



Nibley City
Planning Commission
Wednesday, May 27, 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

Western States Safety Solutions- discussion and consideration of a conditional use permit for a home occupation (fire alarm sales) located at 1180 W 2550 S (Applicant: Jared Jeppsen)

Kettle Korn of Cache Valley- discussion and consideration of a conditional use permit for a home occupation (kettle corn sales) located at 1410 Sunset Circle (Applicant: Jeremy & Allison Devey)

Bargain Cache- discussion and consideration of a conditional use permit for a home occupation (BBQ sauce sales) located at 1035 W 2470 S (Applicant: Scott Webb)

ACCESSORY BUILDING PERMIT

Discussion and consideration of an application for a building permit to construct a 75'X40' accessory building located at 3144 S 800 W (Applicant: Joey Gilsdorf)

PUBLIC HEARING

A public hearing to receive comment concerning a proposed ordinance regulating telecommunication towers in Nibley City.

Discussion and consideration of a proposed ordinance regulating telecommunication towers in Nibley City.

PUBLIC HEARING

A public hearing to receive comment concerning a proposed ordinance regulating vicious animals in Nibley City.

Discussion and consideration of a proposed ordinance regulating vicious animals in Nibley City.

*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.



MEMO

5/22/15

Hi all-



Mayor Dustin has not yet made his decision on who he will appoint to fill Mark's vacancy. Also, if any of you are interested in running for City Council, there are three seats up for election this November. Those seats are currently held by Ron Hellstern, Larry Jacobsen and Amber Whittaker. Amber will actually be vacating her seat as of June 10- she is moving to Smithfield- so in addition to the seat being up for election in November, the Council will be looking to make a 6-month appointment to finish out her term. The candidate filing period is June 1-June 8 for the general election. We don't yet know the exact deadlines for applying for Councilmember Whittaker's seat, but that information will be made available as soon as possible.

Also, as to the general plan, I'll explain further on Wednesday, but we are shifting directions on how we're going to complete the update. David, Mayor Dustin and I have to sit down and finalize the details, but we are going to be bringing in a consultant to complete the plan update. I'll have more information on Wednesday, but wanted to give you at least a brief idea of what is going on.

This is what we have on the agenda for Wednesday's meeting:

CONDITIONAL USE PERMIT/BUSINESS LICENSE

Western States Safety Solutions- discussion and consideration of a conditional use permit for a home occupation (fire alarm sales) located at 1180 W 2550 S (Applicant: Jared Jeppsen)

- This application is for a home occupation home safety (fire alarm, CO2 detectors, smoke detectors) business.
- 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. Jeppsen's application states that he will not have any outside employees, conduct any part of the business in an accessory building, will have no client visits and will also not have any business vehicles. This qualifies the business to be licensed as a home occupation.
- The sales will be done on the road, so there is no need to worry about door to door soliciting coming from this business. All of his inventory will be stored in his vehicle and in his garage.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit, and have no suggested conditions at this time.

Kettle Korn of Cache Valley- discussion and consideration of a conditional use permit for a home occupation (kettle corn sales) located at 1410 Sunset Circle (Applicant: Jeremy & Allison Devey)

- This application is for a home occupation kettle corn business.
- 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. Devey's application states that he will not have any outside employees, conduct any part of the business in an accessory building, will have no client visits and the only business related vehicle will be a small trailer he intends to pull behind a van. This qualifies the business to be licensed as a home occupation.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit, with the condition that the trailer be parked behind the front plane of the home.

Bargain Cache- discussion and consideration of a conditional use permit for a home occupation (BBQ sauce sales) located at 1035 W 2470 S (Applicant: Scott Webb)

- This application is for a home occupation (BBQ sauces/salsas) business.
- 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. Webb's application states that he will not have any outside employees, conduct any part of the business in an accessory building and will have no client visits. This qualifies the business to be licensed as a home occupation.
- The sales will be done on the road, so there is no need to worry about door to door soliciting coming from this business. All his inventory will be stored in his vehicle and in his garage. He does have a trailer which he says will be parked in his driveway, but which, in keeping with what we have required in the past, should be parked behind the front plane of his home. The only signage will be on his trailer and on the car pulling the trailer.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit, with the condition that the trailer be parked behind the front plane of the home.

ACCESSORY BUILDING PERMIT

Discussion and consideration of an application for a building permit to construct a 75'X40' accessory building located at 3144 S 800 W (Applicant: Joey Gilsdorf)

- City Code 10-12-6(C) outlines the size of accessory building which property owners may have. Size and height limits are based on acreage of the property. Mr. Gilsdorf's property is .97 acres, which would allow him a 3,000 sq ft building, as he is requesting, so he is within the size limit of the ordinance.
- There is a conflict in our ordinance on the maximum height of accessory buildings. 10-11-1 limits accessory buildings in an R-2 zone to 20' height. 10-12-6 bases the height limit on property size. Mr. Gilsdorf's property falls in both categories- it is in an R-2 zone but it is in the .75-.99 acre category, which allows for up to 30'. I am looking into which ordinance prevails when there is a conflict and will have an answer prior to the meeting.
 - The reason this is an issue is because, as it is drawn out, Mr. Gilsdorf's building is 22' tall. If the more restrictive ordinance prevails, then he will need to make it shorter. If the more permissive ordinance prevails, then he is fine to have a 22' building.
- City Code 10-11-1 outline the setbacks required for accessory buildings. Because Mr. Gilsdorf is not on a corner lot, his accessory building setbacks are 3' on the side and 1' on the back. The plot plan indicates that the shop will be 5' from the side property line and approximately 180' from the back property line.

- There are some properties in the City where utility easements are in place around the property. In those cases, the Commission has increased the required setback so that no buildings are being built within the utility easements.
- Mr. Gilsdorf's property does not have such utility easements around it, so no increased setback is necessary in this situation.

PUBLIC HEARING

A public hearing to receive comment concerning a proposed ordinance regulating telecommunication towers in Nibley City.

Discussion and consideration of a proposed ordinance regulating telecommunication towers in Nibley City.

- I have sent this to our attorney for his review and comment. I added in the requested information regarding security and fencing. I went ahead and left the section on permitted uses in the draft- I think we are covered but it's better to have more than less, in this situation, so unless our attorney brings something up in his review, I'll plan on leaving it there.

PUBLIC HEARING

A public hearing to receive comment concerning a proposed ordinance regulating vicious animals in Nibley City.

Discussion and consideration of a proposed ordinance regulating vicious animals in Nibley City.

- This has been sent to the prosecutor for his review and comment. Prior to sending it to the prosecutor, I had the animal control officer with the CCSO review it with his supervisors. They did not have any concerns or questions with the ordinance.

Have a great Memorial Day weekend! Let me know if you need anything or have any questions.

