

**CITY OF MOAB
PLANNING COMMISSION
PUBLIC HEARING
PROPOSED ORDINANCE 2018-19**

The City of Moab Planning Commission will hold a Public Hearing on Thursday, October 11, 2018 at approximately 6:15 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 2018-19, an ordinance amending Moab Municipal Code with the addition of a new Chapter 17.68, Planned Affordable Development (PAD) as a high-density affordable housing overlay.

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

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CITY OF MOAB ORDINANCE NO. 2018-19
Chapter 17.68
PLANNED AFFORDABLE DEVELOPMENT

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17.68.10 Purpose

- A. The purpose of this Chapter is to allow Planned Affordable Developments (PAD) that provide incentives for the development of affordable housing. To qualify as PAD affordable housing units within a development are subject to deed restrictions that preserve the affordability of the units for a period of not less than fifty (50) years. The affordability controls provided in this Chapter are voluntary, entered into by contract between the City and the applicant in exchange for the zoning concessions authorized herein.

- B. As applicable to PAD developments, the provisions of this Chapter supersede any conflicting or inconsistent provisions which may be found elsewhere in the Moab Municipal Code.

17.68.020 Definitions

The following definitions apply in this Chapter:

1. "Adjacent" means a parcel of land that shares a boundary with the parcel of real property included in an application under this Chapter.

2. "Advisory Documents" means planning documents adopted by the City from time to time, including: the Moab General Plan; Storm Water Management Master Plan; Sanitary Sewer Master Plan; Water Storage Distribution Master Plan;

Natural Hazards Pre-disaster Master Plan; or similarly adopted planning documents.

3. “Affordable Housing” means housing developed pursuant to this Chapter in which the sales price of the lot or unit, or the rental rate for each unit, does not exceed the sums deemed affordable to individuals and families with annual incomes of one hundred percent (100%) or less of Grand County Area Median Income (AMI), as determined by the U.S. Department of Housing and Urban Development (HUD) and the requirements of this Chapter. Affordable housing is further defined by the following income subcategories:
 - a. “Moderate Income” means household income which is between eighty percent (80%) and one hundred percent (100%) of Grand County Area Median Income as defined by HUD.
 - b. “Low Income” means household income which is more than thirty percent (30%) but less than eighty percent (80%) of Grand County Area Median Income as defined by HUD.
 - c. “Very Low Income” means household income which is thirty percent (30%) or less than Grand County Area Median Income as defined by HUD.
 - d. “Extremely Low Income” means household income which is below thirty percent (30%) than Grand County Area Median Income as defined by HUD.
4. “Affordable Housing Unit” means a unit of housing that is affordable to individuals and families with annual incomes of one hundred percent (100%) or less of Area Median Income within Grand County as calculated by HUD.
5. “Area Median Income (AMI)” means the published estimate of median income in Grand County that is determined periodically by HUD, as adjusted for household size.
6. “Construction Requirement” means the requirement that new commercial uses construct a specified number of affordable housing units pursuant to the formula specified by Section 17.69.050.
7. “Dedication Requirement” means the conveyance of real property for affordable housing purposes as provided by Section 17.69.060.
8. “Development” means new construction or remodeling of buildings or real property.
9. “Development Review Team (DRT)” means the committee of City employees including the Planning Director, Public Works Director, Building Official, and such other persons as may be designated by the City from time to time.

10. “Developer” means a person offering affordable housing units developed pursuant to this Chapter for lease or rent to eligible persons.
11. “Development Improvements Agreement (DIA)” means a written agreement between an applicant for a Planned Affordable Development and the City of Moab containing specific requirements to ensure the construction of specified public or private improvements, the phasing of construction, and security to ensure completion of improvements as a condition for Final Plat/Plan approval.
12. “Fee in Lieu of Construction or (FILC)” means the fee payable in connection with new commercial development in lieu of the construction of affordable housing, as specified in Section 17.69.040.
13. “Final Approval” means the approval, with or without conditions, given by the City Council, providing the necessary authority for an applicant to: a) in the case of a PAD subdivision, record the Final Plat and convey subdivision lots; or b) in the case of a PAD rental development, proceed with development of rental units.
14. “Final Plat” means a map of a subdivision under this Chapter which has been surveyed by a licensed professional land surveyor and acknowledged by the owner, and which accurately depicts streets, alleys, easements, blocks, lots, survey monuments, public/private improvements, and other attributes of a PAD subdivision.
15. “Final Site Plan” means a map of a rental development under this Chapter which has been surveyed by a licensed professional land surveyor and acknowledged by the owner, and which accurately depicts streets, alleys, easements, blocks, lots, survey monuments, building envelopes, public/private improvements, and other attributes of a PAD rental development.
16. “Finished Floor Area” means the total in square feet of all heated interior spaces of a commercial development, inclusive of common areas, stairways, elevators, and service areas.
17. “Habitable Room” means a heated room in a dwelling that is intended for human occupation. Habitable rooms do not include bathrooms, closets, storage rooms, utility spaces, or the like.
18. “Household” means a person living alone, or two or more persons, whether related by blood or marriage or not, who reside together in a single dwelling unit.
19. “HUD” means the United States Department of Housing and Urban Development.
20. “Land Use Restriction Agreement (LURA)” means a contract between the City of Moab and an affordable housing Developer or Subdivider which is recorded as an

