allow sufficient funds to later

complete the improvements. Any such proceeds shall be placed in the street capital improvement fund.

- F. Cul-De-Sacs: Cul-de-sacs shall not exceed one-eighth ($\frac{1}{8}$) mile in length, except in R-E zones where they shall not exceed one-fourth ($\frac{1}{4}$) mile in length. Each cul-de-sac must be terminated by a turnaround with a radius of at least sixty feet (60'). If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.
- G. Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the Planning Commission.
- H. Street Width Requirements For Small Acreage Parcels On Cul-De-Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul-de-sac as the only access to the development:
 - 1. Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City design standards and specifications and shall include five foot (5') sidewalks where required by City ordinance.
 - 2. Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City design standards and specifications.
 - 3. All other developments shall have roadways that conform to this section.

I. ~~Gravel Private Roads/~~Driveways:

- 1. A gravel private road or driveway may be approved for a single lot access, provided that the following conditions are met by the subdivider:
 - a. Demonstrate how the gravel private road/driveway is an important consideration in the area's streetscape or in the overall project design.
 - b. Demonstrate that the gravel private road/driveway will not cause extensive dust, erosion or sediment problems or provide a stormwater pollution prevention plan documenting how those problems will be eliminated.
 - d. All driveways approved for gravel shall have a driving surface of twenty feet (20') with six inch (6") minimum thickness of crushed gravel base course material and a three foot (3') drainageway on one side.
 - e. Provide a turnaround as per the international fire code standards.
 - f. Those driveways accessing off of any public road shall be paved for the first fifty feet (50') off said road, or to the house, whichever is less. In areas where the gravel private road accesses the property by crossing an adjoining property, the Planning Commission and City Council may require that the entire portion of the driveway crossing the adjoining property be paved.

Comment [SP15]: There are cities around the valley who have something similar to this that allows for a limited amount of infill development in specific circumstances and with fairly strict conditions of development. BJ and I discussed this and he is in agreement that it is in the City's best interest to make accommodations for flag lots. Section J is my attempt and doing so while keeping tight regulations on their allowance. I propose it in lieu of Section I.

- g. Those lots using a gravel private road to access their lot shall be exempted from the standard frontage requirement.
- h. Gravel private roads shall be permitted only for infill development in the R-E zone and in lots legally subdivided prior to current zoning/frontage requirements.

J. Flag Lots

1. A lot meeting the minimum size requirement for the underlying zone but which lacks the required minimum frontage may be approved by the Planning Commission for a building permit, provided the following conditions are met:
 - a. A paved driving surface of not less than twenty feet (20') with six inches (6") minimum crushed gravel base and a three foot (3') drainage on one side.
 - i. The driving surface shall be paved entirely from the point where the stem of the flag lot meets the publicly dedicated road to the point where the stem of the flag lot meets the flag portion of the lot, except in the case of the R-E zone, where the driving surface shall be paved for the first fifty feet (50') from point where the stem of the flag lot meets the publicly dedicated road.
 - b. A turnaround per the international fire code standard.
 - i. Prior to the Planning Commission's approval of the building permit, the applicant shall submit plans for the turnaround to the local fire protection agency and shall receive the agency's approval for the turnaround.
 - c. A stormwater pollution prevention plan shall be submitted, demonstrating how any dust, erosion or sediment problems which may result will be eliminated.
 - d. The flag lot shall not be created as part of a subdivision proposed under this ordinance.
 - e. The flag portion of the lot shall meet the size requirement of the underlying zone, regardless of the size of the flag stem portion of the lot.
 - f. All other requirements of the underlying zone which may be outlined in Nibley City Code or in the Nibley City Design Standards & Specifications, including, but not limited to: maximum grade, building height, setback, etc., shall be observed.
 - i. Setback shall be calculated from the point where the stem of the flag lot meets the flag portion of the lot.
 - g. All accesses to flag lots, regardless of the underlying zone, shall be maintained as private accesses and the responsibility for maintenance of the same shall lie with those property owners who may utilize said access to access their respective properties.
 - h. Owners of a flag lot shall grant to Nibley City a permanent, recorded easement along the full width of the access allowing for emergency vehicle access and also for City inspection.

- i. All utilities running the length of the flag stem which service the home on the flag lot shall be owned and maintained by the owners of the flag lot.
- j. Approved flag lot accesses shall be for single lot access only.
- k. The Planning Commission may impose such other conditions as they deem necessary and proper.

