

ORDINANCE No.

112342

COUNCIL BILL No.

101519

AN ORDINANCE regulating and licensing the demolition and change of use of residential structures, providing eviction protections and requiring relocation assistance for tenants displaced by the demolition and change of use of residential structures, appropriating funds in the Low Income Housing Replacement Fund, authorizing implementation of a low income housing program, providing penalties for violations, and repealing Ordinance No. 109220 as amended.

COMPTROLLER FILE No.

Introduced:	NOV 5 1984	By:	EXECUTIVE REQUEST
Referred:	NOV 5, 1984	To:	HR & H
Referred:	DEC 3, 1984	To:	UR
Referred:		To:	
Reported:	JUL 15 1985	Second Reading:	JUL 15 1985
Third Reading:	JUL 15 1985	Signed:	JUL 15 1985
Presented to Mayor:	JUL 16 1985	Approved:	JUL 19 1985
Returned to City Clerk:	JUL 19 1985	Published:	
Vetoed by Mayor:		Veto Published:	
Passed over Veto:		Veto Sustained:	

Law Department

The City of

Honorable President:

Your Committee on

to which was referred the within Council report that we have considered the same

Pass as emergency

Divided Reports 1. W

2. SF Relocation Assn

3. L-1 + L-2 Zones

4. Joint Venture Subs

5. Joint Venture 1st

Vote 8-0

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

resident:

Committee on

Urban Redevelopment

referred the within Council Bill No.

104619

we have considered the same and respectfully recommend that the same:

Pass as engrossed

Findings Reports 1. WSC TC exemption PK, NR - JS, VG

2. SF Relocation Assistance NR, JS - PK - GB

3. L-1 + L-2 zones NR, VG - PK, JS

4. Joint venture substantial participation PK, VG - NR, JS

5. Joint venture language to satisfy purpose PK - NR, VG, JS


Committee Chair

0-112342

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

February 24, 1986

Gregory Dudiak
Book Publishing Company
201 Westlake Avenue North
Seattle, WA 98109

Re: Seattle Municipal Code

Dear Gregory:

- A. This letter is in response to your letter of February 13, 1986:
1. This question was answered in my letter of February 18, 1986, Part D.
 2. Please correct the typographical error appearing in Ordinance 112334, Section 2, page 7 line 7/8 (Section 20.46.095 G). "20.46.060 B" should be "20.46.080 B", so that line 7/8 should read: "when consistent with this section, subsection 20.46.080 B and Section"
 3. The language contained in Ordinance 112342, Section 3(H) on pages 3 and 4 is correct.
 4. With regard to Ordinance 112383, Section 7A, page 5, line 8/9, please correct the internal references as follows:
"Section 4.02 through 4.16" should be "Section 22.206.020 through Section 22.206.160.", so that line 8/9 reads:
"requirements of Sections 22.206.020 through 22.206.160 of the Housing Code"
 5. With regard to Ordinance 112383, Section 9, which established the Downtown Housing Maintenance Account, this account should be listed in Chapter 5.76 as a subaccount to the General Donations and Gift Trust Fund.

Gregory Dudiak
Page 2
February 24, 1986

B. The following are typographical errors which were found in the republished Code which need to be corrected. As per our telephone conversation of this morning, the City will not be charged for these corrections.

1. On page 24-121, Section 24.60.615 D4, please conform this section with Ordinance 111078 Section 44, and thus, make the correction to the typographical error as follows:

"4. Parking lots shall be located at least fifty feet (50') (~~(4500')~~) from the water's edge, unless no reasonable alternative exists."

2. On page 6-12, Section 6.02.280, please correct the typographical error by deleting the hyphen at the end of line 4 after the word "Director".

Thank you for your attention to these matters.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By 

ANN KELSON
Paralegal

MAK:bb

cc: Judy Barbour
Rodney Eng
Dorothy McFarlane ✓

L4

ORDINANCE 112342

1
2 AN ORDINANCE regulating and licensing the demolition and change of use
3 of residential structures, providing eviction protections and
4 requiring relocation assistance for tenants displaced by the demo-
5 lition and change of use of residential structures, appropriating
6 funds in the Low Income Housing Replacement Fund, authorizing
7 implementation of a low income housing program, providing penal-
8 ties for violations, and repealing Ordinance No. 109220 as
9 amended.

10 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

11 Section 1. Short Title. This Ordinance shall be cited as the
12 "Housing Preservation Ordinance."

13 Section 2. Findings and Purpose.

14 A. Findings

- 15 1. Among the most substantial environmental impacts of pro-
16 perty development and redevelopment in Seattle are the
17 loss of housing and the displacement of low income
18 people who are unable to pay for the costs of reloca-
19 tion.
20
21 2. The supply of housing, especially those rental housing
22 units available to the City's low and moderate income
23 residents, is being steadily diminished by demolition
24 and change of use. The housing market has been unable
25 to replace rental units and, particularly, low income
26 units which have been demolished or changed to a non-
27 residential use.
28
3. Tenants displaced when their housing units are demo-
lished or changed to a different use are increasingly
unable to locate decent, safe and sanitary rental
housing.

