

**ORDINANCE # 2010-01**

**AN ORDINANCE AMENDING THE CITY OF MOAB LAND USE CODE CHAPTER 17.55, HILLSIDE DEVELOPMENTS AS APPLIED IN ALL ZONES**

**WHEREAS**, the *City of Moab General Plan* (“*General Plan*”) was adopted by the Moab City Council on January 8, 2002, with Resolution # 01-2002, to serve as the guide for land development decisions; and

**WHEREAS**, Titles 15, *Buildings and Construction*, 16, *Subdivisions*, and Title 17, *Zoning*, of the Moab Municipal Code were adopted to implement the General Plan with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city; and

**WHEREAS**, the City of Moab (“City”) from time to time has found it necessary to amend the Code to provide contemporary planning concepts and terminology and to correct language that is outdated or was adopted in error in an effort to make the code more usable by the general public for development within the incorporated city limits; and

**WHEREAS**, City Staff has identified issues with the adopted code that must be addressed by this amendment of Chapter 17.55, Hillside Developments; and,

**WHEREAS**, the City of Moab Planning Commission (the “Commission”) reviewed ordinance #2010-01 (formerly #2009-11) during a public hearing held on September 10, 2009, and subsequently recommended to Council on December 10, 2009, adoption of said ordinance; and

**WHEREAS**, due notice was given that the Moab City Council (“Council”) would meet to hear and consider this ordinance on February 9, 2010, to decide the merits of the proposed amendments; and

**WHEREAS**, the City Council has heard and considered all evidence and testimony presented with respect to the changes and has determined, subsequent to said public hearing that the adoption of this ordinance is in the best interests of the citizens of the City of Moab, Utah.

**NOW, THEREFORE BE IT ORDAINED BY THE MOAB CITY COUNCIL THAT** Title 17, specifically, Chapter 17.55, Hillside Developments, is hereby amended to read as follows:

Chapter 17.55.060 subsection B is hereby repealed and replaced with the following language to read:

- B. All minor development on slopes greater than fifteen (15) percent shall first be reviewed by the Moab Planning Commission. The planning commission shall then make a recommendation to the city council for review and approval. Prior to any excavation or construction activity, a grading permit must be obtained from city staff.

**AND, FURTHERMORE**, Chapter 17.55.060, *Hillside development permit required*, shall be repealed and replaced with:

**17.55.060 Hillside development permit required.**

A. All major development on slopes in excess of fifteen percent shall require a hillside development permit granted by the city council prior to any excavation or construction activity. The planning commission shall first review proposed development and make a recommendation to the city council.

B. All minor development on slopes greater than fifteen percent shall require a hillside development permit granted by the city council prior to any excavation or construction activity. The planning commission shall first review the proposed development and make a recommendation to the city council.

C. Government Exemptions. Exemptions to this chapter may be granted to government agencies under the following guidelines. Proposed development by the City of Moab and other government agencies, are required to submit the appropriate documentation as established in Chapter 17.55.070. The application shall be submitted to city staff for review and recommendation to the City Council. Subsequent to review of the proposed project by staff, City Council shall evaluate the project at the next available meeting. In granting an exemption, the City Council may prescribe appropriate reasonable conditions and safeguards to ensure compliance with the requirements of the Moab land development regulations.

Exemptions apply to necessary development of various public works and community development projects including, but are not limited to, flood control structures such as dams and retaining walls, water tanks and water conveyance systems, and structures such as bridges, parking areas, and roadways for transportation projects. In the application of this section, Council shall have the authority to grant exemptions to any of the requirements of this chapter by applying the following review criteria.

- 1) The establishment, maintenance or operation of the proposed exemption is not detrimental or injurious to the use and enjoyment of existing uses on adjacent properties;
- 2) The establishment, maintenance or operation of the proposed special exception use or structure will not cause traffic hazards in the vicinity;
- 3) Adequate provision is made for surface water drainage, ingress and egress to the property, and off-street parking;
- 4) Adequate public facilities and services are available for the proposed special exception use or structure;
- 5) The application meets all special requirements as detailed within the zoning ordinance for the specific special exception if any apply;
- 6) The use will not be detrimental to the public health, safety or welfare;
- 7) The location, nature and height of each building, wall and fence, the nature and extent of landscaping on the site and the location, size, nature, and intensity of each phase of the use and its access streets will be compatible with the appropriate and orderly development of the district in which it is located;
- 8) The proposed use will not conflict with an existing or programmed public facility, public service, school, or road;
- 9) The proposed use has the written recommendations and comments of the Public Works and Engineering Departments;
- 10) The applicant has presented sufficient evidence of public need for the use.

D. Permit approval under this section shall not be required for preliminary plats that have been approved by the city council prior to the adoption of the ordinance codified in this chapter.

E. Upon review of a permit application for either major or minor development the planning commission may, in addition to recommending approval or denial of the application, submit to the city council recommendations as to conditions to be attached to the permit to mitigate specific adverse impacts associated with the application.

F. The city council may approve the application as submitted; approve subject to conditions; or deny the permit in full where the development does not meet the standards of this chapter or other provisions of the Municipal Code.

**AND**, Chapter 17.55.090, subsection B is hereby repealed and amended to read:

B. All buildings constructed upon lands subject to this chapter shall be one story only, or twenty feet maximum, in height. Height shall be measured as described in Chapter 17.55.020, Definitions.

**AND, FURTHER THAT** the term “adjunct” in the definitions of “Major development” and “Minor development” in Chapter 17.55.020, Definitions, shall be replaced with the term “related”.

IN EFFECT IMMEDIATELY UPON PASSAGE.

PASSED AND APPROVED in open Council by a majority vote of the Governing Body of Moab City Council on February 23, 2010.

SIGNED:

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David L. Sakrison, Mayor

ATTEST:

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Rachel Ellison, Recorder