11-5-6: BLOCKS:

Blocks shall not be longer than one thousand six hundred feet (1,600'). Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities. (Ord., 6-1992)

11-5-7: LOT LAYOUT AND DESIGN:

- A. Standards: All lots shown on the subdivision plan shall conform to the minimum requirements of the zoning title for the zone in which the subdivision is located, and to the minimum requirements of the Nibley City Design Standards & Specifications.
- B. Street Access: All lots shall abut a dedicated public street, a private street or a street which has become a public right of way or right of use. In the event a lot abuts a public right of way created by use, the subdivider shall improve the right of way to the standards required by this title.
- C. Lot Arrangement: The lot arrangement and design shall be based on the following criteria: provide satisfactory and desirable sites for buildings, be properly related to topography, to the character of surrounding developments and to existing requirements.
- D. Lot Remnants: All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than be allowed to remain lot remnants.
- E. Undeveloped Lots: Undeveloped lots shall be kept free of trash, abandoned automobiles, machinery and other unsanitary, unsightly or unsafe material.
- F. Lot Ownership: Where the land in a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the county recorder.

11-5-8: RAILROAD:

Where the proposed subdivision contains or is adjacent to a railroad right of way, provision shall be made for either:

- A. A street approximately parallel to and on each side of such right of way; or
- B. A buffer planting strip of trees and/or shrubs at least ten feet (10') in width.

C. A six foot (6') fence running the length of the property adjacent to the railroad r-o-w.

Any plan for improvement along the railroad right-of-way shall include a description of who will be responsible for maintenance of the improvements.

11-5-9: DITCHES AND CANALS:

Open ditches or canals are prohibited within or adjoining a subdivision except along rear or side lot lines or through permanently reserved open space. Subdividers may also be required to pipe any ditches and canals on the property. Subdividers shall coordinate any improvements to canals with the affected canal company, as stated herein.

11-5-10: SAFETY FENCES:

Subdividers may be required to install a six foot (6'), nonclimbable chainlink fence, or its equivalent, along railroad rights of way, ditches and canals or streets..

11-5-11: STREET SIGNS:

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

11-5-12: LANDSCAPING:

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

11-5-13: MONUMENTS/PINS:

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

11-5-14: STREET LIGHTING:

Streetlights shall be required every five hundred feet (500') throughout the subdivision, at every street intersection and at the back of each cul-de-sac.

11-5-15: PROTECTION STRIPS:

Comment [SP16]: BLJ had originally thought that this section would need reworking, but decided that this sufficed, with the one sentence that is inserted.

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

11-5-16: UTILITIES:

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

Comment [SP17]: Justin M has a concern with this that he would like to bring up with you all at the meeting.

11-6 INSPECTION AND GUARANTEE OF WORK

11-6-1 Effect. The provisions contained in this section shall apply to all subdivisions and, in the event that a developer chooses to phase their subdivision, to each phase of the subdivision.

Comment [SP18]: BLJ and I spent time reviewing this section this morning. As you are aware, this section was taken from North Logan's ordinance. BLJ spent significant time preparing North Logan's ordinance and as such, has no concerns with this section, unless specifically indicated.

11-6-2 Definitions. The following definitions are used in this section relating to the guarantee of improvements in subdivisions.

Comment [SP19]: I believe this addresses the concern that was brought up to ensure that the inspection/guarantee requirements are in force whether it is for an entire subdivision or a phase.

A. Acceptance Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director to determine completion status of all required improvements for a subdivision, or a specific phase thereof. Once the improvements are complete, the Public Works Director shall issue an Improvements Completion and Acceptance Report stating such and accepts the improvements on behalf of Nibley City.

B. Cost Estimate of Improvements: The subdivider's estimate (normally done by the developer's engineer and verified by the City Engineer) of the costs of all work to be done to complete subdivision improvements required in accordance with the subdivision's approved construction drawings. The cost estimate is used to determine the amounts of the Improvements Bond for the subdivision. The actual cost of the improvements is used to establish the amount of the Warranty Bond.