4. The loss of rental housing units has exacerbating an already critical rental housing shortage.
5. The loss of housing, especially rental housing, has been particularly severe downtown where more than 15,000 units have been lost since 1960, and the gap between the number of downtown jobs and the number of downtown housing units has increased enormously during this period.
6. Outside of downtown the low income housing demolition pressures have been greatest in the manufacturing and commercial zones and in the more intensive residential zones.

B. Purposes

Based on the above findings, the purposes of this Ordinance are as follows:

1. To mitigate the loss of scarce housing resources caused by redevelopment and change of use;
2. To ensure the replacement downtown of at least a portion of the housing being lost downtown;
3. To encourage replacement of lost units with units affordable to low-income persons;
4. To provide relocation assistance to low-income persons displaced by demolition or change of use.

Section 3. Definitions.

- A. Agent: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who represent or act for or on behalf of others.

- B. Block: The entire property between three or more intersecting or intercepting platted streets, or between a platted street and a railroad right-of-way or a waterway, provided that such distance does not extend more than four hundred feet on either side of a lot.
- C. Change of Use: The conversion of any housing unit from a residential use to a non-residential use. The lease of any housing unit by a licensed health care or medical research facility to provide housing for patients and/or their families in accordance with an approved Major Institutions Master Plan developed pursuant to Chapter 23.80 of the Seattle Municipal Code shall not be considered a change of use.
- D. Demolition: The destruction of any housing unit or the relocation of an existing housing unit or units to another site.
- E. Director: The Director of the Department of Construction and Land Use.
- F. Downtown: That portion of the City between the waterfront and Interstate Five and between Royal Brougham Way and Denny Way.
- G. Housing Unit: Any dwelling unit, housekeeping room, or guest room as defined in the Seattle Housing Code (Chapter 22.204 of the Seattle Housing Code); provided, that any housekeeping room or guest room which can be shown by the owner, to the satisfaction of the Director, to have been last used for at least five years as non-residential lodging shall not be considered a housing unit under this Ordinance.
- H. Low-income Rental Housing: Any rental housing unit which is rented to low-income tenants at rents not to exceed 30 per-

cent of 50 percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development (hereinafter "Seattle Everett SMSA").

- I. Low-income Tenant: Any tenant whose total household income is less than 50 percent of the median income for comparably sized households in the Seattle-Everett SMSA.
- J. Major Educational Institution: All educational institutions that are designated as "Major Institutions" in Section 23.48.02 of the Seattle Municipal Code, or any amendments or successors to that section.
- K. Net Residential Area: The total number of square feet of living space in a building based upon the interior dimensions of each housing unit and excluding stairwells, halls, lounges and other common areas.
- L. Non-required Parking Lot: One or more parking spaces not required by either The Land Use Code (Title 23 SMC) or The Zoning Code (Title 24 SMC) as accessory to a principal use and not imposed as a mitigating measure pursuant to the State Environmental Policy Act. Parking spaces proposed for major institutions shall be considered "non-required" if the added spaces would result in the entire institution exceeding the minimum number of spaces required by the Major Institution zoning code.
- M. Non-residential Lodging: Any housekeeping room or guest room which is licensed by the State of Washington under the Transient Accommodations Act and is generally not occupied by the same person for more than thirty days.

N. Notice: A written notice unless otherwise specified.

O. Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who undertakes the demolition or change of use of any housing unit. The word "owner" shall also include agents and any other person acting on the owner's behalf.

P. Person: Any individual, corporation, partnership, association or other legal entity.

Q. Rental Unit: Any housing unit as defined in this Ordinance which was last occupied or is occupied pursuant to a lawful rental agreement, oral or written, express or implied.

R. Tenant: Any person who occupies a housing unit pursuant to a lawful lease or rental agreement, whether oral or written, express or implied. For the purposes of this Ordinance two or more persons who live together in a rental unit shall be considered one tenant.

Section 4. Application of Ordinance. This ordinance shall apply to demolition and change of use of all housing units, as defined herein, in the City of Seattle with the exception of the following:

- A. Any housing unit ordered demolished by the Director because of damage caused by civil commotion, malicious mischief, vandalism, tenant waste, natural disaster, or other destruction beyond the owner's control;
- B. Any housing unit owned by the Seattle Housing Authority;
- C. Any detached single family house which has not been occupied by a tenant for at least a year and which will be replaced by a detached single family house or will be relocated for residential use to another site within the City.

Section 5. Requirements for Housing Demolition and Change of Use.