Shari

May 13 5:30 pm



APPLICATION FOR CONDITIONAL USE
PERMIT/BUSINESS LICENSE

Office Use Only	
Date Received	4/28/2015
Fee Paid	25.00
Rec'd By	[Signature]

Name Jeremy & Alison Devey
Address 1410 Sunset Circle Nibley, UT 84321
Phone 928-246-5039 Cell 435-754-5260 Fax _____
Email Devey1977@gmail.com

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

____ Home Office ☒ Sales ____ Manufacturing ____ Day Care
____ Other (please describe): _____

Proposed business name: Kettle Korn of Cache Valley

Description of business: mobile kettle korn vendor (attend events & sales)

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: The small mobile trailer gets parked at our house, it will not affect the neighborhood or surrounding areas.

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: _____

NO extra employees

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? 2

Describe how you will provide parking for client visits (if applicable): _____

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

If so, please describe the vehicles and parking plans: just a van with a small trailer pulled behind

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? 2 Fed Ex delivering Oil & popcorn

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: None

May 27 @ 5:30 pm



APPLICATION FOR CONDITIONAL USE
PERMIT/BUSINESS LICENSE

Office Use Only

Date Received _____

Fee Paid _____

Rec'd By _____

Name Jared Jeppsen
Address 1180 West 2550 South
Phone _____ Cell 435-760-9294 Fax _____
Email jaredjeppsen@gmail.com

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

____ Home Office ____ ☒ Sales ____ Manufacturing ____ Day Care
____ Other (please describe): _____

Proposed business name: Western States Safety Solutions

Description of business: Fire alarm sales to include smoke detectors, heat detectors, and Carbon Monoxide detectors

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: There will be little to no impact because all sales will be on the road

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: _____

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? _____

Describe how you will provide parking for client visits (if applicable): _____

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

If so, please describe the vehicles and parking plans: I will use my personal auto

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? Between 1-4 per month and may send one shipment out

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: No home front advertising



APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

Office Use Only

Date Received 4/23/15Fee Paid 25.00Rec'd By [Signature]

Name Scott S. Webb
 Address 1035 W. 2470 S.
 Phone 435-535-6114 Cell _____ Fax _____
 Email _____

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

☒ Home Office ☒ Sales ☐ Manufacturing ☐ Day Care
☐ Other (please describe): _____

Proposed business name: Bataguan Cache

Description of business: Wholesale Sales of Montana Cattle Co. Sauces & Salsas
Sale of items at Swap Meets etc. - Result of Company Sale items etc.

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: I sell on the road and at swap meets and farmers
meets and sales from home serve 50 to 100 cars etc. - no problem

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: _____

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): None needed

Will you have business vehicles which will require parking accommodations? ☒ Y ☐ N

If so, please describe the vehicles and parking plans: I will park at location on my driveway

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? I get things via common carrier on occasion but purchase on site for

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: Sticker Signage and
info on my transportation



APPLICATION FOR ACCESSORY BUILDING PERMIT

Office Use Only

Date Received: _____

Fee Paid: _____

Rec'd By: _____

Property Owner Information

Name Soey Gilsdorf
 Address 3144 South 800 West
 Phone (435) 770-6236 Cell _____ Fax _____
 Email _____

Proposed Building Size 40 X 75 Lot Size 94 X 438

SUPPORTING MATERIALS: The following materials must be submitted with this Accessory Building Application, or the application will not be accepted by Nibley City. Bring a copy of these materials with you to the Planning Commission meeting:

Plot Plan showing: (please initial each item)

City Staff Review

- | | |
|--|-------|
| _____ The applicant's name, address and the date the plan was completed | _____ |
| _____ An arrow indicating North | _____ |
| _____ An approximate scale | _____ |
| _____ Property boundaries of the lot on which the building is being proposed | _____ |
| _____ Roads or streets adjacent to the lot (include street names) | _____ |
| _____ Public and private easements on the lot | _____ |
| _____ Existing buildings | _____ |
| _____ The location of the proposed accessory building or addition | _____ |
| _____ Dimensions of the proposed accessory building or addition | _____ |
| _____ Distance from the proposed accessory building or addition to lot boundaries | _____ |
| _____ Distance from the proposed accessory building or addition to existing buildings | _____ |
| _____ Vehicle access plan to the proposed accessory building or addition (if applicable) | _____ |

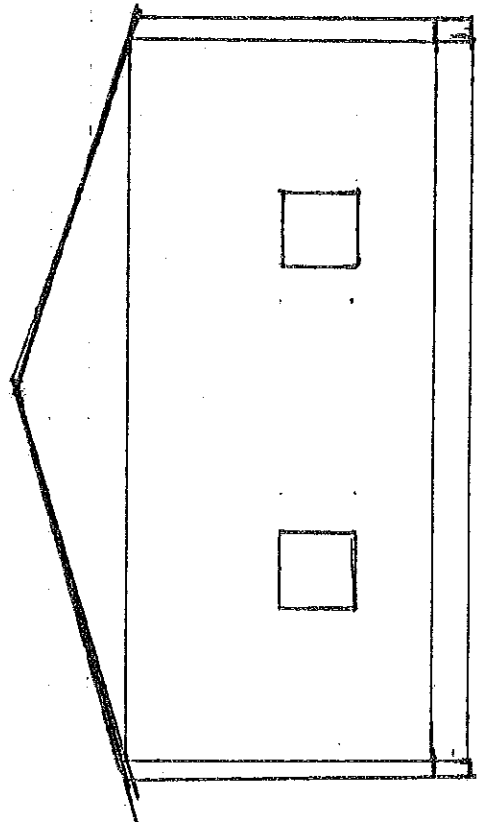
Elevation Drawings of the proposed accessory building or addition showing:

- | | |
|--|-------|
| _____ Accessory building height, pitch and all other dimensions | _____ |
| _____ Approximate location of doors and windows | _____ |
| _____ Information sufficient to determine an approximate building appearance | _____ |
| _____ How the addition will attach to the existing building (if applicable) | _____ |

Please describe the proposed use for this accessory building: for business equipment and recreation vehicles and personal storage

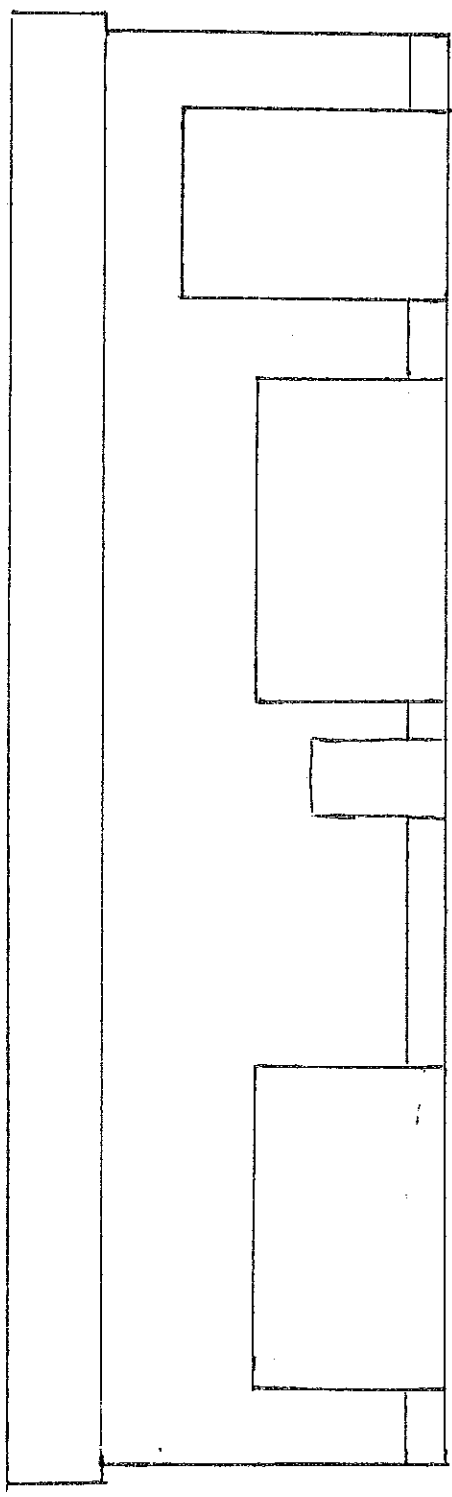
Do you plan to conduct business-related activities in this accessory building or addition? _____ Y X N

