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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** February 9, 2010

**SUBJECT:** Proposed changes to Building Services Fees

**STAFF REPORT BY:** Sylvia Richards, Policy Analyst

**AFFECTED COUNCIL DISTRICTS:** Citywide

**ADMINISTRATIVE DEPT:** Building Services  
**AND CONTACT PERSON:** Orion Goff

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## KEY ELEMENTS:

The Administration is proposing the following changes in fees for Council consideration:

- A. Fee for Expedited Plan Review (200% of the base permit fee)
- B. Fee for Extension of Plan Review Expiration (\$1,000 plus \$113.00 per hour with a minimum of 2 hours for plan review)
- C. Fee for Temporary Certificates of Occupancy (\$300.00 for each month after the initial 30 days)
- D. Under current Council policy, a public hearing is required for the proposed fee increases.

## BACKGROUND INFORMATION:

A. Proposed fee increase for Expedited Plan Review

Currently, City code does not address plan review expiration. According to the Administration, the City has received numerous requests for expedited plan review service for which customers are willing to pay.

The Administration indicates that City's plan review turn-around time (TAT) fluctuates between 3-5 weeks from December through March, and 8-11 weeks from April through November. Seasonal fluctuations in the construction and development industry create difficulties in maintaining adequate staffing especially during periods of high demand, according to the transmittal. Customers claim they would benefit financially if the City were to create a process for expedited plan review with a 10-21 day timeframe. According to the Administration, other jurisdictions including Portland, Seattle, San Jose and Phoenix, charge customers in the range of 150-300% of the base plan review fee. The Administration recommends charging customers double the permit fee (200%).

The Administration proposes to outsource expedited plan review to private contract firms during high demand periods, which would provide expedited review for customers willing to pay, avoid penalizing other projects already in process, and avoid using additional staff time. According to the transmittal, the expedited review fees would pay for the outsourcing. Currently, there are four firms under contract for outsourced review, and by contract, the firms are required to provide a TAT within ten days.

B. Proposed fee increase for extension of Plan Review Expiration

Utah law dictates that plan reviews expire after 180 days of inactivity. According to the transmittal, the building official is authorized to grant one or more extensions of time for justifiable cause not to exceed ninety days per extension. The Administration indicates the City is responsible for storing and monitoring the plans before the permits are issued. The transmittal notes that codes and ordinances could change substantially during any plan review period. In order to be renewed, plans must be re-submitted in their entirety and full plan review fees are charged again.

Using other jurisdictions' fee schedules as a comparison, the Administration proposes to charge \$1,000 to renew expired plan review after 180 days, plus \$113.00 dollars per hour for necessary plan review due to changes in code or ordinances with a 2-hour minimum. No plan review may be renewed after 3 years from the original submission date.

C. Proposed cost recovery fee for Temporary Certificates of Occupancy

The City issues temporary certificates of occupancy to allow new buildings to be occupied at the earliest time possible. State code indicates certificates of occupancy can be issued before the work is complete, only if the building can be occupied safely. Building officials determine the time period for which the temporary certificate is valid. Utah code allows the building official to adopt a fee schedule to provide for cost recovery of issuing tracking and enforcing on multiple temporary certificates.

The transmittal indicates the City expends time issuing, tracking, and enforcing Temporary Certificates of Occupancy. The Administration proposes to charge customers \$300.00 for each month after the initial 30-day Temporary Certificate of Occupancy is issued. Up to three renewals are allowed after the initial 30-days.

D. According to the Administration, all of the proposed fees are voluntary. The City Attorney has confirmed that Utah law allows for the fee increases as long as they are voluntary.

E. The Administration indicates that the Business Advisory Board received a presentation regarding the proposed fees approximately one year ago.

F. If the proposed fees are adopted by the Council, the Administration will send a notice via email and regular mail to those who may be affected, and then allow 60 days to lapse before implementing the new fees.

**MATTERS AT ISSUE:**

*For plan review extensions, the Council may wish to explore further with the Administration how to make the proposed fees equitable. As currently proposed, the fee would be \$1,000 with no differentiation between large and small projects.*

*If the new fees are adopted, the Council may wish to request an update regarding the extent of cost recovery during the annual budget process.*

## **BUDGET RELATED FACTS:**

The Administration anticipates that the proposed fees will increase City revenues, although the extent of cost recovery is currently unknown. The transmittal suggests that the revenue from the expedited plan review will pay for the outsource fees as well as the staff resources to provide quality control for the work.

