



NIBLEY CITY  
CITY COUNCIL MEETING AGENDA  
Thursday, August 6, 2015 - 6:30 p.m.

Nibley City Hall  
455 West 3200 South  
Nibley, Utah 84321

**Opening Ceremonies**  
**Call to Order**  
**Roll Call**

1. Approval of Minutes and Agenda
2. Discussion and Consideration of Appointment of Carol Albrecht to the Nibley Planning and Zoning Commission
3. Presentation by Utah Local Governments Trust regarding Risk Management
4. Discussion and Consideration of a Contract to Update the Nibley General Plan and to Draft a Downtown Plan
5. PUBLIC HEARING: A public hearing to receive comment regarding a request to rezone 4.24 acres of property, located at 173 W 4000 S in Nibley, from Residential R-1 to Residential R-1A
6. Discussion and Consideration of Ordinance 15:05, An Ordinance Rezoning 4.24 acres of property, located at 173 W 4000 S in Nibley, from Residential R-1 to Residential R-1A (First Reading)
7. Discussion and consideration of Ordinance 15-05, An Ordinance Regulating Telecommunication Facilities in Nibley City (First Reading)
8. Discussion and consideration of Ordinance 15-06, An Ordinance regarding Animal Control Regulations in Nibley City (First Reading)
9. Discussion and Consideration of an Interlocal Agreement with Logan City regarding Wastewater Treatment
10. Council and Staff Reports

**Adjourn 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.*



## Nibley City Council Agenda Report for August 6, 2015

### Agenda Item #:2

<b>Description</b>	Discussion and Consideration of Appointment of Carol Albrecht to the Nibley Planning and Zoning Commission
<b>Department</b>	City Council and Planning
<b>Presenter</b>	Mayor
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	<p>Tom Bernhardt has left the planning commission due to being appointed to the City Council. The Mayor will propose Carol Albrecht as a replacement for the Council's advice and consent.</p> <p>Tom Bernhardt was appointed to this position earlier this year and would have served until 12/31/19. Therefore, there are more than four years left on this term.</p>
<b>Recommendation</b>	Appoint replacement to the Planning and Zoning Commission
<b>Financial Impact</b>	n/a
<b>Reviewed By</b>	Mayor, City Manager, City Planner

**Agenda Item #s: 3**

<b>Description</b>	Presentation by Utah Local Governments Trust regarding Risk Management
<b>Department</b>	City Council
<b>Presenter</b>	Jason Watterson of the Utah Local Governments Trust
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	The Utah Local Governments Trust would like to report to the Council regarding the City's performance on risk management related functions. The Trust is the insurance provider for the City and City staff members have been working with the Trust to implement policies and practices that will result in improved safety and less liability to the City.
<b>Recommendation</b>	Receive the presentation
<b>Financial Impact</b>	Improvements in risk management practices will result in lower insurance premiums for the City.
<b>Reviewed By</b>	Mayor, City Manager

**Agenda Item #s: 4**

<b>Description</b>	Discussion and Consideration of a Contract to Update the Nibley General Plan and to Draft a Downtown Plan
<b>Department</b>	City Council and Planning
<b>Presenter</b>	City Planner
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	The selection committee has reviewed and scored all of the proposals and will be conducting interviews of the top consultants prior to the meeting on Thursday. It is anticipated that those interviews and subsequent discussion will result in a recommendation for the Council at this Council meeting.
<b>Recommendation</b>	Assuming the committee makes their selection after conducting the interviews, it is recommended that the Council accept the committee's recommendation.
<b>Financial Impact</b>	The City has budgeted \$35,000 for this project
<b>Reviewed By</b>	General Plan Consultant Selection Committee, including the Mayor, Councilmember Hansen, Planning Commissioner Swenson, City Manager, City Planner and Public Works Director.

**Agenda Item #: 5 & 6**

<b>Description</b>	<p>5. PUBLIC HEARING: A public hearing to receive comment regarding a request to rezone 4.24 acres of property, located at 173 W 4000 S in Nibley, from Residential R-1 to Residential R-1A</p> <p>6. Discussion and Consideration of Ordinance 15:05, An Ordinance Rezoning 4.24 acres of property, located at 173 W 4000 S in Nibley, from Residential R-1 to Residential R-1A (First Reading)</p>
<b>Department</b>	Planning
<b>Presenter</b>	City Planner
<b>Sponsor</b>	n/a
<b>Applicant</b>	John and Janice Wallentine
<b>Background</b>	<ul style="list-style-type: none"><li>• This property came to the Planning Commission about a year ago for rezone from R-1 to R-1A. The Commission made a recommendation to the Council that the property be rezoned. However, before the Council was able to hear the request, the property purchase fell through and so the rezone request was taken off the table.</li><li>• The primary difference between R-1 and R-1A has to do with the minimum lot size and frontage required. R-1 requires a 1 acre minimum with 200' frontage. R-1A is .75 acre with 150' frontage.<ul style="list-style-type: none"><li>○ On this property, assuming that the lots all front 4000 South, there is enough frontage for 2 lots under the current R-1 zoning, and 3 if the zoning were changed to R-1A.</li></ul></li><li>• The Wallentines have expressed the desire to subdivide the property in the future, but there is not a subdivision application on the table right now.</li><li>• There have been concerns raised in the past about whether this would constitute a spot zone- it does not. Spot zones exist when there is no property of a similar zone in the immediate vicinity. Property directly across the street from this is zoned R-1A. Additionally, although they are zoned R-1, the properties this piece, out to Main Street, are of a similar size as what is requested.</li><li>• The long-term planned use for this area is low-medium density residential, consistent with what is anticipated by the R-1A zoning.</li><li>• The owners of the property have consented to the Wallentines pursuing a rezone as part of the property purchase. Presently, the property is under contract.</li></ul>