- C. Final Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director after the one-year Guarantee Period for the subdivision improvements to determine if the improvements are free from material defects or workmanship for the Guarantee Period.
- D. Guaranty Period: The period (normally one year) following the completion and acceptance by the City of all subdivision improvements during which time the subdivider is responsible to ensure, by a Warranty Bond, that the improvements are free of material defect or workmanship.
- E. Improvements Bond: The legal/financial instrument by which the subdivider of the subdivision guarantees to the City, and to the purchasers of the various lots within the subdivision, that all of the subdivision improvements required in accordance with the subdivision's approved development plan are completed.
- F. Improvements Completion and Acceptance Report: A report issued by the Public Works Director stating the findings of the Acceptance Inspection and acknowledging the City's acceptance of the subdivision improvements.
- G. Notice to Proceed: The written notification by the City (issued by the Public Works Director, after consultation with the City Planner), to the subdivider that work may commence on the subdivision improvements.
- H. Partial Acceptance Inspection: Periodic inspections by the Public Works Director throughout the construction of the subdivision improvements to determine if the work is being done properly. These inspections may be done during each of "Parts 1, 2 and 3", as defined herein, in order to release portions of the Improvements Bond to the subdivider.
- I. Parts 1, 2 and 3: A list and grouping of tasks within the total work requirements for a subdivision which divides and sequences the project. This is done in order to provide points at which inspections shall be done and partial releases made, thus ensuring work is completed in a logical manner. Each of the parts is as follows:
1. Part 1: Installation of underground utilities and stormwater structures.
 2. Part 2: Construction of open space amenities and roads, minus asphalt, to the point that they provide access to the individual building lots.
 3. Part 3: Asphalted roads and construction of the sidewalks.
- Any exceptions to Parts 1, 2 and 3 must be approved by the City Engineer and the Public Works Director and shall be incorporated into the subdivision's Development Agreement.
- J. Pre-Construction Meeting: A meeting held prior to any construction being started for the subdivision, or each phase thereof, in which appropriate City staff members and the subdivider, his general contractor and any other associates of the subdivider directly related to the subdivision, meet together to discuss the project.
- K. Public Works Director : The Public Works Director for Nibley City, or his designated representative.
- L. Subdivision Development Agreement: An agreement between the subdivider and Nibley City relative to the specific subdivision subdivider is proposing whereby the subdivider agrees to construct all

improvements in the subdivision in accordance with the Nibley City Design Standards & Specifications and an estimated schedule, and the City agrees to allow for building permits to be issued within the subdivision at an agreed upon point in the construction process, typically after the completion of Parts 1 and 2.

M. Warranty Bond: The legal/financial instrument by which the subdivider warrants to the City, and to the purchasers of various lots within the subdivision, that all of the subdivision improvements are free of defective materials or workmanship for one-year following the City's issuance of the Improvements Completion and Acceptance Report. The amount of the warranty bond is equal to ten percent (10%) of the actual cost of making the subdivision improvements.

11-6-3 Inspections

A. All construction work involving the installation of improvements in subdivisions shall be subject to inspection by Nibley City. The appropriate person or agencies of the City shall inspect or cause to be inspected in the course of construction, installation, or repair, any infrastructure outlined in approved construction drawings, including, but not limited to: roadways, curb, gutter, sidewalk, sewer and water systems. Any underground utilities which may be publicly owned shall not be covered until such installations shall have been inspected by the Public Works Director or other authorized City inspector. Certain types of construction shall have continuous inspection, with no work being done except in the presence of the inspector or with the specific approval from the inspector allowing the work to continue in his absence. Partial Acceptance Inspections shall be made as needed in order to evaluate the completion of Parts 1, 2 or 3 and to allow for the partial release of the Improvements Bond.

1. Continuous Inspection. Continuous inspection shall be required on the following types of work:

- a. Laying of street surfacing
- b. Pouring of concrete for curb and gutter, sidewalks and other structures
- c. Installation of infrastructure related to sewer, stormwater and culinary water systems
- d. Acceptance testing
- e. Direct connections to existing sewer, stormwater and culinary water systems.

2. Periodic Inspection. Periodic inspection shall be required on the following:

- a. Street grading and gravel base
- b. Excavations for curb, gutter and sidewalks
- c. Excavations for structures
- d. Trenches for laying pipe
- e. Forms for concrete for curb and gutter, sidewalks and structures
- f. Required improvements to or reclamation of open spaces or any common areas.

3. Requests for Inspection. Requests for inspection shall be made to the municipality by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made at least three (3) days prior to commencing the work. Requests for inspection on work requiring periodic inspection shall be made at least one (1) day prior to commencing the work.

4. Final Acceptance Inspection. Upon the request of the subdivider, a Final Acceptance Inspection shall be made by the Public Works Director after all construction work is completed. Any faulty

or defective work shall be corrected by the persons responsible for the work within a period of thirty (30) days of the date the Public Works Director issues an inspection report defining the faulty or defective work. Upon satisfactory completion of all improvements, allowing for minor "punch list" items, the Public Works Director shall issue to the subdivider an Improvements Completion and Acceptance Report.