Revenues from plan review extensions may be used to recover costs associated with storing and monitoring the plans before the permit is issued.

For the temporary certificates of occupancy, it is currently unknown whether revenues received will constitute a full cost recovery. The Administration will have a better understanding after a trial period is completed.

cc: David Everitt, Ed Rutan, Frank Gray, Mary DeLaMare-Schaefer, Wilf Sommerkorn, Pat Comarell, Gordon Hoskins, Gina Chamness, Orion Goff, Paul Nielson, Larry Butcher, Brent Beck

FRANK B. GRAY  
DIRECTOR

# SALT LAKE CITY CORPORATION

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT  
OFFICE OF THE DIRECTOR



RALPH BECKER  
MAYOR

MARY DE LA MARE-SCHAEFER  
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.  
DEPUTY DIRECTOR

## CITY COUNCIL TRANSMITTAL

David Everitt, Chief of Staff

Date Received: 12-11-09

Date Sent to City Council: 12/15/2009

**TO:** Salt Lake City Council  
Carlton Christensen, Council Chair

**DATE:** November 20, 2009

**FROM:** Frank Gray, Community & Economic Development Director

**RE:** Request to add to portions of Section 18.32.035 'Fee Schedule'

**STAFF CONTACTS:** Orion Goff, Building Services Director, 801-535-6681  
Paul Nielson, Senior City Attorney, 801-535-6799  
Larry Butcher, Building Services, 801-535-6181

**RECOMMENDATION:** That the City Council hold a briefing and schedule a Public Hearing

**DOCUMENT TYPE:** Ordinance

**BUDGET IMPACT:** Proposed fees will increase revenue from the Building Services Division

### DISCUSSION:

**Issue Origin:** The changes proposed in this transmittal are in direct response to numerous customer requests to offer additional options in the application, review, inspections and approvals of construction and development in Salt Lake City. The specific options studied and discussed in this transmittal are:

- Expedited Plan Review
  - Many jurisdictions offer this service for an additional fee. We are recommending Salt Lake City charge 200% of the base plan review fee for those who would like their plan reviews expedited. We also have the option of outsourcing expedited plan reviews. State Code allows us to charge the cost to do the review or 65% of the permit fee, whichever is greater. The City currently has four private firms under contract for building and fire code plan review.

- Extension of Plan Review Expiration
  - Because Salt Lake City Code is silent on the issue of plan review expiration, Building Services is required to abide by State Building Code, which states that plan reviews expire after 180 days of inactivity. Extending the time before plan reviews expire will allow customers more time to secure funding, and not require them to have to resubmit their plans and pay a new set of fees.
- Temporary Certificates of Occupancy
  - A disproportionate amount of resources are expended to issue, track, and enforce Temporary Certificates of Occupancy. Establishing a fee for these certificates will help Building Services recover some of the costs associated with administering this policy and motivate customers to complete the approval process.

The proposals will not create a negative impact on revenue. Temporary Certificates of Occupancy agreements will actually increase City revenue; to what extent will not be known until after a trial period. All of the proposals demonstrate our willingness to partner with customers for successful development in Salt Lake City by providing them additional tools and options throughout the plan review and permitting process.

*Analysis:*

Expedited Plan Review

In the construction and development industry, “time is money”. Any time gained in the plan review and permitting process, according to our customers, is money saved and pleased customers for them. In-house plan review stakeholders across multiple City Divisions and Departments receive numerous requests for expedited plan review service. Customers have indicated that a program that would facilitate an expedited plan review and permitting process is needed and has been accommodated in other jurisdiction on the Wasatch Front and in other regions.

The cyclical and seasonal nature of the construction and development industry makes it is very difficult to maintain consistent plan review turn-around-times without frequently altering staffing levels. Due to the major investment in training and experience for technical review staff, it is impossible to reasonably adjust staffing levels to compensate for the seasonal fluctuations in the industry.