Application Fee. All fees related to the accessory building application shall be paid as part of the application submittal. See the attached sheet "Nibley City Development Fee Schedule"



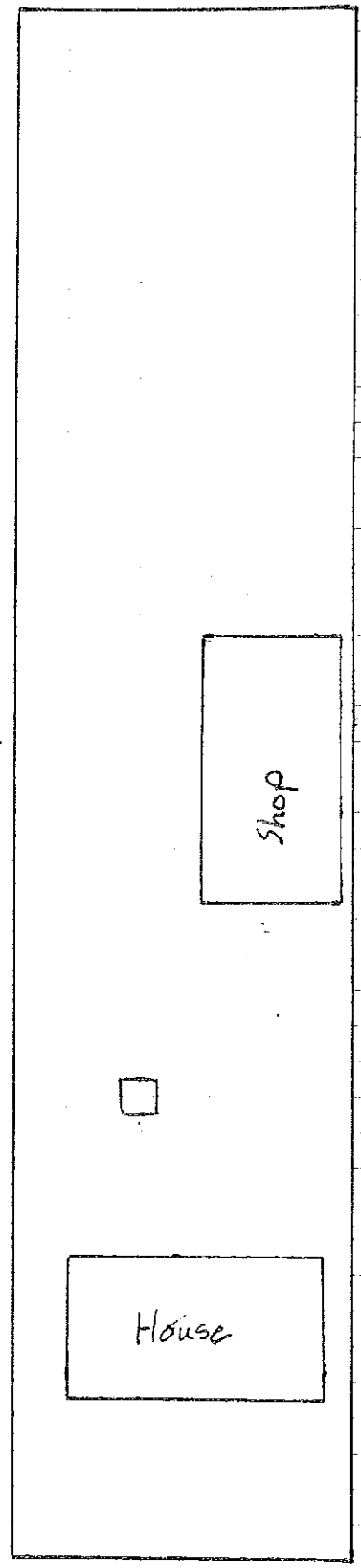
roof will be a S.O
Slope

each square is
21 feet



← N

each square
equal 10 feet



800 West

5-1 Animal Control

- 5-1-1 Definitions
- 5-1-2 Fees
- 5-1-3 Animal Control Officer
- 5-1-4 Animal Pound
- 5-1-5 Licensing Requirements
- 5-1-6 Cruelty To Animals Prohibited
- 5-1-7 Wild Animals
- 5-1-8 Dangerous Animals
- 5-1-9 Control Of Rabies And Rabid Animals
- 5-1-10 Animals At Large
- 5-1-11 Dogs At Large; Penalty For Violation
- 5-1-12 Prohibited Acts And Conditions
- 5-1-13 Impounding
- 5-1-14 Dogs Attacking
- 5-1-15 Animal Waste
- 5-1-16 Penalty

5-1-1 Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall mean:

ANIMAL: Any animal that may be legally kept.

ANIMAL CONTROL OFFICER: Any employee of the Cache County Sheriff's Office (CCSO) tasked with acting pursuant to Nibley City's contract with the CCSO regarding animal control; or, any person appointed or designated as animal control officer by the Nibley City Manager or City Council.

ANIMAL UNDER RESTRAINT: Animal shall at all times be under restraint, except as may otherwise be provided herein. An animal shall only be deemed under restraint if controlled or confined by a leash, cage or pen, inside a vehicle, inside a residence, confined within a secure fence structure, or secured by a restraint such that the animal cannot get loose.

AT LARGE: Any animal off the premises of the owner and not under the control of the owner or his agent by leash, cord or chain.

BITE: An actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.

DANGEROUS ANIMAL: Any animal with a propensity, tendency or disposition to cause injury or to otherwise endanger the safety of human beings or domestic animals. A bite is not necessary to show this propensity. No animal shall be considered dangerous until such time as it has been so deemed by the Nibley City Justice Court, according to the provisions contained herein. For purposes of this Chapter, "dangerous" and "vicious" shall be interchangeable.

DOG: Any male, neutered male, female or spayed female dog of any age.

DOG OF LICENSING AGE: Any dog which has been weaned or attained the age of six (6) months.

DOMESTICATED ANIMAL: Any animal identified as a permitted under Title 10-17 "Animal Land Use Regulations" of the Nibley City Code.

HARBOR: Includes any act of sheltering or providing a home for an animal, or two (2) or more acts of feeding an animal.

IMPOUNDED: Having been received into the custody of the city pound or into the custody of any authorized agent or representative of the city.

LEASH: Any chain, rope, or lead used to restrain an animal.

PERSON RESPONSIBLE FOR AN ANIMAL: Means and includes:

1. The owner of an animal,
2. Any person harboring an animal on a constant or continuous basis for one week or more;
3. Any agent of the owner charged with the care of the animal;
4. Any person residing with the owner and present at a time when the owner is absent and the animal commits a violation of this title; or
5. Any person having the care, custody or control of an animal.

POUND: An animal shelter, lot, premises or buildings maintained by or authorized or employed by the city for the confinement or care of dogs seized either under the provision of this chapter or otherwise.

QUARANTINE: The isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

STRAY: Any animal for which no person responsible may be found.

UNCONFINED: If such animal is not securely confined indoors, or confined in a securely enclosed and locked pen or structure upon the premises of the registered owner or caretaker of the animal. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than two feet (2'). An animal that is securely locked in a motor vehicle belonging to the owner or caretaker shall be considered confined for purposes of this section.

UNLICENSED DOG: A dog for which the license for the current year has not been paid, or to which the tag provided for in this chapter is not attached.

VICIOUS ANIMAL: Any animal which is dangerously aggressive, including, but not limited to, any animal which has bitten or in any other manner attacked any person or animal. For purposes of

this Chapter, “dangerous” and “vicious” shall be interchangeable.

