



Nibley City  
Planning Commission  
Wednesday, November 18, 2015  
455 W. 3200 S.  
Nibley, UT

5:30 p.m. Call to Order  
Approval of Agenda  
Approval of Minutes

**CONDITIONAL USE PERMIT/BUSINESS LICENSE**

**Kikkert, LLC**- discussion and consideration of a request for a home occupation (online retail) located at 421 W. 3300 S. (Applicant: Isaac Kikkert)

**Kettle Korn of Cache Valley**- discussion and consideration of a request for a kettle corn business located at 2800 S. Main (Applicant: Jeremy Devey)

**KENNEL LICENSE**

Discussion and consideration of a request for a kennel license for three (3) dogs located at 3010 S. Main (Applicant: Makenzie Clark)

**WORKSHOP**

Discussion of an ordinance regulating home occupations in Nibley City.

Staff Report

*Planning Commission agenda items may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.*



11/13/15

Hi everyone!

**Kikkert, LLC**- discussion and consideration of a request for a home occupation (online retail) located at 421 W. 3300 S. (Applicant: Isaac Kikkert)

- This application is for a home occupation/home office. The office will serve a business related to making small products (the application does not state what those products are).
- Our home occupation definition is:
  - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- Mr. Kikkert's application states that he will not have any outside employees, client visits or conduct any part of the building in an accessory building. Business related shipments would be limited to 1-2 per month.
- This business meets the requirements to be classified and approved as a home occupation.

- The property is zoned Residential R-2. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2 zone.
- My concern with the application is that it doesn't state what is being made. I haven't been able to get hold of Mr. Kikkert to see if I can find out what he is making. I will try to do that and have that information for you prior to the meeting.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance.

**Kettle Korn of Cache Valley-** discussion and consideration of a request for a kettle corn business located at 2800 S. Main (Applicant: Jeremy Devey)

- Mr. Devey previously was granted a cup/business license to run his business out of his home.
- He is not doing away with the business out of his home, but wants to try setting up a seasonal commercial location along Hwy 89.
- At my request, Mr. Devey has already contacted Paul Berntsen, the county building inspector and had him inspect the premises to see if any alterations need made to the structure or the parking area. Paul has notified me that no changes need made to the property in order for it to meet code for the type of business Mr. Devey proposes to conduct.
- When a new commercial building comes in to the City, then there are requirements for site plan review and approval. That is not needed in this case because the building and property are existing.
- Based on my review of the land use definitions, I would classify this business as either "restaurant" or "retail", which are defined as:
  - RESTAURANT: A place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for consumption on or off site, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. This term does not include a grocery or convenience store with a food service section. Such establishments may include a drive-through window, and may or may not include on site seating.
  - RETAIL: A place and/or building, or portion thereof, which is used or is intended for retail sale of a diverse product line. This term includes full scale grocery stores, warehouse retail outlets, comparison shopping stores, full line department stores, and the like. It also includes retail uses such as secondhand stores, copying/printing stores, services and video rental.
- Both retail and restaurants are classified as "conditional" uses in 10-10 of our City Code, which is the land use chart.

- The nature of the business doesn't qualify it for a temporary vendor license because, although he intends on only conducting the business for a limited amount of time, because he is not going from city to city, he does not meet the definition of businesses outlined in our ordinance governing temporary vendor licenses.
- I have no problems approving this request for a conditional use permit and business license and have no suggested conditions, particularly given that the plan is to only be in business until the end of January.

### **KENNEL LICENSE**

Discussion and consideration of a request for a kennel license for three (3) dogs located at 3010 S. Main (Applicant: Makenzie Clark)

- Nibley City Code 10-17-5 states the following:
  - **10-17-5 Residential Lots Greater Than Or Equal To 0.75 Acre**  
Lots in residential zones that are greater than or equal to 0.75 acre are permitted the following animals:
    - Animals kept as household pets are permitted and are subject to each of the following limitations:
    - The maximum number of dogs per household is two (2) dogs, and a conditional use permit may be granted for a third dog.
    - The maximum number of cats per household is four (4) cats.
    - The combination of dogs and cats per household shall not exceed six (6) animals.

