



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Nick Tarbet, Policy Analyst

**DATE:** Dec. 10, 2024

**RE:** Title 18 Text Amendment: Building Code,  
Boarded Buildings Administration and  
Fee Updates.

## PROJECT TIMELINE:

Briefing 1: May 30, 2024

Briefing 2: Dec. 3, 2024

Set Date: May 21, 2024

Public Hearing: June 4, 2024

Potential Action: Dec. 10, 2024

## WORK SESSION SUMMARY

During the follow-up briefing, the Council did not raise any significant concerns or request any changes to the ordinance.

This item is on the December 10 agenda for potential action.

***The following information was provided for the December 3 work session briefing.***

## NEW INFORMATION

During the May 30 briefing, the Council asked the administration to come back with recommendations that could be included in the final ordinance regarding the following concepts:

- Increase the fines for building code violations
- Increase the annual fee for boarded buildings
- Create a separate fee for commercial vs. residential buildings and charging commercial buildings a higher fee
- Consider an escalating fee for the annual fee
  - Charging the maximum amount allowed after a certain year (3 or 5 years were both mentioned)
- Establish a better definition of compliance after violating a building code.
  - Consider requiring any damage that occurred to adjacent properties to be made whole before the work permit is reissued.

- Clarify that the timeclock on a boarded building does not restart due to a transfer of ownership.

The Public hearing was held on June 4. The Council closed the public hearing and deferred action.

The administration has updated the ordinance based on the Council's feedback. The outline below shows how the Council's policy direction was incorporated and where it is in the draft ordinance. Administrative staff feel these changes, in conjunction with their updated administrative enforcement policies, put them in a much stronger position to enforce building code violations successfully. One example is the Building Code Enforcement Team (BCE Team), which Building Services recently created.

This team will ensure better coordination and enforcement between the building inspectors and the enforcement staff. This will help improve the enforcement of building code and zoning violations in the following ways:

- Review with permit processors any properties with multiple pending permits
- Monitor cases more closely so that issues are identified as early as possible.
- Handle complaints and assign senior staff to address and help follow up on any issues.
- Funnel permits cases through fewer staff so that multiple people are not involved in one case, creating ineffective awareness and/or enforcement.
- Increase focus on expiring permits when allowed by code, organize multiple permit issues, and begin fines immediately. Permits can expire if they have not progressed for 180 days.
  - Written documentation will also be required and reviewed to reinstate any expired permit.
- Fines for violations have been increased and will be applied to properties,
  - Multiple fines can be applied to a property – Each for \$100/day.
  - When fines accrue to \$14,000, the City will take the case to small claims court, which requires the contractor and/or permit holder to appear. This can repeat as long as fines accrue, at each \$14,000 mark.
  - All staff is receiving biannual training on survey protocol to follow up on any potential issues. Made clear that surveys will be required (at the permit holder's expense) as deemed necessary by City inspectors/enforcement.

Issue	Change	Ordinance Citation
Increase the fines for building code violations	Violation of Title 18 \$100 (except Ch. 18.50 or Stop Work Order) Violation of Stop Work Order: \$250	Exhibit A Line 6378
Increase the annual fee for boarded buildings  Create a separate fee for commercial vs. residential buildings and charging commercial buildings a higher fee	Boarding registration fee Residential Years 1&2: \$3,000 Non-Residential Years 1 & 2: \$6,000  Residential Years 3-5 \$6,000 Non-Residential Years 3-5 \$9,000  Residential Years 6 or more \$,9000 Non-Residential Years 6 or more \$14,000	Exhibit A Line 6378

Consider an escalating fee for the annual fee. Charging the maximum amount allowed after a certain year (3 or 5 years were both mentioned)	Boarding registration fee for a contributing structure or landmark site    \$14,000	
Clarify that the timeclock on a boarded building does not restart due to a transfer of ownership.	18.48.215: Yearly Registration Fees:  <u>A change in ownership shall not restart the yearly amount of registration fees, but such fees shall increase as set forth in the Salt Lake City consolidated fee schedule in accordance with the amount of time that the property has been registered.</u>	Lines 2736-2738
Establish a better definition of compliance after violating a building code.	Include language that clearly states permits issued do not allow a permit holder to negatively impact an adjacent property.  <b>18.04.070: LIABILITY LIMITATIONS:</b> Nothing in this title shall be construed to relieve or lessen the responsibility of any contractor, owner, or any other persons involved, for apparatus, construction or equipment installed by or for them, for damages to anyone injured or damaged either in person or property by any defect therein, nor shall the city or any employee thereof be held to assume any liability by reason of the inspections authorized herein, or the certificate of occupancy issued by the building official of the division of building and housing services. <u>The provisions of this title are not intended to interfere with, abrogate, or require enforcement by the city of any legally enforceable easements, covenants, or other agreements between private parties that may restrict the use of the land. Permits or other approvals issued pursuant to this title provide no right to encroach or interfere with the private property of third parties.</u>	Lines 110-114

If supportive of these changes, the Council may wish to direct staff to put this on the December 10 agenda for potential adoption.