Historically, due to the seasonal nature of the industry, plan review turn-around-time (TAT) for initial review varies from a high of 11 weeks to a low of 2-3 weeks. (December through March the TAT averages 3-5 calendar weeks; from April through November the review may take 8-11 calendar weeks.) Many customers believe they would benefit financially if plan review first comments could be accomplished consistently in the 10-21 day timeframe and have voiced their willingness to pay extra fees for that option. Benchmarking of other jurisdictions indicates that viable options exist to accomplish expedited review with an additional fee which would be paid by the private developer. Research indicates that expedited review is offered by other jurisdictions at a cost to the customer of 150-300% of the base plan review fee. Our recommendation is double (200%) the permit fee.



A viable alternative is to outsource the review to private contract firms during the peak periods of demand. This alternative accomplishes two goals: 1) providing the expedited review to those willing to pay for it, and 2) not penalizing other projects in the queue with additional review delays as a result of taking staff review time. Historically the City has used outsourcing plan review with some success. It requires additional dedication of staff resources to oversee the outsourced plans, to quality control (QC) the work, and to process the plans for approval. The cost of this process is not easily managed in the current budget model. Money to pay for the outsourcing outside the budgetary process requires multiple budget amendments or a yearly budget item to cover the estimated cost. Estimating the cost is also difficult due to fluctuating demand. The current scenario does not compensate the City for the staff time needed to monitor and administer the program.

State statute limits the amount local jurisdictions charge for building plan review services. The amount is limited to the cost to the local jurisdiction to do the review or 65% of the permit fee, whichever is greater. Under these auspices it is reasonable to charge customers extra for expedited review as all expedited plans will be outsourced. The additional revenue will be utilized to pay the contract private outsource firms for the review and to cover the City's overhead to administer and QC the outsourced reviews. Salt Lake City Corporation currently has four private firms under contract for building and fire code review; each firm is contractually required to guarantee TAT within 10 business days.

#### Extension of Plan Review Expiration

Salt Lake City Building Services currently has several major projects (over five-million dollars in valuation) whose plan reviews will expire according to the State Building Code. Customers attribute this scenario to current market conditions. Customers have paid hundreds of thousands of dollars for plan review, and most of these projects are through the plan review process and ready for permit issuance. However, most of these customers cannot pay for the permit and commence construction due to economic conditions; according to them, lenders have pulled back approvals for financing the projects.

The Salt Lake City Code is silent on the issue of plan review expiration. Therefore, Building Services is constrained to abide by the State Building Code Requirements, which are specific on Plan Review Expiration in The International Building Code (IBC) Section 105.3, as follows:

**Time limitation of application.** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

According to this code section, applicants are allowed 180 days of continuous activity to obtain approval on their plans and pay for the permit. The Code allows for extensions for "justifiable cause," which is up to the discretion of the Building Official. The conditions by which the

permit can be extended are not addressed in the IBC even though there is considerable cost to the jurisdiction for storing and monitoring the plans before the permit is issued.

Another factor that must be considered is that codes and ordinances may change substantially during any given plan review period. The proposed new fee schedule (see page 3 in the attached proposed ordinance) assures a fair and orderly process for extensions to plan reviews. It also proposes subsequent equitable charges to renew those reviews, that otherwise, according to the IBC, would expire and have to be resubmitted in their entirety with new plans and full fees for plan review.

#### Cost-Recovery of Temporary Certificate of Occupancy (C of O)

Building owners, contractors, and developers exert a great deal of pressure on the Building Services Division to allow new buildings to be occupied as soon as possible. The current State Building Code provides a section allowing building officials to accommodate that need, as contained in the IBC Section 110.3:

**Temporary occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

A high percentage of projects rely on the ability to obtain Temporary Certificates of Occupancy as provided in the Code. The building code, however, makes no provision for an orderly process in regards to Temporary Certificates of Occupancy. The Code does, however, give the building official authority to adopt a fee schedule that provides cost-recovery for the program.

Experience has shown that there is a great deal of effort expended by the local jurisdiction to issue, track, and enforce Temporary Certificates of Occupancy. The proposed addition to the fee schedule provides means for cost-recovery for administering this policy while providing the customer service it affords.

#### **PUBLIC PROCESS:**

The City is required to hold a public hearing before adopting this ordinance.

