

**CITY OF MOAB
PLANNING COMMISSION
PUBLIC HEARING
PROPOSED ORDINANCE 2015-08**

The City of Moab Planning Commission will hold a Public Hearing on Thursday, July 9, 2015 at approximately 7:00 p.m. in the Council Chambers of the Moab City Offices at 217 East Center Street, Moab, Utah.

The purpose of this Public Hearing is to solicit public input on proposed Ordinance 2015-08, an ordinance amending the City of Moab Municipal Code, Sections 17.09.530(B) and 17.09.531(9) by amending the conditions for the approval of bed and breakfasts as a conditional use.

The proposed ordinance is available for public review at the Moab City Planning Office located at 217 East Center Street and on the website at www.moabcity.org. Written public comment may be directed to the Planning Department at the listed address. To ensure that the Planning Commission has the opportunity to review written comments prior to the meeting, written comments will only be accepted until 5 pm the day prior to the public hearing.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Planning Office at 217 East Center Street, Moab, Utah 84532; or phone (435) 259-5129 at least three (3) working days prior to the meeting.

/s/ Sommar Johnson
Zoning Administrator

Published in the Times Independent, June 25 and July 2, 2015.

ORDINANCE #2015-08

AN ORDINANCE AMENDING THE CITY OF MOAB MUNICIPAL CODE, SECTIONS 17.09.530 B AND 17.09.531(9) BY AMENDING THE CONDITIONS FOR THE APPROVAL OF BED AND BREAKFASTS AS A CONDITIONAL USE

WHEREAS, the City Council (“Council”) adopted the Moab Municipal Code (“Code”) and especially Chapter 17.00.00, also known as “The Zoning Ordinance of Moab City, Utah” in an effort to encourage and facilitate orderly growth and development in the City of Moab (“City”) as well as to promote a more attractive and wholesome environment; and

WHEREAS, from time to time the City has noticed that there is a need to amend the Code Chapters dealing with conditional use permits and that the Code is lacking concise review criteria that can be applied to individual conditional uses; and

WHEREAS, the City of Moab Planning Commission (“Commission”) in a duly advertised public hearing held on _____, __ 2015, to hear testimony and determine the merits of the changes to the Code; and

WHEREAS, the Commission found that the proposed changes would benefit Planning Staff in the day to day administration of the Code and be more easily understood by the general public; and

WHEREAS the Commission unanimously voted to recommend to Council that adoption of the new language was in the best interests of the citizens of Moab; and,

WHEREAS, Council reviewed Ordinance #2015-08 in a regularly scheduled public meeting held on _____, 2015, to hear and decide the merits of the proposed change to Chapter 17.09, *Definitions*, of the Moab Municipal Code; and,

WHEREAS, Council found that the amendments to the code are in the best interests of the City.

NOW, THEREFORE, the Moab City Council hereby adopts Ordinance #2010-13 and repeals the following Chapters in the Moab Municipal Code and holds them in reserve:

AND, FURTHERMORE, Council adopts the following table and text as an amendment to the language found in Chapter 17.09.530, Conditional Use Permits.

17.09.530 Conditional use permits.

B. Conditional Use Matrix.

CONDITIONAL USES	R-1	R-2	R-3	R-4	RA-1	A-2	C-1	C-2	C-3	C-4	C-5	SAR	MH/RV	FC-1	RC I
B&B /rooming or boarding house (9)		C	C	C			P	P			P				

C. Pre-application Conference. Prior to the filing of a conditional use permit application, the applicant shall meet with the planning department to become acquainted with the requirements of the city. At such meeting, the application contents, referral agencies, review procedures, use and area standards, and the general character of the development may be discussed. At the pre-application conference, the applicant may be represented by a land planner, engineer, architect or surveyor.

D. Submittal Requirements and Applicant Responsibilities. At least thirty days prior to the [review meeting held by the planning commission](#), ~~review meeting~~ the applicant shall file a complete application that shall include a title certificate from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property. The application provided by the planning department shall also be accompanied by or show the following information:

1. The street address and legal description of the property affected;
2. Any and all plans, information, operating data and expert evaluation necessary to clearly explain the location, function and characteristics of any building or use proposed;
3. A filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the city council;
4. Each applicant shall provide proof of delivery of written notice to all property owners adjacent to the property where the business is to be located. Adjacent properties shall be defined as all properties whose external boundaries are located within one hundred feet of the external boundary of the lot on which the business is to be located; and
5. If the applicant is not the owner of the building or lot on which the request for a home occupation is located, a signed notarized letter from the owner agreeing to the proposed conditional use is required.