- encumbrance upon the real property to be developed, and which provides for continued enforcement of the affordability provisions of this Chapter for a duration of not less than (50) years. A LURA shall run with the land and be binding upon the parties and their successors in title, as provided by its terms.
21. "Lot" means a tract of land defined in an approved plat which is developed for housing and which may be conveyed to a buyer by deed.
 22. "Market Rate" means a housing unit offered for sale or lease which is not subject to the affordability controls of this Chapter.
 23. "Monitoring Agency" means the City of Moab, or its designee, charged with monitoring and/or enforcement of the affordability provisions which accompany any affordable housing developed pursuant to this Chapter, including any LURA provisions.
 24. "Original Purchase Price" means the actual sales price for affordable housing units developed under this Chapter calculated as follows: principal, interest, taxes, and insurance (PITI) on the unit shall not exceed thirty percent (30%) of the Grand County AMI for a household of four (4) divided by twelve (12) months. Assumptions used to calculate the OPP shall be i) a five (5) percent down payment; ii) a thirty (30) year mortgage term; and iii) a mortgage rate equal to the prevailing First Home rate, or its equivalent, of the Utah Housing Corporation (or similar agency).
 25. "Overnight Accommodations" means short term rentals for a period of less than thirty (30) days provided to visitors, tourists, or similar persons who do not have a long-term residence in Moab or Grand County.
 26. "Public Dedication" means streets, sidewalks, parks, open space, trails, or other areas of land or improvements to be dedicated to public use under this Chapter.
 27. "Preliminary Plan" means a map of a rental development proposed under this Chapter which has been surveyed by a licensed professional land surveyor and acknowledged or authorized by the owner, and which accurately depicts streets, alleys, easements, blocks, lots, survey monuments, building envelopes, public/private improvements, utilities, and other attributes of a proposed PAD rental development. The Preliminary Plan shall include such other submittals as to planned improvements as are required by this Chapter.
 28. "Preliminary Plat" means a map of a subdivision development proposed under this Chapter which has been surveyed by a licensed professional land surveyor and acknowledged or authorized by the owner, and which accurately depicts streets, alleys, easements, blocks, lots, survey monuments, building envelopes, public/private improvements, utilities, and other attributes of a proposed PAD

- subdivision. The Preliminary Plat shall include such other submittals as to planned improvements as are required by this Chapter.
29. "Preliminary Approval" means an approval, with or without conditions, given by the land use authority that provides the necessary authority for an applicant to proceed with the preparation of the Final Plat or the Final Plan.
 30. "Project Area" means a defined tract of land, including all subsequent development phases, that is proposed for a PAD development application, together with any lands planned for commercial development which are subject to Chapter 17.69.
 31. "Setback" means the minimum distance from a specified boundary that a structure or other feature must be located.
 32. "Subdivider" means any person creating a subdivision pursuant to this Chapter and offering affordable housing units or lots for sale to eligible persons.
 33. "Subdivision" means a described tract of land that has been surveyed by a licensed professional land surveyor and acknowledged or authorized by the owner, that describes two or more lots which may be conveyed to buyers, and that accurately depicts streets, alleys, easements, blocks, lots, survey monuments, and other attributes of a proposed PAD subdivision development.
 34. "Site Plan" means a described tract of land proposed for rental development under this Chapter which has been surveyed by a licensed professional land surveyor and acknowledged or authorized by the owner, and which accurately depicts streets, alleys, easements, blocks, lots, survey monuments, building envelopes, public/private improvements, utilities, and other attributes of a proposed PAD rental development.
 35. "Unit" means a residential dwelling containing, at minimum, a kitchen, bathroom (sink, toilet, and a shower or bathtub), bedroom (or sleeping area), living room, parking, and storage space. All habitable rooms shall be separate from the bathroom(s). A residential unit may contain more than one bedroom, depending upon the needs of the development and the housing market. Each housing unit shall be defined to have non-exclusive access to common elements within the particular development.

17.68.030 Permitted Locations and Housing Types

- A. Subject to the provisions of this Chapter, Planned Affordable Developments shall be allowed in the following zoning districts:
 1. **Residential Zones:** R-2, R-3, R-4, MH/RV-1 zones;

2. **Commercial Zones:** C-1, C-2, C-4, and C-5 zones.

- B. Housing types for a PAD developments shall conform to the types permitted in the underlying zoning district, except that apartments or similar multi-family housing types shall be permitted in PAD developments in the R-2 zoning district.

17.68.040 Minimum Project Area; Subdivision Lot Sizes

- A. Provided that all requirement of this Chapter can be met, there is no minimum project area required for a PAD development.
- B. Provided that all requirements of this Chapter can be met, there is no minimum lot size for lots within a PAD subdivision.