WILD ANIMAL: Any animal of a species which is by and large not domesticated, regardless of whether, in a specific case, a particular animal of the species is or is not domesticated. Such animals include, among others:

- Alligators, crocodiles, and caiman
- Bears
- Cat family. All cats including cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, tigers, and wildcats; except the commonly accepted domesticated cats
- Dog family. All dogs including wolves, foxes, coyotes, and wild dingoes; except the commonly accepted domesticated dogs. (Any dog crossbred with a wild animal as described above shall be considered to be a wild animal.)
- Porcupines
- All subhuman primates
- Raccoons
- Skunks
- Venomous snakes or lizards
- Venomous fish and piranha
- Weasels. All weasels including martens, wolverines, badgers, otters, ermines, mink, and mongooses; except the commonly accepted domesticated ferrets.

5-1-2 Fees

Any fees referenced herein including, but not limited to, fees for licensing, court fees, and impound fees, shall be established by resolution of the City Council and shall be due and payable to Nibley City.

5-1-3 Animal Control Officer

- A. Created: The position of animal control officer is hereby created.
- B. Duties: The animal control officer shall perform the following duties:
 1. Carry out and enforce the provisions of this chapter.
 2. Take into his possession and impound all strays running at large and dispose of the same as hereinafter provided.
 3. Enforce the licensing of and control all dogs within the city as hereinafter provided.
 4. File complaints in the courts against any person failing to comply with the provisions of this chapter and obtain licenses when required thereunder.
 5. Capture and secure all dogs found running at large contrary to the provisions of this chapter and impound such dogs in a humane manner.
 6. Provide for a good and sufficient pound in which all animals duly committed to his charge or otherwise impounded by him shall be maintained.
 7. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstance under which received or impounded, and a description thereof sufficient to provide identification, the costs expended for the

maintenance of the animal and amounts received arising out of maintenance or sale of animals.

- C. Interference With Animal Control Officer Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.
- D. Lawful To Go On Premises: In the enforcement of any provision of this chapter, any police officer and the animal control officer or his deputies are authorized to enter the premises of any person or entity to take possession of any fierce, stray, dangerous or vicious dog or other animals, unattended, at large, or dogs or other animals which shall commit an act prohibited by city ordinance. Entry on and into said premises is permitted when a dog or other animal, whether registered or unregistered, goes onto or into private property and as otherwise provided by this chapter and by law.

5-1-4 Animal Pound

The City Council may contract with an adjoining municipality or with the county for the purpose of providing suitable premises and facilities to be used by the city as the animal pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the animals from injury.

5-1-5 Licensing Requirements

- A. License Required: It is unlawful for any person to keep, harbor or maintain any dog six (6) or more months old unless such dog has been registered and licensed in the manner herein provided.
- B. Application; Information:
 - 1. Application for registration and licensing shall be made to Nibley City or its designee.
 - 2. The owner shall state at the time application is made for such license his name and address and the sex, breed and color of each dog owned or kept by him.
- C. Issuing Authority: A dog license shall be issued by Nibley City or its designee..
- D. Fee For License: No dog license shall be issued until the fee as established by resolution of the city council is paid.
- E. Date Due; Penalty: The fee due and payable pursuant to this section shall be due January 1 and shall be delinquent March 1 of each year. A penalty shall be added to delinquent payments, which penalty shall be determined by resolution of the City Council.
- F. Newly Acquired Dogs: The owner of any newly acquired dog of licensing age or of any dog which attains licensing age after July 1 of any year shall make an application for

registration and license within thirty (30) days after such acquisition or dogs attain the above stated age; provided, that the license fee shall be one-half (1/2) of that above required for new applications received after July 1 of any year.

G. Kennel License Fee: No kennel license shall be issued unless the provisions of Nibley City Code, Title 10, Chapter 17, titled "Animal Land Use Regulations" are met. Authorized kennel licenses shall pay an annual license fee, in addition to required registration fees. ~~Anyone owning, keeping, harboring or maintaining three (3) or more dogs over the age of six (6) months shall be considered to be operating a dog kennel and shall be required to pay an annual kennel license fee as established by resolution of the city council.~~

H. Term Of License: ~~The license fee shall cover the calendar year in which the license was issued, expiring on December 31 of the year of issuance, regardless of the date when issued.~~ Dog licenses shall be valid for the term equal to the dog's rabies vaccination.

H.I. Rabies Certificate: All dogs are required to keep and maintain current rabies vaccination in order to be licensed with Nibley City. As part of registration and licensing of dogs, dog owners shall be required to provide Nibley City with a certificate demonstrating that the dog's rabies vaccination is current.

H.J. Exceptions:

1. Service Animals: Dogs used as guide dogs for blind persons or other dogs certified as service animals shall be licensed and registered as other dogs herein above provided, except that the owner or keeper of such dog shall not be required to pay any fee therefor.

H.K. License Tag:

1. Issuance: Upon payment of the license fee, the city recorder shall issue to the owner a license certificate and a metallic tag for each dog so licensed. ~~The tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate.~~ Once issued, a tag is valid until the dog is no longer registered with Nibley City. Every dog owner, shall provide each dog with a collar to which the license tag shall be affixed. It shall be unlawful to deprive a registered dog of its collar and/or tag.
2. Duplicate Tag: In case a dog tag is lost or destroyed, a duplicate will be issued by Nibley City upon presentation of a receipt showing the payment of the license fee for the current year and a payment for each duplicate as established by resolution of the City Council.

Comment [SP1]: It is not the practice of the City to issue new tags each year. Once issued a tag is good as long as the registration lasts.

3. Tag Not Transferable: Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of death of the dog or the owner leaving the city before expiration of the license period.

5-1-6 Cruelty To Animals Prohibited

In addition to those acts prohibited by §76-9-301, Utah Code Annotated, 1953 as amended, the following acts constitute cruelty to animals and are prohibited in Nibley City,

- A. It is unlawful for any person, firm or corporation to intentionally exhibit any stud, horse or bull or other animal indecently, or let any male animal to any female animal for the purpose of providing entertainment or viewing to any person.
- B. ~~Maintain Place Of Exhibition: Maintain any place where fowl or any animals are suffered to fight upon exhibition or for sport upon any wager.~~ It is unlawful for any person, firm or corporation to raise, keep or use any animal, fowl or bird for the purpose of fighting or baiting; and for any person to be a party to or be present as a spectator at any such fighting or baiting of any animal or fowl; and for any person, firm or corporation to knowingly rent any building, shed, room, yard, ground or premises for any such purposes or to knowingly permit the use of his or her buildings, sheds, rooms, yards, grounds, or premises for such purposes.
- C. Carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation or for an unusual amount of time.

5-1-7 Wild Animals

- A. Unlawful To Own And Possess: It is unlawful for any person to sell, offer for sale, barter, give away, keep or purchase any "wild animal", as defined in this title, or any animal which is fierce, dangerous, noxious or naturally inclined to do harm, except the animal shelter, a zoological park, veterinary hospital, humane society shelter, or facility for education or scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided. ~~It shall be unlawful for any person to own and possess a vicious animal within the city.~~
- B. Whenever a prosecution for this offense is commenced under this section, the animal so involved may not be redeemed, pursuant to the provisions of this chapter, while awaiting final decision of the court as to the disposition to be made of such animal.
- C. Capturing: If the capture of such animal cannot be accomplished without serious risk or harm to the animal control officer, his deputies or police officers, such dog or other animal may be destroyed by the animal control officer, his deputies or any police officer, where found, by the safest and most appropriate means available. It shall be the duty of

the owner or person having custody or control of any vicious dog or other animal, upon request, to assist in the capture of such dog or other animal.