E. Enforcement. The zoning administrator shall be authorized to enter and periodically inspect all permitted premises for compliance with this section, applicable conditions, and applicable building, fire and health codes.

1. Prior to instituting any enforcement action for violations of this code, the zoning administrator shall deliver written notice of the violation to the permit holder. The permit holder shall have a period of not less than thirty days in which to abate or correct the violation, which period may be extended by the planning commission upon a showing of good cause.
2. Any violation not corrected within the abatement period may, at the option of the city, be subject to administrative, civil, and criminal enforcement. The city may commence a civil action to enjoin or abate any violation of this section. In any civil enforcement action, the city shall be entitled to obtain injunctive relief upon a showing of violation(s) of this section or the applicable conditions of approval. The court may also assess civil penalties of a sum not to exceed one thousand dollars per violation. The city shall be entitled to recover its reasonable attorney fees and court costs in any action in which a violation of this section is established.
3. Alternatively, violations of this section are punishable as a Class B misdemeanor, as defined by Utah statute.
4. In addition to all other remedies, any permit holder that refuses or fails to abate any violation of the license or this section may be subject to a conditional use permit revocation, as provided by Chapter [5.04](#) of this code.
5. Persons operating a conditional use subject to this section without the required permission of the City of Moab, or is in violation of Chapter [5.04](#), are subject to all remedies and penalties specified in this section.
6. Any approval granted, in whole or in part, as a result of false, inaccurate or misleading information supplied by the applicant or its agent shall confer no vested right upon the applicant, and may be subject to revocation following delivery [of] written notice to the applicant explaining the basis for the action. Any aggrieved party may appeal such revocation to the planning commission by delivering notice of appeal within fifteen days of the notice of revocation. Appeal of any decision made by the planning commission may be made to the appeal authority as per Chapter [17.72](#) of this code.

F. Planning Commission Review Criteria and Processing. In reviewing a conditional use, the planning commission shall utilize the criteria listed in subsection H, below.

1. ~~Review at public meeting. Public Hearing Required.~~ The planning commission shall ~~review all applications held a public hearing on an application~~ for a conditional use permit ~~during a regularly scheduled meeting~~ prior to making its recommendation to the city council. ~~The criteria listed in subsection H, below, shall be used to evaluate the proposal.~~
2. ~~The planning commission shall convey its recommendation and express its findings to city council by adoption of resolution.~~

~~2. Notification Requirements:~~

- ~~a. Planning staff shall cause notice of the public hearing of the planning commission to be given by publication in a newspaper of general circulation in the city of Moab. Such notice shall state the time and place of such hearing and the nature of the subject to be considered and the hearing date shall be at least fifteen days from the date of publication.~~
- ~~b. Planning staff shall cause written notice of public hearing to be mailed to all owners of real property lying within three hundred feet of the property on which the change is requested. The notice shall be mailed not less than fifteen days before the date set for hearing by depositing in the mail such notice properly addressed and postage paid to each such owner as the ownership appears on the last approved county tax roll.~~

G. City Council Processing and Review Criteria. In reviewing a conditional use application, the city council shall utilize the process and criteria listed below.

1. Public Hearing Required. The ~~C~~city ~~e~~Council shall hold a public hearing on any application for a conditional use permit prior to taking any final action on the application.
2. Notification Requirements.
The City Recorder shall cause notice of the public hearing of the city council to be given by publication in a newspaper of general circulation in the city of Moab without the necessity of notifying property owners by mail. Such published notice shall state the time and place of such hearing and the nature of the subject to be considered and the hearing date shall be at least fifteen days from the date of publication.

