

**CITY OF MOAB  
PLANNING COMMISSION  
PUBLIC HEARING  
PROPOSED ORDINANCE 2016-05**

The City of Moab Planning Commission will hold a Public Hearing on Thursday, May 12, 2016 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 2016-05, an ordinance to amend chapter 17.09.540, Home Occupations, repealing the home inspection and clarifying existing text.

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](http://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, April 28, 2016 and May 5, 2016.

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**ORDINANCE #2016-05**

**AN ORDINANCE TO AMEND CHAPTER 17.09.540, HOME OCCUPATIONS, REPEALING THE HOME INSPECTION AND CLARIFYING EXISTING TEXT**

**WHEREAS**, the City of Moab ("City") adopted Chapter 17, *Zoning*, of the Moab Municipal Code ("Code") to promote the health, safety, convenience, order, prosperity, and general welfare of the present and future inhabitants of the city by guiding development within the City of Moab in accordance with the General Plan; and

**WHEREAS**, the City has appraised the review process For Home Occupation Permits and especially the home inspection performed by City Staff; and

**WHEREAS**, it is felt that a home inspection is not necessary and in fact, puts staff at risk; and

**WHEREAS**, it has been determined that changes in the application requirements would provide sufficient information for approval of the use; and

**WHEREAS**, the Moab City Planning Commission held a duly advertised public hearing on May 12, 2016, to hear and decide the merits of said amendment; and

**WHEREAS**, the Commission, after reviewing the public testimony and the recommendation of Staff favorably recommends to Council that the suggested amendment be adopted; and,

**WHEREAS**, Council considered the merits of Ordinance #2016-05 during a regularly scheduled meeting and reviewed the recommendations from the Planning Commission on \_\_\_\_\_, 2016; and,

**WHEREAS**, Council found that the repeal of a home inspection for the administrative review and approval of home occupation permits is in the best interests of the City and Moab residents.

**NOW, THEREFORE**, Council hereby declares and ordains that the following changes are adopted and the specified code chapter and sections are amended as noted below:

**17.09.540 Home occupations.**

A home occupation may be allowed as an accessory use to a dwelling in the A-2, RA-1, R-2, R-3, R-4 and MH/RV-1. Prior to commencing the home occupation the applicant shall request and be approved for a home occupation permit from the city. The form of the application shall be as required by the planning department but, at a minimum, shall contain the following information: name of applicant, address of home occupation, proposed activity, **floor plan of the dwelling and location of the home occupation with total square footage of all structures, and total square footage devoted to the home occupation**, and a statement of assurance that the applicant shall comply with the requirements of this section. If the applicant is not the owner of the building or lot on which the request for a home occupation is located, a notarized letter signed by the owner agreeing to the proposed home occupation is required. The fee for such application shall be established and modified from time to time by resolution of the city council.

Home occupations shall not be permitted for businesses engaged in the retail sale of products to the public. Businesses that conduct off-site sales (e.g., processing orders by mail, telephone or Internet through a home office) must apply for a home occupation permit as established in this section. ~~Businesses that engage in some form of manufacturing or production shall be reviewed on a case-by-case basis for compatibility with adjacent properties and the neighborhood.~~

Home occupation permits may continue for the life of the use on a specific property. If the holder of the license relocates to another site, a new home occupation permit is required. If a property changes ownership and it is desired by the new owner to continue the same home occupation, a new permit is required. Also, any substantial change in the nature of the business use shall require the existing

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licensee to apply for and obtain a new home occupation permit specific to the new business use or expansion. Abandonment of the business use, which shall be defined as cessation of the use of the premises for the licensed business purpose for a period of not less than ninety consecutive days, shall result in the lapse of the home occupation.

A. Standards of Operation. Each home occupation shall be subject to compliance with the following conditions:

1. If the applicant is not the owner of the building or lot on which the request for a home occupation is located, a letter from the owner, signed and notarized, agreeing to the proposed home occupation is required.
2. The proprietor of the business must permanently live on the premises.
3. A home occupation shall be permitted only when it is an accessory use to a dwelling unit. The home occupation shall not be contrary in physical appearance, traffic, use, and incidental activities to the objectives and character of the zone in which it is located.
4. The home occupation shall not physically change the dwelling or accessory structure or attached or detached garage or yard space to the extent that it would alter the residential or aesthetic character of the dwelling, accessory structure, attached or detached garage, yard, or neighborhood.
5. A home occupation shall utilize no more than twenty-five percent of the total ground floor area of the dwelling unit. Where an accessory building or a screened rear yard is used, no more than twenty-five percent or six hundred square feet in area, whichever is less, shall be devoted to the home occupation. **The applicant shall provide a floor plan of the dwelling unit and accessory structures with total existing square footage and the total square footage to be devoted to the proposed home occupation.**
6. A home occupation shall not involve the installation of machinery or additional equipment other than that customary to normal household operations.
7. A person who engages in a home occupation shall not use an advertisement, sign, or display on or off the premises; provided, however, that this shall not be construed to regulate signage attached to vehicles.
8. A home occupation shall not operate during hours other than six o'clock a.m. to eight o'clock p.m.
9. A home occupation shall not generate more traffic than the typical or average dwelling unit and it shall not involve or result in the presence of more than two patrons on the premises at one time.
10. A home occupation shall not generate loud and raucous noise, or utilize mechanical, electrical or other equipment or items that produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building or operate in any way that substantially and unreasonably interferes with the use and enjoyment of adjacent or nearby property or interferes with public peace and comfort.
11. A home occupation shall not involve the visible storage of equipment or materials, or the presence of highly explosive or combustible equipment.
12. Parking spaces shall be provided for the dwelling and the home occupation in accordance with the specification in Section 17.09.220, off-street parking and loading. Each licensee is permitted to use and park on the licensed premises one commercial vehicle that has a rated capacity of not to exceed one ton. The licensee shall provide developed off-street parking for all commercial vehicles used in the business and all employee vehicles.