	<ul style="list-style-type: none"> <li>• All necessary notification has been done. The notice of public hearing was published in the Herald Journal on 7/28, the sign was posted on the property on 7/27, the information was posted on the Utah Public Notice website on 7/27 and on the Nibley City website on that same date, and the notifications were sent to surrounding neighbors on 7/22.</li> <li>• The recommendation of the Planning Commission is that the City Council grant the rezone request.</li> </ul>
<b>Recommendation</b>	I recommend that Council waive the second reading and approve the ordinance rezoning this property from Residential R-1 to Residential R-1A.
<b>Financial Impact</b>	
<b>Reviewed By</b>	City Planner, Planning Commission.

**Agenda Item #7**

<b>Description</b>	Discussion and consideration of Ordinance 15-05, An Ordinance Regulating Telecommunication Facilities in Nibley City (First Reading)
<b>Department</b>	Planning
<b>Presenter</b>	City Planner
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	<p>In late 2014, David and I had a discussion regarding cell towers in the City. I began looking around at other cities' model ordinances and how they can be regulated. Using Hyde Park City's ordinance as a model, the Planning Commission has created an ordinance that outlines how telecommunication towers may be constructed in Nibley City.</p> <p>I understand that telecom towers are difficult for many to understand, so I will be making a PowerPoint presentation to Council, similar to what I did with the Planning Commission, in order to familiarize you all with what our limitations are, what the different types of towers are, and with the major points of the ordinance.</p> <p>I have sent this to our City attorney for his review and input. I anticipate having his comments back by the time the Council sees this for second reading.</p>
<b>Recommendation</b>	I recommend that the Council advance this ordinance to second reading.
<b>Financial Impact</b>	Unknown
<b>Reviewed By</b>	City Planner, Mayor

**Agenda Item #8**

<b>Description</b>	Discussion and consideration of Ordinance 15-06, An Ordinance regarding Animal Control Regulations in Nibley City (First Reading)
<b>Department</b>	Planning
<b>Presenter</b>	City Planner
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	<p>In the 2014 legislative session, a bill was passed which prohibits cities from enacting breed-specific legislation, unless the animal is generally accepted as a wild animal (wolves, etc.). Concerned still about the propensity of certain animals to vicious behavior, the Planning Commission was asked to prepare an ordinance for your review concerning animals and vicious animals.</p> <p>A few of the major points of the ordinance are:</p> <ul style="list-style-type: none"><li>• A process is in place whereby an animal, regardless of type, may be designated as dangerous by the Justice Court.</li></ul> <p>-The Justice Court, after an animal has been designated as dangerous, may order that the animal be put down, be sold, or that the owner places signs and structures on the property so that the public is warned of a dangerous animal.</p> <ul style="list-style-type: none"><li>• There is a prohibition put in place against owning wild animals or any animal which has been bred with a wild animal.</li><li>• Dog licenses are no longer renewed every year, but are tied to the length of the rabies vaccination.</li></ul> <p>-This will require passing a resolution adjusting the licensing fees to reflect the change, but that resolution will be prepared at a later date.</p> <ul style="list-style-type: none"><li>• Technical changes are in place to make the ordinance comply with our current practice.</li><li>• I have sent this to our City attorney for his review and input. I anticipate having his comments back by the time the Council sees this for second reading.</li></ul>
<b>Recommendation</b>	I recommend the Council advance this ordinance to second reading.
<b>Financial Impact</b>	
<b>Reviewed By</b>	City Planner/Mayor



**Agenda Item #9**

<b>Description</b>	Discussion and Consideration of an Interlocal Agreement with Logan City regarding Wastewater Treatment
<b>Department</b>	City Council, Sewer Department
<b>Presenter</b>	Mayor, City Manager
<b>Sponsor</b>	n/a
<b>Applicant</b>	n/a
<b>Background</b>	<p>The negotiations with Logan City and the other six cities that contract with Logan City that began in 2013, about which the Mayor has been reporting to the Council, has resulted in this interlocal agreement. The interlocal agreement would include not only Nibley and Logan, but also Providence, River Heights, North Logan, Hyde Park and Smithfield. Except for Logan, all of those cities have already approved the agreement. Logan will take the agreement to its council after all of the other cities have approved the agreement.</p> <p>The agreement will be for a 30 year term. Logan will own the wastewater treatment plant. We will own and operate our collection and transmission lines.</p> <p>Logan is obligated to accept wastewater from our city as long as there is remaining capacity.</p> <p>A rate committee will be created with members from each of the cities. Voting will be weighted based on revenue paid for wastewater treatment.</p>
<b>Recommendation</b>	Authorize the Mayor to sign the interlocal agreement
<b>Financial Impact</b>	Financial impacts being considered in this agreement include the costs for construction of a new treatment plant, which would increase sewer rates by an estimated \$10 to \$15 per resident. Other financial considerations also include administrative fees, funds transfers, future rate setting and future liabilities. The primary purpose of the agreement is to address rate setting. An important point that is addressed in the agreement is that Logan City residents will be charged the same amount as residents in other cities.
<b>Reviewed By</b>	Mayor, City Manager, City Attorney, and contracted City Attorney

