

**CITY OF MOAB
PLANNING COMMISSION
PUBLIC HEARING
PROPOSED ORDINANCE No 2022-05
DEVELOPMENT CODE TEXT AMENDMENT**

The City of Moab will hold a Public Hearing on **Thursday, March 24, 2022, at approximately 6:00 p.m.** The purpose of this hearing is to solicit public input on Proposed Ordinance #2022-05, An Ordinance Amending the Text of the Moab Municipal Code (MMC) Sections 17.48 R-3 Multi-Household Residential Zone, and 17.51 R-4 Manufactured Housing Residential Zone, to add a Use Parameter Requirement to the Multi-Household Permitted Use, such that a percentage of units be designated as active employment units (AEU) to qualified active employment households (AEH).

The proposed draft 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 planner@moabcity.org, or cshurtleff@moabcity.org. 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.

Consistent with provisions of the Utah Open and Public Meetings Act, Utah Code Ann. § 54-2-207(4), the Moab Planning Commission Chair has issued written determinations supporting the decision to convene electronic meetings of the Commission without a physical anchor location. Due to the health and safety risks related to the ongoing COVID-19 pandemic and considering public health orders limiting in-person gatherings, the Moab Planning Commission will continue to hold meetings by electronic means. The public is invited and encouraged to view the Commission's electronic meetings by viewing the City's YouTube channel: <https://www.youtube.com/MoabCityGovernment>.

The public is invited and encouraged to participate via Zoom during the Public Hearing. To submit written comments prior to the meeting, please fill out the form found here: https://docs.google.com/forms/d/1SWG8lypGrwldCn1Ngd_Agg-ryL3OMdW432gKGg-byM4/edit?vc=0&c=0&w=1. Call-in information to make comments during the meeting can be found on the agenda at: <https://moabcity.org/AgendaCenter/Planning-Commission-2>.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Recorder's Office at 217 East Center Street, Moab, Utah 84532; or phone (435) 259-5121 at least three (3) working days prior to the meeting.

Cory Shurtleff
Planning Director
cshurtleff@moabcity.org

Published in the Times Independent, March 10, 2022, and March 17, 2022, and March 24, 2022.

**CITY OF MOAB, UTAH
ORDINANCE NO. 2022-05
AN ORDINANCE AMENDING THE TEXT OF THE MOAB
MUNICIPAL CODE (MMC) SECTIONS 17.48 R-3 MULTI-
HOUSEHOLD RESIDENTIAL ZONE, AND 17.51 R-4
MANUFACTURED HOUSING RESIDENTIAL ZONE, TO ADD A
USE PARAMETER REQUIREMENT TO THE MULTI-HOUSEHOLD
PERMITTED USE, SUCH THAT 00% OF UNITS BE DESIGNATED AS
ACTIVE EMPLOYMENT UNITS (AEU) TO QUALIFIED ACTIVE
EMPLOYMENT HOUSEHOLDS (AEH)**

WHEREAS, the stock of workforce housing in Moab is being replaced by new townhomes and condominiums that are not affordable for workers employed in and around Moab who need housing, often because these new homes are being built for the second home market; and

WHEREAS, persons employed in and around Moab are unable to afford housing given current wage and housing trends; and

WHEREAS, the cost of housing has risen with median home prices having increased 22% from last year, from \$400,000 to \$490,000, which is unaffordable to most workers given the annual household median income of \$52,000; and

WHEREAS, the lack of affordable housing can result in crowding, undesirable living conditions, lack of funds available for other basic needs, and a decrease in the quality of life for Moab workers and their families; and

WHEREAS, the supply of rental units available for workforce housing are at an all-time low; and

WHEREAS, the Moab City Planning Department has received application or inquiries for numerous multi-household projects on parcels that currently contain affordable workforce housing that will be removed and replaced by higher-priced market units that are unaffordable for the Moab area workforce; and

WHEREAS, there are many parcels in Moab that are underutilized and property owners are selling the properties to developers who intend to remove existing workforce housing units and replace them with units that are not affordable for workforce housing; and

WHEREAS, employers in and around Moab are unable to hire employees because of this lack of affordable workforce housing; and