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~~13. At the discretion of staff and based upon site-specific considerations, home occupations may be permitted up to two employees who are not residents of the primary dwelling.~~

14. The home occupation shall not occupy any area required to satisfy off-street parking requirements.

15. A home occupation shall not include the following: kennel, mortuary, restaurant, dance studio, nursing home, taxi service, health or medical clinic, veterinary clinic or similar activities.

B. Review Process.

**1. The proposed home occupation is in compliance with all the Standards of Operation in 17.09.540(A).**

~~2. Terms of the home occupation permit shall be specified in a written permit issued by the city following approval.~~ A written notice of decision shall be issued following approval or denial of any application. The terms of the approved home occupation permit shall be specified in the notice of decision.

3. Decisions by staff may be appealed to the board of adjustments and appeals must be submitted to the planning department within thirty days of written notice of denial.

C. Revocation. Home occupations that emit excessive noise, noxious fumes, dust, smoke, or which otherwise impose excessive adverse impacts on neighboring properties may be subject to denial or revocation following delivery of written notice to the owner, as specified in subsection (D) of this section.

D. Enforcement.

1. Any person aggrieved by a violation or apparent violation of the provisions of this section may file a written complaint with the zoning administrator. **The zoning administrator will conduct an investigation of the apparent violation and who shall investigate such complaint and** ~~The zoning administrator~~ will take the appropriate action to have the violation penalized or removed, if such violation is found to exist.

~~2. The zoning administrator shall be authorized to enter and periodically inspect permitted premises for compliance with this section and applicable permit terms.~~ Prior to instituting any enforcement action for violations of the license or this code, the zoning administrator shall deliver written notice of the violation to the licensee. The licensee shall have a period of not less than thirty days in which to abate or correct the violation, which period may be extended at the discretion of the city manager upon a showing of good cause by the applicant.

3. Any violation not corrected within the abatement period may be subject to, at the option of the city, administrative, civil, and criminal enforcement.

4. In addition to all other remedies, any permit holder that refuses or fails to abate any violation of the business license or this section may be subject to a business license revocation, as provided by Chapter [5.04](#).

5. Persons operating a business subject to this section without a home occupation permit, or in violation of Chapter [5.04](#), are subject to all remedies and penalties specified in this code.

6. Any permit or approval granted, in whole or in part, as a result of false, inaccurate or misleading information supplied by the applicant or representing agent shall confer no vested right upon the applicant, and may be subject to revocation following delivery of written notice to the permit holder explaining the basis for the action. Revocations may be appealed to the board of adjustment by delivering notice of appeal to the city within ten days of the notice of revocation. (Ord. 14-02 § 2, 2014)

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**5.80.010 Home occupation permits.**

A. Business License Required. Each home occupation permit holder shall apply for and maintain for the duration of the use a business license, as specified in Chapter 5.04. Upon the expiration or revocation of a business license pursuant to the procedures in Chapter 5.04, the home occupation permit shall automatically expire.

1. Except as otherwise provided in this section, home occupation licenses may continue for the life of the use. The home occupation license is not transferable to future property owners, or from one location to another.

2. Any substantial change in the nature of the business use shall require the existing licensee to apply for and obtain a new home occupation license specific to the new business use.

3. Abandonment of the home occupations shall be defined as cessation of the use of the premises for the licensed business purpose for a period of not less than ninety consecutive days shall result in the lapse of the home business license.

B. Appeals. Decisions by city staff may be appealed to the appeal authority.

1. Appeals must be submitted to the appeal authority within thirty days of written notice.

C. Enforcement.

~~1. The zoning administrator shall be authorized to enter and periodically inspect all licensed premises for compliance with this section, applicable license terms, and applicable building, fire and health codes.~~

2. Prior to instituting any enforcement action for violations of the license or this code, the zoning administrator official shall deliver written notice of the violation to the licensee. The licensee 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.

3. Any violation not corrected within the abatement period may be subject to, at the option of the city, 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 home occupation license. 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.

4. Alternatively, violations of this section are punishable as a Class B misdemeanor, as defined by Utah statute.

5. In addition to all other remedies, any licensee that refuses or fails to abate any violation of the license or this section may be subject to a business license revocation, as provided by Chapter 5.04 of the city code.

6. Persons operating a business subject to this section without the required home occupation license, or in violation of Chapter 5.04, are subject to all remedies and penalties specified in this section.

7. Any license or 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 appeal authority by delivering notice of appeal within ten days of the notice of revocation.

D. All home occupations must meet the requirements of Section 17.09.540, Home occupations.

In effect on the day of passage;

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PASSED AND APPROVED in open Council by a majority vote of the Governing Body of Moab City Council on the \_ day of \_\_\_\_\_, 2016.

SIGNED:

\_\_\_\_\_  
David L. Sakrison, Mayor

ATTEST:

\_\_\_\_\_  
Rachel Stenta, Recorder