Prior to the demolition or change of use of any housing unit to which this Ordinance applies as indicated by Section 4, an owner must obtain a Housing Demolition License. The Director shall issue a Housing Demolition License upon the Owner's compliance with the following requirements:

- A. Obtain a permit for an appropriate replacement use as set forth in Section 6.
- B. File an application for a Housing Demolition License as provided in Section 7.
- C. Comply with tenant notice, eviction and relocation assistance requirements as provided in Sections 8, 9 and 10 and submit verification to the Director.
- D. Comply with the housing replacement requirements as provided in Sections 11, 12, and 13, secure certificate of such compliance from the Director of the Department of Community Development and submit to the Director.

Section 6. Replacement Use Permit Requirement. An owner seeking a Housing Demolition License for demolition or change of use must first obtain a use permit for an appropriate replacement use; provided, that a demolition license shall not be issued if the replacement use is a non-required parking lot; provided further, that a use permit shall not be required when demolition is ordered by the Director for reasons of health and safety; and provided further, that a use permit shall not be required when housing units are being relocated for residential use to other sites within the City.

Section 7. Housing Demolition License Application. The Housing Demolition License Application shall be according to a form established by the Director and shall include:

A. A statement certifying the number of housing units to be demolished or changed in use and the net residential area to be lost.

B. A list containing the name of each tenant currently residing in the structure to be demolished or changed and containing the last name and last known address of each tenant who resided in the structure during the 180-day period immediately preceding the date of application for the housing demolition license, indicating those tenancies which were terminated and the reason for each termination.

C. Written verification of compliance with the tenant notice, eviction and relocation assistance requirements of Sections 8, 9, and 10 of this Ordinance.

D. Written certification from the Director of Community Development that replacement housing, as required by Sections 11, 12, and 13 of this Ordinance, will be provided.

E. The use permit for the replacement use.

Section 8. Tenant Notice. At least 120 days before issuance of a Housing Demolition License, the owner must deliver to each tenant in the building to be demolished or changed in use written notice of his intention to apply for a Housing Demolition License and a relocation assistance certification form; provided, that nonprofit major educational institutions need not give such notice to students, faculty or staff who occupy housing owned by such institutions which is located within the institution's boundaries. The notice, which shall be a form provided by the Director, shall describe the relocation benefits available to eligible tenants and shall explain the tenant's right to remain in possession until demolition unless evicted for cause as defined in Section 9 of this Ordinance. Notice shall be delivered to

each tenant personally and written acknowledgement of service on the tenant shall be secured, or notice shall be delivered by registered or certified mail with return receipt requested. In addition, a copy of the notice shall be posted at every entrance to the building.

Section 9. Tenant Evictions. For one hundred eighty days prior to application for a housing demolition license for housing units, tenants in those units shall be evicted only for failure to pay rent after service of a three-day notice to pay rent or vacate pursuant to RCW 59.12.030(3), for failure to comply with reasonable terms of a lease or rental agreement after service of a ten-day notice pursuant to RCW 59.12.030(4), or for destroying property or creating a nuisance after service of a three-day notice pursuant to RCW 59.12.030(5). Any tenant evicted contrary to the requirements of this section shall be entitled to relocation assistance as provided in Section 10 of this Ordinance.

Section 10. Relocation Assistance.

A. With the exception of students, faculty or staff who are the tenants of nonprofit major educational institutions inside major institutions boundaries, tenants whose household income is at or below 80 percent of median household income and who are displaced by demolition or change of use shall be relocated by the owner at the owner's expense into comparable housing in a comparable location at comparable rent as approved by the Director.

B. In lieu of such relocation, an owner may elect to pay to the tenants, at least five days before the date they are required to vacate, a relocation assistance payment in the amount of:

1. For a single tenant: \$1,500 when income is at or below 50 percent of the Seattle-Everett SMSA median income;

\$750 when income is between 50 percent and 80 percent of the median income;

2. For tenants whose household contains two or more people: \$2,000 when household income is at or below 50 percent of the median income; \$1,000 when household income is between 50 percent and 80 percent of median income.

Relocation assistance shall be in addition to the refund of any deposits or other sums to which the tenant is lawfully entitled.

- C. If the owner elects to make relocation assistance payments, then either the owner or the tenant may elect to have such payments made in the form of excused rent payments. Owners shall give each tenant written notice in advance of his or her entitlement to relocation assistance in the form of excused rent. Tenants shall receive, at least five days before the date they are required to vacate, the difference between the set off rent and their full relocation entitlement.
- D. Each tenant claiming relocation assistance shall submit to the owner, within 30 days of receipt of the relocation assistance certification form, a sworn, notarized statement setting forth the tenant's total annual gross income for the previous calendar year and the total gross income for the year in which the statement is submitted. The statement shall be on a form provided by the Director and shall be delivered to the tenants with the tenant notice required by Section 8 of this Ordinance. The owner may challenge the income verification of any tenant by submitting to the Director proof of income not disclosed by the tenant.