***The following information was provided for the May 30 work session briefing. It is provided again for background purposes.***

## ISSUE AT-A-GLANCE

The Council will receive a briefing on a proposed ordinance that would amend the text of Titles 2, 5, 18 and 21A of the Salt Lake City Code, regarding Boarded Building Fees and enforcement of building code violations. If adopted, the Code would be amended in the following ways:

- This proposal increases fees associated with the boarded building program to reflect the City's actual cost of regulation.
- Eliminate code that is duplicative or irreconcilable with state-wide adopted building codes
- Creates an administrative enforcement mechanism for building code violations.
- Updates existing residential housing standards based on precedent from the Housing Advisory Appeals Board and creates one standard appeal process to a streamlined Board of Appeals and Examiners for any violation of Title 18.
- Updates portions of Title 21A related to zoning enforcement to reflect existing City Administrative practices and increases daily fines associated with uncorrected zoning violations.

The changes were requested during previous Council conversations. In 2022, the City Council requested that the Administration review and propose a change in boarded building fees to capture the full City cost of both monitoring/boarding and emergency services of dangerous/boarded buildings. The majority of these recommended changes in this petition resulted from that request.

Additionally, when the Council adopted the Housing Incentives in December of 2023, the Council officially requested the Administration forward a transmittal that would make recommendations for code changes to safeguard that construction work may not damage adjacent properties, establish a process to help remedy situations when damage has occurred, and include penalties that will discourage damage from being done. Changes pertaining to this request are included in *Section 2 Building Code Enforcement Process*, of the information below (pages 2- 3).

Please note, the majority of the Consolidated Fee Schedule (CFS) will be discussed by the Council on June 4, 2024. If the Council is supportive of adopting both of these items, staff will prepare motions to ensure there are not conflicts between the two ordinances.

## ADDITIONAL INFORMATION

### 1. Boarded Building Amendments

- Proposed Fee
  - The City's Finance Department conducted a cost analysis and found that each boarded building permit costs the City \$15,551 annually.
    - *This was updated in March 2024 based on additional review by the Finance Department. The original estimate noted in the Planning Commission staff report was \$22,537.*
    - *The cost to the City includes zoning enforcement for weeds and other maintenance issues, public safety calls & responses (due to trespassing or fires), permit review for boarding, and monitoring for building requirements, etc.*
  - The Fee Study recommended a maximum proposed fee increase to be \$14,000 due to small claims collections requirements.
  - The current renewal fee is \$1,546.

- Building services is recommending potential boarding registration fee increases up to \$14,000 per year. (\$14,850 for a contributing structure or landmark site)
- This fee will be listed in the Consolidated Fee Schedule. (CFS)
- Program Changes
  - Changing the program from an annual boarding permit to an annual registration.
    - A registry more accurately reflects the nature of the City's monitoring and regulation, since boarding does not necessarily occur every year (as a permit suggests).
  - Recording notices against the title for properties on the registry to let any interested buyer know that (1) the property is subject to the registry with annual registration fees, and (2) that boarding costs actually incurred by the City may be outstanding (which fees could be a lien against the title once sent to the Salt Lake County Treasurer).
  - Incorporates a standard citation and appeal process if the registration is not current, which will be the same for any Title 18 violation (found in Chapters 18.24 and 18.12).

## **2. Building Code Enforcement Process (Chapters 18.12, 18.24, and 2.21, and Section 5.14.125)**

- Based on several factors ranging from updated state building code, process streamlining and improvements as well as staffing needs, significant updates to this section of the City code were needed. The proposed changes include the following:
  - The Board of Appeals and Examiners has been streamlined to require only one appeal hearing officer, along with the building official as an ex-officio member (this building official status on the board is consistent with state-adopted building code).
  - The Housing Advisory Appeals Board is being eliminated in favor of one appeal body – the Board of Appeals and Examiners (which the City must have according to state-adopted building code) – to reduce administrative burden and keep appeal processes consistent.
  - A standard appeal process for any violation of Title 18 has been added to Chapter 18.12. This process is nearly identical to an appeal of an administrative decision made pursuant to Title 21A.
  - A fines-only appeal process for any violation of Title 18 has been added to Chapter 18.12. This process is identical to the fines-only appeal process for a zoning code violation.