17.68.050 Performance Standards

- A. **Affordability Concept.** All applications shall provide housing which contains a combination of one bedroom (or studio), two bedroom, and three bedroom units. The application shall demonstrate that the units for sale or rent qualify as affordable housing, as defined by this Chapter. Market rate units shall not exceed twenty percent (20%) of total units in the project area. Units developed under this Chapter (including affordable and market rate units) shall not be used or offered as overnight accommodations. Where an application includes phased development, affordable units shall be constructed as part of each phase. PAD developments shall meet the following requirements as to types of affordable units within each application:

Total PAD Units	Market Rate Units	Moderate Income, Low	Very Low Income
2 – 4	1		
5 – 19	20%	80%	
20+	20%	75%	5%

- B. **Minimum Unit Sizes.** All housing units developed under this Chapter shall contain, at minimum: a kitchen; bathroom, including a sink, toilet, shower (or bathtub); bedroom (or sleeping area); living area; parking; and storage space. Housing units may contain multiple bedrooms or other functional spaces as needed. All housing units, and rooms within those units, shall comply with applicable building code minimum requirements, including the International Residential Code, as adopted by the State of Utah:

Room	Requirement
Habitable Rooms:	70 square feet
Min. Dimension:	at least 7 feet
Min. Height:	7 feet
Areas Under 5' High:	excluded from room area calculation

C. **Height of structures.** The maximum building height of all buildings in a PAD development shall be as follows:

R-2, R-3, and R-4 Zoning District:	30 feet
C-1, C-2, C-4, C-5 Zoning District:	40 feet

Building height shall be measured from the average finished grade of the building to the midpoint of the highest peak of the roof.

D. **Setbacks; Adjacent Solar Access.** Except as necessary to preserve solar access, as set forth in subsection 1, below, the front, back, and side setbacks of a PAD development relative to other properties shall be provided by the underlying zoning district.

PAD developments may be required to provide additional setbacks where necessary to provide adequate solar access to adjacent properties located immediately to the north of the project boundary.

E. **Open space/Common Facilities.** Projects shall include open space for residents consistent with the size and scope of the project area. Open space, such as landscaping, recreation areas, entryways, commons spaces, bicycle racks, and setback areas shall comprise not less than five percent (5%) of the project area. Required parking spaces, stairways, elevators, and hallways shall not be calculated as open space.

F. **Stormwater.** Projects shall include engineered plans for the detention and conveyance of reasonably anticipated storm-water attributable to the project. Storm-water conveyances shall not connect to sanitary sewers.

G. **Sidewalks/trails.** PAD developments shall incorporate elements to facilitate pedestrian and bicycle access. Sidewalks are required along at least one side of all public street frontages. Trails may be required to connect to existing or planned trail systems or public streets.

H. **Parking.** Vehicle parking shall be provided at a rate of one (1) off-street space per studio or single bedroom unit. Units having two or more bedrooms shall have parking of not less than one and one-half (1.5) spaces per bedroom. Parking areas shall be located within the perimeter of the building envelope. Hard-scape semi-permeable materials may be used for parking spaces, where appropriate.

I. **Lighting.** Adequate lighting must be provided for public spaces and common areas. Light fixtures shall consist of a full cutoff, fully shielded, downward directed fixtures. Wall mounted flood lights that direct outward toward other properties and roadways are prohibited for this function.

- J. **Manufactured housing.** All manufactured housing to be utilized in developments under this Chapter shall comply with all other provisions of the building code.
- K. **Culinary Water/Sewer.** All dwellings shall be served by municipal culinary water and sewer service. Fire flows shall be provided and hydrants installed in conformity with building codes and fire department requirements.
- L. **Streets.** Developments shall provide adequate public street access to each dwelling. All streets within an application shall be hard surfaced or paved and constructed in conformity with City design specifications, as determined by Staff. Streets shall include concrete curb, gutter, and sidewalk, and be configured to allow adequate vehicle and emergency access. Streets shall be designed to promote efficient circulation and connectivity to other parcels and the remainder of the City street system. Street signage must be installed consistent with staff requirements.
- M. **Utilities.** Applications must include a utility plan showing feasibility and placement of electrical, telephone, cable, and internet services.
- N. **Site Specific Elements or Standards.** Depending on the scope of the project area, the City may require that site-specific design elements or standards be incorporated into an application as needed to address public safety, recreation, construction requirements, access, connectivity, or future phases of development.
- O. **Storage.** Each dwelling unit shall be provided with separate, lockable storage space which is proportionate to the size of each unit.
- P. All applications shall demonstrate substantial consistency with Advisory Documents. The land use authority may deviate from Advisory Documents on a case by case basis upon a showing of good cause.
- Q. PAD subdivisions shall include the sale of an affordable housing unit together with the sale of a lot, unless exempted by the terms of a development agreement.

17.68.060 Application Review Procedures

A. General Procedures

PAD applicants shall comply with the following review procedures.

1. **Pre-application Meeting.** A pre-application conference shall be held with planning staff to discuss the proposed development concept, likely development issues, and the requirements of this Chapter.
2. **Application Submittal/Completeness Review.** Upon submittal of an application and payment of the required fees, City Staff will review the application to determine if it includes, in form adequate for substantive review, all of the

submittal materials required by this Chapter. If an application is found to be deficient, City Staff will notify the applicant of the deficiency in writing.