- D. Disposition After Conviction Of Offense: Upon the trial of any offense under this section, the court may, upon conviction and in addition to the usual judgment of conviction, order the animal control officer or other authorized personnel of the city to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the city.

5-1-8 Dangerous Animals

- A. The City, or a resident thereof adversely affected by the observable behavior of an animal they believe to be dangerous, may petition the court for a determination that the animal is dangerous. The court shall consider the following factors in determining whether an animal is dangerous, and may consider other factors as the court determines necessary and property:
1. Provocation in any attack by the animal;
 2. The nature and severity of the attack or injury to a person or domestic animal by the animal;
 3. Previous history of aggression of the animal or inadequate control by the custodian;
 4. Observable behavior of the animal;
 5. Site and circumstance of the incident; and
 6. The animal's performance on a generally accepted temperament test.
- B. It shall be the burden of the entity petitioning the court for a determination, to provide by a preponderance of evidence, that the animal is dangerous.
- C. Once an animal has been designated as dangerous by the Nibley City Justice Court, it shall be subject to the following provisions:
1. **Kept in Enclosure, Muzzle, Exercise.** It shall be unlawful for any owner or person responsible for a dangerous animal to allow the animal to be outside of its secure enclosure unless it is either confined indoors in the custodian's dwelling or building, or unless it is necessary for the animal to receive veterinary care, in which case the animal shall be properly leashed and, in the case of a dog which has been designated as a dangerous animal, muzzled with a properly fitted muzzle. Nothing in this section shall prohibit necessary exercise for a dangerous animal provided that it is in the immediate presence of a custodian capable of controlling the animal, and provided the animal is in non-public property within a secure fence or enclosure from which it cannot escape, and which prevents entry by small children.
 2. **Confinement.** Except when leashed, muzzled and under direct physical control, a dangerous animal shall be securely confined indoors or confined in a locked pen or

other secure enclosure that is suitable to prevent the entry of children and is designed to prevent and actually prevents the animal from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

- a. The enclosure must have secure sides and a secure top;
- b. The enclosure must have a bottom permanently attached to the sides, or the sides must be securely embedded not less than two (2) foot into the ground;
- c. The enclosure shall have a concrete pad for a base, with said pad to be at least 4 inches deep.
- d. The enclosure must be of such material and closed in such a manner that the animal cannot exit the enclosure on its own; and
- e. The enclosure shall be placed as close as practicable to the Owner's dwelling or building with a separate perimeter fence so that it prevents the animal from coming in contact with passersby or children, and may not be located in the front or side yard of a dwelling or other building and shall not be closer than ten feet from a property line.
- f. The enclosure shall be placed within a continuous perimeter fence which shall be at least six feet in height where the law and private property covenants and restrictions allow, shall be maintained in good repair, shall be constructed in a way so as to prevent the ready entry or exit of animals, and shall prevent the entry of small children who are not of the custodian's family. The enclosure may not be part of or attached to the perimeter fence.

D. **Signs.** All ~~owners, custodians or harborers of~~ persons responsible for dangerous animals shall display in a prominent place on their premises signs easily readable by the public using the words "Beware of Dangerous Animal, so identified pursuant to Nibley City Code _____" on all gates to the yard in which the dog is kept and doors to the home through which guests might reasonably be expected to enter, and on all sides of the property which abut a public right of way.

1. All signs shall be no smaller than 18 inches high and 24 inches wide.
2. All signs shall be purchased by the owner of the dangerous animal and reviewed by the City prior to placement on the owner's property.

E. **Failure to Comply.** It shall be unlawful and a misdemeanor for any owner or custodian of a dangerous animal to fail to comply with the requirements and conditions set forth

in this section. Any animal found to be in violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in this ordinance shall result in the revocation of the license/permit providing for the keeping of such animal.

- F. **No More than One Dangerous Animal.** In no event shall a person be allowed to keep any other domesticated animals if the person has a dangerous animal.
- G. **Other Conditions.** A court may impose other conditions on the keeping of a vicious dog including but not limited to maintaining additional liability insurance and/or surety bonds, training of animals or custodians, and sterilizing the dog.
- H. **Registering Dangerous Animals.** Any owner or caretaker of a dangerous animal shall register with Nibley City the following minimal information: name, address and telephone number (including work phone numbers), of all responsible parties relating to the animal, to be updated annually. This will also include breed, sex, color, weight, and age of animal.
- I. **Notification.** The owner or caretaker shall notify Nibley City or its designated authority immediately if a dangerous animal is loose, unconfined, has attacked another animal or has attacked a human being, or within twenty four (24) hours if the animal has died or has been sold or has been given away. If the animal has been sold or given away, the owner or caretaker shall provide the police department or its designated authority with the name, address and telephone number of the new owner, who must comply with the requirements of this chapter, provided they are living within the boundaries of the city.
- J. **Liability Insurance:** The owner or caretaker of a dangerous animal shall present to the police department, proof that the owner or caretaker has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by such dangerous animal which policy shall contain a provision requiring the police department to be named as additional insured for the sole purpose of the police department to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy;
- K. In the event that a minor is the owner or caretaker of a dangerous animal, the parent or guardian of that minor shall be responsible for compliance with the specifications of this section for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the animal.
- L. All dangerous animals shall obtain all appropriate vaccinations for the particular species as it relates to the health, safety and welfare of the citizens of the city.

5-1-9 Control Of Rabies And Rabid Animals

- A. Rabies Vaccination Required: It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk, street, alley, public place or square within the city without first having had such dog vaccinated against rabies, as provided in subsection B of this section, within the past two (2) years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.
- B. Vaccination By Licensed Veterinarian; Exception: Every owner of any dog over the age of six (6) months within the city shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done; provided, that the city council may, by resolution, provide that the owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag herein required.
- C. Reporting Of Rabid Animals: Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the health officer. The health officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.
- D. Biting Animal Quarantined: Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the city pound and shall not be killed or released until at least fourteen (14) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies.
- E. Bitten Animal Quarantined: Any animal of a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated in a suitable place approved by the animal control officer for a period of one hundred twenty (120) days or destroyed.

5-1-10 Animals At Large

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of the city, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside the city limits to any enclosure within the city limits or from any enclosure in the city to a place outside the city or from one enclosure to another within limits of the city.

5-1-11 Dogs At Large; Penalty For Violation

- A. Unlawful Acts: It shall be unlawful:
 - 1. For the owner or keeper of any dog to permit such dog to run at large.
 - 2. For an owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.
- B. Violation Regardless Of Precautions: The owner of any dog running at large shall be deemed in violation of this section, regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large.
- C. Declared Nuisance: Any dog running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the dog shall be taken up and impounded as provided in this chapter.

