
MEMORANDUM

DATE: October 29, 2009

TO: Council Members

FROM: Council Planning Subcommittee
Janice Jardine, Land Use Policy Analyst

SUBJECT: Proposed amendments to the City's current demolition regulations
City Code, Chapter 18.64 – Demolition and Chapter 18.97 Mitigation of
Residential Housing Loss

Over the past several years, the City has experienced situations where existing structures have been demolished as part of anticipated new construction but, in some cases, construction is delayed and the site is allowed to sit vacant with minimal or no landscaping. This can disrupt existing development patterns of an area or negatively impact the character of an established neighborhood. The proposed changes are intended to address these types of issues.

The following is a brief summary of key items from the proposed draft ordinance relating to amendments to the City's demolition and housing mitigation regulations. They are provided here to assist in the Council's discussion on November 5. A copy of the draft ordinance in revision format is provided at the end of this memorandum. (Please note - All changes in the draft are not listed here.)

The intent is to receive feedback from the Council and identify steps to move this item forward for further action.

Additional items may be identified and discussed by Council Members.

Administrative staff has indicated concern with some of the proposed changes and will be prepared to discuss their issues with the Council.

• **POTENTIAL PROCESS OPTIONS**

- A. City Council Work Session discussion (November 5)
- B. Staff prepare final draft ordinance
- C. Provide final draft for public review and comment
- D. City Council public hearing (December)
- E. Other options identified by the Council

Chapter 18.64 – Demolition

A. 18.64.020 - Permit application

(See draft ordinance - pg.1, lines # 36-38)

1. Requires identification of the proposed use of the premises following demolition
2. The anticipated start date for new construction, and
3. Whether any development applications have been submitted or approved by the City.

B. 18.64.030 – Fees and Signature – Bond

(See draft ordinance - pgs.2-3, lines # 72-103)

1. Removes landscaping waiver fee
2. Requires fee for compliance with the requirements of this chapter and to assure the property is kept free of weeds and junk materials
3. Addition of bonding requirements

C. 18.64.040 – Issuance of Demolition Permit

(See draft ordinance - pgs.3-4, lines # 105- 162)

- Sec. A - A demolition permit shall be issued if:
 1. A building permit for a use replacing the building/structure has been approved and issued by the City, **or**
 2. If the Chief Building Official or the Fire Marshal orders demolition of the structure due to natural disaster, fire, or other similar event; or hazardous or blighting conditions.
 - a. Requires the site to be landscaped within 30 days after demolition unless a building permit has been issued for new construction.
 - b. Provisions of this section apply regardless of any contrary zoning regulations or standards.
 - c. Requires a bond to cover proper installation and maintenance of the landscaping.
 - d. Allows a delay in installing landscaping up to 6 months due to weather conditions and requires the property owner to escrow funds sufficient to ensure installation of the landscaping.
- Sec. B – Addresses property owner neglect
 1. It is unlawful for a property owner to neglect a building/structure to the point that it fails to conform to standards in City Code, Chapter 18.50 Existing Residential Housing (Fit Premises), Sec. 18.50.140 through 18.50.230.
 2. Such neglect shall be a class B misdemeanor.
 3. Each day a violation occurs shall be a separate offense.
- Sec. C – requires:
 1. A housing mitigation plan for demolition of one or more dwelling units located in a residential zone, whether or not occupied.
 2. Compliance with the Historic Overlay District requirements 21A.34.020 sections J through P if located in a nationally listed historic district or is a nationally listed site, or is considered a significant or contributing structure.

D. 18.64.050 – Residential Demolition Provisions – Sec. F. HAAB Decision (Housing Advisory and Appeals Board)

(See draft ordinance - pg. 6, lines #251-256 and pg. 7, lines # 274-276)

1. HAAB may order a demolition permit not be issued for an additional 6 months to allow further attempts to preserve the housing stock.
2. After any additional time period ordered by HAAB has expired, a demolition permit shall be issued subject to compliance with the housing mitigation plan.

E. 18.64.070 – removes the post-demolition use plan waiver procedure. (Landscaping waiver)

(See draft ordinance – pg. 7-8, lines # 296-331)

F. 18.64.070 – Pre-demolition Salvage Permits

(See draft ordinance - pg. 8, lines # 333-341)

- A pre-demolition salvage permit may be issued upon approval by the City of a building permit for new construction.

