



Nibley City  
Planning Commission  
Wednesday, June 24, 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**

**Mari's Salon-** discussion and consideration of a conditional use permit and business license for a home occupation (hair salon) located at 414 W. 3300 S. (Applicant: Marisela Mota)

**Extra Handyman-** discussion and consideration of a conditional use permit and business license for a home occupation (handyman) located at 414 W. 3300 S. (Applicant: Luis Mota)

**Little Discovery Preschool-** discussion and consideration of a conditional use permit and business license for a home occupation (preschool) located at 2355 Clear Creek Rd. (Applicant: Rebecca Bankhead)

**PlastiFormance, Inc.-** discussion and consideration of a business license for a plastic injection and molding business located in the Heritage Business Park at 1723 W. 2980 S. (Applicant: Joseph Jeffs)

Discussion and consideration of an ordinance regulating animal control 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

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6-19/15

Hi all-

Welcome to Bret Swenson! I think it would be great if he took a couple of minutes at the beginning of the meeting to let us all get to know him.

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

### **CONDITIONAL USE PERMIT/BUSINESS LICENSE**

**Mari's Salon-** discussion and consideration of a conditional use permit and business license for a home occupation (hair salon) located at 414 W. 3300 S. (Applicant: Marisela Mota)

- This application is for a home occupation hair salon.
- 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.

- Mrs. Mota's business will have clients coming to her home, which is allowed, but the nature of the business, being a hair salon, is such that she can only assist one client at a time, so there will not be an undue burden on the neighborhood. She has a driveway large enough that her visiting clientele can park off the street. She will have no outside employees, no signage and no business vehicles. Her business meets the requirements of a home occupation.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit, and have no suggested conditions at this time.

**Extra Handyman-** discussion and consideration of a conditional use permit and business license for a home occupation (handyman) located at 414 W. 3300 S. (Applicant: Luis Mota)

- This application is for a home occupation handyman 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. Mota'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 no only business related vehicles. 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 and have no suggested conditions.

**Little Discovery Preschool-** discussion and consideration of a conditional use permit and business license for a home occupation (preschool) located at 2355 Clear Creek Rd. (Applicant: Rebecca Bankhead)

- This application is for a home occupation preschool.
- 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.
- I spoke with Mrs. Bankhead about her application, particularly about the number of students she is going to have because the application states 20-24, which is beyond what our ordinance allows. This is her class schedule:
  - MWF 9:30-12:00
  - TTh 10:00-12:00

It's my understanding that the 20-24 is not individual students, but rather the total of all students over the course of the entire week. The limit of eight (8) students imposed by ordinance is students in a single class.

- Her yard is already fenced, which, although not required by ordinance, is preferred when looking at licenses for preschools and daycares.
- 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.

**PlastiFormance, Inc.-** discussion and consideration of a business license for a plastic injection and molding business located in the Heritage Business Park at 1723 W. 2980 S. (Applicant: Joseph Jeffs)

- In March 2014, the City Council passed an ordinance updating the permitted/conditional/not-permitted status of businesses in the commercial and industrial zoned areas of the City, changing most of them to “conditional”. This was done with the intent to give the Planning Commission the opportunity to review commercial business license applications prior to the business moving into Nibley.
- This business is moving into the Heritage Business Park into a building which was bought but not previously occupied by any other business. When a commercial building changes use, we like to have the building inspector and fire marshal do an inspection to make sure the building is still suitable for use.
- Our land use code 10-2 defines “Manufacturing, Light” as:
  - A place and/or building, or portion thereof, that is used or is intended for manufacturing and/or assembly of goods where no air contaminants or potentially offensive odors are emitted outside of the building or area of manufacture/assembly; no radioactive materials or hazardous substances or hazardous wastes or regulated substances are handled or produced. Such uses do not produce offensive noises outside of the building or area of manufacturing/assembly. Such uses typically have relatively small volumes of products shipped in and out, so as to not adversely impact neighboring uses (such as residential, office or commercial in mixed use zones). Typical uses include assembly of computers; testing, producing and/or packaging software; packaging of premade goods, etc.
- Mr. Jeffs’ application states that he will have no hazardous chemicals. The nature of the business is such that all the work will be done indoors. I believe this qualifies the business to be licensed as “manufacturing, light”.
- Their proposed hours of operation are M-F, 7:00 a.m.-5:00 p.m. Initially, they will have 6 employees, but will eventually have 10. They propose on opening for business as soon as the business license is approved.