3. **Staff Review.** In every case the application will be reviewed by the DRT and review agencies. The DRT may require that the applicant correct errors or incorporate design changes consistent with applicable codes, design standards, and/or review criteria. Where an application is substantially incomplete or grossly deficient, the staff may notify the applicant in writing that the application will not be subject to further review until such time as the enumerated defects are cured.
4. **Planning Commission Review.** Preliminary Plat or Preliminary Site Plans that have completed Staff review will be forwarded to the Planning Commission with a Staff recommendation. The Planning Commission shall hold a public hearing to review the application and receive public comment, and it may: a) approve the application; b) deny the application; c) approve the application subject to conditions; or d) table the application pending receipt of additional information.
 - a. At preliminary plat/plan review the applicant shall demonstrate that the plat or plan meets all submittal and performance criteria. Final construction drawings are not required, but all submittals must demonstrate the feasibility of the final design and conformity with this Chapter, applicable codes, and design standards.
5. **Final Plat/Final Site Plan Review Procedures.** When an applicant is ready to request Final Site Plan or Final Plat approval a Final Plat or Site Plan shall be submitted for review by Staff. Staff will review the design documents for completeness and verify that they incorporate changes or conditions required at the preliminary approval stage. Additionally, all related documents and agreements, including a Subdivision Improvements and Phasing Agreement, Land Use Restriction Agreement, and Covenants, Conditions & Restrictions (if applicable), and final construction drawings shall be reviewed and in final form prior to submittal to the City Council for final approval.
 - a. Final approval shall be in the form of an ordinance adopted by the City Council incorporating all the design drawings, the Final Plat or Final Plan, the conditions, and all development agreements comprising the PAD. Final approval is a legislative decision of the City and constitutes a site-specific development plan for all lands included in the project area.

17.68.070 Submittal Requirements

- A. A PAD application must be submitted to the Planning Department on the approved application form, together with the required review fee. The application must be signed by the record property owner or, if the applicant is not the owner, the applicant must deliver proof of approval signed by the owner. Components of the application

submittal may contain multiple plan sets or reports, provided, that they are clear, legible, and successfully demonstrate the purposes required under this Chapter. Unless waived by the Planning Director, the application must include four copies and electronic PDF copies of all design drawings and submittals. The application must include the following:

1. **Preliminary Site Plan.** Applicants for a PAD rental development shall submit a preliminary site plan (with requirements as listed below), drawn to a scale of not less than one-inch equals fifty feet (on paper no larger than twenty-four inches by thirty-six inches) that shall include:
 - a. **Parcel Boundary Lines.** Include all easements, setbacks, and construction limits of the project area;
 - b. **Drives, Streets, and Rights-of-Way.** Include widths of pavement, curb and gutter, and dimensions of rights-of-way;
 - c. **Parking and Loading.** The parking plan must include a count of spaces and details of handicap parking spaces as well as indicate the location and types of exterior lighting proposed for the area;
 - d. **Access. Include all points of ingress, egress.** For developments adjacent to and accessed by a state or federal highway, a completed highway access permit application from the Utah Department of Transportation (UDOT) must be submitted with the application, with a permit issued prior to building permit approval;
 - e. **Refuse Areas.** Drawings of the refuse enclosures must be included;
 - f. **Common Open Space.** All open space, common areas, parks, sidewalks, and trails (with required connectivity) must be clearly depicted;
 - g. **Topography.** All site conditions including terrain contours, drainage areas, and other physical features on or within one hundred feet of the site must be shown; existing and finished grades must be clearly shown in different shades or contour depictions; all elevations shall be shown in the most current North American Vertical Datum (NAVD). Applications may contain this topographic survey on the site plan or as a separate document.
 - h. **Use Types.** Specific areas proposed for specific types of land use shall be shown, and must include the acreage or square footage for each area;
 - i. **Public Dedications.** Areas proposed for public dedication (i.e., utility easements, trails, open space, or the like) shall be depicted;
 - j. **Lots or Plots.** The dimensions and area for each lot or unit must be shown;

5. **Wetlands, Riparian Areas, and Floodways.** If the development is adjacent to riparian areas, flood zones, probable wetlands, or areas where stream channels may be altered by planned development, wetlands, riparian areas, and floodway plan drawn by an engineer, surveyor, or other appropriate consultant must be submitted. Probable wetlands shall be described and delineated. All applications shall show compliance with Chapter [15.40](#), Flood Damage Prevention. Flood zone boundaries and the base flood elevation must be shown. Where the application includes areas that may be subject to flooding the applicant shall show that the elevation of the lowest floor of all structures exceeds the elevation which is above the base flood elevation. All elevations on the plan shall be shown in the most current North American Vertical Datum (NAVD).

