



**SOUTH SALT  
LAKE  
COMMUNITY  
DEVELOPMENT**

**MICHAEL FLORENCE**  
DIRECTOR

**FRANCIS LILLY**  
DEPUTY DIRECTOR

**PLANNING & ZONING**  
O 801.483.6011  
F 801.483.6060

**BUILDING DEPT.**  
O 801.483.6005  
F 801.483.6060

**BUSINESS LICENSING**  
O 801.483.6063  
F 801.483.6060

**CHERIE WOOD**  
MAYOR

220 E MORRIS AVE  
SUITE 200  
SOUTH SALT LAKE CITY  
UTAH  
84115  
O 801.483.6000  
F 801.483.6001  
SOUTHSALT LAKE CITY.COM

## MEMORANDUM

To: **Planning Commissioners**  
From: **Francis Xavier Lilly, AICP, Deputy Director of Community Development**  
Date: **10 February 2012**  
Re: **Staff Recommendation on Conditional Use Procedure**

---

### Summary

The Planning Commission will be forwarding a recommendation to the City Council on new zoning code sections addressing general provisions, organization, and administration, enforcement, and appeals. The Planning Commission will be adding a new definitions section (17.03.010) that for the time being will only include a definition of new categories of conditional uses. As the ordinance revisions continue throughout the year, more definitions will be added to the section.

### Ordinance Revisions

Based on your comments at last week's work meeting, staff proposes that the ordinance establish two categories of conditional uses:

#### Category I – Administrative Review

Any conditional use that is not a Category II conditional use, below. This would include all signs, all home occupations, all conditional uses in the Light Industrial zone, and most conditional uses that do not require development review for a new structure.

#### Category II – Planning Commission Review

The conditional uses below include those conditional uses that staff believe are likely to result in enough public scrutiny that formal planning commission review is warranted. The list includes:

1. Residential conditional land uses;
2. Conditional uses that require design review and are within or adjacent to R1-5, R1-6, RM, Mixed or TOD zones, regardless of the size of the development; or
3. Conditional uses which result in the development of one (1) acre of land or greater, except in the Light Industrial zone.

## **17.02 - General Provisions**

### 17.02.110 - Short Title

A. This title shall be known as the Zoning Code of the City of South Salt Lake, Utah and may be referred to hereinafter as the Code and may be so cited.

### 17.02.120 - Authority

A. This Title is adopted pursuant to the provisions of the Utah State Code Annotated, including Chapter 10-9a

### 17.02.130 - How to use this Code

A. The Zoning Code of the City of South Salt Lake governs land use and development within the incorporated limits of South Salt Lake. The seven parts of the Code and Appendix are used together in the review of land use and development applications, enforcement of zoning and land use regulations, and implementation of the South Salt Lake General Plan. The Code is separated into seven parts in order to help readers easily navigate the code. The Code is divided and organized as follows:

1. Introduction and General Provisions. Part 1 provides information on the legal construction of the Code, general provisions, organization, amendments and relationship to the South Salt Lake City General Plan
2. Administration and Enforcement. Part 2 establishes land use duties of the City Council, Planning Commission, Community Development Director and duties and procedures for appeal authorities. This part identifies when public hearings and public meetings are required for land use applications. Under this part zoning enforcement duties are established with appropriate remedies for violations and offenses.
3. Establishment of Zoning Districts. Part 3 identifies the Zoning Districts within the boundaries of South Salt Lake. Each parcel of land within the municipal boundaries of the City is located within a zoning district as shown on adopted South Salt Lake Zoning Map.
4. Land Use Districts and Matrix. Part 4 indicates the land uses that are permitted within each district by the use of a matrix. The matrix lists uses for each zone that are either permitted, prohibited or require conditional use permit approval. The intention of the Code is to implement the vision, goals and objectives of the South Salt Lake General Plan. The purpose of the various land use districts is to provide compatible land use planning, reserve areas of the City for residential, commercial and industrial uses and integrate land use planning.

5. Development Standards – Part 5 provides residential, commercial and industrial development and site regulations for construction within the City. These standards include, but are not limited to, design, height, bulk, setbacks, and landscaping, lighting, parking, fencing, and signage requirements.
6. Non-Conforming Uses – Part 6 provides regulations governing legally established lots, structures, uses and other nonconformities that do not conform to applicable requirements of this title.
7. Appendix – Part 7 provides an index for common terms to make the code easily assessable. In addition, the appendix contains various design guidelines for development in the city and other planning documents. These documents are referenced within the various code sections and provide additional development guidance for implementing the Code. Other than the definitions provided in part 17.04, the other documents provided are not part of this ordinance.

