

SALT LAKE CITY ORDINANCE
No. 22 of 2024

(An ordinance amending various sections of Title 21A of the *Salt Lake City Code* pertaining to penalties for work done without a certificate of appropriateness.)

An ordinance amending various sections of Title 21A of the *Salt Lake City Code* pursuant to Petition No. PLNPCM2023-00336 pertaining to the creation of penalties for work done without a certificate of appropriateness.

WHEREAS, on January 4, 2024, the Salt Lake City Historic Landmark Commission (“Landmark Commission”) held a public hearing to consider a petition submitted by Mayor Erin Mendenhall to amend various sections of Title 21A of the *Salt Lake City Code* pertaining to the creation of penalties for work done without a certificate of appropriateness pursuant to Petition No. PLNPCM2023-00336; and

WHEREAS, at its January 4, 2024 meeting, the Landmark Commission voted in favor of transmitting a positive recommendation with modifications to the Salt Lake City Planning Commission (“Planning Commission”) and the Salt Lake City Council (“City Council”) on said petition; and

WHEREAS, on January 10, 2024 the Planning Commission held a public hearing on said petition; and

WHEREAS, at its January 10, 2024 meeting, the Planning Commission voted in favor of transmitting a positive recommendation to the City Council on said petition; and

WHEREAS, after a public hearing on this matter the City Council has determined that adopting this ordinance is in the city’s best interests.

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

SECTION 1. Amending the text of Section 21A.20.040. That Section 21A.20.040 of the Salt Lake City Code (Zoning: Enforcement: Civil Fines) shall be, and hereby is amended to include a new subsection C with no other changes to the section, as follows:

- C. Failure to obtain certificate of appropriateness per 21A.34.020: For development or any building activity on properties subject to Section 21A.34.020 without a certificate of appropriateness, if such violation is not corrected by the citation deadline, civil fines shall accrue at \$50 per day, except that the fine shall be \$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.

SECTION 2. Amending the text of Section 21A.34.020. That the list of subsections in Section 21A.34.020 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District) shall be, and hereby is amended as follows, with no other revisions to Section 21A.34.020:

21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:

- A. Purpose Statement
- B. Applicability
- C. Local Historic Designation, Amendments or Revocation
- D. Historic Status Determination
- E. Certificate of Appropriateness Required
- F. Procedures for Issuance of a Certificate of Appropriateness
- G. Standards for Alteration of a Landmark Site, Contributing Structure or New Construction of an Accessory Structure
- H. Standards for New Construction or Alteration of a Noncontributing Structure
- I. Standards for Relocation
- J. Standards for Demolition of a Landmark Site
- K. Standards for Demolition of a Contributing Principal Building
- L. Economic Hardship Determination
- M. Reconstruction
- N. Enforcement

SECTION 3. Amending the text of Subsection 21A.34.020.E.1. That Subsection 21A.34.020.E of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation

Overlay District: Certificate of Appropriateness Required) shall be, and hereby is amended to read as follows:

1. A certificate of appropriateness shall be required for all of the following:
 - a. Any exterior alteration to the property or any structure on the property unless specifically exempted under Subsection 21A.34.020.E.2;
 - b. New construction;
 - c. Relocation of a structure or object on the same site or to another site;
 - d. Demolition; and
 - e. Reconstruction

SECTION 4. Amending the text of Subsection 21A.34.020.F.2. That Subsection 21A.34.020.F.2 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District: Procedure for Issuance of Certificate of Appropriateness) shall be, and hereby is amended to read as follows:

2. Historic Landmark Commission Authority: The following shall only be decided by the historic landmark commission:
 - a. Substantial alteration or addition to a landmark site or contributing site, building, and/or structure;
 - b. New construction of a principal building in the H Historic Preservation Overlay District;
 - c. Relocation of a landmark site or contributing principal building;
 - d. Demolition of a landmark site or contributing principal building;
 - e. Economic hardship determination;
 - f. Reconstruction; and
 - g. Applications referred by the planning director.