G. 18.64.080 – Expiration – Diligence

(See draft ordinance - pg. 9, lines # 357-360)

- Requires permit holder to diligently pursue completion of demolition work or City may declare bond forfeited and use funds to finish demolition.

Chapter 18.97 – Mitigation of Residential Housing Loss

A. 18.97.010 Purpose

(See draft ordinance - pg.11, lines # 419-425)

- **Question for Council consideration – should the purpose statement be updated?**

The ~~city~~City has experienced a loss of important affordable housing stock, particularly in its central ~~city~~City and Capitol Hill areas due to commercial expansion. It is the objective of the city to mitigate the adverse impacts of such losses, ~~when zoning changes are sought to accommodate expansion of commercial uses,~~ with due consideration for vested or protected property rights.

A. 18.97.020 – Housing Mitigation Condition Precedent to Demolition of Residential Units

(See draft ordinance - pg.11, lines #431-440)

- Requires a housing mitigation plan for a demolition permit that will result in a loss of one or more residential units located in a residential zone.

B. 18.97.040 – Housing Mitigation Justification

(See draft ordinance - pg.13 & 14, lines # 542-554)

1. Requires HAAB to consider a housing mitigation plan as part of the process for a demolition permit application.

2. Requires a report from the CED Director to HAAB justifying the method of housing mitigation recommended including a factually based justification for the mitigation.
3. Applicant may submit a similar proposal and factual and legal justification for mitigation or why the Director's recommendations are appropriate or should be modified.
4. HAAB action shall include an evaluation of the adequacy of the mitigation plan submitted by the applicant and recommended by the CED Director.

**Chapter 18.64
DEMOLITION**

18.64.010 Permit Required:

It is unlawful to demolish any building or structure in the cityCity, or cause the same to be demolished, without first obtaining a permit for demolition of each such building or structure from the cityCity building official as provided in this chapter.

18.64.020 Application For Permit:

To obtain a permit for demolition, an applicant mustshall submit an application in writing on a form furnished by the building official for that purpose. Each application shall:

- A. Identify and describe the type of work to be performed under the permit;
- B. State the address of the structure or building to be demolished;
- C. Describe the building or structure to be demolished including the type of use, type of building construction, size and square footage, number of stories, and number of residential dwelling units (if applicableany);
- D. Indicate the method and location of demolished material disposal;
- E. Identify the approximate date of commencement and completion of demolition;
- F. Indicate if fences, barricades, scaffolds or other protections are required by any cityCity code for the demolition and, if so, their proposed location and compliance;
- G. State whether fill material will be required to restore the site to level grade after demolition and, if required, the approximate amount of fill material;
- H. If the building or structure to be demolished contains any dwelling units, the application should state whether any of the dwelling units are presently occupied; and
- I. State the proposed use of the premises following demolition. If new construction is proposed following demolition, state the anticipated start date and whether any development applications have been submitted to and/or approved by the City.

18.64.030 Fees And Signature Bond:

A. **Signature:** The permit application shall be signed by the party or the party's authorized agent requesting the permit. SignatureA signature on the permit application constitutes a certification by the signee that the information contained in the application is true

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45 and correct.

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47 **B. Demolition Permit Application Fee:** The fee for a demolition permit application
48 shall be based on the building floor area as follows:

49

50 Building Floor Area	51 _____	52 Fee
53 5 - 2,000 square feet	_____	54 \$ 66.44
55 2,001-4,000 square feet	_____	56 77.52
57 4,001-6,000 square feet	_____	58 88.59
59 6,001-8,000 square feet	_____	60 121.81
61 8,001-10,000 square feet	_____	62 132.89
63 10,001-12,000 square feet	_____	64 166.11
65 12,001-14,000 square feet	_____	66 199.33
67 14,001-16,000 square feet	_____	68 232.55
69 16,001-18,000 square feet	_____	70 265.78
71 18,001-20,000 square feet	_____	72 293.46
73 20,001-22,000 square feet	_____	74 332.22
75 22,001-24,000 square feet	_____	76 376.52
77 24,001-26,000 square feet	_____	78 409.74
79 26,001-28,000 square feet	_____	80 454.03
81 28,001-30,000 square feet	_____	82 498.33
83 30,001-32,000 square feet	_____	84 537.09