#### 17.02.140 - Zoning Map Adopted

A. The zoning map for the City of South Salt Lake as adopted by the City Council and executed by the Mayor is the official Zoning Map for the City. Upon Amendment to the Official Zoning Map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.

#### 17.02.150 - Amendments

A. Amendments to the Zoning Map. Amendments to the Zoning Map shall be made in compliance with the provisions of this Chapter and Utah State Code Annotated.

B. Initiating Amendments and Corrections. The Planning Commission, City Council, Community Development Director may initiate proposals for change or amendment of The South Salt Lake General Plan or any chapter or regulation of this code or the official City zoning map.

C. Application. Any person seeking an amendment to the Zoning Code or Zoning Map shall submit an application with the Community Development Department indicating the change desired and how the change will further promote the goals and objectives of the General Plan. Application will be processed and noticed to the public, when applicable, according to this Code and Utah Code Annotated. Applications will be processed in an efficient manner in order to not cause the applicant unwarranted delays.

D. Planning Commission. The Planning Commission shall:

1. Prepare and recommend to the City Council a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.
2. Hold a public hearing on a proposed land use ordinance or zoning map amendment

E. City Council. The City Council:

1. May adopt or amend:
  - a. The number, shape, boundaries, or area of any zoning district on the official City zoning map;
  - b. Any regulation of or within the zoning district; or
  - c. Any provision of the development code.
2. The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as indicate in this Code and Utah State Code Annotated and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate. The City Council is not bound by any recommendation from the planning commission.

17.02.160 - Resubmission of the Zone Code or Zoning Map Amendment

A. If an application for amendment is denied by the City Council, resubmission of an application for the same amendment shall not be allowed for a period of twelve (12) months unless significant new facts or information are presented. If there is a substantial change in facts, circumstances and evidence, the applicant shall submit a written request to the Community Development Director to consider a resubmittal of a second application before the twelve (12) month period expires.

A. 17.02.170 - Uses Prohibited in Zones Unless Expressly Permitted

Uses of land which are not expressly permitted within a zone are hereby declared to be expressly prohibited therein.

January 27, 2012

## **Organization**

### **Chapter 17.02 - Purpose and Scope**

#### 17.06.110 - Purpose of Zoning Code.

A. This code is adopted to implement the City of South Salt Lake's General Plan and to promote public health, safety, convenience, aesthetics, welfare, stable land values, efficient land use, sustainable land use and building practices, crime prevention, transportation and accessibility, and efficiency in land use review and administration.

B. The code is also established to facilitate orderly growth and development in the City of South Salt Lake and to enhance the lives of the citizens of the City.

C. The zoning code intends to establish a fair and efficient process for development and land use applications, as accomplished through the delegation of powers among City officials and a transparent review process.

#### 17.06.120 - Relationship to General Plan

A. The adoption of this Title is consistent, compatible, and furthers the goals, objectives and policies of the South Salt Lake General Plan. The City of South Salt Lake adopted a new General Plan on December 2, 2009. Any adopted amendments to the General plan shall be included in the plan. All master plans for specific areas or purposes, as adopted or established by the City, shall be considered an integral part of the City's General Plan. Adopted or established plans shall serve as a guide in the decision making process regarding land uses in the City.

#### 17.06.130 - Effect of Previous Ordinances and Maps

A. The existing ordinances covering the zoning of areas and districts in South Salt Lake City, in their entirety and including the maps previously adopted and made a part of said ordinances, are superseded and amended to read as set forth in this title. This Code shall be deemed a continuation of previous codes and not a new enactment.

#### 17.06.140 - Interpretation

A. Use of Authority. The power granted by this title and the restriction in this title shall not be exercised nor applied to:

1. Deprive the property owner or rightful occupant of land or property use for which it is lawfully devoted at the time this title becomes effective;
2. Deny use and activity of any structure which was lawfully erected, remodeled or used under prior ordinances. This use will be subject to conditions and

restrictions authorized or imposed by health and safety regulations, fire premises ordinances and building codes. Current zoning requirements will be applied when a structure is proposed to be remodeled, reconstructed, added to or the use within the building is intensified.

3. Interfere with or annul any easement, covenants running with the land or other lawful agreements in force at the time this title becomes effective.

