

SALT LAKE CITY ORDINANCE

No. _____ of 2019

(Amending Chapter 18.97, Mitigation of Residential Housing Loss)

An ordinance amending Chapter 18.97 of the Salt Lake City Code regarding Mitigation of Residential Housing Loss to better serve the City's needs and adjust the fees associated with housing mitigation.

WHEREAS, Salt Lake City has a policy to mitigate the loss of affordable housing stock due to new development; and

WHEREAS, the current interpretation of Section 18.97.030 of the Salt Lake City Code has produced no funds for the City Housing Trust Fund over the last two years to mitigate the housing loss due to demolition of existing housing; and

WHEREAS, interpretations of Section 18.97.030 may result in a fee that would be unworkable or economically prohibitive of demolition or change in land use; and

WHEREAS, housing with multiple units should be charged a comparable fee for demolition; and

WHEREAS, demolishing dilapidated housing is in the City's best interests; and

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending Salt Lake City Code Chapter. That Chapter 18.97 of the Salt Lake City Code, shall be, and hereby is, amended to read as follows:

Chapter 18.97
MITIGATION OF RESIDENTIAL HOUSING LOSS

18.97.010: PURPOSE:

18.97.020: HOUSING MITIGATION CONDITION PRECEDENT TO DEMOLITION OF RESIDENTIAL UNITS:

18.97.030: OPTIONS FOR MITIGATING RESIDENTIAL LOSS:

18.97.040: HOUSING MITIGATION JUSTIFICATION ~~TO COUNCIL:~~

18.97.050: NATURE AND REVIEW OF ALLEGED UNCONSTITUTIONAL OR ILLEGAL HOUSING LOSS MITIGATION:

18.97.010: PURPOSE:

The purpose of this chapter is to mitigate the loss of ~~affordable~~ housing stock due to new non-residential development with due consideration for vested or protected property rights.

18.97.020: HOUSING MITIGATION CONDITION PRECEDENT TO DEMOLITION OF RESIDENTIAL UNITS:

- A. Housing Mitigation Plan: Except as provided in subsection B of this section, any application for a building permit that will lead to a demolition permit or land use application, including conditional use applications, planned developments, conditional buildings and site design review, demolition permits, and any permit for a change of use from residential to a non-residential use, that results in a net loss of dwelling units which, if issued, will result in a loss of one or more residential units ~~located in a residential zone; any petition for a conditional use permit to authorize or expand vehicle parking in a residential or mixed use zone; and any petition for a zoning change that would permit a nonresidential use of land, that includes within its boundaries residential dwelling units,~~ may not be approved until a housing mitigation plan is approved by the city. The housing mitigation plan shall be proposed and submitted to the city's civil enforcement manager planning director ~~and the director of community and neighborhoods~~ and shall be accompanied by a housing impact statement.
- B. Exception: This section shall not apply to any housing which:
1. Is a nonconforming use as provided by relevant provisions of title 21A, "Zoning", of this code; or

2. Is located on property for which an applicable master plan or the current zoning envisions exclusive nonresidential use; or
3. a. Is proposed to be demolished for health or safety reasons as provided in ~~section Chapter 18.64.040 or chapter 18.48~~ of this title or their successors.
 - b. Notwithstanding subsection B3a of this section, housing which is demolished for health or safety reasons, which is the result of neglect pursuant to section 18.64.045 of this title, shall be subject to the provisions of this section.

4. Is not a net loss of residential dwelling units; or

5. Is not a permitted or conditional use in the zoning district as listed in 21A.33 Land Use Tables; or

6. Is replaced by other uses through an adaptive reuse process.

C. Housing Impact Statement: The housing impact statement shall:

1. Identify the essential adverse impacts ~~on the residential character of the area subject of the petition~~created by the loss of the housing units;
2. Identify by address any dwelling units targeted for demolition, following the granting of the petition;
3. Separately for each dwelling unit targeted for demolition, state its current fair market value, if that unit were in a reasonable state of repair and met all applicable building, fire and health codes;
4. State the number of square feet of land zoned for residential use that would be rezoned or conditionally permitted to be used for purposes sought in the petition, other than residential housing and appurtenant uses; and
5. Specify a mitigation plan to address the loss of ~~residential zoned land~~, residential units ~~or residential character~~.

18.97.030: OPTIONS FOR MITIGATING RESIDENTIAL LOSS:

Petitioners subject to the requirements of this chapter may satisfy the need for mitigation of any residential housing unit losses by ~~any one~~either of the following methods:

A. Replacement Housing: The petitioner may agree, in a legal form satisfactory to the city attorney, to construct the same number of residential dwelling units proposed for demolition, within:

1. The city council district in which the land subject of the petition is located; or
2. An adjoining council district, if the mitigation site is within a one mile radius of the demolition site; or-
3. An area of the city with an equivalent or higher Opportunity Index score, which is a composite of economic, educational and civic factors to quantify economic mobility and geographically inequalities; or

~~3.4.~~ Any such agreement shall include adequate security to guarantee completion within two (2) years of the granting of a demolition permit.

B. Fee Based On ~~Difference Between~~ Housing Value ~~And Replacement Cost~~: The petitioner may pay to the city housing trust fund a fee based on the difference between the fair market value of the housing units planned to be eliminated or demolished, defined as the current assessed value of the improvements from County Assessor records, multiplied by .04. and the replacement cost of building new units of similar square footage and meeting all existing building, fire and other applicable law, excluding land values.