85 For each five hundred (500) square feet over thirty-two thousand (32,000) add an
86 additional \$11.07.

87 ~~C. **Waiver Fee:** Landscaping waiver requests shall also pay a fee of one hundred eighty
88 eight dollars twenty six cents (\$188.26) for the cost of the landscape waiver process.~~

89 ~~**D. Inspection Fee:** If landscaping is not required by the zoning ordinance, or if a
90 landscaping waiver is sought pursuant to section 18.64.070 of this chapter, an An additional fee
91 for the cost of inspecting the property to determine it compliance with the requirements of this
92 chapter and to assure the property is kept free of weeds and junk materials shall be collected in
93 the amount of one hundred ten dollars seventy four cents (\$110.74). If a waiver request is denied,
94 the one hundred ten dollars seventy four cents (\$110.74) paid under this subsection shall be
95 refunded.~~

96 ~~**D. Bond:** A bond in an amount sufficient to ensure abatement of potential impacts to
97 public health and safety and long-term environmental impacts, general clean-up of the
98 demolition site, and installation of landscaping, if required under this Chapter, shall be required
99 prior to issuance of a demolition permit.~~

100 1. The amount of the bond shall be determined by the building official as

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89 sufficient to cover the cost of the proposed demolition and installation of landscaping, if
90 required by this chapter.

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92 2. The form of the bond shall be as required in Section _____ of this code.

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94 3. If the applicant fails to comply with provisions of the demolition permit and the
95 City has unreimbursed costs resulting from such failure, the City may call on the bond for
96 reimbursement. If the amount of the bond exceeds such costs, the remainder shall be
97 released to the applicant. If the amount of the bond is less than the cost incurred by the
98 City, the applicant shall be liable to the City for the difference. The building official may
99 require readjustment of bond amount if the scope of work changes after demolition work
100 has begun.

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102 4. Bonding shall remain in place until all required work is complete and the final
103 inspection has been approved.

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105 **18.64.040 ~~Postdemolition Use Plan Required~~ Issuance of Demolition Permit:**

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107 ~~No A. A demolition permit shall be issued until one of the following requirements has~~
108 ~~been met only upon compliance with Subsection C of this section, if applicable, and if:~~

109
110 ~~1. A-A building permit for thea use replacing the demolished building or structure has~~
111 ~~been approved and issued by the building services and housinglicensing division.~~

112
113 ~~_____ B. A landscaping plan for the site, showing the sprinkling system and planted~~
114 ~~areas, has been approved and a performance bond to assure timely and proper installation~~
115 ~~and maintenance of the landscaping has been filed with the city in a form acceptable to~~
116 ~~the city. In the event the building official determines that landscaping is impracticable; or~~
117 ~~unnecessary given the characteristics of the site and the neighborhood, the landscaping~~
118 ~~requirement may be waived subject to the provisions of section 18.64.070 of this chapter.~~

119
120 ~~_____ C. In the event~~

121 ~~2. The chief building official or fire marshal orders immediate demolition because~~
122 ~~the premises have been damaged beyond repair because of a natural disaster, fire, or other~~
123 ~~similar event; or wherebecause immediate demolition and clearing of the land is~~
124 ~~necessary to remove hazardous or blighting conditions, the building official may waive~~
125 ~~the landscaping requirement and order immediate demolition.~~

126
127 ~~D. For parcels in the D-1 zone, a permit for the use replacing. Landscaping~~
128 ~~shall be installed on the site as provided in Section 21A.48.100D2 of this code~~
129 ~~within thirty (30) days after demolition authorized under this Subsection A2 is~~
130 ~~completed, unless a building permit has been issued for one (1) or more new~~
131 ~~buildings or structures located on the same site as the demolished building or~~
132 ~~structure has been issued by building services and licensing, or a landscape plan~~

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for the site has been approved.

i. Subsection 18.64.040A2a shall apply regardless of any contrary in accordance with subsection Title 21A.48.100D of this code. A performance bond to assure timely

ii. Timely and proper installation and maintenance of the landscaping shall be assured by a bond filed with the city City as provided in a form acceptable to Section 18.64.030D of this chapter.

b. Notwithstanding the foregoing Subsection A2a, installation of landscaping may be delayed due to weather conditions so long as landscaping is completed within six (6) months after demolition and the property owner escrows funds sufficient to assure installation of landscaping as reasonably determined by the city building services and licensing division.