B. Interpretation and application of the provisions and requirements contained within this title are declared to be the minimum requirements for the purpose set forth, unless otherwise specifically stated. If in the course of administration hereof, a question arises as to the meaning of any phrase, section, or chapter, or zone district, the interpretation thereof shall be given by the Community Development Director and shall be construed to be the official interpretation thereof. In the event that there is a need of further interpretation by any person, firm or corporation, or official of South Salt Lake City, they shall submit the question to the Administrative Law Judge which, unless otherwise provided, is authorized to interpret the ordinance and such interpretation shall be final.

#### 17.06.150 - Conflict and Severability

A. The provisions of the Code are in addition to all other City ordinances, laws of the State of Utah, the Laws of the United States, and applicable common law. The Code shall not supersede any private land use regulations in deeds or covenants, which are more restrictive than the Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law. The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations in this title.

B. Should any article, section, clause or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

January 27, 2012

## **17.08 Administration, Enforcement and Appeals**

### 17.08.010 - Administrative duties of city council.

The City council:

- A. enacts and amends land use ordinances, temporary land use regulations, zoning districts and a zoning map;
- B. adopts and amends the general plan; and
- C. otherwise acts as the land use authority in certain land use decisions specified in section 17.08.040 of this Code.

### 17.08.020 – Establishment and duties of planning commission.

- A. Appointment. The mayor shall, subject to the approval of the city council, appoint a planning commission to consist of seven members, plus two alternates who shall serve without pay, except for reasonable and legitimate expenses approved by the city council.
- B. Alternates. Alternates may act in the place of any absent member at any meeting of the commission.
- C. Terms. The members shall be appointed for a period of four years and are subject to removal with or without cause by the city council at any time. The terms of two commissioners shall expire each year except in the year that the city's mayoral election is held, when the terms of one commissioner plus both alternates shall expire.
- D. Quorum. Four members shall constitute a quorum to conduct business. All actions taken shall be by majority vote of the membership present.
- E. Attendance. Attendance of any member or members at regularly scheduled meetings may be enforced by the chairperson of the commission in the same manner as provided for enforcing the attendance of city council members.
- F. Clerk. The community development department shall provide a person to act as clerk of the planning commission.
- G. Training. The city shall provide initial and ongoing training regarding the duties, responsibilities and city regulations for all commission members and alternates. Attendance at training is required of members and alternates.
- H. Bylaws. The planning commission may adopt a set of bylaws or rules of procedure.

I. Chairperson. The commission members, or commissioners, shall elect their own chairperson for a term and in the manner specified by the commission's bylaws. The chairperson of the planning commission:

1. Shall preside at all meetings of the commission; and
2. Shall vote as a regular member but shall not make or second motions.

J. Chairperson's absence. During the temporary absence or disability of the chairperson, the planning commission shall elect one of its members to act as chairperson pro tem.

K. Responsibilities.

1. The planning commission makes recommendations to the City Council for:
  - a. the general plan and amendments to the general plan;
  - b. the zoning map, and amendments to the zoning map;
  - c. amendments to land use ordinances;
  - d. approval of subdivisions of greater than ten lots; and
  - e. proposed application processes and the delegation of power under the land use ordinance.
2. The planning commission acts as land use authority as provided in section 17.08.040 of this code.
3. The planning commission acts as appeal authority for certain land use decisions as provided in section 17.08.050 of this code.

17.08.030 – Administrative duties of community development director.

A. The director is authorized to render official interpretations of code provisions when the meaning of any phrase, section or chapter, or zone district is called into question.

B. The director shall prepare staff reports for consideration by the planning commission and city council, and provides secretarial support for the planning commission.

C. The director accepts all land use applications and ensures they are forwarded to the designated land use authority in a timely manner.

D. The director may propose amendments to the zoning code and zoning map as provided in section 17.02.020.

17.08.040 – Land use authority designations.

Pursuant to state law, the following administrative land use authority designations are made:

- A. The City Council is the land use authority on issues of: planned unit developments; the approval of development agreements; the vacation of public rights of way; and enacting or amending zoning code, zoning maps and the general plan.
- B. The Planning commission is the land use authority on issues of: subdivision and subdivision plat approval, except planned unit developments; vacating, altering or amending a subdivision plat; category II conditional use applications; and the issuance of a building or demolition permit in a historic preservation zone.
- C. The director is designated as the land use authority on issues of: category I conditional use applications, lot divisions and splits, temporary use permits, sign permits, applications for variances, home occupation license approval, design review, reasonable accommodation, nonconforming use determinations, and decisions regarding amortization of legal, non-conforming uses. The director has final authority to issue building permits and business licenses.
- D. The director may certify a category I conditional use application to the planning commission if the director finds that the application raises unique problems or is likely to have a significant impact upon neighboring properties or the city as a whole. When such applications are certified to the commission, the commission acts as the land use authority.