WHEREAS, the City has adopted the 2016 Moab Area Affordable Housing Plan, the City and other agencies have implemented many of the Plan's

recommendations, and the City is in the process of reviewing additional barriers to the construction of housing in the community; and

WHEREAS, the City Council is in support of eliminating barriers to increasing the inventory of workforce housing; and

WHEREAS, from time to time the City undertakes revisions in its zoning ordinances to improve the quality of land development and align the Code with state law and contemporary planning concepts; and

WHEREAS, the Moab Municipal Code Chapter 17.04, Zoning Map Amendments and Text Amendments, permits the Zoning Text Amendment process to allow amendments to the use requirements within zoning districts; and

WHEREAS, in order to address the lack of affordable workforce housing, the Moab City Council formally initiated proceedings to amend the Moab Municipal Code Section 17.48 R-3 Multi-Household Residential Zone, and 17.51 R-4 Multi-Household Residential Zone, through Resolution #33-2021, approved October 12, 2021, to specifically evaluate the need for and the use parameters for requiring a percentage of Active Employment Household Unit occupancy in Multi-Household Developments; and

WHEREAS, the City has also coordinated and contracted for research by BAE Urban Economics to analyze and determine the need for a particular percentage of designated Active Employment Units to be required as a permitted use parameter in the identified zoning districts in order to address the lack of affordable workforce housing; and

WHEREAS, the City finds that there is a compelling need for and public purpose for adopting this Ordinance due to the market conditions and other factors that are not supplying the needed numbers of affordable housing units for Moab; and

WHEREAS, this process is one of many strategies being considered by the City of Moab to address Moab's workforce housing need; and

NOW, THEREFORE BE IT ORDAINED that the Moab City Council hereby approves the Text Amendments as follows:

PASSED AND APPROVED in open Council by a majority vote of the Governing Body of Moab City Council this 00th day of March 2022.

SECTION 1. AMENDMENTS TO MMC CHAPTER 17.06 DEFINITIONS ADDING OR MODIFYING DEFINITIONS OF:

- A. "Active employment household" or "actively employed household" or "AEH", means a household with at least one adult who meets one of the following criteria; provided,
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however, where there are unrelated individuals living together in one household, at least 50 percent of all the adults comprising the household shall meet one of the following criteria:

1. A full-time (aggregate of 30 hours of employment per week) employee of a business, or entity, or entities located within Grand County; or
2. An owner or owner's representative of a business or entity with a primary place of business within Grand County; or
3. A full-time (aggregate of 30 hours of employment per week for nine months out of each calendar year) worker who is self-employed or works out of their home must provide their entire list of clients/workload so that it can be verified that a minimum of 75 percent of their work/clients are based within Grand County.
4. A person who is unable to work or does not have a work history required under subsections F.1 through F.3 of this section due to a disability as defined by the state and federal Fair Housing Acts;
5. A family member of the owner of the property
6. A retiree with a work history required under subsection 1 through 4 of this section for the five years prior to retirement.

B. "Active Employment Unit" or "AEU", means a dwelling unit that is required to be occupied by a qualified Active Employment Household.

SECTION 2. AMEND CHAPTER 17.48 R-3 MULTI-HOUSEHOLD RESIDENTIAL ZONE SECTION 17.48.020. PERMITTED USES AND REGULATIONS, AS FOLLOWS:

17.48.020.

7. Multi-Household Dwellings.

- a. Developments consisting of three or more multi-household units shall be subject to the following requirements:

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- i. Access. Vehicular access shall be provided to the property in such a way that it does not impede traffic patterns on adjacent streets.
 - ii. Parking. Off-street parking shall be designed in such a way as to allow vehicles to pull forward into the on-street traffic flow.
 - iii. 00% of the units in a multi-household development shall be designated as Active Employment Units, as defined by MMC Chapter 17.06. definitions, and regulated per MMC Chapter 17.64. Active Employment Households
- b. Developments consisting of seven or more multi-household units shall be subject to the following additional requirements:
- i. Garages or Carports. If provided, garages and carports shall not be located in the front yard and shall be set back from the front wall of the principal structure at least fifteen feet or be accessed from the rear or side of the property.
 - ii. Landscaping. All off-street parking shall be landscaped and buffered from adjacent uses. A minimum of fifteen percent of the interior of the parking area shall be landscaped to provide shade and break up the expanse of asphalt.
 - iii. Buffering. All adjacent uses shall be buffered by a distance of not less than fifteen feet and contain berms, shrubs, and other plantings. Buffering may be combined with screens, fences and hedges.
 - iv. Apartments and court apartments shall designate an open space/recreation area that is a minimum of two hundred square feet in size to be developed into recreation, play or landscaped areas. The requirement can be met with the construction of a recreation room (“rec room”) or club house of a similarly sized area that can be used for residents and their guests for recreation/social activities and/or relaxation.
 - v. The allowed number of multi-household units shall be determined by Section 17.48.030.
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**SECTION 3. AMEND CHAPTER 17.51 R-4 MANUFACTURED HOUSING
RESIDENTIAL ZONE SECTION 17.51.020. PERMITTED USES AND REGULATIONS,
AS FOLLOWS:**

17.70.020.

8. Multi-Household Dwellings.

- a. Developments consisting of three or more multi-household units shall be subject to the following requirements:
 - i. Access. Vehicular access shall be provided to the property in such a way that it does not impede traffic patterns on adjacent streets.
 - ii. Parking. Off-street parking shall be designed in such a way as to allow vehicles to pull forward into the on-street traffic flow.
 - iii. 00% of the units in a multi-household development shall be designated as Active Employment Units, as defined by MMC Chapter 17.06. definitions, and regulated per MMC Chapter 17.64. Active Employment Households
 - b. Developments consisting of seven or more multi-household units shall be subject to the following additional requirements:
 - i. Garages or Carports. If provided, garages and carports shall not be located in the front yard and shall be set back from the front wall of the principal structure at least fifteen feet or be accessed from the rear or side of the property.
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 - iv. Apartments and court apartments shall designate an open space/recreation area that is a minimum of two hundred square feet in size to be developed into recreation, play or landscaped areas. The requirement can be met with the construction of a recreation room (“rec room”) or club house of a similarly sized area that can be used for residents and their guests for recreation/social activities and/or relaxation.
 - v. The allowed number of multi-household units shall be determined by Section 17.51.030.

SECTION 4. ADD CHAPTER 17.64 ACTIVE EMPLOYMENT HOUSEHOLDS, AS FOLLOWS:

17.64.010. Purpose.

Active Employment Household is a defined use parameter, meant to identify qualified workforce residents, whereby the permitted uses in zoning districts may include a required designation for Active Employment Units as a part of a development or qualified occupancy of dwelling property.

17.64.020. General Standards.

- 1) Active Employment Households shall be regulated by this Chapter 17.64, in addition to the requirements defined in MMC Chapter 17.06 Definitions, for “Accessory Dwelling Unit, Type 1”, and “Accessory Dwelling Unit, Type 2”.
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2) Active Employment Households and Active Employment Units required as a use parameter for the permitted use of Multi-Household Dwelling developments shall be regulated as follows:

- a) Not less than zerozero percent (00%) of the number of dwellings approved for multi-household dwelling developments in the R-3 Multi-Household Residential Zone and R-4 Manufactured Housing Residential Zone shall be designated or deed restricted to be Active Employment Units.
- b) Active Employment Units shall be:
 - i) Roughly proportional by number in type (e.g. studio, one bedroom, two bedroom...) and size (square footage) to the free market units; and
 - ii) Of a quality, both aesthetically and with respect to the standard construction, that is not materially different from the free market units.
- c) The Active Employment Units shall be ready for occupancy no later than the date of the initial, or temporary occupancy of any free market units with the project or applicable phase thereof. If the free-market units are developed in phases, then the Active Employment Units may be developed in proportion to the phasing of the free market units (e.g. not less than 00% of the units developed for occupancy in any phase shall be Active Employment Units).
- d) Active Employment Units shall only be occupied by households who qualify as Active Employment Households.
- e) Active Employment Units shall be occupied by Active Employment Households a minimum of nine (9) months per calendar year in total.
- f) Active Employment Units shall not be occupied, rented, leased by Active Employment Households for less than ninety (90) consecutive days.

