

**CITY OF MOAB
ORDINANCE 2022-09**

**AN ORDINANCE AMENDING MOAB CITY MUNICIPAL CODE,
SECTION 17.72.150, CONDUCT OF HEARINGS, TO REPEAL NOTICE
REQUIREMENTS AS APPLICABLE TO OPEN AND PUBLIC
MEETINGS AND TO MAKE NECESSARY CHANGES**

RECITALS

WHEREAS Utah Code Ann. § 10-3-702 authorizes the Moab City Council to pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law; and

WHEREAS Utah Code Ann. § 10-3-707 authorizes the Moab City Council “to revise, codify and compile from time to time” and . . . “to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances” . . . ; and

WHEREAS Utah Code Ann. § 10-3-703.7 authorizes the Moab City Council to establish administrative proceedings to decide and review certain administrative matters, including appeals of land use decisions rendered by Moab City; and

WHEREAS the Moab City Council intends to repeal the requirement that an administrative appeal hearing is subject to the notification provisions of the Open and Public Meetings Act, Title 52, Chapter 4; and

WHEREAS the amendments to the ordinance will serve the best interests of the City of Moab and the public to clarify administrative appeal provisions.

NOW, THEREFORE, IT IS ORDAINED by the Moab City Council, Moab, Utah, as follows:

1. Title 17. Zoning. Chapter 17.72.150. Conduct of hearings. of the Moab Municipal Code is hereby amended:

17.72.150. Conduct of hearings.

A. All hearings shall be conducted in a quasi-judicial manner and be recorded at the expense of the city. The hearing officer shall conduct and regulate the course of ~~control~~ the hearing, administer oaths, and obtain full disclosure of relevant facts so as to afford all the parties reasonable opportunity to present their positions ~~receive all evidence~~. Any interested party may offer evidence in the form of live testimony or by providing documentary or other forms of evidence. The Utah Rules of Evidence shall not apply; however, the hearing officer has discretion to exclude from consideration any evidence which is deemed to be immaterial, irrelevant, or unreliable. The hearing officer may not exclude evidence solely because it is hearsay.

Additionally, the hearing officer has discretion to weigh the credibility and demeanor of witnesses who provide sworn testimony where the appeal centers on disputed issues of fact.

B. Hearings shall be scheduled with reasonable promptness and timely notice, depending on the scope of the issues subject to review. The hearing officer may ~~enter pre-hearing orders with respect to discovery, disclosure of witnesses and exhibits, or the like.~~ issue subpoenas or other orders to compel production of necessary evidence.

C. Any interested party may appear individually or be represented by an attorney to testify, present evidence, and comment on the issues.

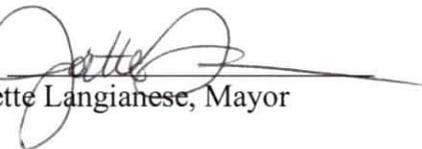
D. The appealing party has the burden of proof to show that the decision or order of the City was unlawful, arbitrary, or capricious.

E. All hearings shall be open to all parties. ~~the public and notice of same shall be provided as otherwise provided for other public meeting of city bodies.~~

F. Within a reasonable time after the close of the quasi-judicial hearing, The the decision of the appeal authority shall be signed and in writing, and shall contain findings of fact and conclusions of law, notice of any right of administrative or judicial review available to the parties; and the time limits for filing an appeal or requesting a review. The appeal authority may affirm the decision, in whole or in part; reverse the decision, in whole or in part; or modify the decision as is warranted by the law and the evidence. (Ord. 17-23 (part), 2017)

2. This Ordinance shall be effective immediately upon passage.

APPROVED AND ADOPTED by the Moab City Council, Moab, Utah, this 15 day of June 2022.

By: 
Joette Langianese, Mayor

ATTEST

By: 
Sommar Johnson
City of Moab/Recorder