B. It shall be unlawful for a property owner to neglect a building or structure to the point that the building or structure fails to conform with the standards set forth in Sections 18.50.140 to 18.50.230 of this title. Such neglect of a building or structure shall be a class B misdemeanor. Each day a violation occurs shall be a separate offense.

C. 1. If one (1) or more dwelling units located in a residential zone, whether or not occupied, will be removed under a demolition permit, a housing mitigation plan shall be prepared and acted upon as set forth in Chapter 18.97 of this title prior to issuance of the permit.

2. If proposed demolition involves a nationally designated landmark, a significant or contributing structure, or a structure in a nationally listed historic district, a demolition permit shall be issued only upon compliance with the provisions set forth in Subsections 21A.34.020J, K, L, M, N, O, and P of this title.

18.64.050 Residential Demolition Provisions:

If the structure for which a demolition permit is sought contains ~~residential~~ one (1) or more dwelling units, whether or not occupied, the building official shall consider the impact of the requested demolition permit's impact on the housing stock of Salt Lake City pursuant to the following provisions: unless the proposed demolition is conducted for health and safety reasons as provided in Subsection 18.64.040A2 of this chapter. In such event, this section shall not apply.

A. Impact Determination Standards: The building official, within ten (10) days ~~of the~~ after receipt of a demolition permit application, shall determine whether the requested demolition ~~permit and the postdemolition use plan~~ will result in:

1. Construction of a one (1) or more residential ~~unit or~~ units with a net loss of one

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177 (1) or more than five (5) dwelling units; or
178

179 2. ~~Construction~~No net loss of a vacant lot, landscaped lot or parking lotdwelling
180 units will occur due to the anticipated construction of new dwelling units pursuant to an
181 approved and issued building permit for the premises where the demolition will occur.
182

183 **B. No Impact Permit:** If ~~the building official determines that neither of the conditions of~~
184 ~~subsection A~~Subsection A2 of this section ~~are met,~~applies, the building official shall issue a
185 finding of no residential impact and the demolition permit ~~shall may~~ be issued.
186

187 **C. Impact Finding:** If ~~the building official finds one of the criteria in subsection~~
188 ~~A~~Subsection A1 of this section applies, the building official shall issue a finding of residential
189 impact.
190

191 **D. Impact Notice:** Upon making a finding of residential impact, the building official
192 shall mail ~~a~~ written notice to the owners and residents of ~~properties~~property located within ~~a~~ six
193 hundred ~~foot~~feet (600') ~~radius~~ from the property line of the ~~property on which~~lot where the
194 proposed demolition work will take place as shown on the last equalized property tax assessment
195 roll.
196

197 ~~_____~~ Notice shall also be mailed to any affected neighborhood-based organization
198 recognized pursuant to ~~subsection~~Subsection 2.60.020C of this code. The notice shall specify:
199

200 1. The property proposed for demolition;

201 2. The proposed ~~postdemolition~~replacement use;

202 ~~_____~~ 3. The proposed housing mitigation plan;

203 4. The basis for the finding of residential impact; and
204

205 5. The date and time of a hearing before the ~~housing advisory~~Housing Advisory
206 and ~~appeals board~~Appeals Board (HAAB).
207

208 **E. HAAB Impact Hearing:**
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210 1. To allow time for effective consideration by the notified parties, the hearing
211 before ~~the~~ HAAB shall take place not less than thirty (30) days after the finding of
212 residential impact issued by the building official and not more than sixty (60) days after
213 the finding.
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215 2. The HAAB shall take evidence from the applicant and all interested parties
216 regarding:
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221 a. ~~Regarding~~The effect of the proposed demolition and
222 ~~postdemolitionreplacement~~ use ~~plan's effect plan~~ on:

223 i. The ~~city's~~City's housing stock,

224 ii. The City's employment and economic base,

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226 iii. The character of the neighborhood where the subject property is
227 located,

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229 iv. The ~~city's~~City's master plans for the area,

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231 v. The ~~city's~~City's adopted housing policy~~s~~, and

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233 vi. Any other policy adopted by the City which applies to the
234 subject property.