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E. Any tenant who refuses to provide information regarding his or her income when requested by the Director or any tenant who misrepresents any information regarding income or entitlement to relocation benefits shall be denied relocation assistance.

F. Owners shall not be required to pay relocation assistance to eligible tenants when the tenant establishes tenancy in the unit after the one hundred twenty days' notice required by Section 8 was delivered to the tenants in the building; provided, that the owner must advise the tenant, in writing, prior to the tenant's acceptance of tenancy, that the unit will be demolished within one hundred twenty days. Any eligible tenant who is not advised of the intended demolition shall be entitled to full relocation benefits.

Section 11. Housing Replacement Requirement.

A. Replacement Ratios. Owners who demolish or convert housing to another use in the City shall replace the net residential area demolished or converted as follows:

1. Downtown. Housing demolished or converted shall be replaced downtown with 100 percent of the net residential area demolished or converted; provided, that the Director may, in his discretion, approve replacement housing that is within two blocks of downtown.
2. HR, CG, BC, NC3, C1, and C2 Zones. Housing demolished or converted shall be replaced anywhere in the City with 100 percent of the net residential area demolished or converted.
3. MR Zones. Housing demolished or converted shall be replaced anywhere in the City with 50 percent of the net residential area demolished or converted.

4. L3, BI, BN, NC2 and NC1 Zones. Housing demolished or converted shall be replaced anywhere in the City with 35 percent of the net residential area demolished or converted.
5. M, IG, and IH Zones. Housing demolished or converted shall be replaced anywhere in the City with 25 percent of the net residential area demolished or converted.
6. L2, L1 and SF Zones. No replacement is required.

B. Alternative Methods of Replacement. Replacement housing may be provided at the owner's election by: 1) relocation for residential use of the units to be replaced to another site, 2) construction of new units, 3) rehabilitation of existing residential structures which can be shown to the Director's satisfaction to have been vacant continuously for five years prior to the date of application for a housing demolition license, or 4) the contribution to the Low Income Housing Replacement Fund provided for in section 14 of this ordinance. Under the fourth alternative, the contribution amount shall be based upon the cost at the time the contribution is made of providing low-income replacement housing in the area in which the replacement would be constructed (downtown for downtown housing, anywhere outside of downtown for other housing). That cost shall be calculated by multiplying one quarter of the net residential area required to be replaced pursuant to Section 11(A) by the estimated development cost (per net square foot) of newly constructed, average quality residential units in the area as determined yearly by the Director of the Department of Community Development. On the anniversary date of this Ordinance in each subsequent year, the Director of the Department of Community Development shall

1 adjust the development cost factor up or down to reflect,
2 as nearly as possible, the actual net square foot cost of
3 constructing average quality residential units in the area.

4 C. Rental Housing. Rental housing that is demolished or con-
5 verted shall be replaced with rental housing. Except as pro-
6 vided below, such replacement housing shall remain rental
7 housing for a period of at least twenty years. Owners who
8 provide replacement rental housing shall execute a monitoring
9 agreement with the Director. After five years from the
10 issuance of a certificate of occupancy of rental units, an
11 owner may convert rental units to condominiums in accordance
12 with the City's condominium conversion ordinance if the owner
13 makes a contribution to the Low-Income Housing Replacement
14 Fund. The contribution shall be a prorated amount based on
15 the square footage of housing units originally demolished or
16 converted, the number of years left on the 20 year rental
17 requirement and the dollar amount per net square foot which
18 would be paid pursuant to subsection 11(B) of this Ordinance
19 calculated as of the time of the buy-out.

20 D. Low Income Replacement Housing Incentives.

- 21 1. Owners who replace demolished or converted housing with
22 Low-Income Housing shall provide one square foot of
23 replacement net residential area for each four square
24 feet of net residential area which would otherwise have
25 been required under subsection 11(A) for non low-income
26 replacement housing. Such housing shall remain low
27 income housing for a period of at least 20 years subject
28 to the buy-out provision for conversion of rental units
to condominiums contained in subsection 11(C) above.

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2. When the net residential area of Low-Income replacement housing constructed exceeds the net residential area of Low-Income Housing required pursuant to subsection D(1) above or when privately financed Low-Income Housing is constructed in the absence of any housing replacement requirement, the owner shall upon certification by the Director that such housing will remain low-income housing for twenty years, receive from the Director a Low-Income Replacement Housing credit certificate. The certificate shall specify the location of the housing and the total net residential area of the excess low-income housing constructed. The credited area may, for a period of five years, be applied to reduce housing replacement requirements incurred by the owner or by others. Low-income Replacement Housing credit certificates may not be used downtown unless the housing for which the certificate was issued was constructed downtown.