ORDINANCE 15-05

AN ORDINANCE CHANGING THE ZONE OF APPROXIMATELY 4.24 ACRES  
FROM RESIDENTIAL R-1 TO RESIDENTIAL R-1A

BE IT ORDAINED BY THE NIBLEY CITY COUNCIL LOCATED AT NIBLEY, UTAH, THAT:

Parcel 03-048-0007, bearing the following legal description, as shown in the office of the Cache County Recorder, is hereby rezoned from Residential R-1 to Residential R-1A:

BEG AT CENTER OF SE/4 OF SEC 28 T 11N R 1E & TH N 16.5 FT TO N LN OF 4000 S ST TH S 89\*08'30" E 138.2 FT ALG N LN OF 4000 S ST TH N 3\*01'33" W 366.08 FT (N 1\*28' W 362.6 FT BR) TH S 89\*04'21" W (N 88\*59'47" W BR) 120.24 FT TH S 89\*14'16" W (N 88\*59'47" W BR) 354.49 FT TH S 0\*07'22" W 358.91 FT (S 369 FT BR) TO N LN OF 400 S ST TH W 58 FT ALG ST TH S 88\*51'30" W (W BR) 112 FT ALG ST TO E LN OF 250 W ST TH S 16.5 FT TH N 89\*45'26" E 526.56 FT (E 31 RDS 4.5 FT BR) TO BEG CONT 4.24 AC

Passed by the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST: \_\_\_\_\_  
City Recorder

8-6-15- P&Z Approved

**ORDINANCE 15-06**

**AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES IN NIBLEY CITY**

WHEREAS, Nibley City is granted certain powers in order to promote the health, welfare and safety of its residents and the community; and

WHEREAS, the Federal Telecommunications Act of 1996 grants to municipalities limited powers of regulation over those land uses which are primary to the facilitation of telecommunication structures; and

WHEREAS, Nibley City wishes to enact regulations regarding telecommunication structures.

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

The attached ordinance, entitled "An Ordinance Regulating Telecommunication Facilities In Nibley City" is hereby adopted, by fact and by reference, as Title 10, Chapter 22 "Telecommunication Facilities" of the Nibley City Code.

1. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.
2. Should any provision, clause or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply, The valid part of any provision, clause or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
3. This ordinance shall become effective upon posting as required by law.

Passed by the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST: \_\_\_\_\_  
City Recorder

**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.

8-6-15- P&Z Approved

- 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 commercial 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.
- 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**

8-6-15- P&Z Approved

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.

8-6-15- P&Z Approved

- 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.

4)

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.

**Comment [SP1]:** Mayor Dustin would like to add a #4, which reads: "Permanent automatic irrigation appropriate to agronomic use and compliant with City standards shall be installed in conjunction with the landscaping." I support this idea so that the landscaping is attractively maintained and the owner of the site can't just plant some bushes and walk away thinking they've fulfilled their responsibility.

8-6-15- P&Z Approved

**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.

DRAFT

ORDINANCE 15-07  
AN ORDINANCE REGULATING ANIMAL CONTROL IN NIBLEY CITY

WHEREAS, Nibley City allows for the keeping, care and control of animals within Nibley City;  
and

WHEREAS, in order to protect the health, safety and welfare of its residents, Nibley City desires to have regulations in place regarding the keeping, care and control of animals; and

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

The attached ordinance, entitled "An Ordinance Regulating Animal Control In Nibley City" is hereby adopted, by fact and by reference, as Title 5, Chapter 1 "Animal Control" of the Nibley City Code.

1. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.
2. Specifically repealed are the following sections of the Nibley City Code, and all subsections thereunder:
  - a. 5-1: Animal Control
3. Should any provision, clause or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply, The valid part of any provision, clause or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

Passed by the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Shaun Dustin, Mayor

\_\_\_\_\_  
David Zook, City Recorder

AN ORDINANCE REGULATING ANIMAL CONTROL IN NIBLEY CITY

**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.
- Offspring of any animal, including, but not limited to, dogs and cats, crossbred with a wild animal shall be considered a wild animal.

**Comment [SP1]:** Just a few days after this ordinance was reviewed and recommended by P&Z, I received a phone call about whether someone could keep a pet that is a cross between a house cat and a wild African cat. I suggest that the Council adopt this addition so that we are not dealing with crossbred animals. The wording was suggested by the Mayor.

### 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.

Field Code Changed

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 within a calendar~~ 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

**Comment [SP2]:** The Mayor has suggested that we keep the licensing fee consistent throughout the entire year.

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".

#### **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. 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. 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~~ order forfeiture of the animal to the Court for euthanization or other appropriate disposition. All costs associated with disposition shall be borne by the owner.
- 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.
  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;

**Comment [SP3]:** The intent of the language is the same, it's just a suggestion by Mayor Dustin that formalizes the language.

- 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.