6. **Storm Water Drainage Plan.** A stormwater drainage plan, signed and stamped by an engineer, shall be submitted and show calculations and other information specified below. The plan shall comply with the City of Moab/Grand County Design Criteria for Drainage Studies, as adopted or updated by the City from time to time. The stormwater drainage plan shall be reviewed for compliance with other applicable Advisory Documents. The stormwater drainage plan shall include, at a minimum, the following information:
 - a. The project site, including areas three hundred feet beyond its boundaries;
 - b. Existing contours at two-foot intervals shown as dashed lines;
 - c. Proposed contours at two-foot intervals shown as solid lines;
 - d. Indication of a permanent benchmark referenced to mean sea level;
 - e. Drainage system shown in plan view with estimated cubic-feet-per-second flow for a one-hundred-year storm event;
 - f. Locations of all-natural drainage channels and water bodies;
 - g. Existing and proposed drainage easements;
 - h. Type, size, and location of existing and proposed drainage structures such as pipes, culverts, inlets, ditches, swales, retention ponds, detention areas, etc.;
 - i. One-hundred-year event (base) flood areas;
 - j. Additional grading and drainage elements may be required to be depicted to satisfy Federal Emergency Management Administration (FEMA) floodplain requirements or other applicable city flood damage prevention ordinances;
 - k. Erosion control plans showing adequate sedimentation control which shall be accomplished throughout construction phases as well as during the ongoing use of the site (e.g., sedimentation ponds, dikes, seeding, retaining walls, rip-rap, etc.); and
 - l. All structures for drainage and flood control shall be designed, at a minimum, to successfully convey the anticipated one-hundred-year frequency storm vent for maximum period of intensity over the entire drainage basin. The applicant shall submit calculations to show that all structures have adequate capacity to accommodate flows expected to result from the designated storm event.

7. **Grading Plan.** A grading plan for surface drainage (shown by contours and spot elevations) shall be prepared by an engineer or surveyor. It shall show the planned grading and paving of driveways, access roads, and parking areas. Grading and paving shall be shown on plans, profiles, cross sections, and details as necessary to describe new construction. Details of curbs, gutters, sidewalks, drainage structures, and conveyance systems, dimensions of all improvements, size, location, thickness, materials, strengths, and necessary reinforcement must be shown.
8. **Utility Plan.** A utility plan shall be prepared by an engineer. It shall show the locations, dimensions, and elevations of all sewer facilities and culinary water facilities needed to serve the site. The utility plan shall specify in reasonable detail the types of equipment and materials to be used and shall comply with all applicable Advisory Documents or City engineering requirements. Plans showing the locations of natural gas, electric, and telephone/data lines must also be shown.
9. **Evidence of Title/Covenants.** A current title insurance commitment, ownership and encumbrance report, or abstract of title prepared by a title insurance company or attorney showing all ownership interests, easements, and encumbrances which apply to the parcel(s) comprising the application must be submitted. If requested, the applicant shall provide copies of all recorded documents which may affect the property subject to the application. If common elements or private use restrictions are anticipated, the applicant must submit draft covenants, conditions, and restrictions (CC&Rs) for review.
10. **Slopes.** If proposed development is likely to result in the grading of hillsides, city staff may require submittal of a slope study prepared by an engineer or surveyor. Applications will also be reviewed for compliance with Chapter [17.55](#), Hillside Developments.
11. **Surface and Subsurface Soils Report.** The application shall include a surface and subsurface soils report establishing soil suitability for the proposed development. The report shall be prepared by a geotechnical engineer or other professional, if approved by city staff. At a minimum, the report shall include:
 - a. A description of soil types;
 - b. Locations and characteristics with supporting soil maps;
 - c. Soil logs of test pits and boreholes;
 - d. All other information necessary to determine soil suitability for the scope of the development and constraints on development based on the findings;
 - e. Analysis and evaluation of such information with recommendations regarding structural constraints, erosion control, and requirements for building design.
12. **Traffic Study.** A traffic study and parking and circulation study are required for projects described as follows:
 - Single Family Housing, 50 units or more;
 - Apartments or townhouses, 85 units or more;

Mobile home parks, 100 units or more.

- a. The Planning Director has discretion to require a traffic study for applications which do not generate the level of trips specified where:
 - i. High traffic volumes on surrounding streets may affect movement to and from the proposed development;
 - ii. There is a lack of existing left turn lanes on streets adjacent to the proposed access drive;
 - iii. There are inadequate sight distances at access points; or
 - iv. Proposed access points are close to other existing drives or intersections.

13. Street Design Drawings. The application shall include drawings by an engineer showing the design, grades, widths, and profiles of all streets, sidewalks, curbs, gutters, traffic control devices, traffic signs, and associated public improvements. All street designs shall conform to street classifications and design standards adopted by the City.

B. Additional Submittals--Waiver of Certain Submittals. The Planning Director has discretion to require other submittals where appropriate for the review of a particular application. Alternatively, the Planning Director has discretion to waive or modify any requirement for a particular submittal if it is determined that the document or report is not necessary, or if an alternate submittal is justified for the review of a particular application. Any waiver shall be in writing labeled as a submittal waiver, shall identify the project by name and application number, and shall be signed and dated by the Planning Director.

C. Conformity with Submittal Standards. All submittals must conform to the land use submittal standards adopted by the City. Submittals which do not clearly or accurately depict elements required for review of the project may be rejected, or staff may require revisions during the review process.

D. Affordable Housing Development Plan. The Affordable Housing Development Plan shall contain, at a minimum, the following information:

1. A general description of the development, including whether the development will contain units for rent or sale;
2. The total number of market-rate units and affordable housing units and a depiction of where those units will be situated on the plat/plan;
3. The square footage of each market-rate unit and of each affordable unit measured from the interior walls of the unit;
4. The estimated sale price or monthly rent for each market-rate unit or lot and each affordable housing unit;

5. If construction of dwelling units is to be phased, a phasing plan stating the number of market-rate and affordable housing units in each phase; and
6. Statistical information as to the project area, developed area square footage, open space area, area and number of parking spaces, and the like shall be included.
7. Affordability calculations and assumptions demonstrating that the housing will be affordable under current economic conditions.