235
236 b. Regarding the ~~The~~ cost and economic practicality of repairing or
237 remodeling the structure proposed for demolition to comply with zoning
238 requirements and with building and housing codes~~; and~~

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240 c. The proposed method of housing mitigation, including the factual basis
241 upon which the housing mitigation plan is premised and justified.

242
243 3. The HAAB may encourage ~~the an~~ applicant to work with the ~~city~~City and
244 interested parties to repair, remodel, preserve, or increase the ~~city's~~City's housing stock.

245
246 4. The HAAB shall issue its decision not more than ten (10) days after the
247 hearing.

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251 **F. HAAB Decision:**

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253 1. If Notwithstanding the acceptability of a housing mitigation plan, the HAAB
254 may order that a demolition permit not be issued for an additional period not to exceed
255 six (6) months to allow the City and interested parties time to make further attempts to
256 preserve the housing stock if the HAAB finds:

257
258 a. The proposed demolition and ~~postdemolitionreplacement~~ use plan ~~has a~~
259 ~~significant adverse~~are likely to adversely impact ~~on the city's~~;

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261 i. The City's housing stock and ~~the~~ character of the neighborhood;
262 and

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264 bii. Which is not outweighed by any positive effects on the

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city's~~City's~~ economic and employment base; and

~~e. That it b. The structure proposed for demolition is economically practical to repair or remodel the structure proposed for demolition to comply with zoning requirements and building and housing codes, HAAB may order that the demolition permit not be issued for an additional period not to exceed ninety (90) days to allow the city and interested parties time to make further attempts to preserve the housing stock.~~

2. After ~~this~~any additional time period ordered by the HAAB has expired, the requested permit shall be immediately issued subject to compliance with the housing mitigation plan.

2.3. If the HAAB does not make the findings required by this subsection~~Subsection~~ F, the demolition permit shall be issued ten (10) days after the HAAB's decision.

G. Appeal Of HAAB Decision:

1. The applicant or any person or entity required to be notified of the demolition pursuant to subsection~~Subsection~~ D of this section, if aggrieved by the HAAB decision, may appeal to the ~~mayor~~Mayor by filing a written notice specifying the grounds for such an appeal within ten (10) days of the HAAB decision.

2. Any other party identified in subsection~~Subsection~~ G1 of this section may respond to the appeal in writing within ten (10) days of the appeal.

3. The ~~mayor~~Mayor or the ~~mayor's~~Mayor's designee shall consider the appeal on the written record and shall issue a decision within ten (10) days of the close of any written submissions.

~~18.64.070 Postdemolition Use Plan Waiver Procedure:~~

~~——— A. If a waiver of the postdemolition use plan is sought under subsection 18.64.040E of this chapter, the applicant shall file with the building official, on a form provided therefor, a statement of any claimed hardship or other special circumstances justifying waiver of the postdemolition use plan requirements.~~

~~——— B. The building official shall mail a written notice to the owners and residents of properties within a six hundred foot (600') radius from the edge of the property on which the proposed demolition work will take place as shown on the last equalized property tax assessment roll and any affected neighborhood based organization recognized pursuant to subsection 2.60.020C of this code. The notice shall state the reasons given by the applicant for waiving the postdemolition use plan and state the date, time and location of a hearing before the city's~~

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~~housing advisory and appeals board.~~

~~———— C. The chairperson of the housing advisory and appeals board shall select a panel of three (3) examiners from the roster of members and schedule a hearing date no sooner than thirty (30) days from the date of the petition and no later than sixty (60) days from the date of the petition, except that if a residential impact hearing is also required pursuant to subsection 18.64.050E of this chapter the two (2) hearings Such decision shall be combined.~~

~~———— D. In determining whether to waive the postdemolition use landscaping requirements, the board may consider the effects on surrounding properties, the character of the neighborhood, the master plan for the area, future plans for the property and similar factors.~~