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- E. Replacement Implementation. Replacement housing shall be completed and ready for occupancy within three years of the date of issuance of the Housing Demolition License. Owners shall post a bond, letter of credit, set-aside letter or other security acceptable to the Director, in the amount of the contribution the owner would be required to pay to the Low Income Housing Replacement Fund if no replacement housing were provided pursuant to subsection 11(B). Should the required replacement housing not be constructed in the time period provided by this Ordinance, the bond or other security shall be forfeited and the proceeds placed in the Low Income Housing Replacement Fund. The three year housing replacement period may be extended if the Director determines that the

1 owner has made reasonable progress toward constructing the
2 housing but circumstances such as strikes, material shortages
3 or weather caused delays which prevented completion of the
4 replacement housing in the required three-year period. If an
5 extension is granted, the Director may require the owner to
6 post a bond or provide other security to assure that the
7 replacement housing will be completed within the extension
8 period granted.

9 F. Joint Ventures.

- 10 1) An owner may fulfill the housing replacement requirement
11 by means of substantial participation in a verifiable,
12 legally enforceable joint venture agreement with a for-
13 profit or nonprofit developer.
- 14 2) Except for Low-income replacement housing as provided in
15 subsection 11(D)(2), any joint venture agreement must be
16 entered into and approved by the Director of Community
17 Development before the building permit is issued in con-
18 nection with the non-residential development or within
19 one year of issuance of the demolition permit or before
20 issued in connection with the replacement housing,
21 whichever occurs sooner.
- 22 3) An owner shall not receive replacement housing credits
23 for housing units which have or will receive direct sub-
24 sidy from other public or private entities. Replacement
25 housing required by this Ordinance, a property use and
26 development agreement or a Council conditional use per-
27 mit shall not be credited to the replacement obligation
28 of more than one owner.

Section 12. Exceptions to Housing Replacement Requirement.

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- 2 A. The housing replacement requirement shall not apply to any
- 3 housing unit continuously vacant since January 1, 1974.
- 4
- 5 B. The housing replacement requirement shall not apply when
- 6 owners demolish or change the use of two or fewer structures
- 7 containing four or fewer housing units in the same block. If
- 8 more than two structures or more than four units are demo-
- 9 lished or changed to a non-residential use on the same block,
- 10 then the replacement requirements of Section 11 shall apply
- 11 to all structures and units demolished or changed to a non-
- 12 residential use including those that were or would have been
- 13 exempted pursuant to this section.
- 14
- 15 C. The housing replacement requirement shall not apply to
- 16 housing units owned by major educational institutions which
- 17 were located within major institution boundaries and which
- 18 were last used for student, faculty or staff housing prior to
- 19 the effective date of this Ordinance. Other housing owned by
- 20 educational institutions shall be subject to the housing
- 21 replacement requirement unless wholly or partially exempted
- 22 from such requirement as part of a City-approved master plan.
- 23 In determining the extent of such an exemption, the City
- 24 Council shall consider the importance of the proposed insti-
- 25 tutional use of the affected property, the effect of the
- 26 demolition or conversion on the supply of low-income housing
- 27 and on the character of the neighborhood and the existence of
- 28 alternatives to housing demolition or conversion.

- D. The housing replacement requirement shall not apply to the demolition or change of use of any housing unit in a building subject to and referenced in housing mitigation conditions included in a property use and development agreement or Council conditional use permit approved by the City prior to the effective date of this Ordinance.

Section 13. Administrative Relief from Housing Replacement Requirements.

- A. The Director may provide full or partial relief from the housing replacement requirement, if the owner establishes with clear and convincing proof that:

1. The literal interpretation and strict application of the housing replacement requirement of this Ordinance would prevent the owner from making profitable use of the property. "Profitable use of the property" shall not be the highest, best, or expectant use of the property but any use which may lawfully and reasonably develop on the property;
2. The requested relief would be consistent to the extent possible with the objectives of the Housing Preservation Ordinance and adopted Downtown Plan or component, as applicable;
3. The requested relief does not go beyond the minimum necessary to permit reasonable development of the property, and does not constitute a grant of special privilege inconsistent with the limitations upon other similar properties.

- B. When relief from the housing replacement requirement is sought, the Director shall request from the Director of the Department of Community Development a report and recommen-

1 dation analyzing the owner's ability to make profitable use
2 of property if the housing replacement requirement is im-
3 posed. The Community Development Director's report shall be
4 made available to the owner and to any member of the public
5 who requests it. The owner and any member of the public
6 shall have fourteen days from the date the report is
7 published to make comments to the Director concerning the
8 appropriateness of the relief requested. Thereafter, the
9 Director shall issue a written decision granting or denying
10 administrative relief.

