CITY OF MOAB ORDINANCE NO. 2018-20

AN ORDINANCE ADOPTING NEW CHAPTER 17.69 OF THE MOAB MUNICIPAL CODE PROVIDING FOR AN ASSURED WORKFORCE HOUSING POLICY AND RENUMBERING EXISTING CHAPTER 17.69, SECONDARY DWELLING UNITS, AS CHAPTER 17.70.

The following describes the intent and purpose of this ordinance.

a. Area median income (AMI) in Grand County was approximately $64,300 in 2017, though other sources identify AMI in Moab as being as low as $42,200.

b. Between 2016 and 2017 the median average home price increased 18 percent to $325,000, a figure which is unaffordable to most Moab households.

c. Approximately 80 percent of townhomes in Moab are purchased by second home owners, many of whom utilize their properties as tourist lodging when they are not in use.

d. Employers in Moab struggle to attract and retain employees due to a lack of affordable housing.

e. Workers in the Moab area struggle with low wages, high housing cost burdens, and a lack of inventory of affordable housing.

f. There is a significant deficit of housing options for households that earn less than the Area Median Income.

g. The lack of affordable housing results in undesirable impacts, such as crowding, long commutes, occupancy of sub-standard units, negative neighborhood impacts, and other impacts negatively affecting the quality of life in Moab. The City has a compelling interest in assuring that safe and adequate housing exists for Moab residents.

h. Construction of workforce housing or the payment of a fee in lieu of same is feasible for developers of new overnight accommodations under current market conditions. Hotel/motel, townhome, and condominium developments geared towards the tourism market place earn sufficient returns to pay a fee or meet a construction requirement; other business segments do not.

i. New overnight accommodations development triggers direct impacts in terms of employment and the need for additional workforce housing.

j. It is reasonable that overnight accommodations contribute towards the construction of new workforce housing units made necessary by that development.
k. The City finds that the fees and requirements specified in this Chapter are reasonable land use controls enacted specifically to address the direct impacts from overnight accommodations development. The fees and requirements of this Chapter are proportional to the impacts of overnight accommodations development.

NOW THEREFORE, the City enacts new Chapter 17.69, and existing Chapter 17.69, Secondary Dwelling Units, is renumbered as Chapter 17.70.

Chapter 17.69 ASSURED WORKFORCE HOUSING

Sections:
17.69.010 INTENT
17.69.020 DEFINITIONS
17.69.030 WORKFORCE HOUSING REQUIRED; ALTERNATIVES; EXEMPTION
17.69.040 FEE IN LIEU OF CONSTRUCTION
17.69.050 CONSTRUCTION REQUIREMENT
17.69.060 DEDICATION
17.69.070 INDEPENDENT FEASIBILITY ANALYSIS
17.69.080 STANDARDS FOR CONSTRUCTION REQUIREMENT UNITS
17.69.090 ELIGIBILITY- GENERAL POLICY
17.69.100 LAND USE RESTRICTION AGREEMENT (LURA)
17.69.110 IMPACT FEE WAIVER
17.69.120 ENFORCEMENT
17.69.130 APPEALS
17.69.140 PERIODIC REVIEW
17.69.150 SEVERABILITY
17.69.160 LEGISLATIVE HISTORY
17.69.010 Intent

A. The City, in conjunction with Grand County, has undertaken to study the lack of affordable housing and identify policies that can increase the supply of affordable housing for the Moab/Grand County workforce. The City finds that tourist lodging-related commercial development is causing demand for affordable housing units, and that there is a deficit of housing units available for occupancy by persons employed in tourism-related occupations. Based on the results of market data, the City finds that it is appropriate and feasible that tourism-related lodging development construct affordable housing units or pay a fee in lieu of construction for the purpose of offsetting the impacts from that type of development.

17.69.020 Definitions

A. 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 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 between sixty percent (60%) and seventy nine percent (79%) of Grand County Area Median Income.

   c. “Very Low Income” means household income which is between thirty percent (30%) and fifty nine percent (59%) of Grand County Area Median Income.
d. "Extremely Low Income" means household income which is below thirty percent (30%) of the Grand County Area Median Income.

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.

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. "Condominium" means a type of subdivision which may be utilized as an overnight accommodation in which owners hold title to a defined unit, together with an undivided interest in common elements pursuant to a recorded declaration.

7. "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.

8. "Dedication Requirement" means the conveyance of real property for affordable housing purposes as provided by Section 17.69.060.

9. "Development" means new construction or remodeling of buildings or real property.

10. "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.

11. "Developer" means a person offering affordable housing units developed pursuant to this Chapter for lease or rent to eligible persons.

12. "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.

13. "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.
14. "Final Approval" means the approval, with or without conditions, by the applicable land use authority authorizing the construction of any development specified by this Chapter.