E. **Departmental Standards.** All developments pursuant to this Chapter shall comply with departmental standards published by the City.

17.68.080 Miscellaneous Provisions

A. **Variances--Exceptional Conditions.** In cases where unusual topographic or other exceptional conditions would pose a hardship on the applicant, variances from the strict requirements of this Chapter may be made by the City Council at the time of Final Plat/Plan review. Staff shall provide a recommendation with respect to the proposed variance. The City Council may grant a variance, provided that it will not result in substantial detriment to the public good and will not substantially impair the intent and purpose of this Chapter.

B. **Accessory Dwelling Units Prohibited.** Accessory dwelling units are not permitted within a PAD development.

C. **Vacating or Changing a Subdivision Plat.** Any proposed vacation, alteration, change, or amendment to an approved PAD plat must comply with the notice requirements of U.C.A. 10-9a-205 and the requirements changes to a platted subdivision outlined by the U.C.A. 10-9a-608.

D. **Decision Matrix.** Decisions under this Chapter shall be made by the following:

Application/Action	Advisory Body	Land Use Authority	Appeal Body	Required Public Hearing
Prelim. Plat/ Prelim. Site Plan	City Staff	Planning Commission	AA	Yes, (PC)
Final Plat/Site Plan	City Staff	City Council	District Court	No
Amend Plat*	Planning Commission	City Council	District Court	Yes, PC & CC
Modify Lot Lines	City Staff	City Council	District Court	No

* If all owners within the plat sign to permit amendment and the area does not include vacation of a public right of way, then the City Council may approve the application without a public hearing.

AA means the Appeal Authority, as specified in MMC 17.72.120

- E. **Proof of Sewer or Water Availability for Non-City Authorities.** Where the City is not able to provide culinary water or sewer service to a proposed development, the applicant will be required to provide a current letter from the water or sewer service provider demonstrating that water and sewer service is available to the subject site.

17.68.100 Appeal Procedures

- A. Any person adversely affected by a preliminary land use decision, including a decision by the Planning Commission approving or denying a preliminary Plat or Plan, may appeal that decision to the Appeal Authority, and the appeal shall be governed by the procedures in MMC § 1.72.120 through 170.
- B. Any person adversely affected by a final land use decision of the City Council under this Chapter may appeal that decision by filing an action in the District Court for Grand County, Utah.
- C. Exhaustion of all administrative remedies shall be required prior to any applicant seeking judicial review of any final decision pursuant to this Chapter. Failure to exhaust administrative remedies shall result in the action or suit being dismissed.
- D. A judicial action seeking review or appeal of a final decision or action under this Chapter must be filed no later than thirty (30) calendar days from the date of the decision or order that is the subject of the appeal.
- E. Upon the commencement of a judicial appeal challenging any decision under this Chapter, the City shall promptly transmit to the district court true and correct copies of all submittals, testimony, orders, and file documents comprising the record pertaining to the application, including any transcript or tape recordings of proceedings.
- F. There shall be no judicial review of legal claims or points of error which are not first presented for review or decision to the land use authority.
- G. In any review pursuant to this Chapter (whether administrative or judicial), the reviewing body shall presume the decision made under this Chapter is valid. A final decision of the City Council shall be affirmed if it is found to be within the scope of legislative discretion.
- H. Disputes concerning or arising from administration of this Chapter after final land use approval, including but not limited to enforcement of the Land Use Restriction Agreement, affordability controls of this Chapter, or the like, shall be heard by the District Court, Grand County, Utah.

17.68.110 Development Improvements Agreement

- A. The Development Improvements Agreement (DIA) shall be approved by the City Council at the time of approval of the Final Plat or Final Site Plan. A DIA between the City and the applicant is required to specify the overall development plan in writing and is a condition precedent to the commencement of construction. The DIA shall set forth the commitments and obligations of the City of Moab and the applicant, including, as necessary, a financial assurance for required public improvements, the applicant's phasing plan, and other details particular to the development. The DIA shall be subject to review and approval by the City Council and must be consistent with all prior approval conditions applicable to the approved plan.
- B. The DIA may require that an applicant provide a performance bond, letter of credit, or other financial assurance to secure completion of required improvements, and/or as a condition for Final Plat or Final Site Plan approval. The financial assurance shall be provided in an amount equal to one hundred fifty percent (150%) of the estimated cost of all required public improvements, including: landscaping; road improvements; pedestrian ways, trails, sidewalks, curbs, and gutters; street lighting and signage; culinary water lines and fire hydrants; sewer lines and sewage disposal facilities; and storm-water improvements. City staff shall verify the correct amount of the financial assurance based upon review of the cost of the required improvements. Not more than ten percent (10%) of the financial assurance may be held to secure any warranty claims, as provided in the DIA.
- C. With respect to a PAD subdivision, no final plat for the subdivision, or any phase thereof, and no building permit for construction upon any lot within the subdivision shall be executed by the City until such time as either: 1) all public improvements are completed in accordance with the DIA and accepted by the City; or 2) a financial assurance as required by this Chapter is provided to the City. A Subdivider shall not convey or attempt to convey any lot prior to the recording of the final plat, and any purported conveyance in violation of this subsection shall be void.
- D. With respect to a PAD rental development, no final site plan for the development, or any phase thereof, and no building permit for construction of housing units within the development, shall be executed by the City until such time as either: 1) all public improvements are completed in accordance with the DIA; or 2) a financial assurance as required by this Chapter is provided to the City. A Developer shall not convey or attempt to enter into any lease prior to the execution of the final site plan, and any purported lease or rental contract entered into in violation of this subsection shall be void.
- E. All public improvements shall be warranted against defects in materials and workmanship for a period of not less than one (1) year from the date of acceptance by the City. Upon expiration of any warranty period the financial assurance provided by this Section shall be released.