H. Conditions of Approval. Both the planning commission and the city council shall use the following criteria in reviewing conditional use permit requests. It is specifically understood that certain criteria listed below may not apply to a particular application and that failure to meet one or more of the applicable criteria may be cause for denial. -In accordance with state law, the applicant shall adequately demonstrate that the criteria have reasonably been met:

1. The proposed conditional use and accessory uses are compatible with adjacent existing uses and other allowed uses in the zoning district. Such compatibility shall be expressed in terms of appearance, architectural scale and features, site design and scope, landscaping, as well as the control of adverse impacts including noise, vibration, smoke, fumes, gas, dust, odor, lighting, glare, traffic minimization or circulation, parking issues, or other undesirable or hazardous conditions.
2. The proposed conditional use has incorporated design features sufficient to protect adjacent uses including but not limited to: service areas, pedestrian and vehicular circulation, safety provisions, access ways to and from the site, buffering, fencing, and site building placement.
3. The proposed use is not detrimental to the public, health, safety and welfare through effective management or prohibition of outdoor storage, a required sewer connection, and proper disposal of waste.
4. Adequate public services such as streets, off-street parking, pedestrian facilities, water, sewer, gas, electricity, police, fire, and EMS protection must be available without the reduction of services to other existing uses.

5. Provisions for proper maintenance of the building, parking and loading areas, drives, lighting, signs, landscaping, etc. shall be provided.
6. The proposed conditional use shall conform to all regulations of this code concerning adopted plans, hours of operation, polices and requirements for parking and loading, signs, highway access, and all other applicable regulations.
7. The use is consistent with the city of Moab general plan as amended.
8. The applicant must demonstrate that site impacts within the property as well as adjoining properties have been fully mitigated appropriate to the topography of the site. The review of impacts include, at a minimum, slope retention, flood potential, and possible damage to riparian or hillside areas.
9. After considering the public comment relating the criteria listed above in relation to the requested conditional use permit, the planning commission shall adopt a resolution stating their findings of the applicant's demonstrated ability to meet the criteria for a conditional use permit. Approval or denial of the application by the city council shall be memorialized in the minutes of the meeting. A determination that the applicant has not met one or more of the applicable criteria shall be sufficient to deny the request. The planning commission and the city council, respectively, may establish additional conditions of operation, location, arrangement and construction in the issuance of a conditional use permit if deemed to be in the public interest or to assure compliance with other aspects of the Moab Municipal Code.

I. Records. A file containing all documents relevant to the application and disposition of such conditional use permits shall be maintained by the Moab Planning Department.

J. Maximum Density. The maximum density allowed by a conditional use permit shall be no greater than that permitted in the underlying zone district.

K. Specific Performance. Action authorized by approval of a conditional use permit must commence within one year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The planning commission may grant a one-time six-month extension for good cause shown. In order to obtain an extension, the permit holder must apply for the extension in writing before the expiration of the original permit. The application must be submitted to the zoning administrator with a description of the cause for requesting the extension.

L. Permit Revocation.

1. The city council may revoke the conditional use permit of any person upon a finding that the holder of the permit has failed to comply with any of the conditions imposed at the time the permit was issued. The city recorder shall cause notice of the revocation to be sent to the holder of the permit and the holder of the permit shall immediately cease any use of the property that was based on the conditional use permit. Violation of this clause shall invoke Section [17.78.030](#)
2. If the city council revokes a permit under this section, the holder of the permit shall have a right to appeal the revocation. The holder must file the appeal with the city recorder within fifteen days of the date of the notice that the city has revoked the conditional use permit.
3. Upon receipt of the appeal, the city council shall set a hearing on the appeal at its next regularly scheduled meeting which is more than fifteen days after the time the city recorder received the appeal. The city shall supply the permit holder of the time, date and place of the hearing at least fifteen days before the hearing. At the hearing, the permit holder shall have the right to be heard on the revocation.

M. Appeals.

1. Any person, adversely affected by the final decision of the city council pursuant to this chapter may appeal that decision to the Grand County district court.

2. A judicial action seeking review of a decision by the city council must be filed no later than thirty days from the date of the final decision that is the subject of the action or legal claim. Any action commenced beyond that time shall be subject to summary dismissal.
3. Review of any conditional use permit application shall be based upon the record of proceedings before city council. Upon the commencement of a judicial appeal challenging any decision under this chapter, the city shall transmit to the district court true and correct copies of all submittals, testimony, orders, and file documents comprising the record pertaining to the application, including any transcript or tape recordings of proceedings. (Ord. 12-09 (part), 2012; Ord. 12-05 (part), 2012; Ord. 11-09 (part), 2011; Ord. 11-01 (part), 2011; Ord. 10-13 (part), 2010; Ord. 10-06 (part), 2010; Ord. 08-05 (part), 2008)

17.09.531 Conditions for approval of specific conditional uses.

(9) Bed and Breakfast, Rooming or Boarding House.