15. "Final Plat" means a map of a subdivision 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 subdivision.

16. "Final Site Plan" means a map of a development 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 commercial development.

17. "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.

18. "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.

19. "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.

20. "HUD" means the United States Department of Housing and Urban Development.

21. "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.

22. "Lot" means a tract of land defined in an approved plat which may be conveyed to a buyer by deed.

23. "Market Rate" means a housing unit offered for sale or lease which is not subject to the affordability controls of this Chapter.

24. "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.
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 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 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 subdivision.

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 development application.

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 and offering lots or condominium units for sale to the public.

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 subdivision development.

34. “Site Plan” means a described tract of land 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 development.
35. “Townhouse” means multi-family housing units utilized as overnight accommodations in which units share at least one common wall.

36. “Unit” means a residential dwelling containing, at minimum, a permanently installed kitchen (including, a sink, stove, refrigerator, counters, and cabinets), bathroom (sink, toilet, and a shower or bathtub), bedroom (or sleeping area), living room (or area), 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 have non-exclusive access to common elements within the particular development.

17.69.030 Workforce Housing Required; Alternatives; Exemptions

A. Applicants seeking land use approval of new overnight accommodations or conversions of other development into overnight accommodations shall do one of the following:

1. Construct or provide an appropriate number of affordable housing units in conjunction with the development of the overnight accommodations (the Construction Requirement); or

2. Pay the Fee in Lieu of Construction (FILC).

B. The remodeling, repair, or reconstruction of any overnight accommodations lawfully existing at the time of the enactment of this Chapter shall be exempt from the provision of this Chapter, provided that such activity does not result in a new addition or expansion (measured in square feet) relative to the existing use. Remodeling, repair, or reconstruction of overnight accommodations that expand the finished floor area of the building or structure shall be subject to this Chapter to the extent of the expanded area.

17.69.040 Fee in Lieu of Construction

A. A developer/subdivider proposing new overnight accommodations that do not satisfy the Construction Requirement must pay to the City a Fee in Lieu of Construction (FILC) equal to the total finished floor area (measured in square feet) of the overnight accommodation type multiplied by the following sums:

- Hotel/Motel: $15.57 per square foot;
- Condominium: $5.18 per square foot; or
- Townhome: $8.77 per square foot.

B. The FILC is due and payable prior to the issuance of a building permit.
C. The City shall use the FILC, either individually or in combination with other funds, for affordable housing purposes. FILC funds shall be held and accounted for in a separate fund which shall be used solely for the acquisition, construction, maintenance, management, or development of affordable housing.

17.69.050 Construction Requirement

A. Except as is otherwise provided in this Section, a developer/subdivider may construct new affordable housing units within the project area of the overnight accommodation, or on other suitable property within the City.

1. Construction Requirement review procedures may be consolidated with procedures generally applicable to the review of the underlying overnight accommodations application (e.g. site plan review), as necessary.

B. The Construction Requirement is determined by dividing the finished floor area (or total units) of the type of overnight accommodation by the floor area factor (or unit factor) and multiplying the result by the AH Unit Mitigation number for the type of housing to be constructed. Where the mitigation number results in a decimal of .5 or higher, the number of required units to be constructed shall be rounded to the next highest whole number.

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Income Category</th>
<th>AH Unit Mitigation</th>
<th>Floor Area Factor or Unit Factor</th>
<th>FILC Mitigation</th>
<th>Per</th>
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<tbody>
<tr>
<td>Hotel/Motel</td>
<td>Extremely Low-Income</td>
<td>5.43</td>
<td>60,000 sq. ft.</td>
<td>$15.57</td>
<td>Sq. Ft.</td>
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<td>Low-Income</td>
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<td>60,000 sq. ft.</td>
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<tr>
<td></td>
<td>Moderate</td>
<td>229.16</td>
<td>60,000 sq. ft.</td>
<td>$15.57</td>
<td>Sq. Ft.</td>
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<tr>
<td>Condominiums</td>
<td>Extremely Low-Income</td>
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<td>100 condo units</td>
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<td>Very Low-Income</td>
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<td>Low-Income</td>
<td>8.14</td>
<td>100 condo units</td>
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<td>Townhomes</td>
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<td>$8.77</td>
<td>Sq. Ft.</td>
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</table>

Example: a 35,000 square foot hotel results in the following: 35,000/60,000=.583 x 10.87 low income units = 6.340 = Construction Requirement of 6 units of low income housing.
C. All affordable housing units constructed under the Construction Requirement shall meet applicable building codes and use requirements for the zoning district in which they are to be located.

D. The mix of income types for affordable housing units to be developed under the Construction Requirement will be determined by the City in consultation with the developer on a case by case basis based on the needs of the development and feasibility of the site. Affordable housing units must be developed proportionately to the development of overnight accommodations, as further specified in the Development Improvements Agreement between the City and the developer/subdivider and/or the LURA.