E. **Signs.** All persons responsible for dangerous animals shall display in a prominent place on their premises, durable, all-weather signs easily readable by the public, at a distance of not less than ten (10) feet 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 for acceptance by the City prior to placement on the owner's property.

3.

~~2-4.~~ The City Code Enforcement Officer shall be the authority determining compliance with the provisions of this section.

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.

- G. **No More than One Dangerous Animal.** In no event shall a person be allowed to keep any other domesticated or dangerous animals if the person has a dangerous animal.
- 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.
- 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.
- 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 the animal continues to be kept within the boundaries of the city.
- 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;
- 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.
- 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 residenceCity limits.
- 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~~ animal found in violation of this chapter and to impound such animal~~dog~~ in the pound or other suitable place. The animal control officer, or some other designated official, upon receiving any animal~~dog~~, shall make a complete registry, entering the breed, color and sex of such animal~~dog~~ and whether, if necessary, the animal is 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 animal~~dog~~ pound any animal~~dog~~ or animals ~~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 animal~~dog~~ pound or ambulance, wagon or other vehicle used for the collecting or conveying of ~~dogs~~ animals to the animal~~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~~Animals: Any animal~~dog~~ impounded as a licensed or unlicensed animal~~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 animal~~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 ~~animal~~dog shall have been impounded. All impounded ~~dogs-animal~~ not redeemed within five (5) days ~~shall~~may 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-animals~~ 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-animals~~ 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-animals~~ 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-animal~~ without waiting the five (5) day period.

#### **5-1-14 ~~Dogs-Animals~~ Attacking**

- A. Unlawful: It shall be unlawful for the owner or person having charge, care, custody or control of any ~~dog-animal~~ to allow ~~animals~~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 ~~animal~~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 ~~an animal~~ dog while it is committing any of the acts specified in subsection A of this section or while such ~~animal~~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 1-4-1of this code. Each day the violation is permitted to exist or continue shall constitute a separate offense.

Field Code Changed

**INTERLOCAL AGREEMENT  
CREATING REGIONAL  
WASTEWATER TREATMENT RATE COMMITTEE**

THIS INTERLOCAL AGREEMENT CREATING REGIONAL WASTEWATER TREATMENT RATE COMMITTEE (this “Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2015, by, between and among the following governmental entities located in Cache County, State of Utah

THE CITY OF LOGAN, a municipal corporation of the State of Utah (hereinafter referred to as “LOGAN”),

THE CITY OF SMITHFIELD, a municipal corporation of the State of Utah (hereinafter referred to as “SMITHFIELD”),

THE CITY OF HYDE PARK, a municipal corporation of the State of Utah (hereinafter referred to as “HYDE PARK”),

THE CITY OF NORTH LOGAN, a municipal corporation of the State of Utah (hereinafter referred to as “NORTH LOGAN”),

THE CITY OF RIVER HEIGHTS, a municipal corporation of the State of Utah (hereinafter referred to as “RIVER HEIGHTS”),

THE CITY OF PROVIDENCE, a municipal corporation of the State of Utah (hereinafter referred to as “PROVIDENCE”), and

THE CITY OF NIBLEY, a municipal corporation of the State of Utah (hereinafter referred to as “NIBLEY”).

The above listed entities are sometimes jointly referred to in this Agreement as “Parties,” and individually as a “Party.” SMITHFIELD, HYDE PARK, NORTH LOGAN, RIVER HEIGHTS, PROVIDENCE and NIBLEY are sometimes jointly referred to in this Agreement as the “Contributing Parties” and individually as a “Contributing Party.”

**RECITALS:**

A. In the past, LOGAN has owned and operated a wastewater lagoon and treatment facility (the “Existing Facility”) and has accepted wastewater from the Contributing Parties for treatment at the Existing Facility.

B. LOGAN anticipates that it will construct a new mechanical wastewater treatment facility (the “Treatment Facility”) that will be owned and operated by LOGAN.

C. If LOGAN constructs the Treatment Facility, it anticipates that it will continue to accept wastewater from the Contributing Parties for treatment at the Treatment Facility.

D. The Parties understand that, consistent with the provisions of this Agreement, LOGAN will have the power and authority to impose User Charges upon the Contributing Parties that deliver wastewater to the Treatment Facility so as to cover their proportionate shares of the Operating Expenses of the Treatment Facility and also a Transfer Fee.

E. The Parties desire to create a committee, with representation from each of the Parties, which will have authority to establish rates, within the parameters set forth in this Agreement, for the wastewater treatment services provided by LOGAN.

G. The Parties agree that this Agreement is entered into pursuant to the authority granted by the Utah Interlocal Cooperative Act, as set forth in Chapter 13, Title 11, Utah Code Annotated (1953, as amended).

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth in this Agreement, the Parties hereby agree as follows:

1. **Construction of Treatment Facility.** The Parties acknowledge that it is the present intention of LOGAN to construct the Treatment Facility estimated to be an 18 MGD facility, but actual size will be determined by the number of Contributing Parties who participate. It is understood and agreed that LOGAN may design the Treatment Facility with an operational capacity that is sufficient, in the reasonable judgment of LOGAN, to service the current and reasonably expected future treatment needs of the Parties. However, nothing in this Agreement shall be deemed to create an obligation of LOGAN to construct the Treatment Facility, and no Party shall have the right or power to compel LOGAN to construct the Treatment Facility.