~~C. Fee, Where Deteriorated Housing Exists, Not Caused By Deliberate Indifference Of Landowner:~~

~~1. Request By Petitioner For Flat Fee Consideration: In the event that a residential dwelling unit is targeted or proposed for demolition and is in a deteriorated state from natural causes, such as fire, earthquake or aged obsolescence that is not occasioned by the deliberate acts or omissions to act on the part of the petitioner or his predecessors in interest, which detrimental condition reduces a dwelling unit's fair market value or habitability as a residential dwelling unit, the petitioner may request an exemption from the above two (2) methods of mitigation from the director of the department of community and neighborhoods as provided below. A judgment as to whether~~

deterioration has occurred as the result of deliberate indifference shall be based on a preponderance of evidence.

- ~~2.—Required Facts Of Natural Deterioration/Increase Fair Market Value Of Units To Be Demolished: The petitioner may submit to the director of the department of community and neighborhoods every fact known to support the proposition that the residential dwelling units were not purposely allowed to deteriorate by lack of reasonable maintenance, ordinary and prudent repairs, or other acts or omissions to act. The value of the unit(s) targeted or proposed for demolition may be increased to the fair market value that the units would have, if each unit was in a state of habitability and minimally meeting applicable building codes and other applicable law, excluding land value. This enhanced value will then be applied in thus computing any housing mitigation payment provided in subsection B of this section.~~
- ~~3.—Flat Fee Mitigation Payment: In the event that the petitioner actually and reasonably demonstrates to the director of community and neighborhoods that the costs of calculating and analyzing the various methods of mitigation are unreasonably excessive in relationship to the rough estimated costs of constitutionally permitted mitigation, the department director may recommend to the city council that a flat rate be paid by the petitioner to the city's housing trust fund. This flat rate shall be a sum not in excess of three thousand three hundred twenty two dollars twenty cents (\$3,322.20) per dwelling unit to be demolished. Such flat fee shall be adjusted for inflation as of January 1 of each calendar year following the initial adoption hereof, based on the consumer price index for the previous twelve (12) months, or three percent (3%), whichever result is less.~~

18.97.040: HOUSING MITIGATION JUSTIFICATION ~~TO COUNCIL:~~

- ~~A.—Report To City Before Rezoning Hearings: The director of the department of community and neighborhoods, or designee, shall prepare a report justifying the method of housing mitigation recommended by the director, including the factual basis upon which it is premised and a factually based justification for the recommendation. This report shall be submitted to the planning commission in sufficient time for its deliberation concerning the advisability of effectuating the petitioner's request for a zoning change. The petitioner may, likewise, submit its proposal and the factual and legal justification for mitigation, if any, or why the director's recommendations are appropriate or should be modified. The commission shall include in its evaluation an evaluation of the adequacy of the housing~~

~~loss mitigation plan, proposed by the petitioner and that recommended by director of the department of community and neighborhoods.~~

~~B.A. Report To Civil Enforcement Manager Planning Director On Land Use Applications Conditional Use Permit Petitions: In the event of a conditional use permitland use application as described in 18.97.020, the housing mitigation plan said report shall be submitted to the city's civil enforcement manager planning director. The report shall be duly evaluated, considered and included in the decision regarding any conditional use permitapplicable land use application. The civil enforcement manager planning director, or designee, shall memorialize, in writing, the factual basis supporting any decision dealing with the housing mitigation component of any such conditional use permitland use application and include this finding and evaluation in the file for due consideration should there be an appeal relating thereto.~~

A. Report To Housing Advisory And Appeals Board On Demolition Permits: In the event of a demolition permit as described in 18.97.020, the housing mitigation plan shall be submitted to the housing advisory and appeals board as provided~~A housing mitigation plan required under chapter 18.64, "Demolition", of this title shall be considered by the housing advisory and appeals board as provided in such chapter. The director of the department of community and neighborhoods shall prepare a report justifying the method of housing mitigation recommended by the director, including the factual basis upon which it is premised and a factually based justification for the recommendation. This report-plan shall be submitted to the housing advisory and appeals board in sufficient time for its deliberation concerning the advisability of effectuating the petitioner's request for a demolition permit. The petitioner may, likewise, submit its proposal and the factual and legal justification for mitigation, if any, or why the director's recommendations are appropriate or should be modified.~~ The board shall include in its evaluation an evaluation of the adequacy of the housing loss mitigation plan,~~proposed by the petitioner and that recommended by director of the department of community and neighborhoods.~~

18.97.050: NATURE AND REVIEW OF ALLEGED UNCONSTITUTIONAL OR ILLEGAL HOUSING LOSS MITIGATION:

Should any petitioner or other person, corporation, or entity claim that this chapter or any application of it is illegal, unconstitutional, or may constitute or effectuate an unconstitutional taking of property without appropriate compensation, either per se or as applied, the city shall be notified as soon as practicable. The provisions of title 2, chapter 2.66, "Constitutional Takings", of this code shall apply to each such claim.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication. (Check that this doesn't need to be a specific date or timeframe.)

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

<p>APPROVED AS TO FORM Salt Lake City Attorney's Office Date: _____ By: _____ Megan J. DePaulis, Senior City Attorney</p>
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Bill No. _____ of 2018.
Published: _____.