



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members
FROM: Allison Rowland
Budget & Policy Analyst
DATE: January 16, 2024
RE: **ORDINANCE: COMMUNITY BENEFIT AND TENANT DISPLACEMENT AMENDMENTS**

Item Schedule:

Briefing: January 16, 2024
Public Hearing: February 20, 2024
Potential Action: March 5, 2024

ISSUE AT-A-GLANCE

The Council will consider a package of ordinance changes that aim to prevent the loss of existing affordable housing and counteract tenant displacement, as recommended in the *Thriving in Place* plan, which was adopted by the Council last fall. These changes would apply in relatively narrow situations: when proposed new developments seek zoning amendments or amendments to the City's General Plan. In these cases, ordinance changes would require that applicants:

1. choose to either replace any housing units destroyed or compensate the City for their loss; and
2. provide additional "community benefits" to ensure that developments enabled by zoning changes add value to the broader community.

The proposed changes would also establish a tenant relocation assistance program, establish a new section in City Code to define "general plan," and amend several existing zoning ordinances. The addition of a proposed general plan ordinance would help guide the Planning Commission and City Council as they review zoning petitions that exceed the recommended densities outlined in community plans. *These policy changes would not apply to developments that conform with existing master plans.*

The Planning Commission was briefed on the proposed changes on October 11, 2023, and held a public hearing on November 8. The Commission provided a positive recommendation on the proposed amendments, adding two recommendations which the Planning Division incorporated into its proposal for the Council.

Goal of the briefing: *Discuss and consider an ordinance to establish a General Plan section in Salt Lake City ordinance and amend several zoning ordinances related to "community benefits" and tenant displacement.*



ADDITIONAL AND BACKGROUND INFORMATION

A. **Background.** The Council adopted the *Thriving in Place* plan on October 17, 2023. The goal of the plan was to identify policy measures that can help residents remain in Salt Lake City during the current period of rapid growth and change. As the plan noted, implementation of it will require:

- ordinance changes,
- adopting alternatives to the existing Housing Loss Mitigation ordinance,
- ongoing State-level advocacy,
- new community partnerships, and
- significant budget and staffing increases.

When the Council adopted the *Thriving in Place* plan, it requested the Administration address the following priorities in the plan with special urgency and inform the Council of updated estimates for significant milestones for them by December 1, 2023. Some of these priorities would be addressed at least partially through the proposed ordinance changes discussed in this staff report. The priorities the Council selected for this request are the following:

- Develop a Tenant Relocation Assistance Program;
- Improve and Expand Tenant Resources and Services;
- Acquire and Rehabilitate Unsubsidized Housing;
- Utilize Publicly Owned Property;
- Develop New Funding Sources and Leverage Existing Resources; and,
- Define Displacement Indicators and Develop Data Systems.

B. **Policy Changes Related to the *Thriving in Place* Plan.** Council adoption of these ordinances would pave the way for several new City policies which aim to mitigate involuntary displacement caused by new development. These policies would affect the process that occurs when a property owner requests an amendment to the City's general plan or zoning ordinance, and they would be particularly important when property owners submit zoning map amendments that exceed recommended community plan densities within a general plan. The ordinance changes proposed by the Administration would affect Titles 18, 19, and 21 of *Salt Lake City Code*. Specific information on the places in code where these changes would occur can be found in section C, below. The major policy goals of these changes are discussed here.

➤ *As noted during the Council's consideration of Thriving in Place, implementation of the policies referred to in the proposed ordinances may require additional staff and resources. **Would the Council like to request the Administration provide cost estimates for the implementation of these policies before the scheduled public hearing date (February 20)?***

1. **Replacement of Demolished Housing Units.** If a development amendment request entails demolition of one or more housing units, the petitioner would be required to provide replacement dwellings with the same number of bedrooms within the new development. The developer would have two options for meeting this requirement:
 - a. including the corresponding replacement dwellings in the development and limiting their annual rental rate increases to no more than 3% for a period of 20 years; or
 - b. proposing a payment to the City's housing fund in lieu of the rental restriction on new affordable units. The developer's payment would need to equal the amount of each affordable unit's rental rate (prior to demolition) multiplied by the number of months that pass before the City issues a new Certificate of Occupancy. The example cited by the

Planning Division in the transmittal is: If the unit rent is \$1,000 per month prior to demolition and it takes 36 months for replacement unit to be completed, the payment would be \$36,000.