SECTION 5. Enacting the text of Subsection 21A.34.020.F.3.c. That a new Subsection 21A.34.020.F.3.c of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District: Procedure for Issuance of Certificate of Appropriateness: Submission of Application) is hereby enacted as follows:

- c. Reconstruction Application Requirements: In addition to the general application requirements listed above, applications for reconstruction shall include drawings and photographs of the original structure that justify the dimensions and details of the proposed structure. The applicant shall provide documentation that indicates the original structure's approximate:

- (1) Location on the site and the estimated setbacks.
- (2) Building footprint, including shape and size.
- (3) Roof shape, slope and details.
- (4) Building height, including wall height and roof height.
- (5) Openings, including location, arrangement, size and details of any window or door openings. For reconstruction of carriage house, include carriage entries.
- (6) Exterior building materials.

SECTION 6. Amending the text of Subsection 21A.34.020.F.6. That Subsection 21A.34.020.F.6 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District: Procedure for Issuance of Certificate of Appropriateness) shall be, and hereby is amended to read as follows:

6. Administrative Decisions: The planning director or designee shall approve, conditionally approve, or deny the application for a certificate of appropriateness based upon written findings of fact. The decision of the planning director or designee shall become effective upon issuance of the certificate of appropriateness or of the findings and order in the case of an administrative denial.

SECTION 7. Amending the text of Subsection 21A.34.020.F. That Subsection 21A.34.020.F of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District: Procedure for Issuance of Certificate of Appropriateness) shall be, and hereby is amended add a new subsection 13, with no other revisions to subsection F, which shall read as follows:

13. Posting Certificate of Appropriateness. After issuance of any applicable building or demolition permit, the applicant shall post the certificate of appropriateness at the subject property. The certificate of appropriateness shall be posted as a sign where it is visible from the public sidewalk during the period of construction activity. Once the sign is posted, the applicant shall submit to the zoning administrator a time stamped photo that verifies the sign was posted in accordance with this subsection. If the sign is removed for any reason during the period of construction, the applicant shall post a new sign.

SECTION 8. Amending the text of Subsection 21A.34.020.L.3.c. That Subsection 21A.34.020.L.3.c of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation

Overlay District: Economic Hardship Determination: Procedure for Determination of Economic Hardship) shall be, and hereby is amended to read as follows:

- c. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, and if the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall approve the demolition. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that all of the following are met:
 - (1) The contributing principal building or landmark site cannot be economically used or rented at a reasonable rate of return in its present condition or if rehabilitated;
 - (2) The contributing principal building or landmark site cannot be put to any reasonable beneficial use in its present condition, or if rehabilitated;
 - (3) Bona fide efforts during the previous year to sell or lease the contributing principal building or landmark site at a reasonable price have been unsuccessful; and
 - (4) The hardship is not a mere reduction in economic value of the property, is not caused by the owner's financial ability to rehabilitate a property, is not caused by the owner's lack of due diligence to rehabilitate a property, or by any other self-imposed condition, such as demolition by neglect, intentional destabilization of the structure or a violation outlined in 21A.34.020.N.3.

SECTION 9. Amending the text of Subsection 21A.34.020.M. That Subsection 21A.34.020.M of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District) shall be, and hereby is amended to read as follows:

M. Reconstruction:

- 1. Applicability:
 - a. Reconstruction after demolition without a certificate of appropriateness: If a landmark site or contributing structure is demolished without a certificate of appropriateness, an application for reconstruction will be considered in accordance with the provisions of this Subsection.
 - b. Reconstruction of a carriage house on a landmark site: An application for the reconstruction of a historic carriage house is allowed subject to the provision of this Subsection and if the following criteria are satisfied:
 - (1) The carriage house is located on a landmark site. For the purpose of this section, any site that has been further subdivided since the construction of the

last principal building on the site shall be considered part of the landmark site.