Offspring less than six (9) months old of permitted household pets shall not be counted or regulated.

Applicants may be granted a conditional use permit that waives the above limitations for a service animal, such as a guide dog, or an animal that is being trained to provide such assistance.

- Ms. Clark's application is for 3 dogs on a 1-acre lot. One of the dogs is already being used as a service animal, and the other is a service animal in training.
- Ms. Clark's lot is large enough, particularly given that two of the three dogs are service animals, that she may be issued a conditional use permit for a kennel license, and I recommend the Commission approve the kennel license.

### **WORKSHOP**

Discussion of an ordinance regulating home occupations in Nibley City.

- Based on the Commission's direction at our last meeting, I have prepared a draft of an ordinance which would outline regulations governing home occupations. The draft has been prepared from a combination of other cities' ordinances.

A couple of items for your calendar:

- As we have done in the past, the City will be handing out turkeys to its employees and elected/appointed personnel. Please come by the City office and pick up your turkey on Monday, November 23<sup>rd</sup>, from 3-4:30 p.m. If you're not able to make it that day, please let Alejandra in the front office know and we will make arrangements to have the turkey brought to you.
- The City's annual end of the year party will be held Thursday, December 17<sup>th</sup>, at 6:00 p.m. and will be on campus at the Skyroom at USU. Further information will be forthcoming, but mark your calendars. It will be delicious!

Have an excellent weekend!

Shari

November 18 @ 5:30

APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE



Office Use Only
Date Received 11/4/2015
Fee Paid
Rec'd By [Signature]

Name Isaac Kikkert
Address 421 W. 3300 S., Nibley, UT 84321
Phone 801-810-6213 Cell Fax
Email isaackikkert@gmail.com

Please Note: The owner/operator of the business on this application must live at the address stated above. Nibley City cannot issue conditional use permit/business licenses to persons who do not live at the address where the business will be located.

Please describe the reason you are requesting a conditional use permit/business license:

Home Office Sales Manufacturing Day Care
[X] Other (please describe): Making small physical products and selling them online

Proposed business name: Kikkert, LLC

Description of business: Online retail

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: It will not affect the residential neighborhood - Occasional UPS package (1-2 times per month)

Do you plan to employ persons not living at this address as part of the business? Y (N)

Will those employees be working in your home or at another location? Please describe: N/A

Do you plan to conduct any of the business in an accessory building at this address? Y (N)

How many clients will visit this location weekly? 0

Describe how you will provide parking for client visits (if applicable): N/A

Will you have business vehicles which will require parking accommodations? Y (N)

If so, please describe the vehicles and parking plans: N/A

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? 1/2 times per month - UPS/FedEx

Will you be able to provide adequate indoor storage for these deliveries? (Y) N

If applicable, describe any signs at this address which will advertise the business: N/A

Nibley City Planning & Zoning



Nov 18,

NIBLEY CITY
APPLICATION FOR KENNEL LICENSE
Application Fee: \$30 (one-time)
Annual License Fee: \$25

Date: 11-8-15

This form must be completed and returned to city staff prior to being scheduled to appear on the Planning Commission agenda. In addition, please bring a copy of this application with you when you meet with the Planning Commission to discuss the application.

Applicant: Makenzie Clark

Address: 3010 S. Main Nibley, VT

Phone: 855-542-5802 (Home) (Work) (Cell)

Lot Size: 1 acre

Fill in the following information for each dog:

Name: Ruel Breed: Mini Aussie
Gender: M (F) Age: 10 mo. Color: Tri-color
Spayed/Neutered: Y (N) Rabies Shot: (Y) N Date:

Name: Butch - Service Animal Breed: Border Collie
Gender: (M) F Age: 9 mo. Color: red/white
Spayed/Neutered: Y (N) Rabies Shot: (Y) N Date:

Name: Annie - Service Animal in training Breed: Heeler
Gender: M (F) Age: 6 weeks Color: red/white
Spayed/Neutered: Y (N) Rabies Shot: Y N Date:

Name: Breed:
Gender: M F Age: Color:
Spayed/Neutered: Y N Rabies Shot: Y N Date:



NIBLEY CITY  
Commercial Business License Application

Office Use Only  
Date Received 10/28/2015  
Fee Paid 825.00  
P&Z Meeting November 16, 2015

Please type or print in black or blue ink

Business Name	<u>Kettle Korn of Cache Valley</u>	Local Business Phone #	<u>435-754-5260</u>
Business Address	<u>2800 S Highway 89/91</u>	City/State/Zip	<u>Nibley UT 84321</u>
Billing Address	<u>1410 Sunset Circle</u>	City/State/Zip	<u>" "</u>
State Tax ID	<u>13603988-0035PF</u>	DBA/Corp/LLC <input checked="" type="radio"/> Sole Prop. <input type="radio"/> Partnership (circle)	
Describe the Nature of the Business (attach additional sheets if necessary) <u>Kettle <del>corn</del> Corn Will Be made and sold</u>			
Do you use, store or manufacture any chemical, combustible, or hazardous materials? Yes <input type="radio"/> No <input checked="" type="radio"/> If "Y", attach additional sheets explaining the type of chemicals and how they will be used, stored, or manufactured.			
Are you moving into a new or already existing building? New <input type="radio"/> Existing <input checked="" type="radio"/>			
Sexually Oriented Business? * Yes <input type="radio"/> No <input checked="" type="radio"/>		Alcohol Sales/Consumption? * Yes <input type="radio"/> No <input checked="" type="radio"/>	
* Answering yes to either of the above subjects a business owner to additional licensing requirements. See staff for additional information prior to submitting this application.			
Projected Opening Date	<u>2-11-2-15</u>	Days/Hours of Operation	<u>Friday Sat 1-6</u>

Officers/Owners (attach additional sheets if necessary)

	Owner/Office #1	Owner/Officer #2	Owner/Officer #3
Name (first/middle/last)	<u>Jeremy Devey</u>		
Home Address	<u>1410 Sunset Circle</u>		
Home Phone	<u>435-754-5260</u>		
DOB (mm/dd/yyyy)	<u>12/31-77</u>		
Misc. Info/Pro. Licenses	<u>Food Managers Bear River Health</u>		
Driver's License #/State	<u>218598225</u>		

I certify that the information contained in this application is true and correct. I agree to conduct my business in accordance with Nibley City ordinances and any other State or Federal statutes or laws governing operation of such business. Further, I understand that false disclosure of information on this application or failure to comply with said ordinances, laws and statutes may result in the revocation of my business license.

Signature of Applicant [Signature] Date 10-28-15  
Print Name Jeremy Devey Title owner

### A. Definition

A home occupation is defined as "The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that:

1. individuals who perform occupation related activities at the home occupation residence must also live at that residence
2. ~~individuals who do not live at the home occupation residence must not report to that residence for occupation related activities."~~
3. ~~such occupation shall not require interior or exterior alterations~~
- 4.2. ~~the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use.~~

Accessory buildings may be used to conduct all or a portion of the home occupation, so long as the use is contained within the accessory building.

Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, ~~with the following exceptions as outlined in this ordinance. Child daycare/preschool for more than eight (8) children shall be classified as daycare, commercial rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation."~~

### B. Home Occupation License Required.

No person may conduct a business within a residence, the lot upon which it sits or within any of its accessory structures except as a home occupation in compliance with this Chapter. Except as specifically provided by Nibley City Ordinance, it shall be unlawful for any person to engage in or conduct a Home Occupation without having first procured a Home Occupation license from Nibley City, sometimes hereinafter to be called a "license". The license shall be renewed each year.

### C. Planning Commission Approval Required

Subject to the provisions of this ordinance, the Nibley City Planning Commission shall review and approve, deny, or approve with conditions, all applications for a home occupation, except for those uses which meet the definition of "Home Office", as defined in Title 10 of the Nibley City Code. Uses meeting that definition may be reviewed and approved by City staff.