Comments from developers to-date suggest that most prefer option b, above.

- ***The Council may wish to ask the Administration how the maximum annual rental rate increase of 3% over 20 years was selected.***

2. **Tenant Relocation Assistance.** Another aspect of the proposed ordinance changes would require tenant relocation assistance to help renters cover the cost of relocating if they are displaced by new development. The Planning Division envisions this as a transaction between private parties, which existing planners can oversee without adding new staff. The proposal for a new tenant relocation assistance program includes the following:

- Up to \$1,500 in moving expenses.
- Replacement housing application fees.
- Deposit fees for the new place of residence.
- Rental assistance payment of the difference between the cost of the monthly rent of the demolished unit and a comparable unit. The total amount would not exceed \$7,200.

The property owner may propose to relocate the tenant to another property owned by them, provided the rent rate is the same as in the existing unit and no fees or deposits are charged.

- ***The Council may wish to ask for additional details about proposed Tenant Relocation Assistance. For example:***
 - ***How would City planners ensure that all developers provide reasonable opportunity for tenants to take advantage of relocation reimbursements? What would constitute “reasonable opportunity”?***
 - ***Should the amounts offered to displaced residents be fixed in ordinance or tied to changes in some commonly used indicator? For example, annual changes to these amounts might be tied to changes to the Department of Housing and Urban Development’s (HUD) annual income limits.***

3. **New Community Benefit Policy.** The proposed ordinance changes would also include a new policy requiring developers who seek a general plan zoning amendment to provide one or more broader “community benefits” in return. As distinct from the “public benefit” analyses which are required in some cases by State law, these “community benefits” would not require an independent analysis. Instead, the applicant would need to demonstrate to Planning Division staff, the Planning Commission, and ultimately the Council, that: 1. the proposed community benefit would not be available without the amendment; and 2. the developer’s own gains from providing this community benefit (for example, rent received by adding affordable housing units beyond the minimums required) would not outweigh the broader community’s gains. The proposed “menu” of potential community benefits are:

- c. Providing housing that aligns with the current or future needs of the community as determined by the general plan. Needs could include the level of affordability in excess of the number of dwellings that exist on the site, size in terms of number of bedrooms, or availability of housing for purchase.

- d. Providing commercial space for local businesses or charitable organizations.
- e. Providing a dedication of public open space.
- f. Providing a dedication or other legal form of protection from future development of land that is adjacent to a river, creek, wetland, floodplain, wildlife habitat, or natural lands.
- g. Preserving historic structures.
- h. Expanding public infrastructure that expands capacity for future development.

The proposed ordinance also includes language intended to ensure that the community benefit offered is proportional to the size of the increase in development capacity. In other words, small changes to development capacity would require small community benefits, and larger changes would require large benefits. The Planning Division suggests that a precise balance between community benefits and developer benefits is largely situation-dependent, so it would be difficult to provide a precise generic metric to use for these evaluations. Factors to consider that are proposed for this purpose include:

- the appropriateness of the proposed community benefit in relation to the increase in development potential;
- strategies included to counter displacement and its effects;
- public input; and,
- the probable impacts on City services and infrastructure.

Compliance with the terms of any community benefit would be secured through a development agreement between the City and the property owners.

- 4. **New Data Collection.** The proposed ordinance changes include the requirement that applicants for General Plan changes provide rental cost data and information on the size of each unit, which would allow the Planning Division to track and analyze displacement. This data also would be used to determine whether units to be demolished fall within affordability guidelines, which would help track the loss of affordable or “naturally occurring” affordable housing.