- There is already sufficient parking on site for the desired number of employees, the business will not be accessed through any residential areas, the hours of operation are compatible with the surrounding area, and the business meets the definition of “manufacturing, light”.
- I recommend that this business license and conditional use permit be approved. I would, however, suggest a condition that before the license can be issued, they need to contact the Cache County building inspector and have him do an inspection to make sure no building upgrades are needed prior to moving in to the building.

### **Discussion and consideration of an ordinance regulating animal control in Nibley City.**

I have had the Cache County Attorney’s Office review the proposed ordinance. He had only two comments:

- He had a concern regarding the extra things we have included in the “cruelty to animals” section 5-1-6. We already adopt the Utah Criminal Code, which cruelty is part of, so rather than have other offenses listed, which are already covered by the State, I felt it would be easier for enforcement purposes if we strike those and just reference 76-9-3 of the State code.
- His other comments were regarding the question I raised as to whether or not we can require people to get rid of dangerous animals. If the animal hasn’t been determined by the Judge to be dangerous, then we cannot unless the animal is inherently wild (tiger, bear, etc.). However, the Court may require an owner to get rid of an animal it has classified as dangerous. I would like to leave the additional requirements in place (fencing, signage, etc.) so that the Court is given resources it can use to impose requirements on the animal owner, if the Court allows a dangerous animal to continue to be kept. I have added a sentence about the Court having the option of requiring the owner to get rid of the animal.

That is all I have for right now. Hopefully you’ve all been able to participate in Heritage Days! Have a great weekend!

Shari

June 24, 2015 @ 8:30 pm



APPLICATION FOR CONDITIONAL USE  
PERMIT/BUSINESS LICENSE

Office Use Only

Date Received \_\_\_\_\_

Fee Paid \_\_\_\_\_

Rec'd By \_\_\_\_\_

Name Marisela Mota  
Address 414 west 3300 south Nibley Utah  
Phone 435-374-8295 Cell 435-374-8295 Fax \_\_\_\_\_  
Email harcmary77@gmail.com

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

☐ Home Office ☐ Sales ☐ Manufacturing ☐ Day Care

☒ Other (please describe): Hair salon

Proposed business name: Marib's Salon

Description of business: Beauty Salon

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: They will be customers coming in or out my driveway

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? 5-10

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

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

If so, please describe the vehicles and parking plans: \_\_\_\_\_

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? \_\_\_\_\_

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: \_\_\_\_\_



# APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

June 24 05 30

Office Use Only	
Date Received	6/10/05
Fee Paid	\$25.00
Rec'd By	[Signature]

Name Luis Mota  
 Address 414 W 3300S  
 Phone 435 512 6636 Cell 435 379 8295 Fax \_\_\_\_\_  
 Email lmota76h@gmail.com

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

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

Proposed business name: Extra handyman

Description of business: Handyman, house work

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: N/A

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? N/A

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

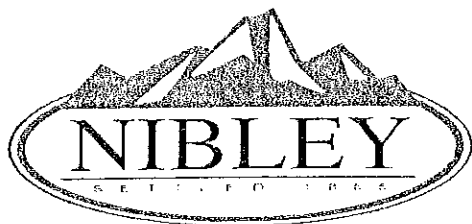
If so, please describe the vehicles and parking plans: N/A

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? N/A

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





# APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

Office Use Only

Date Received 5/27/15

Fee Paid \$25-

Rec'd By DKM

Name Rebecca Bankhead  
Address 2355 Clear Creek Rd  
Phone \_\_\_\_\_ Cell 435-770-8562 Fax \_\_\_\_\_  
Email beckybankhead4@gmail.com

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

☐ Home Office ☐ Sales ☐ Manufacturing ☐ Day Care

☒ Other (please describe): Preschool

Proposed business name: Little Discovery Love 2 Learn Preschool

Description of business: Preschool for 3-5 year old kids

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: Preschool will begin and end as to not interfere with public school traffic and kids trying to get to school. Have kids come during low traffic times in neighborhood.