2. **Term of Agreement.** The term of this Agreement shall commence as of the effective date of this Agreement, as set forth in the first paragraph of this Agreement, and shall continue for 30 years. It is the express intent of LOGAN to continue to provide effective and cost-efficient treatment of wastewater for the Contributing Parties for the useful life of the Treatment Facility. Therefore, this agreement may be extended in five year increments by mutual consent of the Parties.

3. **Ownership of Wastewater Collection and Treatment Facilities.** The Parties agree as follows with respect to the ownership of the Treatment Facility and the wastewater collection systems of the Parties:

(a) LOGAN shall be the sole owner and operator of the Treatment Facility, and shall have the sole power and authority to operate and maintain the Treatment Facility. This power and authority shall include, but not be limited to, the power and authority to hire managers, operators, mechanics, laboratory technicians and such other personnel as LOGAN deems necessary and appropriate for the operation and maintenance of the Treatment Facility.

Nothing in this Agreement shall be deemed to give any of the Contributing Parties any ownership interest in the Treatment Facility or any right to operate or maintain the Treatment Facility.

(b) LOGAN shall be the sole owner and operator of its own wastewater collection and transmission facilities, and LOGAN shall be solely responsible for the operation, maintenance, and repair of its own wastewater collection and transmission facilities, and for the Operating expenses associated with these facilities.

(c) Each Contributing Party shall be the sole owner and operator of its own wastewater collection and transmission facilities up to the point where the Contributing Party's collection and transmission facilities connect with LOGAN's wastewater system. These points of connection are more particularly shown on Exhibit "A" attached hereto and incorporated herein by reference. Each Contributing Party shall be solely responsible for the operation, maintenance and repair of its own wastewater collection and transmission facilities and for the collection related operating costs of delivering its wastewater. These may include shared costs between Contributing Parties and LOGAN that may vary for each facility (collection and transfer facilities such as lift stations and trunk lines).

(1) Each Party agrees that it will construct, maintain and operate its wastewater collection and transmission facilities in a manner that will comply with all applicable Federal and State rules and regulations, and that it will use and exercise due diligence in preventing surface and sub-surface water from entering into its collection and transmission facilities.

(2) If it is determined that a Contributing Party is responsible for a violation of LOGAN's operating permit relating to the Treatment Facility, that Contributing Party shall be responsible for the payment of any fees, penalties and remediation expenses incurred by LOGAN with respect to that violation.

(d) Nothing in this Agreement shall preclude a Contributing Party from entering into a separate agreement with LOGAN with respect to the construction, maintenance and operation of a facility that is a part of that Contributing Party's own collection and transmission facilities, including lift stations. However, no part of the cost of the construction or operation of those facilities shall be included in the costs of operation and maintenance of the Treatment Facility that is shared by the Parties pursuant to this Agreement.

4. **Obligation to Accept and Treat Wastewater.** As long as a Contributing Party is in compliance with the provisions of this Agreement and the Contributing Party's specific Sewer Treatment Agreement with Logan, LOGAN shall accept and treat at the Treatment Facility all of the wastewater delivered to the Treatment Facility by that Contributing Party. Treatment of wastewater at the Treatment Facility shall be on a first come, first served basis among the Parties to this Agreement, up to, but collectively not exceeding the treatment capacity of the Treatment Facility.

5. **User Charges.** The Parties recognize and agree that, as sole owner and operator of the Treatment Facility and the issuer of the bonds described in this Section of this Agreement, LOGAN is legally obligated to pay, from revenues, the Operating Expenses relating to the Treatment Facility. The Parties agree that LOGAN has the right to impose User Charges. To ensure that User Charges are equitable, the fee charged to each Contributing Party in dollars per 1,000 gallons of treated wastewater shall be the same as the per 1,000 gallon fee charged by LOGAN for its estimated flow. The revenue paid into the Wastewater Treatment fund from LOGAN shall be the amount collected from its residential and commercial users based on the estimated per 1,000 gallon rate, while the amount collected from each Contributing Party shall be its measured flow in 1,000 gallons multiplied by the same rate. The Parties agree that the system has inflow and infiltration problems and the Rate Setting Committee may direct the consultant to develop alternative rate/flow schemes to better reflect the estimated inflow and infiltration.

The User Charges shall include Operations and Maintenance Expenses, bond debt service, Administration Expenses, and a Transfer Fee in connection with the treatment of wastewater at the Wastewater Facility as follows (Except that capital expenses shall not be duplicated through depreciation and again through debt service):

(a) **Operations and Maintenance Expenses.** The Operations and Maintenance Expenses of the Treatment Facility shall include the following elements:

(1) The actual costs of the operation and maintenance of the Treatment Facility, including, but not limited to, costs of maintenance and repair of equipment used in connection with the operation and permit compliance of the Treatment Facility, salaries and wages, health, hospitalization, pension and retirement expenses of employees of the Treatment Facility, fees for services, materials and supplies, rents, insurance expenses, fees and expenses paid for permits, legal, engineering, accounting and financial advisory services and other consulting and technical services, training of personnel, taxes, and other governmental charges imposed by any entity other than LOGAN, fuel costs, payments for the purchase of water for use in connection with the operation of the Treatment Facility, costs of utility services and other auxiliary services, and any other current expenses or obligations required to be paid by LOGAN in connection with the operation and maintenance of the Treatment Facility for treatment of the wastewater load, including I/I.