#### **RELEVANT ORDINANCES:**

Section 18.32.035 (Fee Schedule)

SALT LAKE CITY ORDINANCE

No. \_\_\_\_\_ of 2010

(An ordinance allowing for expedited building plan review, limited renewal of expired building plan reviews, granting a one-time extension to certain plan review expiration dates, and amending sections 18.32.035 (fees) and 18.20.050 (building permit application, review and permit issuance conditions) of the *Salt Lake City Code* regarding fees for temporary certificates of occupancy.)

An ordinance amending section 18.32.035 (fees) of the *Salt Lake City Code* pertaining to fees for temporary certificates of occupancy, expedited plan reviews, and expired plan review renewal; amending section 18.20.050 (building permit application, review, and permit issuance conditions) of the *Salt Lake City Code* allowing expedited review of building permit plans and limited renewal of expired plan reviews; and providing a one-time extension of certain expired plan reviews.

WHEREAS, Section 105.3.2 of the 2006 International Building Code, as adopted in Section 18.32.020 Of the Salt Lake City Code, contains a 180-day time limit for expiration of building plan reviews (also known as "plan check"); such expiration provisions address applicant inaction, not City inaction; and

WHEREAS, due to the current crisis in the financial markets and development industry that has created significant obstacles to obtaining development project financing, many development projects will likely be subject to building plan review expiration; and

WHEREAS, the expiration of plan reviews (also known as "plan check") will require such projects to go through the plan review process again, resulting in costly delays that may ultimately require those projects to be permanently shelved, likely causing further disruption to the local economy and local property tax base; and

WHEREAS, the Council finds there is an immediate need to preserve public



health, safety and welfare insofar as certain building plan checks will expire within the next year which may likely cause further disruption to the local economy and the City's property tax base; and

WHEREAS, extending the expiration dates of the plan reviews subject to this ordinance until December 31, 2010 will allow the City to maintain the status quo so that the City can analyze additional measures that may be necessary to address the current financial crisis and its impact on development within the City.

WHEREAS, this ordinance expresses the intent of the City Council to promote a more efficient plan review process and, without which there is the potential that plan review expiration could result in insurmountable financial burden caused by starting the review process over, negative impacts to applicants' rights by potential ordinance and code amendments; and

WHEREAS, extending plan review expiration dates to December 31, 2010 of those building plan reviews that were/are scheduled to expire on or after January 1, 2008, will provide a reasonable increase in the time limit to obtain building permits; and

WHEREAS, it is in the best interests of the City and its citizens to extend to December 31, 2010 the expiration dates for building plan reviews that were/are scheduled to expire on or after January 1, 2008, insofar as such extension of time would be beneficial to the City's customers, would preserve vested rights and would be consistent with all other existing statutory requirements; and

WHEREAS, it is in the best interests of the City and its citizens for the City to charge a fee for the issuance of each temporary certificate of occupancy;

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

SECTION 1. That Section 18.32.035 of the *Salt Lake City Code (Fees)* shall be and

hereby is amended to read as follows:

Building permit fees shall be based on the total valuation of the proposed project as set forth in the following table:

<b>Total Valuation</b>	<b>Fee</b>
\$1.00 to \$500.00	\$31.23
\$501.00 to \$2,000.00	\$31.23 for the first \$500.00 plus \$4.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$92.02 for the first \$2,000.00 plus \$18.60 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$520.59 for the first \$25,000.00 plus \$13.42 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$855.47 for the first \$50,000.00 plus \$9.30 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,320.57 for the first \$100,000.00 plus \$7.44 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$4,297.27 for the first \$500,000.00 plus \$6.31 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$7,453.36 for the first \$1,000,000.00 plus \$4.85 for each additional \$1,000.00, or fraction thereof

Plan review fees shall be sixty five percent (65%) of the building permit fees.

Fees to expedite building plan review as governed by section 18.20.050 of this code shall be 2 times the standard building plan review fee.

Penalties for not obtaining Permanent Certificate of Occupancy will be \$300 dollars for each month, after the initial 30 day Temporary Certificate of Occupancy, which has no additional cost associated with it; due before the first of the month and only allowed for up to three renewals after the initial free 30 day period. Partial months will not be refunded.