E. The area of affordable housing units built pursuant to the Construction Requirement shall be an average of not less than 1,000 square feet per unit. Developers shall provide a mix of one bedroom and larger units based on the expected needs of the project, as further specified in the Development Improvements Agreement and/or the LURA.

F. In cases of the development of new townhomes or condominiums that will be offered or used as overnight accommodations, the developer/subdivider shall satisfy the requirements of this Chapter utilizing the Construction Requirement unless the City determines that construction would be infeasible or impractical, given the: i) size or scope of the project; ii) site limitations, or iii) existence of other compelling factors.

G. If, given the finished floor area of the project, the Construction Requirement would result in less than one (1) unit of affordable housing being built, the developer/subdivider shall utilize and pay the FILC that would be applicable to the project.

H. First preference for affordable units built under the Construction Requirement shall be given to eligible employees of the developer/subdivider who are or will be employed on the developed premises. All tenants of affordable units developed under the Construction Requirement shall occupy units pursuant to a written lease providing for a tenancy with a duration of not less than a month to month period.

17.69.060 Dedication

A. As an alternative to the Construction Requirement or payment of the FILC, a developer/subdivider may, subject to City Council approval, elect to dedicate to the City real property with a current fair market value which is equal to or greater than the FILC which would otherwise be payable in conjunction with the overnight accommodation development. The following must be shown to satisfy a dedication:

1. The property must be within the City limits or be subject to annexation within a reasonable period of time;

2. The property must have legal access to a public street;
3. Domestic water, sewer, and other public utilities must be available in reasonable proximity to the property;

4. The value of the property must be confirmed by a current appraisal from a properly licensed and qualified appraiser;

5. The property must be conveyed to the City (or its designee) via warranty deed, free of all liens or encumbrances; and

6. The property must have a zoning designation that permits housing uses.

B. The City Council, in its discretion, may review the proposed conveyance to determine if the property meets the above criteria and is otherwise suitable for dedication as affordable housing. If approved, the dedication will be confirmed in a written development agreement with the developer. The Council may properly reject a proposed dedication if it determines that the property has one or more attributes or conditions which would render development infeasible or impractical.

1. By way of example only, and not of limitation, a property may be deemed infeasible or impractical for development due to: i) extreme topography; ii) unsuitable soil or geotechnical conditions; iii) excessive cost for roads, utilities, or other infrastructure; iv) lack of proximity to schools, stores, or other necessary services; v) unsatisfactory environmental conditions; vi) inadequate size; or vii) other legal, financial, or physical conditions negatively affecting prospects for development.

C. Dedicated property shall be developed, either individually or in conjunction with other parcels, for affordable housing.

17.69.070 Independent Feasibility Analysis

A. If, on the basis of individual development costs, employment load, or other similar data, an applicant believes that the FILC or Construction Requirement would be excessive, as applied to its development application, the applicant may submit to the City data, calculations, and evidence in support of an alternative to the FILC or the Construction Requirement. All such materials shall be accompanied by supporting cost or other data (e.g. land contracts, construction contracts, or the like) and be accompanied by a written attestation by the applicant signed under penalty of perjury. Any independent feasibility analysis offered under this Section shall be performed in substantial conformity with the methodology employed by the City pursuant to Phase I and Phase II, Assured Housing Nexus Fee Analysis for the City of Moab, March 2018 and May 2018, respectively, by BAE Urban Economics, or such successor studies as may be adopted by the City.

B. The City Manager shall review materials submitted by the applicant, or evidence submitted by City staff (if any) and may: approve the independent analysis; reject the
independent analysis and order the applicant to pay the FILC; or order that the applicant pay an alternative sum supported by the evidence.

1. The applicant shall be provided copies of any staff comments or materials submitted to the City Manager and be given a reasonable period of time in which to respond to any submittals prior to issuance of a decision.

2. The City Manager shall provide his/her decision in writing and explain the basis for the conclusion reached. In reaching a decision the City Manager has discretion to weigh the strength and credibility of the evidence offered in the matter.

**17.69.080 Standards for Construction Requirement Units**

A. All affordable housing units constructed pursuant to the Construction Requirement shall conform to the minimum requirements of the zoning district in which they are to be located. All such units shall have a permanently installed kitchen (including, a sink, stove, refrigerator, counters, and cabinets); bathroom (sink, toilet, and a shower or bathtub), bedroom (or sleeping area), living room (or area), parking, and storage space. All habitable rooms shall be separate from the bathroom(s). Each housing unit shall have non-exclusive access to common elements within the particular development. All 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. Building height shall be measured from the average finished grade of the building to the midpoint of the highest plane of the roof.