17.64.030 Submittal requirements and approval criteria.

1. Active Employment Unit Designation

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- a. Active Employment Units shall be designated through one or more of the following:
- i. AEU's shall be designated on Townhome or Condominium Plat for Multi-Household Developments in the R3 Multi-Household Residential Zone and R4 Manufactured Housing Residential Zone that require Townhome or Condominium Plat Approval.
 - ii. AEU's shall be designation on Site Plan Approval materials for Multi-Household Developments in the R3 Multi-Household Residential Zone and R4 Manufactured Housing Residential Zone that require Site Plan Approval.
 - iii. AEU's shall be designated on Building Permit Plan Approval for Multi-Household Developments in the R3 Multi-Household Residential Zone and R4 Manufactured Housing Residential Zone that require Building Permit Plan Approval.
 - iv. AEU's shall be designated by Deed Restriction for Type 1 and Type 2 ADUs per MMC Chapter 17.70 Accessory Dwelling Units.
- b. Deed Restriction
- i. A deed restriction must be filed with the Grand County Recorder's Office, which states:
 1. *"An approval for an Active Employment Unit was issued to _____, the current owner of this property on _____. The owner shall strictly adhere to the prohibition of the use of the Active Employment Unit as nightly or short-term rental. The lease period for an Active Employment Unit shall be a minimum of ninety (90) days." Modified deed restriction language may be proposed by the City. In the occurrence that the MMC requirements and regulations change regarding this restriction, a Release of Deed Restriction, signed by the City, may remove this restriction.*
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2. *“An approval for an Active Employment Unit was issued to _____, the current owner of this property on _____. The owner, and or, occupant, shall strictly adhere to the Moab Municipal Code requirements and regulations for Active Employment Units and Active Employment Households” Modified deed restriction language may be proposed by the City. In the occurrence that the MMC requirements and regulations change regarding this restriction, a Release of Deed Restriction, signed by the City, may remove this restriction.*

2. Active Employment Household Qualification

a. Active Employment Households shall meet one of the following criteria:

- i. A full-time (aggregate of 30 hours of employment per week) employee of a business, or entity, or entities located within Grand County; or
 - ii. An owner or owner’s representative of a business or entity with a primary place of business within Grand County; or
 - iii. A full-time (aggregate of 30 hours of employment per week for nine months out of each calendar year) worker who is self-employed or works out of their home must provide their entire list of clients/workload so that it can be verified that a minimum of 75 percent of their work/clients are based within Grand County.
 - iv. A person who is unable to work or does not have a work history required under subsections 2.a.i through 2.a.iii of this section due to a disability as defined by the state and federal Fair Housing Acts;
 - v. A family member of the owner of the property
 - vi. A retiree with a work history required under subsection 2.a.i through 2.a.iv of this section for the five years prior to retirement.
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b. Active Employment Households shall verify qualifications through staff review and approval as part of applicable approval process; verification submittals may include:

i. Verification of Occupancy

1. Grand County Tax Roll Master Record of Ownership and Primary Residency
2. Occupant Rent/Lease Agreement of not less than ninety (90) days.

ii. Verification of qualified Active Employment Household

1. Employee Verification Form
2. Home Occupation Business License

17.64.040. Review procedures.

1. The Land Use Authority responsible for the type and process of development (e.g. Building Permit Approval, Site Plan Approval, Townhome Plat or Condominium Plat Approval), shall review and approval the proportionality requirement for Active Employment Units referenced in MMC 17.64.020.2.b.
2. Prior to the preliminary or final plan or plat approvals for any project or phase of project, the Active Employment Units shall be identified and designated on the preliminary and final plan or plat for such projects or phases.

17.70.050 Enforcement.

In addition to any other legal or equitable remedies available to a municipality, a municipality may foreclose or hold a lien against a property that contains designated Active Employment Household Units in violation, or if the owner of the property violates any of the provisions of this section.