17.08.050 – Appeals from land use authorities.

- A. Appeals from city council decisions. Appeals from decisions of the city council must be taken to the state district court, as provided by state law, by any person aggrieved by the decision who has standing to appeal.
- B. Appeals from planning commission decisions. Except from decisions rendered in its appellate capacity, appeals from the planning commission's decisions are brought before the city's administrative law judge, as provided under Title 2, Chapter 22 "Administrative Hearings" by any person aggrieved by the decision who has standing to appeal. Appeals from appellate decisions of the planning commission may be taken directly to the state district court.
- C. Appeals from community development director decisions. Appeals from the director's decision are brought as follows:
  - 1. Planning commission. The planning commission hears appeals from decisions by the director on the following issues, when requested by any person aggrieved by the decision who has standing to appeal:
    - a. conditional use applications;

- b. temporary use permits;
- c. sign permits;
- d. home occupation licenses;
- e. design review; and
- f. lot splits.

2. Administrative law judge. The city's administrative law judge hears appeals from all other decisions made by the director, as provided under Title 2, Chapter 22 "Administrative Hearings," when appeal is taken by any person aggrieved by the decision who has standing to appeal.
3. The planning commission conducts an appeal de novo, and that body finds facts and decides all issues associated with the appeal. No further administrative appeals are available from an appellate decision of the planning commission.
4. The administrative law judge reviews the record of the decision of the director or planning commission on the record and only reverses the decision if it is not supported by substantial evidence in the record or is otherwise arbitrary, capricious or illegal.

D. Final order of appeal authority is appealable order. An appeal authority's written, final order becomes the only order from which an appeal may be taken. Unless otherwise stated in the appeal authority's final order, an order following a de novo review vacates any official determination made by the land use authority. No further administrative appeals are permitted from a final order of an appellate authority and any subsequent review is to be made by the district court.

E. Conduct of appeals. Each appeal shall be the subject of a hearing which shall be open to the public and be conducted in an informal nature which provides each party with the opportunity to present his or her case in a civil and respectful manner. The rules of evidence do not apply to appeal proceedings. Parties are permitted to submit trial briefs or staff reports to the appeal authority prior to the proceeding. Appeal proceedings shall be recorded, and shall provide due process to all the parties. Only those with standing to appear before the appeal authority need be allowed to participate in the hearing. Additional rules governing appeal proceedings may be promulgated by the appeal authority, so long as they are distributed to the parties prior to the proceeding. The city is not required to notify any individuals of appeal proceedings except appellants or appellees, or those to whom a protected property interest belongs.

F. Record reviews. In a record review, no additional evidence may be submitted during the appeal proceedings. If the administrative law judge finds that a party's due process rights were not adequately protected in the process of creating the record, it may convert the hearing into a de novo review and continue the hearing to allow the appellant and appellee to prepare their cases. It may also allow the introduction of evidence which was presented below, but improperly excluded from the record.

G. Exhausting administrative remedies. An aggrieved party who has standing to appeal a land use authority's decision must follow the procedures of Title 2, Chapter 22 by filing a written notice of appeal at the city recorder's office within ten calendar days after actual or constructive notice of the land use decision, and by tendering the fee associated with the appeal proceedings. A person who fails to timely file the appeal or pay the associated fee waives the right to object to the land use decision.

H. Parties required to raise all theories of relief. During appeal proceedings, an appellant must raise every theory of relief that it wishes to raise in district court. The failure to raise a theory during an administrative appeal waives that theory in any subsequent appeals to district court.

#### 17.08.060 – Permits and applications.

A. Official decisions in writing. Decisions on each land use application submitted to the community development department shall be made in a timely manner by the land use authority and are not official until reduced to writing.

B. Applications submitted to department. All applications related to land use must be submitted to the community development department, who shall ensure that the application is promptly brought before the land use authority for decision.

C. Director authority over building permits. No building permit shall be issued without the zoning approval of the land use authority.

D. Pre-payment of fees required. Permits are not considered submitted unless the established fee has been paid by the applicant.