11 C. Decisions granting or denying administrative relief may be
12 appealed by the applicant or any interested person pursuant
13 to the following procedures:

14 1. Time of Filing. Appeals shall be filed with the Hearing
15 Examiner by five o'clock p.m. of the fifteenth calendar
16 day following issuance of notice of the decision. When
17 the last day of the appeal period so computed is a
18 Saturday, Sunday, or federal or City holiday, the period
19 shall run until five o'clock p.m. on the next business
20 day. The appeal shall be in writing and shall clearly
21 state the specific error or errors in the Director's
22 decision and the specific relief sought. The appeal
23 shall be accompanied by payment of the filing fee as set
24 forth in Section 3.02.125 of the Seattle Municipal Code,
25 governing Hearing Examiner Filing Fees. In form and
26 content, the appeal shall conform with the rules of the
27 Hearing Examiner.

28 2. Pre-hearing Conference. On the Hearing Examiner's
motion, or at the request of any party of record, the
Hearing Examiner may have a conference prior to the

hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

3. Notice of Hearing. Notice of the Hearing on the appeal shall be mailed at least twenty days prior to the scheduled hearing date to parties of record.
4. Scope of Review. Appeals shall be considered de novo.
5. Standard of Review. The Director's decision shall be affirmed unless the Hearing Examiner finds such decision clearly erroneous.
6. Hearing Examiner's Decision. The Hearing Examiner shall issue a decision within fourteen days after closing the record and may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made.
7. Notice of Hearing Examiner's Decision. Notice of the Hearing Examiner's decision shall be mailed on the same date of the decision to the parties of record.
8. Appeal of Hearing Examiner's Decision. An appeal of any Hearing Examiner's decision must be filed in King County Superior Court within thirty days of the issuance of the decision.

Section 14. Low Income Housing Replacement Fund. All owner contributions pursuant to Section 11 of this Ordinance made in lieu of providing replacement housing, shall be deposited in the Low-Income Housing Replacement Fund created by Ordinance No. 109220. Monies deposited in the fund shall be used solely to assist in the production or rehabilitation of housing units for low income tenants. The Mayor

or his designee is hereby authorized to implement a program for producing and rehabilitating housing units for low income tenants with such funds. To effectuate such a program, all monies in the Low Income Housing Replacement Fund are hereby appropriated for such program and the City Comptroller is authorized to draw and the City Treasurer to pay the necessary warrants upon vouchers approved by the Mayor or his designee from appropriated funds.

Section 15. Administration. The Director shall administer and enforce the provisions of this ordinance and is authorized to adopt reasonable rules and regulations consistent with the ordinance to carry out his duties. Whenever an owner fails to comply with the provisions of this ordinance, the Director shall refuse the requested license.

Section 16. Penalties.

A. In addition to any other sanction or remedial procedure which may be available, any person violating any provision of this Ordinance or deliberately attempting to evade application of this Ordinance shall be subject to a civil penalty in the amount of \$500.00 per day for each day of violation.

B. The penalties imposed by this Section shall be collected by a civil action brought in the name of the City and commenced in municipal court. The Director of Construction and Land Use shall notify the City Attorney in writing of the name of any person subject to the penalty. The City Attorney shall, with the assistance of the Director of Construction and Land Use, take appropriate action to collect the penalty.

Section 17. Use Of Carry Over Subsidized Housing Area Credit.

Notwithstanding any of the provisions of the Ordinance, owners of carry over subsidized housing area credits, as described in Section 10 of Ordinance 109220 as amended (Section 22.210.100 of the Seattle Municipal Code), for which a certificate of occupancy was issued prior

1 to the effective date of this Ordinance, may use those carry over cre-
2 dits to satisfy any housing replacement obligation that the owner, or
3 any association or other legal entity in which the owner is a partici-
4 pant, may incur pursuant to this Ordinance; provided, that use of the
5 carry over housing credits shall be governed by the housing demolition
6 license fee reduction provisions described in Section 8 of Ordinance
7 109220, as amended (Section 22.210.080 of the Seattle Municipal Code).
8 Any housing replacement obligation remaining after the carry over
9 housing credits are expended shall be satisfied pursuant to the terms
10 of this Ordinance.

11 Section 18. Severability. The provisions of this ordinance are
12 declared to be separate and severable. The invalidity of any clause,
13 sentence, paragraph, subdivision, section or portion of this ordi-
14 nance, or the invalidity of the application thereof to any person or
15 circumstance shall not affect the validity of the remainder of this
16 Ordinance, or the validity of its application to other persons or cir-
17 cumstances.

18 Section 19. Ordinance 109220, and its amendments, Ordinances
19 109432, 109973 and 110661 are hereby repealed.

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21 7-15R.21/NCA:gm
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(To be used for all Ordinances except Emergency.)

Section . . . This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of July, 1985,
and signed by me in open session in authentication of its passage this 15th day of July, 1985.

Norman B. Rice
President of the City Council.

Approved by me this 19th day of July, 1985.

Charles Roper
Mayor.

Filed by me this 19th day of July, 1985.

Gina Hill
Attest: City Comptroller and City Clerk.