5-1-12 Prohibited Acts And Conditions

- A. Disposition Of Dead Animals; Violation: The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten (10) hours after its death; provided, that no horse, cow, ox or other animal shall be buried within ~~the closely inhabited portions of the city~~ 1,000' feet of a residence.
- B. Diseased Animals: It shall be unlawful for any person to bring into the city for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.
- C. Diseased Animals For Human Consumption: It shall be unlawful for any person to bring into the city for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which is diseased, unsound, and unwholesome or which for any other reason is unfit for human food.
- D. Female Dogs In Heat: The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance. Any dog found in violation of the provisions of this subsection is hereby declared to be a nuisance and a menace to the public health and safety, and the dog may be taken up and impounded as provided in this chapter.
- E. Harbor Stray Dogs: It shall be unlawful for any person to harbor or keep within the city any lost or stray dog. Whenever any dog shall be found which appears to be lost or stray, it shall be the duty of the finder to notify the city recorder or animal control officer, who shall impound such animal for running at large contrary to the terms of this chapter. If there shall be attached to such dog a license tag for the then current fiscal year, the animal control officer shall notify the person to whom such license was issued, at the address given on the license.

- F. Loud Or Offensive Animals: No person shall own, keep or harbor any animal which by loud, continued or frequent barking, howling, yelping, meowing, or by noxious or offensive noise or odor shall annoy, disturb or endanger the health and welfare of any person or neighborhood, nor any dog which molests passersby, chases vehicles, attacks or destroys other domestic animals, or trespasses upon private property or upon public property in such a manner as to damage property. A violation of this subsection shall be unlawful and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall consist of a separate offense. This subsection shall not apply to the city dog pound, veterinary hospitals or medical laboratories.
- G. Trespassing Animals: It shall be unlawful for any owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person.

5-1-13 Impounding

- A. Duty Of Official To Impound: It shall be the duty of every police officer or other designated official to apprehend any dog found in violation of this chapter and to impound such dog in the pound or other suitable place. The animal control officer, or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.
- B. Interference With Impounding Prohibited: It shall be unlawful for any person to hinder, delay, interfere with, or obstruct the animal control officer or any of his assistants while engaging in capturing, securing or taking to the dog pound any dog or dogs liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or ambulance, wagon or other vehicle used for the collecting or conveying of dogs to the dog pound.
- C. Records Maintained: The animal control officer shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and, if redeemed, reclaimed or sold, the name of the person by whom redeemed, reclaimed or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.
- D. Redemption Of Impounded Dogs: Any dog impounded as a licensed or unlicensed dog may be redeemed and taken from such pound by the owner or any authorized person upon exhibiting to the animal control officer or person having charge of said pound a certificate of registry, as provided in subsection A of this section, showing that the license imposed by this chapter has been paid for such dog, a receipt showing that all fines imposed for violation of this chapter have been paid, and upon paying the person

in charge of the pound an impounding fee as established by resolution of the city council for each and every day such dog shall have been impounded. All impounded dogs not redeemed within five (5) days shall be sold for the best price obtainable at either private or public sale, and all monies received from such sales shall be paid daily to the city treasurer. All dogs that are not sold or redeemed in the required time shall be disposed of in a humane manner.

- E. Disposition Of Unclaimed Or Infected Dogs: All impounded dogs not redeemed within five (5) days of the date of impounding may be destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of dogs severely injured or having contagious disease other than rabies and which in the animal control officer's judgment are suffering and recovery is doubtful, the animal control officer may destroy the dog without waiting the five (5) day period.

5-1-14 Dogs Attacking

- A. Unlawful: It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal, any species of hoofed protected wildlife or domestic fowl. "Worry" as used in this section, shall mean to harass by tearing, snapping, chasing, biting, shaking with the teeth or other similar threatening actions.
- B. Owner Liability: The owner in violation of subsection A of this section, shall be strictly liable for violation of this section. In addition to being subject to prosecution under subsection A of this section, the owner of such dog shall also be liable in damages to any person injured or to the owner of any animals injured or destroyed thereby.
- C. Dogs May Be Killed: Any person may kill a dog while it is committing any of the acts specified in subsection A of this section or while such dog is being pursued thereafter.

5-1-15 Animal Waste

The owner or any person having control over or charge of any dog or other animal shall be responsible for the removal of any feces deposited by such dog or animal in any public place, including, but not limited to, sidewalks, streets, planting strips, parking lots, parks, recreational areas or on private property not in the ownership or control of the person having control or purporting to have control over or charge of such dog or animal.

5-1-16 Penalty

Any person violating any section of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each day the violation is permitted to exist or continue shall constitute a separate offense.

ORDINANCE 15-_____

AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES IN NIBLEY CITY

10-22 Telecommunication Facilities

- 10-22-1 Purpose
- 10-22-2 Definitions
- 10-22-3 Submissions Requirements for Conditional Use Telecommunications Facilities
- 10-22-4 Submissions Requirements for Permitted Use Telecommunications Facilities
- 10-22-5 Development Standards
- 10-22-6 Non-Maintained or Abandoned Facilities

10-22-1 Purpose. The purposes of this ordinance are:

- A. To ensure that all telecommunications facilities comply with Federal, State, County and City regulations;
- B. To regulate telecommunications services, antennas and support structures, and related electronic equipment and equipment enclosures;
- C. To provide for the orderly establishment of telecommunications facilities in the City;
- D. To minimize the number of antenna support structures and/or utility towers by encouraging the co-location of multiple antennas on a single structure, and by encouraging the location of antennas on pre-existing support structures;
- E. To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications facilities;
- F. To comply with the Telecommunications Act of 1996 by establishing regulations that:
 - 1) Do not unreasonably discriminate among providers of functionally equivalent services;
 - 2) Do not prohibit or have the effect of prohibiting the provision of telecommunications services;
 - 3) Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions; and

- 4) Ensure that all utility facilities/structures are located, installed, buffered/screened, and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Nibley City.

10-22-2 Definitions. The following definitions apply to regulations on telecommunication facilities, including utility towers used for telecommunications facilities.

- A. Ancillary Support Building - A building which is associated with and subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.
- B. Antenna - Any system of wires, poles, rods, arms, reflecting discs or similar devices of various sizes, materials, and shapes including but not limited to solid or wire-mesh dish, horn, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to the following.
 - 1) Wall Mounted Antenna. Any antenna mounted directly to the fascia or outside walls of a structure, existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures.
 - 2) Roof Mounted Antenna. An antenna mounted directly to the roof of a building, mechanical penthouse or parapet enclosure wall, which is on the rooftop of a building.
 - 3) Top-hat Antenna. Spatial array of antennas, generally located on a freestanding structure, where the visible width of antennas and antenna mounting structures are more than two (2) feet in width as viewed looking directly at the structure.
- C. Antenna Support Structure – A structure which may also be called a utility tower, the principal purpose of which is for location of antennas. Types of antenna support structures may include:
 - 1) Monopole – a standing antenna support structure placed directly on the ground to support one or more antennas.
 - 2) Lattice Tower – A multiple sided, open steel frame structure used to support one or more antennas.
 - 3) Guyed Tower – A communications tower that is supported, in whole or part, by guy wires and ground anchors.