A. All such uses shall comply with the following ~~pre~~conditions:

1. Bed and breakfast facilities, ~~rooming and/or boarding houses~~ may be allowed as a conditional use where applicant can show evidence of reasonable compliance with outlined standards and procedures and where there is minimal impact on adjacent residential properties and neighborhoods. An inspection by the building inspector, fire chief and health department shall be required prior to issuance of a permit and as often as necessary for enforcement of this chapter. No person shall operate a bed and breakfast unless the person holds a valid permit and business license. For purposes of obtaining a conditional use permit, rooming and/or boarding houses shall abide by the same regulations as a bed and breakfast facility.

2. A letter of application sworn before a notary public shall be provided by the owner(s) stating that such owner will occupy the facility, as provided for herein. The letter shall be recorded by the city recorder with a certified copy to accompany the application. The letter shall also be submitted to the planning commission for its consideration.

3. The conditional use permit for a bed and breakfast facility shall be granted annually from the date of the original permit. At the end of the one-year period, renewal shall be granted by the planning commission if all other conditions required at the time of approval remain unchanged.

~~4. A change in ownership as defined herein will require a new conditional use permit.~~

~~5.~~ Applicant must provide plot plans and building or floor plans one-quarter inch to the foot showing the bed and breakfast facility, parking and landscaping. Applicant must show that the facility meets minimum performance standards for off-street parking and landscaping as specified in Section 17.70.080(B). Plans shall be approved by the building inspector, zoning administrator, fire chief and health department.

~~6. Applicant must complete the bed and breakfast home occupation form in order to complete the conditional use permit application process.~~

B. Requirements.

1. The bed and breakfast facility shall not unduly increase local traffic in the immediate neighborhood. Road design and access shall be considered in the planning commission's recommendation, and in no case shall a bed and breakfast be located on a cul-de-sac, dead end street, or a zoning lot with a street frontage of less than fifty (50) feet.

2. There shall be a minimum perimeter separation of three hundred (300) feet between bed and breakfasts.

3. Construction and alterations of bed and breakfast facilities shall not alter the residential character of residential zones and of the dwelling. A new structure shall not

be constructed solely for the use of a bed and breakfast. Bed and breakfast facilities shall be located in an existing structure that is a minimum of 2,000 square feet in size. Additions to an existing structure for a bed and breakfast use shall not exceed twenty (20) percent of the total area of the existing structure.

4. The parcel shall also be of sufficient size to be in scale with the number of people using the facility. All bed and breakfast rentals must provide adequate parking (required one off-street parking space per rental bedroom) in addition to needed parking for owners of the facility. A maximum stay shall not exceed thirty days, and meals shall be served only to guests.

5. All units shall have a parcel to finished dwelling unit ratio that exceeds five to one (or no dwelling unit in excess of twenty percent of the total parcel size area).

6. No bed and breakfast facility shall rent for compensation more than sevenfive rooms, except that suites that do not use a public corridor or passageway between suite bedroom areas shall be counted as one room.

7. No bed and breakfast facility shall allow more than two adults in any rental room unless the bedroom square footage is larger than three hundred square feet and does not use a public corridor or passageway between suite bedroom areas.

8. Signs are limited to one non-flashing sign not larger in area than two hundred twenty-six square inches. If lighted, the light shall be defused or shielded.

9. All bed and breakfast facilities shall pay water and sewer rates according to the rate formulas contained in Sections 13.24.010 and 13.24.020

10. All bed and breakfasts must collect and pay an applicable transient room tax, sales tax and city gross business license fee.

11. The bed and breakfast facility shall conform to fire, building and health codes and be licensed in conformance with all city ordinances. ~~Any other appropriate or more stringent conditions deemed necessary for bed and breakfast facilities protecting public health, safety, welfare and the residential character of residential zones may be required by the planning commission.~~

C. Appeals. Approval or disapproval of a bed and breakfast application by the City Council planning commission can be appealed to District Court~~the appeal authority~~ within thirtyen days of City Council planning commission action.

Effective Immediately Upon Passage.

PASSED AND APPROVED in open Council by a majority vote of the Governing Body of Moab City Council on _____, 2015.

SIGNED:

David L. Sakrison, Mayor

ATTEST:

Rachel Stenta, Recorder