(2) The costs of repair and replacement of equipment and facilities at the Treatment Facility and the funding of reserves.

(3) Funding future capital replacement/improvement project reserves.

(4) The costs of closing and remediating the existing sewer lagoons as required by the applicable Federal, state, and/or county regulations. Costs associated with renovation of the sewer lagoons for other uses shall not be included.



(5) Other costs of transitioning from the lagoons to the new facility.

(b) **Bond Debt Service.** The Bond Debt Service shall mean and include the amounts payable by LOGAN with respect to the following revenue bonds.

(1) Debt Service coverage requirements, debt service reserve fund deposits, and other amounts payable by LOGAN with respect to \$3,355,000 in Revenue Bonds (as of 6/30/15) that have been issued by LOGAN and which relate to LOGAN's existing treatment facilities.

(2) Debt service payments, debt service reserve fund deposits, coverage requirements, and other amounts payable by LOGAN with respect to the revenue bonds that will be issued by LOGAN to provide funds with which to construct the Treatment Facility.

(c) **Administrative Expenses.** The Administrative expense shall be a reasonable allocation of costs incurred by LOGAN to support the operation of the Treatment Facility. The method of allocation shall be based on established accounting procedures and shall be the same as that used for other LOGAN departments.

(d) **Transfer Fees.** A Transfer Fee (calculated at 5.5% of estimated revenue) will be transferred from the Wastewater Enterprise Fund into the General Fund in accordance with Utah Law. The Transfer Fee is intended to compensate Logan City for the intangible risk and opportunity cost of providing wastewater treatment service to the contributing parties.

6. **Creation of Rate Committee.** There is hereby created a committee to be known as the "Regional Wastewater Treatment Rate Committee." Said committee is referred to in this Agreement as the "Rate Committee." The Rate Committee is formed by this Agreement pursuant to the provisions of Utah Code Annotated §11-13-101 et seq.

7. **Authority and Action of Rate Committee.** The rate committee shall meet at least once each year, but as often as needed to accomplish its purpose. The Committee shall:

(a) Confirm the votes allocated to the Members of the Rate Committee for that annual meeting pursuant to the procedure described in Section 11 of this Agreement.

(b) Yearly, elect the chair and other officers of the Rate Committee pursuant to Section 8(c) of this Agreement.

(c) Establish or modify bylaws as specified in Section 10 of this Agreement.

(d) Review the annual report prepared by LOGAN pursuant to Section 14 of this Agreement.

(e) Review LOGAN's explanation and accounting of Administration Expenses.

(f) As deemed necessary, select consultants to support User Rate analyses.

(g) Subject to the provisions of Section 5 of this Agreement the Rate Committee shall establish or reaffirm the Fiscal Year User Rate that will serve as the basis for monthly wastewater treatment bills charged to the Parties. The User Rate shall represent the unit cost of wastewater treatment by the Treatment Facility. User Charges will be calculated from the User Rate and the monthly Wastewater Loads of the Parties in order to ensure that each entity will pay its equitable share of wastewater treatment costs.

(h) At the request of a majority of the Contributing Parties, rates adopted by the Rate Committee shall be reviewed by an independent consultant selected by the Committee, as set forth in Section 11d, below. If the reviewer determines that the rates are not fair and equitable, the rates shall be revised to be fair and equitable prior to being imposed.

(i) Recommend the annual wastewater treatment operations budget to the Logan City Mayor.

(j) Take such actions as are necessary or expedient to carry out the intention of this Agreement. However, the Rate Committee shall have no powers other than those granted to it under this Agreement.

8. **Committee Membership.** Each Party shall have the power to appoint one member of the Rate Committee for so long as it is delivering wastewater to the Treatment Facility. Each such member is referred to as a "Member" of the Rate Committee.

(a) The Member representing a Party shall be designated and appointed by the duly constituted governing body of that Party. Such Member shall serve at the pleasure of the governing body of that Party, and each Party shall have the right to remove and replace the representative Member of that Party at any time. Initial appointments shall be made within thirty (30) days of the date of this Agreement, and each Party shall give written notice to the other Parties of the identity of the representative Member of that Party.

(b) In the event of the removal and/or resignation, death or incapacity of any Member, the governing body of the Party who appointed that Member shall designate and appoint a new representative Member for that Party to fill the vacancy, and shall give written notice to the other Parties of the identity of the replacement Member who represents the Party on the Rate Committee. All Members shall continue to serve until their respective successors are appointed.

(c) The Rate Committee shall select a chair, a vice-chair and other officers from among the Members, who shall serve until their successors are duly selected by the Members. The Chair and Vice Chair of the Committee shall rotate on an annual basis between LOGAN and the Contributing Parties. The Director of LOGAN's Environmental Department

shall serve as the Secretary and as a technical advisor to the Rate Committee. The Secretary shall not have any votes with respect to actions taken or approved by the Rate Committee unless the Secretary is designated by LOGAN as its representative Member on the Rate Committee. The Secretary shall keep minutes of each regular and special meeting of the Rate committee and shall supply to each Member of the Rate Committee copies of those minutes as soon as reasonably possible after each such meeting.

