



## CITY COUNCIL STAFF REPORT

<b>MEETING DATE:</b>	<b>26 August 2015</b>
<b>APPLICANT:</b>	<b>South Salt Lake City</b>
<b>PROJECT NUMBER:</b>	<b>T-15-008</b>
<b>REQUEST:</b>	<b>Land Use Ordinance Amendment modifying Chapter 17.07 – Administration, Enforcement, and Appeals</b>
<b>PREPARED BY:</b>	<b>Francis Xavier Lilly, AICP</b>

**SYNOPSIS:** South Salt Lake City is petitioning the City Council to amend the zoning ordinance to clarify standards for reviewing appeals of official code interpretations by the Community and Economic Development Director.

### **SUMMARY:**

- The Community and Economic Development Director is authorized to issue official interpretations of land use ordinance questions. This process is intended to give the public an opportunity to seek clarification of the zoning ordinance. Official code interpretations are subject to review by the Administrative Law Judge.
- Since The City Council adopted Chapter 17.07 in 2012, the Director has rendered two official code interpretations, one of which was appealed to the Administrative Law Judge.
- This petition establishes a standard of review for the Administrative Law Judge for future appeals of official code interpretations
- The standard of review gives weight to the directors professional and technical expertise
- The Director is best placed to appreciate the legislative history and, practices and past implementations in the department, and to ensure consistent code interpretations.
- The proposed language has gone through three revisions at the Planning Commission. The commission, staff and residents worked on language that it feels protect the interests of the City but is not overly burdensome for an appellate to overcome.

### **STAFF ALTERNATIVES**

**A recommendation to the City Council to approve the proposed land use ordinance amendment modifying the review standard applied to appeals of official code interpretations, for the following reason:**

1. The proposed amendment fulfills the intent of the Land Use Code 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.

**Continuance,** due to issues raised during the staff presentation.



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### Proposed Ordinance Change

#### **17.07.030 - 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. Procedures for requesting an official interpretation are included in Appendix 1, and a fee for rendering such an interpretation outside of a land use application shall be assessed in the amount indicated in the consolidated fee schedule. *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 appeal authority which, unless otherwise provided, is authorized to interpret the ordinance and such interpretation shall be final. Official interpretations are subject to appeal to the administrative law judge. In rendering a decision, the administrative law judge shall give significant weight to the director's interpretation, in light of the director's professional and technical expertise. The appellant bears the burden of establishing a contrary interpretation.*
- 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.

### Ordinance Requirements and Considerations:

#### **Land Use Amendment Procedure:**

##### **17.01.150 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. Any citizen, property owner, the planning commission, the city council, or the 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 land use 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. Fulfill all duties outlined in state statute that are to be performed by the planning commission.
2. Prepare and recommend to the city council the general plan or amendments to the general plan, any proposed land use ordinance or ordinances and a zoning map, and amendments thereto 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.
3. 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 indicated 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.

**17.05.110 Purpose of the land use code.**

- A. The purposes of this title are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the city of South Salt Lake and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the city's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

- B. To accomplish the purposes of this chapter, the city may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that it considers necessary or appropriate for the use and development of land within the city, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.
- C. 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.
- D. The land use 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.
- E. The land use 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.

**Staff Recommendation:**

**A recommendation to the City Council to approve the proposed land use ordinance amendment modifying the review standard applied to appeals of official code interpretations, for the following reason:**

1. The proposed amendment fulfills the intent of the Land Use Code 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.