- D. Co-Location – A telecommunications facility that includes a single antenna support structure, but more than one telecommunications provider's antennas and telecommunication equipment.
- E. Cell on Wheels (COW) – A mobile temporary telecommunications facility located in a trailer.
- F. Equipment Enclosure – A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and other telecommunication equipment.
- G. Non-Stealth Design – Any antenna or equipment enclosures not camouflaged in a manner to blend with surrounding land uses, features or architecture. Non-stealth design does not conceal the intended use of the telecommunications facility. A monopole with equipment enclosures above ground and unscreened would be considered non-stealth.
- H. Stealth Design - Antennas, antenna support structures and telecommunication equipment enclosures camouflaged or designed to blend with surrounding land uses, features, and architecture, thus minimizing the aesthetic impact on adjacent uses, thereby concealing the intended use and appearance of the telecommunications facility such as heavy landscaping, or installing telecommunications equipment within existing buildings, behind vegetative screening, or placing equipment enclosures underground, thus preserving or striving to maintain the rural aesthetics. A flush wall mount antenna that is painted the same color as the background and located on a building where the telecommunications equipment is located inside the building would be one example of stealth design. Other examples of stealth design include, but not limited to roof mount antennas, utility pole antennas, light or flagpoles, artificial rocks or trees.
- I. Telecommunications Equipment – Equipment used in a telecommunications facility other than the Antenna, Antenna Support Structure, or Equipment Enclosures. Telecommunications equipment may include, but is not limited to electronic equipment necessary for processing wireless communication signals, air conditioning, backup power supplies, and emergency generators.
- J. Telecommunications Facility- An unmanned structure, which consists of antennas, antenna support structures, telecommunications equipment, equipment enclosures as defined herein, that transmits and/or receives voice and/or data communications through radio signals such as, but not limited to "cellular" or "PCS" (Personal Communications System) communications and paging systems, whether commercially or privately operated.
- K. Utility Structure and Related Facilities – May include a building/structure that is constructed so as to provide assistance, benefit, aid, directly or indirectly to a service

such as electrical power, light and forms of communication; including telephone, telegraph, fiber optic signals, cellular service for other analog and digital signals, radio and television signals to name a few. This list is not intended to be all-inclusive.

- L. Telecommunications Tower – A structure typically higher than its surroundings used to support and/or hold telecommunications facilities including; telephone, telegraph, fiber optic signals, cellular services for both analog and digital signals, radio and television signals to name a few. This list is not intended to be all-inclusive.

10-22-3 Submissions Requirements for Conditional Use Telecommunications Facilities

- A. Telecommunications Master Plan & Site Justification Study Required. For all new telecommunication facilities or structures, the applicant shall submit a Telecommunications Master Plan along with a completed application, and a Site Justification Study for each proposed telecommunications facility or structure. A Site Justification Study and Telecommunications Master Plan shall be submitted to the Planning Department, which will provide a review of the proposed project to ensure that the provisions of the Nibley City Code are being met. If the application is a co-location or stealth, go to Submissions Requirements for Telecommunications Facilities Allowed as a Permitted Use Chapter 3-14-3 for application requirements. The Planning Commission shall perform the required Conditional Use Permit review for any application that requires a Conditional Use Permit. Any conflicts shall be submitted to the Commission. Said Planning Commission shall review, take public comment and render a decision by 1) approving the application, 2) approving the application with conditions, or 3) denying the application. The applicant shall request in written form what, if any, information submitted with application is to be kept confidential from public review.
- B. Telecommunications Master Plan Requirements. Each company submitting an application for a Conditional Use Permit review shall complete a Telecommunications Master Plan. The Telecommunications Master Plan shall:
 - 1) Show where the applicant's proposed, existing, and future telecommunication facilities are within five miles of Nibley City. The Telecommunications Master Plan may be amended as needed by the carrier for future site applications.
 - 2) Show the number of possible co-locations that can be obtained on the proposed cell tower.
 - 3) Contain a copy of the applicant's current FCC license to the Nibley City Planning Department.
 - 4) Include an initial indication of where the road or access will be located to their proposed site. Prior to approval of a building permit, the applicant shall provide City

Staff with a copy of recorded road easement(s) to the proposed site.

- 5) Include a signed agreement, stating that the applicant will:
 - (a) Encourage co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower;
 - (b) Restore site to its former condition. (See Chapter 10-22-6 Non-Maintained or Abandoned Facilities),
 - 6) Include a security program or system that addresses unauthorized access and vandalism.
 - 7) Indicate the latitude and longitude of proposed telecommunications facility including any proposed tower location.
- C. Site Justification Study Requirements. A Site Justification Study shall be completed for each telecommunications facility site. The Study shall include the following:
- 1) Rationale
 - (a) An applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on existing buildings or structures or as a co-location on an existing antenna support structure. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations may be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites.
 - (b) The Site Justification Study shall also include a description of the elevations, vegetation, and rock formations in the area, a description of the telecommunications facilities proposed to be placed on the site with technical reasons for their design and the efforts made to minimize impacts on the activities found on the land. The applicant shall provide City Staff with propagation information for the proposed site. The applicant shall demonstrate that the telecommunications facility complies with the Nibley City General Plan, as well as the required setback, and landscaping requirements of the zoning district in which they are proposed to be located.
 - 2) Co-location. The Study shall also examine the potential for co-location at existing or the proposed site. If co-location is not possible at an existing site or if the proposed

new site is not available for co-location then the applicant shall include a written explanation of why co-location is not possible.

- 3) Equipment Enclosures The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to be either:
 - (a) Located in an existing building or
 - (b) Designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures, or
- 4) Visual Analysis On all new sites, applicant shall submit a detailed twenty-four by thirty-six inch (24"x 36") surveyed map, not more than one (1) inch equals one hundred (100) feet, which includes;
 - (a) The topography of the area (2 ft. elevations) in which tower and/or telecommunication facilities can be located while continuing to communicate with sister tower(s).
 - (b) Delineation of where telecommunication facilities can be placed so as to minimize:
 - (i) The placement of structures from being placed on slopes of thirty percent or greater; and
 - (ii) The intrusion of equipment enclosures from being silhouetted against the sky as seen from a public road; and
 - (c) Graphical illustration of the coverage of the proposed telecommunication facility.

Once a site is located by the applicant and City Staff the applicant shall provide an illustration which includes photo simulation(s), field mock up(s) or other techniques, which illustrate all possible visual impacts of the proposed telecommunication facility. The analysis should consider views from public areas (streets, parks, etc.) and from private residences. The applicant(s) shall identify all reasonable mitigation measures consistent with the technical aspects and requirements of the proposed facility to ensure that hill cuts for roads are minimized and, the telecommunication facility can be hidden as best as possible to preserve the rural character of the City. All costs associated with this requirement are to be borne by the applicant.

10-22-4 Submissions Requirements for Permitted Use Telecommunications Facilities

For telecommunications facilities allowed under a Permitted Use, the application shall comply with the requirements in this Chapter. Any request for telecommunications facilities differing from the standards as allowed in this section shall require a Conditional Use Permit review from the Nibley City Planning Commission, as set forth in Chapter 10-22-3 of the Nibley City Code.