*The following changes address the council's request to "safeguard that construction work may not damage adjacent properties"*

- Significant changes to Chapter 18.24 were made to describe the City's remedies in the event of a violation of Title 18, which will now include a civil citation and civil fines process. This process is nearly identical to the process for citing and fining individuals and businesses for zoning violations.
- New fines are being adopted now that a civil citation process has been created within Title 18. General violations will be \$100 per day; violation of a stop work order will be \$250 per day; housing code (Chapter 18.50) violations will be between \$50 and \$200 per day depending on the severity of the violation.
- Currently Title 18 only permits enforcement by stop work order and criminal proceedings.

- With these new standardized enforcement and appeal processes, in addition to the criminal proceedings, the City will have a more effective tool to get properties and construction projects into compliance.
  - The current cost for criminal violations of the building code is a \$1,000 fine, double permit fees, a stop work order, or a re-inspection fee of \$75.00.
  - Implementation of the assessment of daily fines for civil violations will make the fines high enough that they will not be ignored by the property owner or contractor. This will give us a better enforcement tool for future construction violations and decrease the number of violations not rectified.

### **3. Housing Code Updates (Chapters 18.50 and 18.96)**

- These proposed changes will update code references in Chapter 18.50 to conform with the Utah adopted International Construction Codes (ICC).
- They also incorporate the standard citation appeal process for Title 18 violations.
- Residential rental housing owners will receive a warning notice before a citation is issued.

### **4. Removal of Duplicative or Overlapping Code**

- Since it's been decades since Title 18 was comprehensively updated, old and outdated sections have been removed.

### **5. Zoning Code Enforcement**

- Parts of the zoning enforcement chapter (Chapter 21A.20) are necessary to reflect Building Services updated civil citation and fine process for Title 18.
  - Building Services' current citation process is now reflected, including when a notice and order can be issued, what it needs to include, how it needs to be sent, and a recipient's ability to appeal the notice and order.
  - Zoning violations fines are being increased from \$25 to \$50 per day for residential properties and from \$100 to \$200 per day for commercial properties.
  - A new fine amount for failing to have a certificate of appropriateness for work on the exterior of historic district properties is proposed at \$50 per day, but if the work that was done is a full or partial demolition of a contributing or landmark structure, then the fine would be \$250 per day.
    - *(The enforcement process and fines for work done without a certificate of appropriateness was recently updated and approved by the Council when they adopted the amendments related to enforcement of work done without a Certificate of Appropriateness. The fine is \$250 per day for full or partial demolition of a contributing structure without a certificate of appropriateness and \$500 per day for full or partial demolition of a landmark site without a certificate of appropriateness. CAN Staff will send an updated ordinance that matches the recent changes made by the Council)*
  - Clarifying that citation notices can be sent by any reputable mail tracking service that confirms delivery, as opposed to just by "certified mail" or "commercial courier service."

## **POLICY QUESTIONS**

1. Amendments proposed based on the Council's request to "safeguard that construction work may not damage adjacent properties" include creating civil citations and fine process. (section 2 above)
  - Do these changes address the concerns raised by the Council?

- What additional remedies could be available if there is a property line dispute between adjacent property owners? Could a provision be added that would require immediate repairs if any damage is done?
2. The Administration had proposed a preferred fee for the boarded building registration. Page 4 of the transmittal letter says notes Building Services is recommending potential boarding registration fee increases in the range of \$3,000, \$6,000, or \$14,000 per year. The table at the end of the draft ordinance has the fee listed as \$14,000. This fee will be listed in the CFS.
    - The Council may wish to ask the Administration what their recommended fee is.
  3. In previous discussions the potential of having a different fee for residential vs. commercial boarded/dangerous buildings was raised. The intent of the higher fee is to discourage property owners from keeping buildings that attract nuisance issues. Staff time that goes into enforcement for residential and commercial basically is the same.
    - The Council may wish to ask the administration to explain if one fee is recommended or if it makes sense to have a different fee for commercial vs. residential.
    - If a building is not boarded for a full year, is there a discount or pro-rated refund of fees paid?
  4. Building Services is recommending a potential boarding registration fee of \$14,850 for a contributing structure or landmark site. \$850 more than a typical building.
    - The Council may want to ask the Administration why the fee for a contributing structure or landmark site has a higher proposed fee.