C. **Specific Ordinance Changes.** The proposed zoning amendments would enact a new ordinance, Title 19, and change parts of existing Titles 18 and 21A of City Code. These changes are designed to complement one another and ensure that all proposed General Plan amendments are evaluated using the same process and similar standards.

- 1. **Title 19: General Plan.** This proposed new section of ordinance defines what a general plan is, what contents are required for general plans, and when a general plan amendment is required. It also includes the policies discussed in section B, above, and addresses the following topics:
 - i. It identifies *Plan Salt Lake*, or its successor, as the key reference for establishing the purpose and goals of the general plan. It states that “*All other elements that collectively comprise the city’s general plan shall identify how the plan aligns with Plan Salt Lake and establish specific policies to achieve the purpose and goals of the general plan.*”
 - j. It identifies requirements for private petitioners who seek a general plan amendment and the City’s process for evaluating a petition. It also specifies how development agreements with the City may be applied to these petitions.

- k. It lists the requirements for Mayor- or Council-initiated petitions that propose new general plans or comprehensive updates and amendments to existing general plans.
- l. It expands the factors that the Planning Commission and the City Council should consider when reviewing a general plan or zoning amendment. Those include specific factors to help evaluate the impacts of a request based on proximity to amenities and services, the potential effects on City services, and the possibility of displacing residents and businesses.

➤ ***Does the Council want to add more details to the public process for reviewing General Plan amendments, including identifying the stage in the process at which the Council should provide feedback?***

➤ ***Would the Council like to incorporate references to the process that is outlined in Resolution 14 of 2020 (see Attachment C1)?***

2. **Title 21A.50: Zoning Amendments.** This section would be amended to apply community benefit and displacement requirements to zoning amendments. The changes to 21A.50 reflect the changes to included Title 19.
3. **Title 18.97: Mitigation of Residential Housing Loss.** The existing ordinance would be deleted and replaced with the community benefit policy in Title 19 General Plans and Title 21A.50 amendments. Replacement of demolished housing would be addressed through the new requirements in Title 19 and in 21A.50.
4. **Title 18.64.050: Residential Demolition Provisions.** Removal of Title 18.97 (above) would trigger amendments to the demolition requirements in Title 18.64.050: Residential Demolition Provisions. For consistency, this section would be amended to ensure that if housing is demolished it is replaced with housing units of similar rental rate and unit size.
5. **Pending: New Ordinance on Parking Lots.** The Planning Division stated, “A separate upcoming ordinance proposal will prohibit expansions or new commercial parking lots that involve the demolition of a dwelling.”

D. **Public Engagement.** Beginning in July 2023, Planning Division and other CAN (Department of Community and Neighborhoods) staff organized meetings with the Recognized Community Organizations, established a project website, and used their listserv to inform the public of the proposed ordinance changes and receive their comments and questions. In addition, three in-person open houses were held in late summer and fall at three sites across the City, and the Mayor’s Office hosted two roundtable meetings with developers. The transmittal notes that:

“The development community raised concerns regarding the rental rate restriction on replacement units (proposed at no more than a 3% increase per year for 20 years). Their concern centered on cost implications and the unpredictability of such an extended timeframe. Multiple comments indicated a preference for an upfront fee as an alternative approach. This preference was both a desire to enhance cost predictability and to allocate the fee toward providing assistance to a greater number of people facing displacement. As a result, the draft was modified to allow a payment option in addition to the rental rate restriction option.”

POLICY QUESTIONS

- 1. The Council may wish to discuss the concern raised by the development community during the Administration's public engagement regarding a preference for an upfront fee rather than a rental rate restriction on replacement units.***
- 2. The Council may wish to discuss with the Administration where these requirements would likely be triggered, since some recent changes to the City's zoning ordinance increase development flexibility without triggering a rezone. The Council may wish to brainstorm options with the Administration if the preference is for these requirements to be triggered in more development and redevelopment scenarios.***

ATTACHMENT

Attachment C1. Resolution 14 of 2020.