17.68.120 Affordability Controls

A. Eligibility- General Policy. All affordable housing developed pursuant to this Chapter, including rental units and units (or lots) for sale, shall be leased or sold to persons who meet the eligibility requirements of this Chapter. The Developer or Subdivider shall at all times assure that affordable housing units are transferred to eligible persons, and it shall provide proof of its compliance with all eligibility and affordability controls to the City or its designated Monitoring Agency from time to time and/or upon written request. Prospective tenants or purchasers of affordable housing shall provide verification of their eligibility to either the Developer or Subdivider at the time they apply for housing subject to this Chapter.

To be eligible to occupy affordable housing under this Chapter the following criteria must be met:

1. The persons comprising the household must have a combined household income which does not exceed one hundred percent of the Grand County, Utah, Area Median Income (AMI), as published by HUD from time to time.
2. All persons occupying affordable housing must utilize the housing as their sole place of residence. Leasing of sales units, subleasing or assignment of rental agreements, or overnight lodging uses, shall not be permitted in PAD developments.

B. Rent Calculation. The Developer offering affordable housing units for lease shall set the monthly rental rate at an amount (assuming a three-bedroom unit) that does not exceed thirty percent (30%) of the area median income (AMI) for a Grand County household of four persons, as adjusted from time to time, divided by twelve (12) months (the Allowed Rental Rate). Units with greater than or less than (3) bedrooms shall be rented at a rate which is adjusted proportionately. As an illustration, the allowed monthly rent for an Affordable Unit based on Grand County AMI of \$55,000 would be as follows:

3 bedroom:	$AMI \$55,000 \times 30\% \div 12$	= \$1,375.00 per month;
2 bedroom:		= \$915.75;
1 bedroom:		= \$457.88.

1. Inflation adjustments in the Allowed Rental Rate shall be made annually, as of January of each calendar year, and shall be based upon the year to year increase in the Consumer Price Index (CPI-U), West Region, as published by the United States Department of Labor, Bureau of Labor Statistics. The City or the Monitoring Agency will publish the inflation adjustment and provide same to Developers for purposes of calculating Allowed Rental Rate increases.
2. Nothing in this Chapter shall preclude a Developer from entering into a fixed rental rate lease with a tenant who is otherwise compliant with this Chapter at the time of execution.

- C. **Sales Eligibility, Additional Requirements.** In addition to the general qualifications set forth in Subsection B, above, persons who purchase affordable housing units pursuant to this Chapter shall comply with the following criteria at the time of purchase:

Total household net assets (asset value after deduction of the value of any liens-such as a car loan) shall not exceed two times the Original Purchase Price (OPP) of the housing unit.

- D. **Sales Price Calculation; Subsequent Sales.** The Original Purchase Price for affordable housing units developed pursuant to this Chapter shall be calculated as follows: principal, interest, taxes, and insurance (PITI) on the unit shall not exceed thirty percent (30%) of the Grand County AMI for a household of four divided by twelve (12) months. Assumptions used to calculate the OPP shall be: i) a five percent (5%) down payment; ii) a 30-year mortgage term; and a mortgage rate equal to the prevailing First Home rate, or its equivalent, of the Utah Housing Corporation (www.untahousingcorp.org) (or equivalent).

- E. **Maximum Appreciation.** To assure continued affordability, each affordable housing unit developed under this Chapter shall be subject to a deed restriction, in a form approved by the City, which caps appreciation which may be earned upon subsequent sale of the unit. The Maximum Resale Price (MRP) shall be the OPP plus the following:

1. An increase in price of no more than three percent (3%) per year from the date of purchase to the date of sale, prorated for each month less than a calendar year; and
2. The actual cost of any capital improvements to the unit, including by way of example: i) the addition of finished living space; ii) remodeling of a kitchen or bath; iii) replacement of major components such as heating systems, cooling systems, windows, roofing, siding or the like; provided that the improvements have been permitted and inspected by the City Building Official. The property owner is responsible for documenting the value of all such improvements at the time of permitting. In no event shall capital improvements exceed five percent (5%) of the MRP.