B. Vehicle parking shall be provided at a rate of not less than one (1) off-street space per single bedroom or studio unit. Units having two or more bedrooms shall have parking of not less than one and one half (1.5) spaces per bedroom. Where the number of required parking spaces for a development is a decimal of .5 or higher, the required number of spaces shall be rounded upward.

C. Affordable units shall include associated open space for residents consistent with the size and scope of the project. 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.

D. All units shall be constructed with adequate access to public streets, sidewalks, and trails. All units shall be served by municipal culinary water and sewer service, and have adequate storm water management.

**17.69.090 Eligibility- General Policy.** Affordable housing units developed pursuant to this Chapter shall be leased to persons who meet the eligibility requirements of this Chapter. The developer/subdivider shall provide proof of its compliance with all eligibility and affordability controls to the City or its designated monitoring agency annually and/or upon written request.
Prospective tenants shall provide verification of their eligibility at the time they enter into any lease agreement, and periodically thereafter.

A. 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 (100%) of the Grand County, Utah, Area Median Income (AMI), as published by HUD from time to time.

2. At least one person in the household must be either: i) employed full time in Moab or Grand County; ii) disabled; or iii) over sixty (60) years of age and retired from the workforce.

3. All persons occupying affordable housing must utilize the housing as their sole place of residence. Subleasing or assignment of rental agreements, or overnight accommodation uses of units developed under this Chapter, are not permitted.

B. Rent Calculation. The developer/subdivider offering affordable housing units for lease shall set the monthly rental rate at an amount (assuming a three-bedroom unit) and less reasonable utility costs that does not exceed thirty percent (30%) of the area median income (AMI) for a Grand County household of four (4) persons, as adjusted from time to time, divided by twelve (12) months (the Allowed Rental Rate). The Allowed Rental Rate calculation shall assume a reasonable allowance for annual utility costs that may be incurred by the tenant. Units with greater than or less than (3) bedrooms shall be rented at a rate which is adjusted proportionately. As an illustration, the Allowed Rental Rate per month for an affordable unit based on Grand County AMI of $55,000 would be as follows:

3 bedroom: AMI $55,000-$1,200
(annual utility allowance) x 30% ÷ 12 = $1,345.00 per month;

2 bedroom:  = $896.66;

1 bedroom:  = $448.33.

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.

17.69.100 Land Use Restriction Agreement

A. At the time of final approval of the development application 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 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. Subleasing of affordable units or the offering or use of affordable units as overnight accommodations is prohibited;

4. 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

5. 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. 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 or Final Site Plan for the underlying development.

D. Monitoring. The developer/subdivider shall submit an annual report to the City or its Monitoring Agency identifying the affordable units, the monthly rent for each unit, vacancy information for each year for the prior year, eligibility information for tenants of each affordable unit, 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.
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 the City may execute any necessary documents to give effect to this provision.

17.69.110 **Impact Fee Waiver.** The City Council may waive all or a part of the impact fees otherwise be payable in connection with affordable housing units developed under this Chapter. 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.

17.69.120 **Enforcement.** 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 may be issued a notice of violation and informed of the default under the applicable agreement or approval. 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.

A. 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.

B. 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.

C. 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 any person found to be in violation. In the alternative, the City may levy liquidated damages in the amount of five thousand dollars ($5,000.00) per violation.
17.69.130 Appeals. Persons wishing to appeal any decision or interpretation made under this Chapter may appeal to the Appeal Authority, pursuant to the procedures provided by Sections 17.72.120 through 17.72.170.

17.69.140 Periodic Review. City staff is directed to review market conditions, the availability of affordable housing, and provisions of this ordinance no later than two (2) calendar years from the date of enactment and, if appropriate, recommend amendments or changes to this Chapter.

17.69.150 Severability. This Chapter shall be interpreted and construed in a manner that conforms to applicable law. If any provision shall be found to be unlawful or unenforceable, it shall be stricken or reformed in a manner that conforms with applicable law, without invalidating the remainder of the ordinance.

17.69.160 Legislative History. The following documents informed and formed the basis for adoption of this Chapter:

- Phase I, Assured Housing Feasibility Analysis for the City of Moab and Grand County, March, 2018, BAE Urban Economics;
- Phase II, Assured Housing Nexus Fee Analysis for the City of Moab and Grand County, May 2018, by BAE Urban Economics;
- Moab Area Affordable Housing Plan, updated Spring, 2016;
- City of Moab General Plan, July 11, 2017.

CHAPTER 17.70
SECONDARY DWELLING UNITS
[Existing Chapter 17.69 is moved and renumbered as Chapter 17.70]

Passed and adopted by action of the City Council this 13th day of November, 2018. This ordinance shall take effect immediately upon passage.

By: ____________________________
Mayor Emily S. Niehaus

Attest:

By: ____________________________
Rachel Stenta, Recorder

Date: 11-13-18