

**GRAND COUNTY, UTAH
COUNTY RESOLUTION NO. 3245 (2020)
CITY OF MOAB, UTAH
CITY RESOLUTION NO. 41-2020**

**TO FORMALLY INITIATE PROCEEDINGS TO AMEND THE GRAND COUNTY
LAND USE CODE AND THE MOAB MUNICIPAL CODE TO AMEND THOSE
RELEVANT PORTIONS PERMITTING VEHICLE SALES, RENTALS, OR LEASING,
COMMERCIAL OUTDOOR RECREATIONAL USES, AND OUTFITTER, GUIDE
SERVICES AND FACILITIES**

AND

**TO IMPOSE A TEMPORARY MORATORIUM ON ISSUING NEW BUSINESS
LICENSES FOR THE SALE, RENTAL, OR LEASING OF ALL-TERRAIN VEHICLES
(ATVS), COMMERCIAL OUTDOOR RECREATIONAL USES INVOLVING AN ATV,
AND ATV OUTFITTING, GUIDING, AND TOURING**

AND

**TO IMPOSE A TEMPORARY MORATORIUM ON ISSUING NEW SPECIAL EVENTS
PERMITS FOR ALL-TERRAIN VEHICLE VENDORS, ASSOCIATIONS, AND
GROUPS**

WHEREAS, Utah Code § 41-6a-1509 permits the operation of street-legal all-terrain vehicles on County roads and City streets (subject to certain requirements);

WHEREAS, Chapter 9a of Title 10 and Chapter 27a of Title 17 of the Utah Code authorizes the City of Moab and Grand County to enact ordinances, resolutions, and rules and to enter into other forms of land use controls and development agreements that the County and City consider necessary or appropriate for the use and development of land within the County and City of Moab, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing: uses; density; open spaces; structures; buildings; energy-efficiency; light and air; air quality; transportation and public or alternative transportation; infrastructure; street and building orientation and width requirements; public facilities; fundamental fairness in land use regulation; and considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections;

WHEREAS, Chapter 9a of Title 10 and Chapter 27a of Title 17 of the Utah Code requires the City of Moab and Grand County to provide for the health, safety, and welfare of its residents; improve the peace and good order, comfort, convenience, and aesthetics of the County and City; protect the tax base; foster the state's agricultural and other industries; promote the orderly development of urban and nonurban development; provide fundamental fairness in land use regulation; and facilitate orderly growth and allow growth in a variety of housing types;

WHEREAS, the previously named Grand County Council ("County Council") adopted the Grand County General Plan Update on February 7, 2012 with Resolution No. 2976 and adopted the Grand County Land Use Code ("LUC") on January 4, 1999 with Ordinance No. 299, as

amended, for the purpose of regulating land use, subdivision and development in Grand County in accordance with the General Plan;

WHEREAS, the Moab City Council (“City Council”) adopted the City of Moab General Plan Update on July 11, 2017 with Resolution No. 28 (2017) and adopted the General Ordinances of Moab, Utah in 1958, as amended (“City Code”);

WHEREAS, from time to time, the County and City adopt ordinances to modify the LUC and City Code to further the purposes of the respective Land Use, Development, and Management Acts and align the same with changing community conditions and state law;

WHEREAS, while the County and City General Plans acknowledge the important contribution of tourism to the local economy, it also states that business development shall be ecologically responsible, fit the community and the needs and preferences of the residents, and be designed to avoid damaging natural amenities and resources. The General Plans also prioritizes a balance between economic sectors and recreational users to enhance the local recreational, scenic, and cultural amenities to attract and accommodate visitors;

WHEREAS, specifically, the County General Plan states a preference development that does not degrade the natural quiet of the surrounding landscape; and, specifically, the City General Plan seeks in Goal 7: Aural Environment: “to reduce noise levels so residents can peacefully enjoy their property and provide a pleasant environment for businesses and visitors;”