17.68.130 Land Use Restriction Agreement and Covenants

- A. At the time of final approval of every PAD, the City and the Developer/Subdivider shall execute and record in the land records a Land Use Restriction Agreement (LURA) implementing and providing for enforcement of the affordability controls specified in this Chapter. The LURA shall be a deed restriction running with the land, and binding upon the original grantor, and all successors and assigns in title. The LURA shall provide, at a minimum, the following:

1. The affordable housing units shall be leased or sold to, and occupied by, eligible persons;
2. The affordable housing units shall be leased at rent levels affordable to eligible persons for a period of not less than fifty (50) years from the date of the initial certificate of occupancy;
3. The affordable housing units shall be sold at sales prices affordable to eligible persons for a period of not less than fifty (50) years from the date of the initial certificate of occupancy;
4. Subleasing of PAD rental units or leasing of PAD sales units is prohibited;
5. The number of affordable units shall not be reduced and shall remain at the originally approved affordability level for a period of not less than fifty (50) years; and
6. Provisions for enforcement and monitoring of the Affordability Controls, including (as applicable) specific performance, damages, and an award of attorney fees and costs in the event of a violation.

B. Maintenance. For PAD rental developments the LURA shall contain provisions providing that the owner shall maintain all units in a safe, sanitary, and functional condition in accordance with the provisions of the International Property Maintenance Code, as adopted by the City, or its equivalent.

C. Recording Deed Restrictions. The LURA shall be recorded in the land records prior to the recording of the Final Plat for a PAD subdivision or prior to the execution of a Final Site Plan for a PAD rental development.

D. Monitoring. The Developer shall manage and operate all affordable units and shall submit an annual report to the City of Moab, or its Monitoring Agency, identifying which units are affordable units in a Planned Affordable Development, the monthly rent for each unit, vacancy information for each year for the prior year, monthly income for tenants of each affordable units, and other information as required by the LURA. The annual report shall contain information sufficient to determine whether tenants are eligible for affordable housing as provided by this Chapter.

1. A Subdivider marketing affordable units for sale shall submit an annual report to the City identifying all affordable units sold in the last calendar year, the Original Purchase Price for each unit, and information sufficient to verify purchaser eligibility, as required by the LURA. The annual report shall contain information sufficient to determine whether home purchasers are eligible for affordable housing as provided by this Chapter.

2. The City or its Monitoring Agency shall be authorized to audit and review all Developer and Subdivider records pertaining to housing developed under this Chapter to verify compliance with this Chapter and all Affordability Controls.

- E. **Extension of the LURA.** The duration of the LURA may be extended for additional successive ten (10) year terms if the City Council certifies in writing at or before the expiration that there is a continuing need for affordable housing, and that it is reasonable that the affordability controls continue. In that case the owner or the City shall execute any necessary documents to give effect to this provision.
- F. **Covenants.** Covenants, conditions, and restrictions (CCRs) for a PAD subdivision shall be reviewed and subject to approval by the City contemporaneous with final plat approval. The CCR shall provide mechanisms for enforcement of community rules, collection of assessments (if applicable), and maintenance of common areas.

17.68.140 Impact Fees

In conjunction with final approval of any PAD development the City Council may waive all or a part of the impact fees which would otherwise be payable for the development. Any waiver shall be vested in the discretion of the City Council, based on the merits of the application in attaining the affordability goals of this Chapter.

17.68.150 Enforcement

- A. A Developer, Subdivider, or successor in title who fails to comply with the Development, Improvements Agreement, the LURA, or any other agreements, development approvals, or provisions of this Chapter shall be issued a notice of violation and informed of the default under the applicable agreement. Each such person shall be given a reasonable period of time, not to exceed thirty (30) days, in which to cure any default or breach under the applicable agreement.
- B. Upon declaration of default the City may exercise any remedies for violation available under City ordinances or Utah statutes, including, without limitation: i) proceeding against the financial assurance; ii) withholding building permits, certificates of occupancy, or certificates of zoning compliance; iii) obtaining an injunction to halt or abate zoning violations or breach of the agreement; iv) recording an affidavit of a lapse of plat/plan, in whole or in part; v) commencing an action for damages—including, but not limited to, damages for costs incurred in completing, repairing, or replacing required improvements or abating any violations; and/or vi) any other remedies available at law or equity, including the remedy of specific performance. The City may combine remedies in its discretion and pursue some or all at different times, as may fit the applicable breach. In any action for injunctive relief the City need only prove a default or violation under this Chapter, and such relief shall be granted without the necessity of bond.

- C. The recording of an affidavit of lapse of plat/plan by the City shall result in the lapse of all prior land use approvals and the voiding of the subdivision of lots or the site plan within the real property specified in the affidavit.

- D. With respect to any default under the LURA or any other affordability controls of this Chapter, in addition to the remedies specified above, the City may obtain restitution or disgorgement of any proceeds realized by a Subdivider, Developer, or any successor in title from any leasing, sale, or other disposition of affordable housing units in violation of the affordability controls of this Chapter. In the alternative, the City may levy liquidated damages in the amount of five thousand dollars (\$5,000.00) per violation.

- E. In any enforcement proceedings under this section the City shall be entitled to recover its reasonable attorney fees and court costs, in addition to any other relief provided.

Passed and adopted by action of the City Council this ____ day of _____, 2018. This ordinance shall take effect immediately upon passage.

By: _____

Mayor Emily Niehaus

Attest:

By: _____

Rachel Stenta, Recorder

_____ Date