- (2) Documentation has been provided that indicates a carriage house associated with the historic period of the landmark site existed on the site. Documentation may include any property related record, prior survey, photographs, site plans, or similar records. It is the responsibility of the applicant to provide the necessary documentation and justification for the proposed dimensions and details of the carriage house that is proposed to be reconstructed. Documentation shall provide sufficient detail to estimate the approximate details of the carriage house.
2. Modifications authorized: The following modifications are authorized for reconstruction in accordance with this Subsection:
 - a. Density: The qualifying provisions for density found in the minimum lot area and lot width tables of the zoning district do not apply to the proposed reconstruction, and in the RMF-30 zoning district, the minimum lot size per dwelling unit does not apply.
 - b. Multiple buildings on a single parcel: If the reconstruction results in multiple buildings on a single parcel, the buildings are allowed without each building having street frontage.
3. Compliance with additional codes: An application for reconstruction shall comply with all applicable codes, regulations and engineering standards that have been adopted by the State of Utah or the city.
4. Approval Standards: In considering an application for a certificate of appropriateness involving reconstruction, the historic landmark commission shall grant the certificate if it finds the project complies with all of the following standards:
 - a. Reconstruction depicts only vanished or non-surviving portion of a property and includes measures to preserve any remaining historic materials, features, and spatial relationships.
 - b. The reconstruction is an accurate duplication of historic features and elements substantiated by documentary or physical evidence. When evidence is not available, conjectural designs may be allowed if supported by research of similar structures of the same era as the original structure.
 - c. Designs that were never executed historically will not be allowed.
 - d. The proposed structure replicates the size, shape, location, orientation, material and design of the original structure.
 - e. The proposed structure replicates character defining features and details of the original structure.
5. Additional requirements for reconstruction of a carriage house on a landmark site:
 - a. Subdivision Prohibited: Further subdivision of the property after approval of a reconstruction under this section is prohibited and portions of Section 21A.38.060

authorizing subdivisions of lots with more than two principal buildings shall not be applicable.

- b. Updated Intensive Level Survey: If reconstruction is approved, the applicant shall provide the city an updated intensive level survey to document the changes to the landmark site.
 - c. Allowed Uses After Reconstruction: The following uses shall be allowed in a reconstructed carriage house approved under this section:
 - (1) A single-family dwelling, regardless of lot area, lot width or street frontage;
 - (2) Any accessory use authorized in the underlying zoning district or overlay district; or
 - (3) Accessory dwelling units subject to the applicable regulations for accessory dwelling units.
6. Restrictive covenant for reconstruction after demolition: In the case of a reconstruction after demolition without a certificate of appropriateness, the property owner shall enter into a legally binding restrictive covenant, the form of which shall be approved by the city attorney. The restrictive covenant shall be recorded on the property with the Salt Lake County Recorder prior to issuance of a certificate of appropriateness for the reconstruction required pursuant to 21A.34.020.N.3. The restrictive covenant shall, without limitation:
- a. Acknowledge the required reconstruction;
 - b. Prohibit demolition and major alterations to the reconstructed structure for 25 years from the date of the issuance of the certificate of occupancy, transferrable to any future property owner;
 - c. Identify the nature of the approval and any conditions thereof;
 - d. Require compliance with all applicable regulations; and
 - e. Identify the city's remedies for any violation of the covenant.
7. Historic status for reconstruction after demolition: Following reconstruction, the zoning administrator shall issue a historic status determination in accordance with section 21A.34.020.D, indicating the historic status of the reconstructed structure as noncontributing. Any future historic resource survey or status determination shall evaluate the reconstructed structure on its own merits.

SECTION 10. Enacting the text of Subsection 21A.34.020.N. That a new Subsection 21A.34.020.N of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District) is hereby enacted as follows:

- N. Enforcement: Any property on which work is done without a certificate of appropriateness when such is required under 21A.34.020, shall be subject to the enforcement process established in Section 21A.20. As applicable, the city shall have the following additional remedies as set forth below:

1. Any work done in violation of this chapter, and which does not comply with or cannot be made to comply with the standards of this chapter shall be undone. The structure or site shall be restored to its condition prior to such unlawful alteration to the greatest extent possible without further damage.
2. A request for historic status determination as outlined in 21A.34.020.D to change the status from contributing to noncontributing based on work done without a certificate of appropriateness shall be rejected.
3. In the case of demolition of a contributing principal structure or local landmark site without a certificate of appropriateness, a certificate of noncompliance will be issued and recorded against the property prohibiting redevelopment for 25 years unless the proposed redevelopment is for reconstruction as permitted by 21A.34.020.M.