WHEREAS, the LUC permits vehicle sales, rental, or leasing facilities and outfitter, guide services and facilities in Sections 3.1, 3.4.9H, and 3.4.9K, and the City Code permits “vehicle sales and rentals,” “outdoor recreational uses, commercial,” and “recreational tour companies, outfitters and guide services” in Sections 17.21.20(A)(18), 17.24.20(A)(26), 17.27.20(A)(38), 17.31.20(A)(13) and (14), and 17.32.20(A)(4)(h);

WHEREAS, as provided in Utah Code §§ 10-1-203 and 17-53-216, the City and County adopted ordinances which provide for the licensing of businesses within their jurisdictions for the purpose of regulation and includes the power to deny, revoke, or suspend such licenses, as codified in Chapter 5 of the City Code and Chapter 5.04 of the Grand County Codified Ordinances;

WHEREAS, under similar authority and in exercise of their general police powers, the City and County have the authority to issue special events permits and regulate the same, which authority includes the power to deny, revoke, or suspend such permits, as codified in Chapter 8.16 of the Grand County Codified Ordinances and Chapter 4.11 of the City Code;

WHEREAS, there has been a recent increase in business license applications in the County and City for sales, rentals, and licensing of All-Terrain Vehicles and related guide services that serve non-residents (“ATV rentals and tours”);

WHEREAS, the rapid growth of ATV rentals and tours in the County and City has resulted in a sharp increase in noise impacts to the residents of the County and City during all hours of the day and night;

WHEREAS, numerous studies have found: noise pollution increases anxiety, depression, high blood pressure, heart disease, and stroke; small increases in unwanted ambient sound have significant health effects; and noise aggravates health conditions by inducing higher levels of stress;¹

WHEREAS, at least one additional study has found that people living in areas with more road traffic noise were 25 percent more likely than those living in quieter neighborhoods to have symptoms of depression;²

WHEREAS, studies have shown that continuous noise in excess of 30 dB disturbs sleep, which is well documented to be a prerequisite for good physiologic and mental functioning in healthy individuals,³ and the U.S. Environmental Protection Agency sound guidance for the protection of human health and welfare in rural areas is 55 dB;⁴

WHEREAS, during operation on streets and roads, most All-Terrain Vehicles in the state of Utah (not built to California noise standards) produce decibel levels louder than 70 dBA and often between 85 and 100 dBA;⁵

WHEREAS, the County adopted a Noise Ordinance in 2019 via Ordinance No. 602 that acknowledges this science and defines noise as “any Sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on human beings.” However, the County’s Noise Ordinance has been ineffective at reducing the impact of ATV noise because measuring the noise emitted by a moving vehicle on roads and highways is impractical given surrounding ambient noise and equipment limitations;

¹ Floud, *Medication use in relation to noise from aircraft and road traffic in six European countries: results of the HYENA study*, <https://pubmed.ncbi.nlm.nih.gov/21084328/>; Schmidt, *Effect of nighttime aircraft noise exposure on endothelial function and stress hormone release in healthy adults* <https://academic.oup.com/eurheartj/article/34/45/3508/435199>; Hahad, *Annoyance to Different Noise Sources is Associated With Atrial Fibrillation*, [https://www.internationaljournalofcardiology.com/article/S0167-5273\(17\)37174-7/fulltext](https://www.internationaljournalofcardiology.com/article/S0167-5273(17)37174-7/fulltext);

² Orban, *Residential Road Traffic Noise and High Depressive Symptoms after Five Years of Follow-up: Results from the Heinz Nixdorf Recall Study*, <https://ehp.niehs.nih.gov/doi/10.1289/ehp.1409400>

³ Jariwala, *Noise Pollution and Human Health: A Review*, https://www.researchgate.net/publication/319329633_Noise_Pollution_Human_Health_A_Review

⁴ Harrison, *Rock Creek Enduro Sound Tests*, Eldorado National Forest, USDA Forest Service Special Report, May 1994.