(SEAL)

Published _____

By Theresa Dunbar
Deputy Clerk.

ORDINANCE _____

AN ORDINANCE regulating and licensing the demolition and change of use of residential structures, providing eviction protections and requiring relocation assistance for tenants displaced by the demolition and change of use of residential structures, appropriating funds in the Low Income Housing Replacement Fund, authorizing implementation of a low income housing program, providing penalties for violations, and repealing Ordinance No. 109220 as amended.

WHEREAS, a significant number of residential structures in Seattle are lost each year to demolition and change of use; and

WHEREAS, rental housing lost to demolition and change of use is not being replaced; and

WHEREAS, the supply of housing, especially those rental housing units available to the City's low and moderate income residents, is being steadily diminished by demolition and change of use; and

WHEREAS, the steady loss of rental housing units is exacerbating an already critical rental housing shortage; and

WHEREAS, tenants displaced when their housing units are demolished or changed to a different use, frequently on short notice, are increasingly unable to locate decent, safe, and sanitary rental housing; and

WHEREAS, the loss of housing, especially rental housing, has been particularly severe downtown where more than 15,000 units have been lost since 1960; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Short Title. This ordinance shall be cited as the "Housing Preservation Ordinance."

Section 2. Definitions.

As used in this ordinance, the words and phrases listed below shall be defined as follows:

A. Agent: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who represent or act for or on behalf of others.

- 1 B. Block: The entire property between three or more
2 intersecting or intercepting platted streets, or
3 between a platted street and a railroad right-of-way
4 or a waterway, provided that such distance does not
5 extend more than four hundred feet on either side
6 of a lot.
- 7 C. Change of Use: The conversion of any housing unit
8 from a residential to a non-residential use.
- 9 D. Demolition: The destruction of any housing unit or
10 the relocation of an existing housing unit or units
11 to another site.
- 12 E. Director: The Director of the Department of
13 Construction and Land Use, unless otherwise specified.
- 14 F. Housing Unit: Any dwelling unit, housekeeping room,
15 or guest room as defined in the Seattle Housing Code;
16 (Chapter 22.204 of the Seattle Municipal Code)
17 provided that any housekeeping room or guest room
18 which can be shown by the owner, to the satisfaction
19 of the Director, to have been used as non-residential
20 lodging shall not be considered a housing unit under
21 this Ordinance.
- 22 G. Low-income Housing: Any housing unit which, for a
23 period of at least twenty years will be rented to
24 low-income tenants at rents not to exceed 30% of 50%
25 of the median income for comparably sized households
26 in the Seattle-Everett Standard Metropolitan
27 Statistical Area as defined by the United States
28 Department of Housing and Urban Development,
(hereafter "Seattle Everett SMSA").

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- H. Low-income Tenant: Any tenant whose total household income is less than 50% of the median income for comparably sized households in the Seattle-Everett SMSA.
- I. Net Residential Area: The total number of square feet of living space in a building based upon the interior dimensions of each housing unit and excluding stairwells, halls, lounges and other common areas.
- J. Non-required Parking Lot: One or more parking spaces not required by either The Land Use Code (Title 23 SMC) or The Zoning Code (Title 24 SMC) as accessory to a principal use and not imposed as a mitigating measure pursuant to the State Environmental Policy Act.
- K. Non-residential Lodging: Any housekeeping room or guest room which is licensed by the State of Washington under the Transient Accommodations Act and is generally not occupied by the same person for more than thirty days.
- L. Notice: A written notice unless otherwise specified.
- M. Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who undertakes the demolition or change of use of any housing unit. The word "owner" shall also include agents and any other person acting on the owner's behalf.
- N. Person: Any individual, corporation, partnership, association or other legal entity.

1 O. Rental Unit: Any housing unit as defined in this
2 Ordinance, which is occupied pursuant to a lawful
3 rental agreement, oral or written, express or implied.

4 P. Tenant: Any person who occupies a housing unit
5 pursuant to a lawful lease or rental agreement, whether
6 oral or written, express or implied. For the purposes
7 of this Ordinance two or more persons who live
8 together in a rental unit shall be considered one tenant.

9 Section 3. Application of Ordinance. This ordinance shall
10 apply to the demolition and change of use of all housing units,
11 as defined herein, in the City of Seattle, including those
12 demolished pursuant to any order, decision or other action of
13 the Director. No owner shall cause the demolition or change
14 of use of any housing unit without first obtaining a Housing
15 Demolition License. Any housing unit ordered demolished by
16 the Director because of damage caused by civil commotion,
17 malicious mischief, vandalism, tenant waste, natural disaster,
18 or other destruction beyond the owner's control shall not be
19 subject to the terms of this ordinance. The Director shall
20 not issue a housing demolition license or use permit when
21 housing units are to be demolished and no replacement use is
22 proposed, or when the the proposed replacement use is a non-
23 required parking lot; provided, that when demolition is
24 ordered by the Director for reasons of health and safety, a
25 demolition permit shall be issued without the requirement of a
26 use permit. This ordinance shall not apply to the demolition
27 or change of use of any housing unit owned by the Seattle
28 Housing Authority, or to the demolition of a detached single
 family house which will be replaced by a detached single

1 family house, or to the relocation of a detached single family
2 house to another site.