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

How many clients will visit this location weekly? 20-24

Describe how you will provide parking for client visits (if applicable): parents will only park long enough to pick up and drop kids off. They can pull along curb

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

If so, please describe the vehicles and parking plans: \_\_\_\_\_

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

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: \_\_\_\_\_

June 24 @ 5:30 pm



# NIBLEY CITY Commercial Business License Application

Office Use Only	
Date Received	
Fee Paid	
P&Z Meeting	

Please type or print in black or blue ink

Business Name	PlastiFormance Inc.	Local Business Phone #	
Business Address	2980 S. 1723 West	City/State/Zip	Nibley UT
Billing Address	PO Box 732 Providence, UT 84332	City/State/Zip	
State Tax ID	20-4160831	DBA/Corp/LLC/Sole Prop./Partnership (circle)	
Describe the Nature of the Business (attach additional sheets if necessary) Machine Shop/Plastic injection mold making and molding			
Do you use, store or manufacture any chemical, combustible, or hazardous materials? Yes/No 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 Existing			
Sexually Oriented Business? *	Yes/No	Alcohol Sales/Consumption? *	Yes/No
*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	ASAP	Days/Hours of Operation	M-F 7am - 5pm

Officers/Owners (attach additional sheets if necessary)

Employees - 6 - 10 eventually

	Owner/Office #1	Owner/Officer #2	Owner/Officer #3
Name (first/middle/last)	Joseph H. Jeffs		
Home Address	2355 100 W.		
Home Phone	702-448-9480		
DOB (mm/dd/yyyy)	10/05/1963		
Misc. Info/Pro. Licenses			
Driver's License #/State			

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 Joseph H. Jeffs Date 5-29-15  
Print Name Joseph H. Jeffs Title Owner

## **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.

**ATTACK:** An approach to a person or animal by an unrestrained animal in a dangerous, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, tortured, beaten, or otherwise harmed.

**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 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 vicious 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.

**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.
- H. Term Of License: Dog licenses shall be valid for the term equal to the dog's rabies vaccination.
- 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.
- 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.
- 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. 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.
  - 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

Nibley City incorporates, by fact and by reference, and does hereby prohibit, those acts and omissions prohibited by §76-9-301, and all pertinent subsections thereto, Utah Code Annotated, 1953, titled "Cruelty to Animals".

~~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. 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.A. \_\_\_\_\_ 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.
- 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 dangerous or 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. Is 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.

B.C. The Nibley Justice Court may, at its discretion, and depending on the severity of the offense for which the issue is brought before the Court, require that the owner of a dangerous animal get rid of the animal.

C.D. Once an animal has been designated as dangerous by the Nibley City Justice Court, if the Court determines the owner may continue to keep the animal, 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.

**Comment [SP1]:** I have been in touch with the Cache County Attorneys Office about this. I know the question was raised as to whether or not we can require someone to get rid of a dangerous animal. If the danger is only latent, as opposed to an animal that has actually caused harm, then we cannot. However, and I am waiting for some last minute clarification on this, I believe that the Judge can require an animal which has actually caused harm.

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.E. \_\_\_\_\_ Signs.** All 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" 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 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.

**F.F. 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.G. 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.H. Other Conditions.** A court may impose other conditions on the keeping of a dangerous dog including but not limited to maintaining additional liability insurance and/or surety bonds, training of animals or custodians, and sterilizing the dog.

**H.I. 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.J. 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.K. 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.L.** 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.M.** 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 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.