City staff may refer to the Planning Commission applications which meet the definition of "Home Office" if, in the determination of staff, there are circumstances which require the Planning Commission's review and approval.

### ~~C~~D. Purpose.

The purposes of this section are to:

1. Provide an opportunity for home occupations as an accessory use when they are compatible with the neighborhoods in which they are located. A home occupation shall not be construed to mean an employee working in his home in the service of an employer whose principal place of business is licensed at another location.

2. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities and encourage this type of home occupation to draw clients/customers from their immediate neighborhood.
3. Guide business activities which are not compatible with neighborhoods to appropriate commercial zones.
4. Safeguard peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of business uses being conducted in residential areas from noise, nuisance, traffic, fire hazards and other possible business uses that create significant impacts on a neighborhood.

**~~D. Neighborhood Disruptions Not Permitted.~~**

~~The home occupation shall not interfere or disrupt the peace, quiet, and domestic tranquility of the neighborhood. The home occupation shall not create or be associated with or produce odor, smoke, dust, heat, fumes, light, glare, noises or vibrations, excessive traffic, or other nuisances including interferences with radio and television reception or any other adverse effects within the neighborhood.~~

**E. Renter/Owner Responsibility.**

If the applicant for a home occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the application is submitted to the Business License Office.

**F. Interior Alterations/Remodeling.**

~~Interior A~~alterations of the principal dwelling for the purpose of accommodating the home occupation are prohibited if such alteration eliminates the kitchen, and/or all of the dining areas, bathrooms, living areas, or all of the bedrooms. A building permit shall be obtained for remodeling.

**G. Restrictions**

The following restrictions shall apply to any home occupation:

1. All home occupations are required to obtain and maintain a current city business license and meet all requirements of this code.
2. All home occupations shall comply with federal, state and local laws and ordinances.
3. Home occupations shall not involve the unauthorized use of hazardous or annoying substances or processes nor shall they create any hazardous or offensive odors, noises, fumes, gases, dust, radiation, glare, electrical interference, vibrations, heat, wastes, pathogens or any other harmful substances or effects.
4. Home occupations shall be conducted entirely within the dwelling unit and may not occupy, with either goods, materials, equipment or activities, any attached garage, ~~accessory building~~ or lot area. Training activities such as swimming, tennis and horseback riding or daycare or preschool activities may be conducted outdoors; provided, that no nuisance is created.
5. All vehicles and other equipment requiring parking accommodations, or which may not be reasonably stores in a business related vehicle, shall be parked out of the right-of-way and out of the setback areas on the property where the home occupation is conducted.
6. ~~Home~~ occupations shall not cause excessive demands on city services.
7. Employees of home occupations shall consist only of members of the family residing in the dwelling or other individuals whose activities are conducted away from the residence.
8. The exteriors of dwellings may not be altered from a residential character as a result of or to enhance a home occupation.

9. Home occupations involving pedestrian or vehicle traffic shall be conducted only between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M.
10. More than one home occupation may be conducted in a dwelling; provided, that these regulations are followed as though there were only one occupation in the dwelling.
- ~~11. Meetings held for the purpose of marketing, taking orders or training may be held at the residence; provided, that no violations of this chapter occur.~~
- ~~12.~~11. The City may place additional restrictions on a home occupation relating to hours of operation, parking, traffic or other matters as it deems necessary to mitigate impacts on the neighborhood and the city in general.

#### H. Preschool/Daycare

1. Preschools for a maximum of eight (8) students may be conducted as home occupations with approval of a conditional use permit/concept plan with the following and other conditions as determined by the Planning Commission:
  - a. Maximum two (2) sessions per day and maximum four (4) sessions per week. Sessions shall be a maximum three (3) hours in length.
  - b. Students' ages shall be three (3), four (4) or five (5) years old.
  - c. Days and hours of operation shall be provided for review.
  - d. All life safety and building codes shall be met and a building permit, if necessary, shall be obtained for remodeling.
  - e. All state licensing requirements will be met.
  - f. All other requirements of this chapter and other local, state and federal laws shall be met.
2. Child daycare/preschool for more than eight (8) children shall be classified as daycare, commercial rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation."