5. Whenever, in the judgment of the Public Works Director, the subdivision improvements cannot be seen, tested, or otherwise properly inspected, such as when the area is covered with snow, he may postpone and/or delay inspection of the subdivision improvements, including the Final Acceptance Inspection, until such time as the improvements requiring inspection can be appropriately seen/tested/inspected.

11-6-4 Building Permit Issuance. No building permit for construction of any building on any lot within a subdivision shall be issued until after:

A. All improvements required by Parts 1 and 2 are completed or the subdivider has executed a Subdivision Development Agreement with the City setting forth a schedule to complete all required improvements prior to the issuance of any building permit; and

B. An Improvements Bond is in place, pursuant to this section.

11-6-5 Guarantee of Work. The subdivider shall warrant and guarantee that the improvements provided for hereunder, and every part thereof, will be completed to the satisfaction of the City and thereafter remain in good condition by providing the assurances described hereunder, for the subdivision and for each phase thereof, as applicable.

A. Financial Guaranty

1. Improvements Bond. The subdivider shall provide an Improvements Bond stating that all agreed upon improvements are completed in accordance with the Subdivision Development Agreement and this ordinance. The work covered by this guaranty shall begin with the Notice to Proceed for the subdivision and shall end with the issuance of an Improvements Completion and Acceptance Report by the Public Works Director whereby the improvements are accepted by the City. No specific time period is associated with the Improvements Bond. It must remain in place until the issuance of the Improvements Completion and Acceptance Report by the PUBLIC WORKS DIRECTOR and the Warranty Bond has been provided.

2. Warranty Bond. The Warranty Bond shall ensure that the improvements constructed are free from defective material or workmanship for a period of one year following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director ("Guaranty Period"). This Warranty Bond shall be filed with the Public Works Director and shall secure the subdivider's agreement to make all repairs to and maintain the improvements and every part thereof in good condition during that time, with no cost to the City. The City reserves the right, as appropriate, to extend the Guaranty Period to a period of two (2) years following the date of the ICAR issued by the Public Works Director, in accordance with the provisions of §10-9a-604.5, Utah Code Annotated, as amended.

B. Repair of Work

1. The Public Works Director shall determine when repairs or maintenance are required for improvements which have not been accepted by the City, or for improvements which have been accepted by the City, based on the ICAR, but which are not free of defective materials or workmanship for the one (1) year Guaranty Period. Unless reasonable, arbitrary or capricious, the Public Works Director's decision shall be binding on the subdivider. Required repairs or maintenance to improvements may extend to, but is not limited to, the street base, and all pipes, joints, valves, backfill and compaction, as well as the working surface, curbs, gutters, sidewalks and other accessories which are or may be affected by the construction operations.
2. Whenever, in the judgment of the Public Works Director, the work needs repair, maintenance or rebuilding, he shall cause a written notice to be served on the subdivider and thereupon, the subdivider shall undertake and complete such repairs, maintenance or rebuilding. If the subdivider fails to do so within thirty (30) days from the date of the service of such notice, the Public Works Director may have such repairs made and the costs of such repairs shall be charged to the subdivider with an additional twenty-five percent (25%) of the cost of the repairs levied for stipulated damages resulting from such failure on the part of the subdivider to make the repairs.

11-6-6 Guarantee of Improvements. Prior to the recording of the Final Plat, whereafter lots may be sold, and before the issuance of any building permit within the subdivision, the subdivider shall guarantee, by an Improvements Bond, the installation and construction of any payment for the required improvements. Prior to the City's acceptance of the improvements and the final release of the Improvements Bond, the subdivider shall guarantee, by a Warranty Bond, that the improvements shall be maintained in a state of good repair, free from defective material or workmanship for the Guaranty Period. The provisions of both such guarantees, regardless of form, shall be as approved by the Public Works Director as to the amount of the bond and as approved by the City Attorney as to the form of the guarantee and shall provide for the following:

- A. The Improvements Bond shall be in an amount equal to one hundred ten percent (110%) of the cost of all improvements as estimated by the subdivider and verified by the City Engineer. The estimated improvements costs shall include only those costs for which the subdivider is responsible including the installation and construction of, and payment for such improvements within the time period required by the City, and based on the circumstances of each subdivision and set forth in an agreement between the City and subdivider. The estimated cost upon which the Improvements Bond is based shall not include the subdivision processing fees, the fee for the initial seal coat application for roads built as part of the subdivision, or any improvements for which the subdivider has no responsibility such as those improvements to be done at another time, those to be done by the City or other entity, or as otherwise agreed upon in the process of approving the subdivision.
- B. The subdivider shall have the right to partial release(s) against the Improvements Bond with the municipality providing however that a sum equal to ten percent (10%) of the estimated costs of all improvements installed in the subdivision shall remain with the municipality until after the issuance of an "Improvements Completion and Acceptance Report" by the City Engineer and the Warrantee Bond has been provided. The subdivider must show evidence of payment of all costs for the

improvements and show that the lots and the improvements thereto are free from any liens before any release (partial or full) of funds from the Improvements Bond. The City Engineer may release a portion of this remaining part of the Improvement Bond (meaning the 10% above the estimated costs of all the improvements) if, in his opinion, there remains encumbered a sufficient amount of the Improvement Bond to ensure the completion of the required subdivision improvements. The Warrantee Bond provided to the City is to guarantee that improvements are correctly installed, constructed, and are maintained through the Guarantee Period and to secure the City as to the costs of any required corrections of defects of such improvements.

C. During said Guarantee Period, if all or any part of the required improvements are found not to be correctly installed, constructed and maintained, and paid for according to the standards required in the municipality's subdivision ordinance, the City shall notify the subdivider in writing of the defects or any other problems and shall make demand on the subdivider that defects/problems be corrected and paid for. If the defects are not corrected and paid for within thirty (30) days the municipality may correct the defects and charge to the subdivider the costs of correcting the defects as provided for in paragraph (4)(b) above. There shall be no draw(s) made by the subdivider against the Warrantee Bond. The cost of correcting any deficiencies must be borne by the subdivider without access to the Warrantee Bond.

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

11-6-7 Form and Method of Guarantee of Improvements. The form and method of the guarantee of improvements, for both the Improvements Bond and the Warrantee Bond shall be as approved by the City Engineer as to the amount of the bond, escrow, letter of credit or deposit with the municipality and as approved by the City Attorney as to the form of said guarantee documents. All guarantee methods shall provide surety in accordance with paragraph (5) above and may consist in the form of one or more of the following:

A. Bond. The subdivider may furnish and file with the City Recorder a bond issued by a licensed, reputable corporate surety in an amount as required by this ordinance. The bond agreement must include a provision that the bond may only be released, in whole or in part, by an order executed by the subdivider and by an authorized officer of the City, subject to the requirements of (e), below.

B. Escrow. The subdivider may deposit with a licensed, reputable and/or duly chartered insurance company, bank, title company or savings and loan institution in an escrow account an amount as required by this ordinance. The escrow agreement must include a provision that the funds in escrow may only be released, in whole or in part, by an order executed by the subdivider and by an authorized officer of the City, subject to the requirements of (e), below.

C. Irrevocable Letter of Credit. The subdivider may file with the municipality an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount as required by this ordinance. The letter of credit must include a provision that the guaranteed credit amount may only be reduced by an order executed by the subdivider and by an authorized officer of the City, subject to the requirements of (e), below.

~~D. Deposit with Municipality. The subdivider may deposit with the municipality a sum equal to the amount required by this ordinance. The deposit shall be accompanied with an agreement signed by the subdivider and the City detailing how the amounts on deposit shall be paid to the order of persons or entities installing or constructing the required improvements.~~

Comment [SP20]: BLJ and I discussed this today and came to the conclusion that it is not wise for the City to essentially function as accounts payable for the developer. The City risks liability for the development when we take over control any portion of the developer's financial obligations to their subcontractors. For this reason, BLJ and I recommend this option not be made available.

E. Any of the above Forms and Methods for Guarantee of Improvements shall be subject to approval by the City Attorney, as to form and content of the documents used, and shall be signed by the subdivider, the municipality, and the entity providing the surety bond or holding the escrow, or the financial institution providing the letter of credit, or by the subdivider and municipality for a deposit with the municipality, as applicable. The Guarantee of Improvement may include provisions that allow for partial release or reduction of the funds for partial completion of work in the case of any of the approved Methods for Guarantee of Improvements. The Guarantee of Improvements utilized must name the City as the payee or beneficiary, in the event of default or non-performance and shall provide for the City's access to all or any remaining funds, without the subdivider's approval, for both Improvements Bond and Warrantee Bond purposes, in the event of default or non-performance by the subdivider. In the case of both the Improvements Bond and Warrantee Bond, the provisions shall provide for use of all or any remaining funds by the City in accordance with paragraph (4), above, in order to complete required improvements and/or make repairs not completed in a timely manner by the subdivider. The Guarantee of Improvements documents used shall also include provisions whereby the subdivider agrees to pay all legal fees and other costs of enforcement incurred by the City pursuant to the agreement.