- A. Telecommunications facilities must comply with the Nibley City General Plan, as well as the required setback, height requirements of the zoning district in which they are to be located, and are subject to all provisions as stated in the City's Zoning Ordinance.
- B. All permitted use telecommunication facilities listed in this section must:
 - 1) Be located on an existing antenna support structure without having to replace or extend said structure; or
 - 2) Incorporate stealth design technology or other visual screening that readily conceals the appearance of the antenna support structures, and equipment enclosures. Some examples of these may include, but not be limited to roof mounts, wall mounts, and utility, light or flag pole antennas.
- C. Telecommunications Master Plan and Site Justification. Each company submitting an application for a Permitted Use telecommunications facility shall complete a Telecommunications Master Plan following the guidelines in Chapter 10-22-3b unless an existing and applicable Telecommunications Master Plan already includes the proposed facility.
 - 1) Where the applicant's proposed, existing, and future telecommunication facilities are within Nibley City, the Telecommunications Master Plan may be amended as needed by the carrier for future site applications.
 - 2) The Telecommunications Master Plan shall contain a current copy of the applicant's current FCC license to the Nibley City Planning Department.
- D. Site Justification Study Requirements. A Site Justification Study shall be completed for each telecommunications facility site. The Study shall include the following
 - 1) Equipment Enclosures The Study must include a detailed written explanation and analysis, not limited to fiscal reasons alone, of the potential for the equipment enclosures to either:
 - (a) Be located in an existing building or

- (b) Be designed whereby the incorporation of stealth design technology or other visual screening is utilized that readily conceals the appearance of the equipment enclosures or
- 2) Facility Placement. The study must show a delineation of where telecommunication facilities can be placed so as to minimize:
 - (a) The placement of structures from being placed on slopes of thirty percent or greater; and
 - (b) The intrusion of equipment enclosures from being silhouetted against the sky as seen from a public road.
- 3) Existing roads shall, whenever possible, be upgraded to the minimum amount necessary for non-public use.
- E. Review Procedure. In proposals where either the applicant or the Planning Department determine that potential issues may arise or additional comment is needed from the community even if the facility is allowed as a permitted use, a public hearing on the application may be scheduled with the Nibley City Planning Commission. Following the public hearing, the Planning Commission shall make a recommendation regarding an "approval", "approval with conditions" or denial of the application as based upon Chapter 10-22-3.

10-22-5 Development Standards

- A. Construction Standards, Building Codes and Safety Standards. To ensure the structural integrity of telecommunications facilities, the owner of a telecommunication facility shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time.
- B. General Requirements:
 - 1) Height shall be minimized as much as reasonably possible. Height of the telecommunication facilities shall be measured from the existing grade to the top of the antenna support structure, or to the highest point of any portion of the telecommunications facility, whichever is greater. If the proposed site is a roof mount or wall mount the City may request that the study verify that the existing or proposed screening will screen telecommunications facility from view.
 - 2) Monopoles are permitted only in the Industrial or Commercial zones.
 - 3) Guyed and Lattice Towers are only allowed in an Agricultural zone.

- 4) Any telecommunication facility within the Logan Cache Airport traffic zone shall demonstrate compliance with FAA requirements and receive approval from the Logan Cache Airport Authority for installation of said facility.

C. Setbacks.

- 1) In order to ensure public safety from falling ice, debris, tools or materials, the minimum distance from the base of any tower to any property line, residential property, accessory apartment, occupied business or institutional structure and/or parking area, or public recreation area shall be equal to 100 percent of the height of the tower in all zones.
- 2) Monopoles and Guyed Towers shall be setback a minimum of 1 ½ feet (one and one-half feet) for every foot of pole height from the nearest property line. The Design Review Committee may reduce the required setback from a residential zone in the design review process if practical difficulties are demonstrated by the proponent and upon a finding by the Design Review Committee that a reduced setback would adequately protect the character of the neighborhood.
- 3) Any associated mechanical or electrical equipment shall be completely screened from view from public right-of-ways and adjacent properties, with a solid screen and landscaping.
- 4) Antennas mounted to the sides of a monopole may only be allowed in the case of a co-location in accordance with Chapter 10-22-3(C)(2).

- D. Signs, Flags and Lights. All commercial or public service signs, flags, lights, floodlights, and attachments other than those required for emergency identifications, communications operations, structural stability, or as required for flight visibility by the FAA or FCC shall be prohibited on any antenna or antenna structure. This prohibition shall include the attachment to the antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering, or revolving devices, but not including weather devices. Security lighting for on-ground facilities and equipment shall be shielded so that no light rays are emitted by the installed fixtures at angles above the horizontal plane and have no more than 1 candlepower. It must be controlled by motion sensor. If signage is required consistent with this standard, such signage shall comply with the requirements of Chapter 10-12-15, Sign Regulations.

- E. Access Roads shall be limited to twenty (20) feet in clear width except where safety considerations require otherwise, and they shall have gravel or other non-paved surface, unless they are a grass surface upon which a small truck can access the site. Existing roads shall, whenever possible, be upgraded the minimum amount necessary.

F. Security. The following measures shall be required in order to ensure the safety of the tower property:

1) Signage.

(a) Signs reading “No Trespassing” shall be posted at locations around the property, including, but not limited to, the fencing immediately around the tower, on both sides of the access road, and on each side of the outer boundaries of the property. Signs shall also include the name and number of who to contact in case of an emergency.

(b) Warning signs shall be limited to non-illuminated warning and equipment identification signs. Allowed signage shall be classified as “On-Site Informational Signs” and regulated as such in accordance with the City’s Sign Ordinance.

2) Fencing. Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires. The fencing may include a locked gate across the access road. The Planning Commission may requiring additional reasonable fencing, if the property is adjacent to or located within five hundred feet (500’) of a residential zone.

G. Landscaping. The following minimum landscaping requirements shall apply to all tower properties.

1) An evergreen screen shall be planted around all sides of the security fencing, except for that portion necessary for the locked fence across the access road. The screen may consist of hedges or planted trees and shall extend a minimum of five feet (5’) from the fence outward towards the remainder of the property.

2) The remainder of the property not covered by the evergreen screen shall be kept and maintained in good condition. The applicant shall, as part of the conditional use process, present a plan demonstrating how the property will be landscaped, maintained and screened from adjoining uses. Landscaping may include: a mix of grass, trees and bushes, xeriscaping or active farming.

3) The Planning Commission may require reasonable additional landscaping requirements, if the property is adjacent to or located within five hundred feet (500’) of a residential zone.

H. Intent to Use. All applicants who apply to build only a tower shall provide at least one (1) letter of intent from a telecommunications company, which will locate on the tower.

10-22-6 Non-Maintained or Abandoned Facilities. The Planning Commission shall require each non-maintained or abandoned telecommunication facility to be removed when

such a telecommunication facility has not been repaired or put into use by the owner, person having control, or person receiving benefit of such structure within six (6) months after written notice of non-maintenance or abandonment is given to the owner, person having control or person receiving the benefit of such structure.

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