#### I. Prohibited Home Occupations.

The following uses, by nature of the occupation, substantially impair the use and value of residentially zoned areas for residential purposes and are, therefore, prohibited:

1. Mortuary, crematorium, columbarium, mausoleum
2. Animal hospitals or veterinary services.
3. Clinic, dental office, medical office, chiropractic office, or hospital.
4. Junk yard, auto wrecking yard, or salvage yard.
5. Stables, kennels, pet stores, or any other commercial animal breeding business, or similar activities are prohibited. ~~Activities may be allowed within the scope of a hobby license as issued by the Animal Services Division of Sandy City.~~
6. Storage, service, repair, sales or rental of ambulance, tow truck, recreational vehicle, water craft, automobiles, ATV, or other motorized vehicles.
7. Fitness or health spa facility.
8. Boutiques, sample sale, or craft shows.
9. Auto body repair, motor vehicle repair.
10. Use of specified chemicals, pesticides and flammable/combustible materials, and including any other process or business where current, adopted Building and Fire Codes would require an Operational Permit.
11. ~~Number of vehicular stops/or visits that would exceed 24 per day~~Client visits in excess of ten (10) per day.

## J. Application

The following items shall be submitted to the city business licensing office in applying for a home occupation business license:

1. Application forms as provided by the city and the associated fee as determined by the Planning Commission.
2. Description of the nature of the home occupation and information as requested in the application.
3. Hours of operation and the number of customer visits to be made each day.
4. Other government approvals required for conducting the home occupation.
5. Signed affidavit by the applicant that all requirements and conditions of the city will be followed.

## K. Application Appeal Procedure

If the Planning Commission finds that certain conditions cannot be met, that the proposed home occupation is not appropriate or is inconsistent with the definition and purpose of this chapter or if objections are filed, the application shall be denied.

Applicants wishing to appeal the denial of a home occupation permit may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.

~~The decision of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission decision. Costs of notification for the Planning Commission and/or City Council meetings shall be borne by the appellant. The Planning Commission or City Council may place conditions on the approval of the home occupation business license application pertaining to the conduct of the business.~~

## L. Suspension/Revocation

A home occupation may be commenced only upon completion of all plan improvements as stipulated in the accompanying approval. The home occupation will be conducted in conformance with approved plans and conditions.

Application to amend a home occupation license may be requested by following the application procedures in this chapter. A home occupation license may be suspended or revoked by the Planning Commission, after a public hearing, ~~if requested by the property owner or~~ if it is shown that one or more of the following conditions exist:

1. The use is conducted prior to completion of all required improvements and conditions.
2. The use is established or conducted contrary to any of the approved plans or conditions.
3. The use is conducted contrary to local, state, or federal laws.
4. The use is creating a nuisance or hazard, whether it be through the condition of the property, the conduct of the business or the behavior of the occupants of the residence where the home occupation is conducted-
5. The applicant supplied false or misleading information when applying for a home occupation license; or withheld relevant information on the application or allowed such to happen.

Prior to holding a public hearing to consider the suspension or revocation of a home occupation license, the City shall give at least fourteen (14) days prior written notice, mailed or otherwise delivered to the address listed on the application as the address where the Home Occupation is being conducted, of the alleged violation or the manner in which the property no longer complies with the requirements for the

Home Occupation, with the opportunity to correct the problem during said time. Any substantiated, unresolved complaint, regarding the violation of standards, qualifications or application requirements or any of the above violations, which is received and verified by the City, against any Home Occupation licensed under this section, will require that any licenses be revoked and the business cease to operate.

Any person/persons whose license has been suspend or by the Nibley City Planning Commission, and who wishes to appeal said revocation may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.