E. Actions for which applications are not required. If a person is informed that a permit or application is not required for certain actions, the person may request a written confirmation by the director stating that this is the case. No person may claim as a defense to any land use enforcement action that he or she was advised not to submit an application for a permit or land use approval without providing such written confirmation.

#### 17.08.070 – Fees.

Fees for applications and permit requests shall be established by resolution in the city's consolidated fee schedule.

#### 17.08.080 – Public hearings and meetings.

A. Public hearings. Public hearings shall be conducted for the following land use decisions:

1. when enacting or amending zoning ordinances or the zoning map, a hearing before the planning commission is required, but is not required before the city council;

2. vacation or amendment of platted street, right of way or easement;

3. annexation policy plans and applications;

4. vacating or changing a subdivision plat, but only as required by state law;

5. any other land use decision for which a public hearing is required by law.

B. Public comment may also be allowed in any public meeting at the discretion of the land use authority. Except as provided above, a land use authority need not allow public comment where a hearing is not required by this section or state law.

C. Public meetings. All land use decisions made by the city council or planning commission shall be rendered during open and public meetings. The director may also conduct public meetings related to land use applications or other land use issues when the director deems it appropriate to do so.

D. Regardless of whether a meeting is held, prior to making a land use decision the land use authority may solicit input from affected citizens and property owners and provide a reasonable opportunity for those individuals to express themselves. This may be accomplished through public outreach activities conducted prior to the land use decision in a manner that is consistent with the requirements of due process and fair review and provides an opportunity for the applicant and others participating in the review of the application to respond to the information presented. Relevant information gathered in the process of review is to be included in the record of the decision.

#### 17.08.090 – Development committee.

The mayor may form a standing committee composed of city staff, property owners, or elected and appointed officials to comment on land use applications and render advice to applicants. The recommendations of the development committee are advisory only. Consideration by the development committee is not a pre-requisite for application approval.

#### 17.08.100 – Enforcement.

A. Authority. The director is authorized to enforce the provisions of this code through either criminal or civil proceedings.

B. Delegation. The director may delegate enforcement authority to any city official. No written delegation of power is necessary.

C. Violations. Any building or use of land or any construction thereon which was not authorized by or under the City Code which is illegal under such ordinances, shall remain unauthorized and illegal unless expressly authorized or permitted in the provisions of this Code. The use or continuation of such a use or construction is punishable under this Code.

D. Number of offenses. Every person, firm or corporation shall be deemed responsible or guilty of a separate offense for each and every day that a violation is committed or continued.

E. Criminal penalties. Violations of the provisions of this code are class C misdemeanors, subject to criminal prosecution.

F. Civil penalties. Violations of the provisions of this code may also be pursued through administrative citation or summons, as provided in Title 8, Chapter 14 "Code Enforcement Program." Orders of abatement may be issued by the administrative law judge pursuant to those provisions.

G. Remedies.

1. The City, or any adversely affected owner of real estate within the City in which violations of this Code occur or are about to occur, may, in addition to other remedies provided by law, institute:
  - a. Injunctions, mandamus, abatement, or any other appropriate action; or
  - b. Proceedings to prevent, enjoin, abate or remove the unlawful building, use or act.
2. The City need only establish the violation to obtain an injunction.
3. The City may, in addition to other remedies provided by law, enforce the ordinance by:
  - a. Withholding building permits; or
  - b. Taking action to cancel any permit or approval for failure to comply with the terms of any permit or approval. The land use authority that issued the permit or approval shall consider the matter preceded by at least ten calendar days' notice. Cancellation or revocation of a permit or approval may be appealed in the same manner as the original action.

H. Nuisance and abatement. All buildings or uses of land which are established, conducted, or maintained contrary to the provisions of this Code shall be and are declared to be unlawful and a public nuisances. In addition to other remedies provided by the law, the City Attorney may immediately commence a court action or proceedings for abatement, removal or injunction to correct the nuisance. These remedies are cumulative to other civil and criminal actions, and not exclusive.

January 27, 2012

## NEW DEFINITIONS

### 17.03.010 Definitions.

“Category I conditional uses” means any conditional uses which do not listed as category II conditional uses.

“Category II conditional uses” means the following uses:

- (1) Residential conditional land uses;
- (2) Conditional uses that require design review and are within or adjacent to R1-5, R1-6, RM, Mixed or TOD zones, regardless of the size of the development; or
- (3) Conditional uses which result in the development of one (1) acre of land or greater, except in the Light Industrial zone.