

**CITY OF MOAB
ORDINANCE 2022-08**

**AN ORDINANCE AMENDING MOAB CITY MUNICIPAL CODE,
SECTION 1.04.020, DEFINITIONS AND RULES OF CONSTRUCTION,
AND SECTION 4.11.040, APPEAL PROCEDURE, TO SPECIFY APPEAL
AUTHORITY MEANS THE HEARING OFFICER**

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 publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character 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 then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated; and

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

WHEREAS the Moab City Council intends to codify its current practice that the presiding officer in an administrative adjudicative proceeding shall be the hearing officer, unless otherwise specified in the Moab Municipal Code; 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 1. General Provisions. Chapter 1.04. Definitions and Rules of Construction of the Moab Municipal Code is hereby amended:

1.04.20. Definitions and rules of construction.

2. *Appeal Authority.* The term “appeal authority” means the hearing officer unless otherwise specified in this code. [Remaining sections renumbered.]

10. *Hearing Officer.* The term “hearing officer” means the person appointed by the Mayor with the advise and consent of the city council to be the appeal authority who possesses knowledge of the Moab Municipal Code, administrative adjudicative hearing procedures, and

due process rights of land use applicants and other applicants in appeal proceedings. [Remaining subsections renumbered.]

2. Title 4. Special Event and Street Performance Permits. Chapter 4.11. Special Event Application Denials, Revocations, and Appeals is hereby repealed and reenacted:

4.11.040. Appeal procedure.

A. Any special event applicant adversely affected by a permitting decision under this chapter may appeal as provided in this section.

B. The hearing officer is the appeal authority for appeals filed under this chapter.

C. Appeals of decisions by the Special Events Coordinator, SERC, or the City Council shall be appealed to the hearing officer by delivering written notice to the City no later than seven calendar days from the date of the decision or order which is the subject of the appeal. The hearing officer shall promptly hold a hearing, and the hearing officer's decision shall be final.

D. In any appeal proceeding under this chapter, the hearing officer shall only overturn the decision that is the subject of the appeal if it is found to be arbitrary, capricious, or unlawful. (Ord. 18-15 § 3, 2018)

3. This Ordinance shall be effective immediately upon passage.

APPROVED AND ADOPTED by the Moab City Council, Moab, Utah, this 10th day of May 2022.

By: _____
Joette Langianese, Mayor

ATTEST

By: _____
Sommar Johnson
City of Moab/Recorder