~~———— E. ——— 1. The applicant, or any person or entity required to be notified of the demolition pursuant to subsection B based on the criteria set forth in Subsection F of this section, if aggrieved by the HAAB decision, may appeal to the mayor by filing a written notice specifying the grounds for such an appeal. A decision by the Mayor or the Mayor's designee may be appealed within ten (10) days of the HAAB decision to a court of competent jurisdiction.~~

~~2. Any other party identified in subsection B of this section may respond to the appeal in writing within ten (10) days of the appeal.~~

~~3. The mayor or the mayor's designee shall consider the appeal on the written record and issue a decision within ten (10) days of the close of any written submissions.~~

18.64.080-070 Predemolition Salvage Permits:

~~A. A If the City has approved a site plan or a building permit for new construction on the premises following demolition, a predemolition salvage permit may be issued for other than structural demolition. Such permit shall be required for the removal of doors, windows, special glass, fixtures, fittings, pipes, railings, posts, panels, boards, lumber, stones, bricks, marble, or similar materials on the exterior or interior of ~~the building~~any building. A predemolition salvage permit may not be issued for any property for which the City has not approved a building permit for new construction on the premises following demolition.~~

~~B. A predemolition salvage permit fee shall be paid in the amount of twenty percent (20%) of the demolition fee.~~

18.64.090080 Expiration—Diligence:

~~———— Permits~~

~~———— A. A demolition permit shall expire forty-five (45) calendar days from the date of issuance, unless a completion date allowing more time is requested and approved by the building official at the time of application. ~~Demolition permits~~A demolition permit may be renewablerenewed upon request prior to expiration with approval of the building official for one-~~

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353 half (1/2) of the original permit fee, provided continuous progress is being made. If a permit is
354 allowed to expire without ~~the~~ prior renewal, any subsequent request for reinstatement shall be
355 accompanied by a reinstatement fee equal to the original demolition permit fee.
356

357 18.64.100 B. Once demolition has begun pursuant to a demolition permit, the permit holder shall
358 diligently pursue completion of the work authorized thereunder. If such work is not diligently
359 pursued the City may declare the bond required under Section 18.64.030D to be forfeited and
360 may use the proceeds to finish demolition as provided in such section.
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362 18.64.090 Qualifications To Do Work:
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364 It shall be unlawful for demolition work permitted under this chapter to be performed
365 except by:
366

367 A. A general contractor or subcontractor currently holding a license in good standing
368 with the state of Utah to do wrecking and/or demolition work.
369

370 B. A licensed general contractor currently holding a license in good standing with the
371 state of Utah qualified as a general contractor, but only when the demolition is incidental and
372 supplemental to the construction by the general contractor of a new structure on the
373 demolition site.
374

375 C. Salvage work under a predemolition salvage permit may be done without a
376 contractor's license provided all other conditions of this chapter are met.
377

378 18.64.110 Demolitions Requirement100 Demolition Requirements:
379

380 A. Prior to the commencement of any demolition or moving, the permittee shall plug all
381 sewer laterals at or near sidewalk lines as staked out by the department of public utilities. No
382 excavation shall be covered until such plugging is approved by the department or by the building
383 official. The permittee shall further ensure all utility services to the structure and/or premises
384 have been shut off and meters removed prior to commencement of demolition work.
385

386 B. When the applicant indicates the demolition will require more than thirty (30) days to
387 complete, and where required by the building official for the safety of the public, the applicant
388 shall also provide plans to fence the demolition site so that it is inaccessible to unauthorized
389 persons in a manner acceptable to the building official. The building official may waive the
390 fencing requirement if it is determined that fencing would be inappropriate or unnecessary to
391 protect safety or health. ~~unnecessary to protect safety or health.~~
392

393 C. A permit for demolition requires that all materials comprising part of the existing
394 structure(s), including the foundation and footings, be removed from the site. The depression
395 caused by the removal of such debris must be filled back and compacted to the original grade, as
396 approved by the building official, with fill material excluding detrimental amounts of organic

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397 material or large dimension nonorganic material.

398
399 D. Permitted demolition work, including filling and leveling back to grade and removal
400 of required pedestrian walkways and fences, must be completed within the permit period unless
401 the building official finds that any part of the foundation of building or site will form an integral
402 part of a new structure to be erected on the same site for which plans have already been approved
403 by the building division. In such event, the building official may approve plans for appropriate
404 adjustments to the completion time and may impose reasonable conditions including the posting
405 of a bond, erection of fences, securing, or similar preventions to ensure the site does not create a
406 hazard after the demolition is completed.