11-7 Notice to Proceed and Authorization to Begin Work on the Subdivision

11-7-1 The City Engineer may require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to beginning work.

11-7-2 Conditions Prior to Authorization. Except as provided in paragraph (3) below, prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:

A. The final plat, or if a minor subdivision the Approval Document, shall have been approved by the City and filed with the County Recorder as required in this Code.

B. All required contract and construction documents shall be completed and filed with the City Engineer.

C. Fee simple title to all necessary off-site easements or dedications required for public facilities, not shown on the final plat or final site plan, must be conveyed separately to the City, or other agency approved by the City, with proper signatures affixed. The originals of each document, and filing fees

as determined by the City shall be delivered to the City Engineer prior to approval and release of the construction documents.

D. The Improvements Bond and other documents required to be accomplished in accordance with this ordinance and the development plan, and any applicable ancillary agreements shall be completed and filed with the City Engineer.

11-7-3 Authorizing Work to Begin on a Subdivision Without Improvements Bond. The Public Works Director may authorize work to begin on a subdivision without an Improvements Bond if all other conditions in 11-7-2 above have been met. Until the Mayor has signed the final plat, or if a minor subdivision the Approval Document, no plat shall be filed with the County Recorder and therefore no lots may be sold. The final plat or Approval Document shall be signed by the Mayor and filed with the County Recorder only after all subdivision improvements have been completed and the 10% Warrantee Bond has been established and filed with the City Engineer.

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

11-8 Acceptance of the Completed Subdivision

11-8-1 Applicant's Submittal of Completed Subdivision. Subdivider may notify the City in writing of the completion of the subdivision and request Final Inspection when the subdivider believes that they have done the following:

- A. Completed all infrastructure work in the subdivision or development, as prescribed in the Nibley City Design Standards & Specifications and per approved construction drawings.
- B. Provided to the City the required as-built drawings, and
- C. Otherwise complied with all conditions required by the City Council or this ordinance as preconditions to approval of the Development Agreement, Final Plat, and Construction Drawings.

11-8-2 As-Built Drawings. The subdivider shall provide to the City as-built drawings and specifications for all infrastructure improvements in the subdivision. Drawings and specifications shall include but not necessarily be limited to roads, curb/gutter, sidewalks, drainage systems, irrigation systems, waterlines, and sewer lines. Standards for as-builts shall be the same as called for in construction drawings in the Design Standards Technical Manual. The drawings and specifications, certified by a registered engineer, shall be submitted to and approved by the City Engineer before final release of funds established by the subdivider to ensure improvement

completion under any Improvements Bond provided, as set forth in section 12D-501. One (1) reproducible mylar copy of drawings shall be provided to the City. In addition the subdivider shall provide either:

A. A Computer Assisted Design file of the subdivision (must be readable by AUTOCAD as updated) or ArcMap file of the subdivision; and

B. Electronic PDF copies of the as-built drawings

11-8-3 Public Works Director Review. The Public Works Director shall conduct such review as he/she considers appropriate to determine whether the subdivision is complete and whether the Applicant has satisfied all applicable conditions. If the Public Works Director finds that the Applicant has completed the subdivision and has satisfied all applicable conditions, and that all other requirements of applicable law have been met, the Public Works Director shall, in accordance with section 12D-501, approve the as-built drawings and shall forward to the City Recorder a copy of the Improvements Completion and Acceptance Report, and notify him that the Improvements Bond has been released.

11-8-4 Partial Releases of Improvements Bond. The Public Works Director is authorized from time to time, at the request of the subdivider or his successors in interest, and with recommendation from the City Attorney to release all or a portion of a subdivider's Improvements Bond up to the amount of one hundred percent (100%) of the value of the improvements. The remaining percent (10%) may only be released in accordance with section 12D-501.

11-8-5 Final Release of Warrantee Bond - Release Submittal and Approval. Following a review of the subdivider's request to have the subdivision's Warrantee Bond released, the Public Works Director shall forward to the City Council a recommendation for the release of the Warrantee Bond and the City Council shall release, in accordance with section 12D-501 (5), the subdivider's Warrantee Bond, with respect to the subdivision.