9. **Meetings.** The Rate Committee shall meet as often as necessary to accomplish the business of the Committee. The annual meeting of the Rate Committee shall occur on the second Monday of January each year, or on such other date in a particular year as is determined by the Rate Committee. Any Member may call a special meeting of the Rate Committee at any time upon written notice to all of the Parties, which notice must be given not less than ten (10) days prior to the special meeting.

10. **Bylaws.** The Rate Committee shall establish bylaws, consistent with this Agreement, relating to the activities of the Parties in connection with this Agreement. Those bylaws shall be applied uniformly among all of the Parties.

11. **Voting.** Except as otherwise expressly provided in this Section or otherwise in this Agreement, actions by the Rate Committee shall be on the basis of a majority of the weighted votes allocated to the Members of the Rate Committee. In each fiscal year, each Member of the Rate Committee shall be allotted a number of votes in each fiscal year proportional to the “wastewater revenue” paid to the Treatment Facility by the Party represented by that Member during the prior fiscal year, and the number of votes shall be adjusted each fiscal year. There will be a total of 1000 votes, and the number of each Party’s votes will be calculated as a percentage of Wastewater Revenue paid and multiplied by 1000. For purposes of vote allocation, the definition of “Wastewater Revenue” shall be determined by the Committee and may be revised. Until such time as Wastewater Revenue is defined and calculated for each Party, the percentage of annual revenue paid by each Party shall be the basis for apportioning the weighted votes of the Members of the Rate Committee.

(a) **Weighted Votes.** Initially, the votes of the Members representing the Parties on the Rate Committee shall be allocated as follows, using 2014 revenue data:

Party	2014 Revenue (\$ per year)	Proportional Contribution	Number of Votes
LOGAN	\$4,080,289	66.7%	667
SMITHFIELD	\$433,105	7.1%	71
HYDE PARK	\$226,703	3.7%	37
NORTH LOGAN	\$683,605	11.2%	112
RIVER HEIGHTS	\$46,152	0.8%	8
PROVIDENCE	\$436,297	7.1%	71
NIBLEY	\$209,276	3.4%	34
<b>TOTAL</b>		<b>100%</b>	<b>1,000</b>

(b) Adjustment of Votes. Each fiscal year, the number of votes allocated to each Member shall be adjusted. The number of votes allocated to each Party shall be based on the proportion to the total wastewater revenue paid to the Treatment Facility in the prior fiscal year by the Party represented by that Member, relative to the total wastewater revenue paid to the Treatment Facility by all of the Parties during that prior fiscal year.

(c) Quorum. Five (5) Members, who collectively represent Parties holding not less than sixty percent (60%) of the total votes, shall constitute a quorum for purposes of a meeting of the Rate Committee. No action may be taken by the Rate Committee except at a meeting at which a quorum is present.

(d) The selection of any consultant to provide services relating to the Rate Committee's authority shall require the vote of at least eighty percent (80%) of the Members of the Rate Setting Committee, including at least three of the Contributing Parties.

12. Separate Metering. To determine the allocation of User Charges that are to be proportionately allocated among the Parties, Contributing Parties will have separate flow meters and appropriate monitoring equipment installed, calibrated, maintained, and controlled to determine accurate flow and Wastewater Load delivered to the Treatment Facility by each Party. User charges applied to Logan shall be based on estimated flows.

(a) For purposes of this Agreement, Wastewater Load shall be defined by the Rate Committee.

(b) Wastewater Load will be measured monthly by LOGAN.

(c) The cost of installing calibrating, maintaining, and monitoring flow meters and associated equipment for measurement of the Participating Parties' wastewater contributions shall be a cost to the Contributing Parties.

(d) The flow meters and associated monitoring equipment shall be operated, calibrated and maintained by LOGAN in accordance with the equipment manufacturers' printed recommendations. The meters shall be periodically serviced at the Board's direction by an independent contractor approved by the Board.

13. Wastewater Treatment Enterprise Fund. Wastewater treatment User Charge amounts received from the Parties shall be deposited in the LOGAN Wastewater Treatment Enterprise Fund. It is acknowledged that a portion of the reserve funds in this account came from payments by the contributing parties. The Transfer Fee and the Administrative Expense portion will be transferred to Logan's general fund in accordance with Utah law. The only funds transferred from the Wastewater Enterprise Fund shall be the Administrative Expense and Transfer Fee specified in Sections 5c and 5d.

14. The Annual Report. Before the next annual meeting of the Rate Committee, LOGAN shall supply to each of the Parties a written report containing the following information:

(a) An independent auditor's report and opinion on the accounting of the Operating Expenses and the reasonableness of the allocated administrative charges of the Treatment Facility incurred during the 12-month period ending on June 30.

(b) A report of the flow and Wastewater Load received from each of the Parties during the 12-month period.

(d) The current budget for the operation of the Treatment Facility.

(e) A detailed explanation and accounting of Administrative Expenses.

15. **Failure to Act by Rate Committee.** If the Rate Committee fails to exercise the rate-setting authority granted to it under this Agreement, LOGAN shall have the power and authority to set rates for treatment of wastewater at the Treatment Facility, after providing written notice to the Contributing Parties.

