

**CITY OF MOAB, UTAH
ORDINANCE NO. 2021-05**

**AN ORDINANCE DEFINING THE POINT IN TIME AT WHICH THE CITY OF MOAB
FORMALLY INITIATES PROCEEDINGS TO AMEND ITS LAND USE
REGULATIONS**

WHEREAS, state law requires a local government to review an applicant's land use application under the local ordinance in existence at the time the applicant submits a complete application, unless the local government can show that an exception to the rule applies. (Utah Code Annotated §10-9a-509);

WHEREAS, this rule is known as the "vested rights" rule. *See Western Land Equities v. Logan City*, 617 P.2d 388 (Utah 1980) ("[A]n applicant is entitled to [land use application approval] if his proposed development meets the zoning requirements in existence at the time of his application...").

WHEREAS, Utah Code §10-9a-509 permits a municipality to deny approval of a complete land use application submitted within a 180-day period after a municipality formally initiates proceedings to amend applicable land use regulations in a manner that would prohibit approval of the application as submitted;

WHEREAS, Utah Code §10-9a-509 specifically states:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
- (A) in effect on the date that the application is complete; and
 - (B) applicable to the application or to the information shown on the application.
- (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
- (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
 - (B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the

municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

- (b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
 - (i) 180 days have passed since the municipality initiated the proceedings; and
 - (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

WHEREAS, a public hearing was held by Planning Commission on the proposed text amendment on March 11, 2021 which was duly noticed and included public notice being published in the February 25, 2021 and March 4, 2021 issues of the Times Independent.

WHEREAS, the City of Moab desires, as permitted by §10-9a-509(1)(a)(ii)(B) above to define, by ordinance, the point in time at which the City formally initiates proceedings to amend its land use regulations.

NOW, THEREFORE BE IT ORDAINED by the Moab City Council that:

1. Section 1- Add a definition to Moab Municipal Code Section 17.06.020 as follows:

“Formally Initiates” as set forth by Utah Code §10-9a-509 means the earliest of:

 - a) Publication of a City Planning Commission or City Council agenda in which the amendment to the land use regulations is the subject of an agenda item, and/or public hearing, or
 - b) The effective date of a resolution by the City Council stating that the City has formally initiated an amendment to the land use regulations and the proposed language of the amendment(s).
2. Section 2 - Add Moab Municipal Code Section 17.12.190 as follows:

“Formally Initiates” as set forth by Utah Code §10-9a-509 means the earliest of:

 - a) Publication of a City Planning Commission or City Council agenda in which the amendment to the land use regulations is the subject of an agenda item, and/or public hearing, or

- b) The effective date of a resolution by the City Council stating that the City has formally initiated an amendment to the land use regulations and the proposed language of the amendment(s).

PASSED by the City Council in a public meeting on March 23, 2021, by the following vote:

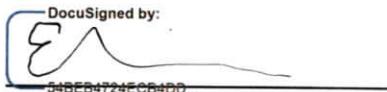
MOAB CITY COUNCIL:

Those voting aye: Derasary, Knuteson-Boyd, Jones, Duncan, Guzman-Newton

Those voting nay: None

Those abstaining: None

Those absent: None

DocuSigned by:

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Emily Niehaus, Mayor

ATTEST:


Sommar Johnson, Clerk/Recorder