

**CITY OF MOAB
PLANNING COMMISSION
PUBLIC HEARING
PROPOSED ORDINANCE 2014-02**

The City of Moab Planning Commission will hold a Public Hearing on Thursday, August 28, 2014 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 2014-02, an ordinance amending Moab Municipal Code Chapter 17.09, specifically adding a new section 17.09.540, Home Occupations.

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, August 14 and August 21, 2014.

ORDINANCE #2014-02
AN ORDINANCE AMENDING MOAB MUNICIPAL CODE CHAPTER 17.09, SPECIFICALLY
ADDING A NEW SECTION 17.09.540, HOME OCCUPATIONS

WHEREAS, the Moab City Council (Council) adopted Ordinance #2008-06 on March 11, 2008 that changed the status of home occupations from a conditional use to a permitted use through an administrative review of home occupation permit applications and provided standards of operation for said use; and

WHEREAS, through the adoption of Code section 17.09.540, *Home Occupations*, Council desires to re-establish Home Occupations in an effort to provide residential property owners the opportunity to supplement income, serve as business incubators, and generally enhance the local economic development of the residents and community; and

WHEREAS, the city has been operating under the standards adopted by Ordinance #2008-06 for home occupations; and

WHEREAS, through the codification of the ordinance the standards were inadvertently removed from said chapter 17.09.540; and

WHEREAS, the city desires that the standards be reinstated into the code as written below in Ordinance #2014-02; and

WHEREAS, the Moab City Planning Commission reviewed the language in a duly advertised public hearing held on August 28, 2014, to hear testimony and review the merits of the code amendment; and

WHEREAS, the Commission found that the proposed changes are in the best interests of the residents and community of Moab and recommends that the Moab City Council (“Council”) approve the change to Chapter 17.09; and,

WHEREAS, Council reviewed Ordinance #2014-02 in a regularly scheduled meeting held on _____, 2014, to hear and decide the merits of the additional text of Chapter 17.09.540, Home Occupations; and,

WHEREAS, Council found that the Code amendments are appropriate to the objectives and character of the General Plan and that this business use will enhance the economic development of many local residents and promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future residents of the city .

NOW, THEREFORE, the Moab City Council hereby amends Chapter 17, *Zoning*, of the Moab Municipal Code and specifically Section 17.09.540, with a new section titled *Home Occupations* by adopting language that reads:

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, 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 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 (25%) 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 (25) percent or six hundred (600) square feet in area, whichever is less, shall be devoted to the *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 6:00 a.m. to 8:00 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 (2) 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*, of this code. 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.
- 13) At the discretion of staff and based upon site-specific considerations, *home occupations* may be permitted up to two (2) 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 premises shall be inspected for compliance with the above standards and a report and recommendation submitted by the Planning Department to the City Manager for review and approval or denial.
- 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 also be issued following denial of any application.
- 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 chapter may file a written complaint with the Zoning Administrator, who shall investigate such complaint and 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 of the City Code.

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.

Passed and adopted by action of the Governing Body of the City of Moab in open session this ____ day of _____, 2014.

City of Moab

Mayor David L. Sakrison

Attest:

Rachel Stenta
City Recorder