407
408 **18.64.120110 Relationship To Other Ordinance:**

409 Provisions of this chapter shall be subordinate to any contrary specific provisions of
410 ~~chapter 21A.30 of this code, dealing with the downtown C-4 zoning district, and chapter~~Chapter
411 21A.34 of this code, dealing with demolition in historical districts, or ~~their~~its successor
412 ~~chapters~~chapter.
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Chapter 18.97

MITIGATION OF RESIDENTIAL HOUSING LOSS ~~FROM REZONING~~

18.97.010 Purpose:

The ~~city~~City has experienced a loss of important affordable housing stock, particularly in its central ~~city~~City and Capitol Hill areas due to commercial expansion. It is the objective of the city to mitigate the adverse impacts of such losses, ~~when zoning changes are sought to accommodate expansion of commercial uses,~~ with due consideration for vested or protected property rights.

18.97.020 Housing Mitigation Condition Precedent To ~~Rezoning Or Permits For Parking Lots, In Areas Containing Demolition of~~ Residential Units:

A. Housing Mitigation Plan: Any ~~application for a demolition permit which, if issued, will result in a loss of one (1) 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 zones 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 shall have been approved by the ~~city~~City. The housing mitigation plan shall be proposed and submitted to the ~~city's planning director~~City's Planning Director and the ~~director~~Director of ~~community~~Community and ~~economic development by the petitioner not less than twenty (20) days prior to final action by the city on such a petition~~Economic Development and ~~shall~~ be accompanied by a housing impact statement.

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

~~1) identify. Identify~~ the essential adverse impacts on the residential character of the area subject of the petition;

~~2) identify. Identify~~ by address any dwelling units targeted for demolition, following the granting of the petition;

~~3) separately. 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. 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. Specify~~ a mitigation plan to address the loss of residential zoned land, residential units or residential character.

460
461 **18.97.030 Options For Mitigating Residential Loss:**
462

463 Petitioners subject to the requirements of this chapter may satisfy the need for mitigation
464 of any residential housing unit losses by any one of the following three (3) methods:
465

466 A. Replacement Housing: The petitioner may agree, in a legal form satisfactory to the
467 cityCity attorney, to construct the same number of residential dwelling units proposed for
468 demolition, within: 1) the cityCity municipal council district in which the land subject of the
469 petition is located; or 2) an adjoining council district, if the mitigation site is within a one mile
470 radius of the demolition site. Any such agreement shall include adequate security to guarantee
471 completion, within two (2) years of the granting of any rezoning or conditional use permit.
472

473 B. Fee Based On Difference Between Housing Value And Replacement Cost: The
474 petitioner may pay to the cityCity housing trust fund the difference between the fair market value
475 of the housing units planned to be eliminated or demolished and the replacement cost of building
476 new units of similar square footage and meeting all existing building, fire and other applicable
477 law, excluding land values.
478

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

481
482 1. Request By Petitioner For Flat Fee Consideration: In the event that a residential
483 dwelling unit is targeted or proposed for demolition and is in a deteriorated state from
484 natural causes, such as fire, earthquake or aged obsolescence that is not occasioned by the
485 deliberate acts or omissions to act on the part of the petitioner or his predecessors in
486 interest, which detrimental condition reduces a dwelling unit's fair market value or
487 habitability as a residential dwelling unit, the petitioner may request an exemption from
488 the above two (2) methods of mitigation from the director of the city's department of
489 community and economic development, as provided below City's Department of
490 Community and Economic Development, as provided below. A judgment as to whether
491 deterioration has occurred as the result of deliberate indifference shall be based on a
492 preponderance of evidence.
493

494 2. Required Facts Of Natural Deterioration²/Increase Fair Market Value Of Units
495 To Be Demolished: The petitioner may submit to the director of the city's
496 department City's Department of community Community and economic
497 development Economic Development every fact known to support the proposition that the
498 residential dwelling units were not purposely allowed to deteriorate by lack of reasonable
499 maintenance, ordinary and prudent repairs, or other acts or omissions to act. The value of
500 the unit(s) targeted or proposed for demolition may be increased to the fair market value
501 that the units would have, if each unit was in a state of habitability and minimally
502 meeting applicable building codes and other applicable law, excluding land value. This
503 enhanced value will then be applied in thus computing any housing mitigation payment

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504 provided in ~~subsection~~Subsection B of this section.