1. Violation

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- a. The requirements and regulations set forth herein regulating the use and occupancy of the Active Employment Units shall run with the portion of land or designation of units constituting the required percentage or dedication of Active Employment Units of a Multi-Household development or Accessory Dwelling Unit:
- i. The required designation of Active Employment Units shall extend for as long as the use parameter remains a requirement of the permitted use for compliance within the zone. The following conditions of violation will impose the following penalty:
- (1) The designated property or property containing the Active Employment Unit will be in violation if the Active Employment Unit is occupied by any household that is not a qualified AEH, if, 30 days after written notice from the City, the AEU is not occupied by and AEH.
 - (2) The designated property or property containing the Active Employment Unit will be in violation if the AEU is not occupied by an AEH for a minimum of nine (9) months in any calendar year, allowing the AEU to be unoccupied for ninety (90) days, if, 30 days after notice from the City, the AEU is not occupied by an AEH.
 - (3) The designated property or property containing the Active Employment Unit will be in violation if the AEU is occupied, rented or leased, by an AEH, less than ninety (90) consecutive days, if, 30 days after notice from the City, the AEU is not occupied by an AEH.
 - (4) In the event of violation, penalties may be assessed by the City against the Active Employment Unit owner, in the case of an amount, it may be equal to the number of days that the AEU is not occupied by an AEH multiplied by an approved rate by the City Council, commencing on the date of the City's written notice of default and continuing thereafter until the date that the default is cured. The City reserves the right to seek specific performance of the municipal code and judicial enforcement of the foregoing penalties, including seeking a judgement lien and foreclosure.
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1) Process of Violation

- a) If the owner of the property violates any of the provisions of this Chapter, the City may peruse the violation for noncompliance. In addition to any other legal or equitable remedies, Moab City may hold a lien against a property that contains the Active Employment Unit if: as follows:
 1. The City provides a written notice of violation
 2. The City holds a hearing and determines that the violation has occurred. if the owner files a timely written objection
 3. The owner fails to cure the violation within the time period prescribed in the written notice of violation
 4. The City provides a written notice of lien with the county recorder of the county in which the property is located. The written notice of violation shall
 - a. Describe the specific violation
 - b. Provide the owner of the Active Employment Unit a reasonable opportunity to cure the violation no less than 14 days after the day on which the City sends notice of violation, if the violation results from the owner renting or offering to rent the Active Employment Unit for a period of less than 30 consecutive days or no less than 30 days after the day on which the City sends the written notice of violation, for any other violation
 - c. State that if the owner of the property fails to cure the violation within the relevant time period, the City may hold a lien against the property in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires
 - d. Notify the owner of the property that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and of the name and address of the municipal office where the owner may file the written objection to be mailed to the property's owner of record; any other individuals designated to receive notice in the owner's license or permit records
 - e. Posted on the property

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- f. The written notice of lien shall state that the property is subject to a lien, specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the property's owner of record; and any other individual designated to receive notice in the owner's license or permit record and be posted on the property.
 5. If an owner of property files a written objection in accordance with Subsection the City shall:
 - a. hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under has occurred; and
 - b. notify the owner in writing of the date, time, and location of the hearing. The hearing notice shall be sent no less than 14 days before the day on which the hearing is held.
 6. If an owner of property files a written objection the City may not record a lien until the City holds a hearing and determines that the specific violation has occurred.
 7. If the City determines at the hearing that the specific violation has occurred, the City may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.
 8. If an owner cures a violation within the time period prescribed in the written notice of violation the City may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation.
 9. A municipality that issues a permit or license to an owner of an Active Employment Unit to rent the unit to an Active Employment Household, or a building permit to an owner of a qualifying Active Employment Household development to create Active Employment Units, may record a notice in the office of the Grand County recorder. The notice shall include
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- a. A description of the AEU dwellings; and
 - b. A statement that the development contains designated AEU dwellings;
and
 - c. A statement that the AEU dwellings may only be used in accordance
with the municipality's land use regulations.
 - d. The municipality/jurisdiction shall, upon recording the notice described,
deliver a copy of the notice to the owner of the AEU dwelling.

PASSED by the City Council in a public meeting on _____ by the following
vote:

MOAB CITY COUNCIL:

Those voting aye: _____

Those voting nay: _____

Those abstaining: _____

Those absent: _____

Joette Langianese, Mayor

Date

ATTEST: _____

Sommar Johnson, Clerk/Recorder