Fees for renewing expired plan review after 180 days as governed by section 18.20.110 of this code shall be ½ of the original plan review fee up to a maximum of \$1,000, plus \$113 dollars an hour for review necessitated by changes in codes and ordinances (two-hour minimum).

Other fees shall consist of electrical, mechanical and plumbing fees as set forth in sections 18.36.100 through 18.36.130, 18.52.050, and 18.56.040 of this title or their successor sections.

SECTION 2. That Section 18.20.050 of the *Salt Lake City Code* (Application; Review; Permit Issuance Conditions) shall be and hereby is amended to read as follows:

- A. Except as provided in paragraph B. of this section, the application plans and data filed by an applicant for a building permit shall be checked by the building official. Said application may be reviewed by other government agencies or departments to check compliance with the laws and ordinances under their jurisdiction. If the building official is satisfied that the work described in an application for a building permit and plans filed therewith conform to the requirements of this title and other pertinent ordinances and laws and that the required fees have been paid, the building official shall issue a permit therefor to the applicant. The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this title. The holder of such permit shall proceed at his or her own risk without assurance that the permit for the entire building or structure will be granted.
- B. Expedited plan review. A building permit applicant may seek an expedited building plan review, provided that the applicant pay the expedited plan review fee set forth in section 18.32.035 of this code. The expedited building plan review may be conducted by a qualified third party with significant experience conducting building plan reviews, as selected and approved by the Building Official. The person(s) assigned to conduct the expedited building plan review shall provide initial comments, including corrections to be made to the building plans, within ten (10) business days of the date the application was filed.
- C. Plan review expiration. If a building permit applicant fails to submit corrected building plans in accordance with the comments and requirements of the Building Services Division or its authorized representative within 180 days of the Division transmitting such comments and requirements to the applicant, or if the applicant fails to pay the required building permit fee within 180 days of the Division informing the applicant that its building plans are approved and the building permit fee is due, the plan review shall expire at the end of such period and the review become null and void. An expired plan review may be renewed, provided that the applicant pay the plan review renewal fee established in section 18.32.035 of this code, however, no plan review may be renewed after three years from the original submission date.

SECTION 3. That, notwithstanding the provisions of section 18.20.110 of the *Salt Lake City Code*, building plan reviews that expired or are scheduled to expire on or after January 1, 2008 but not after December 31, 2010 shall be and are hereby deemed to have a new expiration date of December 31, 2010, provided that such deadline extension is not otherwise inconsistent with state law. The benefit of an extended plan review expiration date provided by this provision may be waived at the applicant's request.

SECTION 4. Effective Date: This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