505
506 3. Flat Fee Mitigation Payment: In the event that the petitioner actually and
507 reasonably demonstrates to the ~~city's director~~City's Director of ~~community~~Community
508 and ~~economic development~~Economic Development that the costs of calculating and
509 analyzing the various methods of mitigation are unreasonably excessive in relationship to
510 the rough-estimated costs of constitutionally permitted mitigation, the department director
511 may recommend to the ~~city council~~City Council that a flat rate be paid by the petitioner
512 to the ~~city's~~City's housing trust fund. This flat rate shall be a sum not in excess of three
513 thousand three hundred twenty two dollars twenty cents (\$3,322.20) per dwelling unit to
514 be demolished. The three thousand three hundred twenty two dollars twenty cent
515 (\$3,322.20) flat fee shall be adjusted for inflation as of January 1 of each calendar year
516 following the initial adoption hereof, based on the consumer price index for the previous
517 twelve (12) months, or three percent (3%), whichever result is less.

518
519 **18.97.040 Housing Mitigation Justification To Council:**

520
521 A. Report To City Before Rezoning Hearings: The director of the ~~department~~Department
522 of ~~community~~Community and ~~economic development~~Economic Development shall prepare a
523 report justifying the method of housing mitigation recommended by the director, including the
524 factual basis upon which it is premised and a factually based justification for the
525 recommendation. This report ~~will~~shall be submitted to the ~~planning and zoning~~
526 ~~commission~~Planning Commission in sufficient time for its deliberation concerning the
527 advisability of effectuating the petitioner's request for a zoning change. The petitioner may,
528 likewise, submit its proposal and the factual and legal justification for mitigation, if any, or why
529 the director's recommendations are appropriate or should be modified. The commission ~~will~~shall
530 include in its evaluation an evaluation of the adequacy of the housing loss mitigation plan,
531 proposed by the petitioner and that recommended by director of the department of community
532 and economic development.

533
534 B. Report To Planning Director On Conditional Use Permit Petitions: In the event of a
535 conditional use permit, said report ~~will~~shall be submitted to the ~~city's planning director~~City's
536 Planning Director. The report ~~will~~shall be duly evaluated, considered and included in the
537 decision regarding any conditional use permit. The ~~planning director will~~Planning Director shall
538 memorialize, in writing, the factual basis supporting any decision dealing with the housing
539 mitigation component of any such conditional use permit and include this finding and evaluation
540 in the file for due consideration should there be an appeal relating thereto.

541
542 C. Report to Housing Advisory and Appeals Board: A housing mitigation plan required
543 under Chapter 18.64 (Demolition) of this title shall be considered by the Housing Advisory and
544 Appeals Board as provided in such chapter. The director of the Department of Community and
545 Economic Development shall prepare a report justifying the method of housing mitigation
546 recommended by the director, including the factual basis upon which it is premised and a
547 factually based justification for the recommendation. This report shall be submitted to the

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548 Housing Advisory and Appeals Board in sufficient time for its deliberation concerning the
549 advisability of effectuating the petitioner's request for a demolition permit. The petitioner may,
550 likewise, submit its proposal and the factual and legal justification for mitigation, if any, or why
551 the director's recommendations are appropriate or should be modified. The board shall include in
552 its evaluation an evaluation of the adequacy of the housing loss mitigation plan, proposed by the
553 petitioner and that recommended by director of the Department of Community and Economic
554 Development.

555
556 **18.97.050 Nature And Review Of Alleged Unconstitutional Or Illegal Housing Loss**
557 **Mitigation:**
558

559 Should any petitioner or other person, corporation or entity claim that this chapter or any
560 application of it is illegal, unconstitutional or may constitute or effectuate an unconstitutional
561 taking of property without appropriate compensation, either per se or as applied, the ~~city~~City
562 shall be notified as soon as practicable and the provisions of ~~title~~Title 2, ~~chapter~~Chapter 2.66
563 (Constitutional Takings) of this code complied with, regarding each such claim.