16. **Protection of Bond Covenants.** Nothing in this agreement shall limit the power of LOGAN to establish fees and charges for wastewater treatment services or to perform in a manner that will satisfy its bond covenants relating to all revenue bonds issued by LOGAN that are secured, in whole or in part, by LOGAN's wastewater collection and treatment system; provided, that the Contributing parties shall not be responsible for the payment of any operation and maintenance or debt service expenses for any bonds issued by LOGAN that do not relate to the wastewater treatment system.

17. **Withdrawal by a Contributing Party.** The Parties acknowledge that, if any Contributing Party were to disconnect from the Treatment Facility, that Contributing Party's share of the cost of the operation and maintenance of the Treatment Facility and the other amounts payable by the Parties would be shifted to the other Parties, potentially increasing the amounts payable by those other Parties. Disconnection from the Treatment Facility will be outlined in detail in each Party's specific Sewer Treatment Agreement with Logan. Therefore, the Parties hereby agree that:

(a) **Withdrawal Notice.** If a Contributing Party proposes to withdraw from participation in the Rate Setting Committee, it shall give written notice thereof to all of the other Parties.

(b) **Effective Date.** The effective date of a Contributing Party's disconnection from the Rate Setting Committee shall be the date indicated in the written notice, or if not specified shall be the date received by the Committee.

(c) In the event that a Contributing Party disconnects from the Treatment Facility, the Contributing Party's membership on the Rate Committee shall automatically terminate.

(d) The Parties acknowledge that early disconnection provisions and any equitable adjustments required in the event of early disconnection will be subject to additional conditions established in each Party's specific Sewer Treatment Agreement with LOGAN.

(e) Nothing in this section shall prevent the Parties from pursuing other remedies available to them by law.

18. **Representations of Parties.** Each Party hereby certifies, warrants and represents that (a) it has the power to enter into this Agreement and all necessary action of its city council to authorize the execution and delivery of this Agreement; and (b) this Agreement does not conflict with, and the execution and performance hereof by the Party, will not constitute a breach of or a default under any contract, lease, court order, administrative rule, regulation or law to which the Party or its properties or either of them are subject or by which it is bound.

19. **Default.** In the event any of any default in the performance of any obligation hereunder or any breach of any term hereunder by a Non-Owner Party, the other Parties shall be entitled, in addition to any other remedy that may be available hereunder or under applicable law, to recover from the defaulting Party the costs incurred by those other Parties in enforcing their rights hereunder or in seeking damages for any breach hereof, including reasonable attorneys' fees, whether such costs are incurred by litigation or otherwise. The remedies available under this Section shall be cumulative and in addition to any other remedies which may be available hereunder or under applicable law, and no election by any Party to exercise, modify or waive any remedy on any occasion shall be deemed to be an election to exercise, modify or waive the same or any other remedy on any other occasion. In the event of a material breach by a Contributing Party of this Agreement, the breaching Contributing Party shall have its Rate Committee membership suspended until the breach is cured. The determination of a "material breach" and the cure of said breach shall be made by the Rate Committee minus the participation of the alleged breaching Contributing Party.

20. **Amendment of Agreement.** It is the intention of the Parties that, if the Parties determine that this Agreement should be amended, an attempt shall be made to reach a consensus with respect to that amendment. However, this Agreement may be amended by a vote of at least eighty percent (80%) of the votes of the Members of the Rate Committee, including at least three of the Contributing Parties; provided, however, that (a) no such amendment shall impose upon any Party the obligation to pay fees and charges or other amounts in excess of the amounts described in this Agreement (unless that Party agrees to those additional amounts), and (b) unless LOGAN agrees otherwise, no such amendment shall amend or modify the protection of LOGAN's bond covenants set forth in Section 5(b) of this Agreement.

21. **Assignment.** No Party shall have the authority to transfer or assign any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of all of the other Parties.

22. **Binding Effect.** This Agreement shall be binding upon each of the Parties hereto and their respective assigns and successors-in-interest.

23. **Severability.** It is hereby declared that all parts of this Agreement are severable, and if any section, paragraph, clause or provision of this Agreement shall, for any reason, be held to be invalid or enforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect the validity or enforceability of the remaining sections, paragraphs, clauses and provisions of this Agreement.

24. **Complete Agreement.** This Agreement constitutes the full and complete agreement by, between and among the Parties as to the matters covered hereby, and supersedes all prior oral or written agreements, representations, conversations and understandings of the Parties.

25. **Sewer Treatment Agreement.** This Agreement does not take the place of each Party's individual Sewer Treatment Agreement with Logan. However, each Party's individual agreement may not be contrary to what is in this Agreement.

26. **Governing Law.** This Agreement shall be governed by the laws of the State of Utah.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by and through their duly authorized representatives on the date first above Written.

**LOGAN CITY**

By: \_\_\_\_\_  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Attorney for Logan City

**SMITHFIELD CITY**

By: \_\_\_\_\_  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Attorney for Smithfield City

**HYDE PARK CITY**

Attest:

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
Attorney for Hyde Park City  
**NORTH LOGAN CITY**

Attest:

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
Attorney for North Logan City  
**RIVER HEIGHTS CITY**

Attest:

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor

Approved as to form

\_\_\_\_\_  
Attorney for River Heights City  
**PROVIDENCE CITY**

Attest:

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
Attorney for Providence City



**NIBLEY CITY**

Attest:

By: \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Attorney for Nibley City