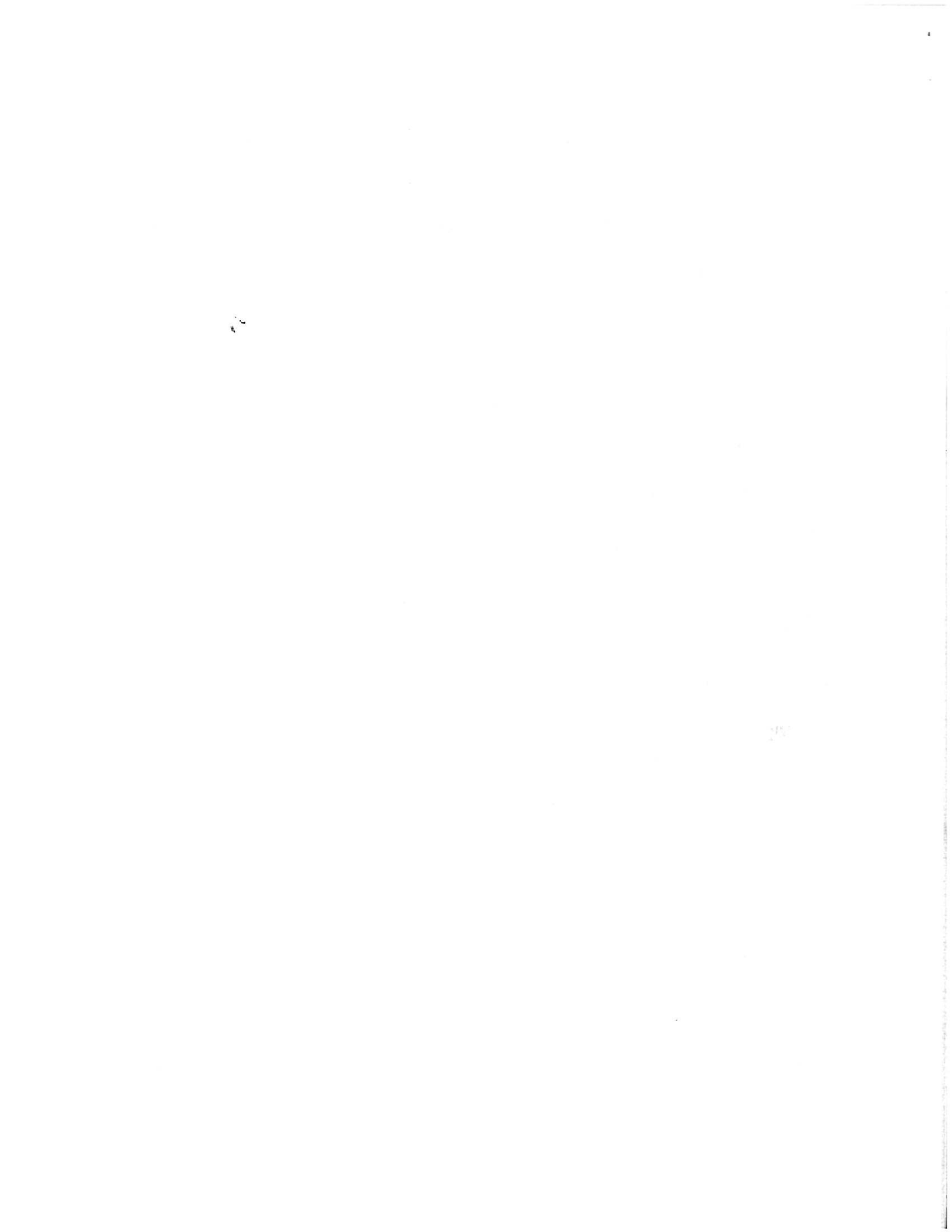
Bill No. \_\_\_\_\_ of 2010.

Published: \_\_\_\_\_.

HB\_ATTYY-#8561-v6-Ordinance\_-\_expedited\_plan\_review\_and\_extensions.DOC

<b>APPROVED AS TO FORM</b> Salt Lake City Attorney's Office Date: <u>FEBRUARY 16, 2010</u> By: <u>Paul C. Nielson</u> Paul C. Nielson, Senior City Attorney
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Building Services

### AGREEMENT FOR A TEMPORARY CERTIFICATE OF OCCUPANCY

Date: \_\_\_\_\_ Building Permits #: \_\_\_\_\_

Project Address: \_\_\_\_\_ Fee Collection #: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

Request is hereby being made to Building Services and Licensing Inspection Department for a 30-day, Temporary Certificate of Occupancy. It is understood that this building project is not completely finished and that \_\_\_\_\_ accepts full responsibility for risk and activities related to beneficial occupancy of this facility.

A Temporary Certificate of Occupancy is for a specified period of time **(30 days)**. The initial request is free. If a 30-day extension is later requested, a \$300.00 fee will be required. If a second extension is requested, an additional \$300.00 fee is required. If a third 30-day extension is requested, a \$300.00 fee will be required for that request and it will be the final extension allowed.

It is agreed that all required corrections or outstanding items will be completed or resolved within the time frame specified by the Temporary Certificate of Occupancy. It is further agreed that if all required items are not completed within that time, Salt Lake City Corporation is hereby given permission to revoke the Temporary Certificate of Occupancy at this address, and if necessary, to terminate utility services to the above address for a period of not less than 30 days from the expiration date.

Signed: \_\_\_\_\_  
(Owner) (Phone)

By: \_\_\_\_\_  
(Owner) (Phone)

Signed: \_\_\_\_\_ Effective Date: \_\_\_\_\_ Not to exceed \_\_\_\_\_ days  
(Building Inspector)

**NOTE: NOT VALID UNLESS SIGNED BY THE INSPECTOR**