SECTION 11. Amending the text of Subsection 21A.38.040.H.5. That Subsection

21A.38.040.H.5 of the Salt Lake City Code (Zoning: Nonconforming Uses and Noncomplying Structures: Nonconforming Uses: Modifications to Nonconforming Uses) shall be, and hereby is amended to read as follows:

5. Deterioration or Destruction of Structure with a Nonconforming Use: Restoration of a deteriorated, damaged or destroyed structure and continuance of a nonconforming use shall be subject to the following:
 - a. If a building or structure that contains a nonconforming use is allowed to deteriorate to a condition that the structure is rendered uninhabitable as determined by the building official and is not repaired or restored within one year after written notice to the property owner that the structure is uninhabitable, the nonconforming use will cease to be legal.
 - b. If a building or structure that contains a nonconforming use is voluntarily razed, or is required by law to be razed, the nonconforming use shall not be resumed.
 - c. If a property owner has voluntarily demolished seventy five percent (75%) or more of the perimeter wall length and area dimensions of the exterior walls and/or total floor area of a structure, the structure shall not be restored.
 - d. A nonconforming use may be restored when reconstruction is approved according to the provisions of 21A.34.020.M.1.a.
 - e. If a building or structure that contains a nonconforming use is involuntarily destroyed in whole or in part due to fire or other calamity and the structure or use has not been abandoned, the nonconforming use may be resumed and the building or structure may be restored to the condition prior to the destruction, provided such work is reasonably pursued in a time frame determined by the building official after such calamity.

SECTION 12. Amending the text of Subsection 21A.38.050.G. That Subsection 21A.38.040.G of the Salt Lake City Code (Zoning: Nonconforming Uses and Noncomplying Structures: Noncomplying Structures) shall be, and hereby is amended to read as follows:

- G. Deterioration, Damage or Destruction of Noncomplying Structure: Restoration of a deteriorated, damaged or destroyed noncomplying structure shall be subject to the following:
1. If a noncomplying structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable as determined by the building official and is not repaired or restored within one year after written notice to the property owner that the structure is uninhabitable, the noncomplying structure status will be lost and requires either complete demolition or compliance with the standards of the zoning district in which the structure is located.
 2. If a property owner or authorized representative voluntarily demolishes a noncomplying structure or the noncomplying structure is required by law to be razed, the structure shall not be restored unless it is restored to comply with the regulations of the zone in which it is located. Demolition of a noncomplying structure includes any act or process that destroys or removes seventy five percent (75%) or more of the perimeter wall length and area dimensions of exterior walls and/or total floor area of a structure.
 3. A noncomplying structure may be restored when reconstruction is approved according to the provisions of 21A.34.020.M.1.a.
 4. If a noncomplying structure is involuntarily destroyed in whole or in part due to fire or other calamity and the structure or use has not been abandoned, the structure may be restored to its original condition with respect to building footprint, setback, height and other noncomplying dimensional standards of the zoning district in which the structure is located, provided such work is started within one year, unless a longer time frame is approved by the building official, after such calamity.

SECTION 13. Amending the text of Section 21A.62.040. That Section 21A.62.040 of the *Salt Lake City Code* (Zoning: Definitions: Definitions of Terms) shall be and hereby is amended to add the following definitions, which shall be inserted in alphabetical order and shall read as follows:

RECONSTRUCTION (AS IT APPLIES TO PROPERTIES WITHIN THE H HISTORIC PRESERVATION OVERLAY DISTRICT): The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

SECTION 14. Adopting a “Reconstruction” fee in the Consolidated Fee Schedule. That the section of the Salt Lake City consolidated fee schedule titled, “Zoning Fees: Historic Landmarks Commission Review (Application)” shall be, and hereby is amended to add a new “Reconstruction” fee, which shall read as follows:

Service	Fee	Additional Information	Section
Reconstruction	\$2,982	See also fee for required public notices (21A.10.010 E)	21A.34.020

SECTION 15. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this 16th day of April, 2024.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor’s Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER
(SEAL)

Bill No. 22 of 2024.
Published: _____.
Ordinance for Work Without a COA(final)v4