⁵ Horse Farms Forever, *ATV Engine Noise - the Sound of Science*, <https://www.horsefarmsforever.com/lets-have-a-sound-test/>; Rowley, *Are ATVs A Noisy Nuisance Or A Right?*, <https://shawangunkjournal.com/2014/03/27/news/1403273.html>

WHEREAS, the Moab valley is narrow and surrounded by sandstone cliffs which cause noise generated by ATV rentals and tours to reverberate valley-wide, which increases the impact of ATV rentals and tours on residents and visitors;

WHEREAS, several popular ATV trails are accessed through residential neighborhoods in the City and County, including the vast trail systems located in the Sand Flats Recreation Area and those accessed via Kane Creek Boulevard, Spanish Valley Drive, Spanish Trail Road, Westwater Drive, and Murphy Lane, which increases the impact of ATV rentals and tours on residents and visitors;

WHEREAS, market conditions and the boom in ATV rentals and tours have impacted other recreational user groups and associated economic activity, including mountain biking, hiking, rafting, and climbing, which economic sectors thrive in natural quiet;

WHEREAS, in the Fall of 2020, the City and County received a historical number of public comments objecting to noise impacts from ATV rentals and tours (and related special events), which public comments are included in the record for the joint meeting of the City and County on October 20, 2020;

WHEREAS, Utah Code §§ 10-9a-509 and 17-27a-508 permit the City and County to deny approval of a land use application submitted within an 180-day period after initiation of formal proceedings to amend applicable land use regulations;

WHEREAS, under Utah law, the City and County may exercise powers and perform functions that are reasonably related to the safety, health, morals, and welfare of its inhabitants; and

WHEREAS, for the reasons articulated above and under the authority set forth herein, the Grand County Commission and the Moab City Council find that compelling, countervailing public interests justify the temporary prohibition of new business licenses for sale, rental, or leasing of All-Terrain Vehicles and ATV outfitting, guiding, and touring, and new special events permits for the assemblage of vendors, enthusiasts, or users of All-Terrain Vehicles, including associations, groups, and individuals; until such time that either body ends the prohibition;

NOW, THEREFORE BE IT RESOLVED that the Grand County Commission and Moab City Council do hereby:

1. Formally initiate proceedings to amend the Grand County Land Use Code and the Moab Municipal Code to amend those relevant portions permitting All-Terrain Vehicle sales, rentals, or leasing and outfitter, guide services and facilities, including LUC Sections 3.1, 3.4.9H, and 3.4.9K and City Code Sections 17.21.20, 17.24.20, 17.27.20, 17.31.20, and 17.32.20; and
2. Impose a temporary moratorium on the issuance of new business licenses for the Sale, Rental, or Leasing of All-Terrain Vehicles and ATV Outfitting, Guiding, and Touring, until such time that either body ends the prohibition; and

3. Impose a moratorium on the issuance of new special events permits for the assemblage of vendors, enthusiasts, or users of All-Terrain Vehicles, including associations, groups, and individuals, until such time that either body ends the prohibition;

4. Definitions. As used herein:

A. "All-Terrain Vehicles (ATVs or ATV)" shall mean all-terrain Type I, II, and III vehicles as defined under Utah Code §§ 41-6a-102 and 41-22-2;

B. "Outfitting, Guiding, and Touring" shall mean accompanying customers and guests in an ATV, and/or outfitting a customer or guest with an ATV, whether driving the vehicle or not, whether or not monetary compensation is exchanged; and

C. "Sale, Rental, and Leasing" shall include the business use of All-Terrain Vehicles for customers, guests, or vendors or any other commercial activity involving an All-Terrain Vehicles whether or not monetary compensation is exchanged.

D. "Special Events" and "Special Events Permits" shall have the same meaning as set forth in Chapter 8.16 of the Grand County Codified Ordinances and Chapter 4.11 of the City Code.

APPROVED by the Grand County Commission and the Moab City Council in a joint public meeting on October 20, 2020 by the following vote:

GRAND COUNTY COMMISSION:

Those voting aye: Clapper, Woytek, Halliday, McGann, Hawks

Those voting nay: Wells _____

Those absent: Paxman (present/recused) _____



Mary McGann, Chair

ATTEST:



Quinn Hall, Clerk/Auditor

MOAB CITY COUNCIL:

Those voting aye: Jones, Derasary, Guzman-Newton, Duncan_

Those voting nay: Knuteson-Boyd_____

Those absent:_____

ATTEST:

Emily Niehaus, Mayor

Sommar Johnson, Clerk/Recorder