3 Section 4. Housing Demolition License Requirements. To
4 receive a housing demolition license every owner must:

- 5 A. Submit to the Director a statement, on a form to be
6 provided by the Director, certifying the number of
7 housing units to be demolished and the net residential
8 area to be lost from the demolition.
- 9 B. Submit a list containing the name of each tenant
10 currently residing in the structure to be demolished
11 and containing the last name and last known address
12 of each tenant who resided in the structure during
13 the 180 day period immediately preceding the date of
14 application for the housing demolition license,
15 indicating those tenancies which were terminated and
16 the reason for each termination.
- 17 C. Submit written verification of compliance with the
18 tenant notice, eviction and relocation assistance
19 requirements of Sections 9, 10 and 11 of this Ordinance.
- 20 D. Secure certification from the Director of Community
21 Development that replacement housing, as required by
22 Section 5 of this Ordinance, will be provided.
- 23 E. Secure a use permit for the replacement use to be
24 built on the site of the demolished housing.

25 Section 5. Housing Replacement Requirement. Within the
26 downtown area, owners shall replace the net residential area of
27 housing demolished or converted to a non-residential use with
28 an equal number of square feet of net residential area. Owners
who replace demolished or converted housing with Low-Income

1 Housing shall provide one square foot of replacement net
2 residential area for each four square feet of net residential
3 area demolished or converted. Existing rental housing down-
4 town which is demolished shall be replaced with rental housing
5 which shall remain rental housing for a period of at least
6 twenty years. Outside the downtown area, housing demolished
7 may be replaced with rental or non-rental housing. For the
8 purposes of this ordinance existing rental housing shall be
9 defined as any housing unit which was occupied by a tenant on
10 or before August 1, 1984. Housing demolished within the
11 downtown area shall be replaced with housing in the downtown
12 area; provided, that the Director may, in his discretion,
13 approve replacement housing that is within two blocks of
14 downtown. Housing demolished outside of the downtown area may
15 be replaced anywhere in the City. For the purposes of this
16 Ordinance the downtown area shall mean that portion of the
17 City between the waterfront and Interstate 5 and between Royal
18 Brougham Way and Denny Way.

19 Owners who demolish housing in MR, HR, CG and BC Zones
20 outside the downtown area shall be required to replace only
21 75% of the net residential area demolished. Owners who
22 demolish housing in SF, L-1, L-2, L-3, BN, BI, IG, M and 1 H
23 Zones outside the downtown area shall be required to replace
24 only 25% of the net residential area demolished. Owners may
25 replace housing demolished outside of the downtown area with
26 Low-Income Housing in the same ratio as provided above for
27 housing replacement downtown.
28

1 Replacement housing shall be completed and ready for occu-
2 pancy within three years of the date of issuance of the
3 housing demolition license. Owners shall post a bond, letter
4 of credit or other security acceptable to the Director, in the
5 amount of the contribution the owner would be required to pay
6 to the Low Income Housing Replacement Fund if no replacement
7 housing were provided. Should the required replacement
8 housing not be constructed in the time period provided by this
9 ordinance, the bond or other security shall be forfeited and
10 the proceeds placed in the Low Income Housing Replacement
11 Fund. The three year housing replacement period may be
12 extended if, in the Director's opinion, the owner has made
13 reasonable progress toward constructing the housing but
14 circumstances such as strikes, equipment and material shortages,
15 or weather, caused delays which prevented completion of the
16 replacement housing in the required three year period. If an
17 extension is granted, the Director may require the owner to
18 post a bond or provide other security to assure that the
19 replacement housing will be completed within the extension
20 period granted.

21 Replacement housing may be provided by: 1) an owner's
22 construction of new units or rehabilitation of existing
23 residential structures which can be shown to the Director's
24 satisfaction to have been vacant continuously for five years
25 prior to the date of application for a housing demolition
26 license; 2) an owner co-venturing with a for-profit or a
27 nonprofit developer; or, 3) an owner contributing to a
28 Low-Income Housing Replacement Fund, the proceeds of which
will be used to provide replacement rental housing. Owners

1 who provide replacement low income housing shall execute a
2 monitoring agreement with the Director to assure that the
3 replacement units remain in low income use for the required
4 period. The contribution amount shall be based upon the cost
5 of providing low-income replacement housing in the zone or
6 area in which the housing is demolished or converted. That
7 cost shall be calculated by multiplying one quarter of the net
8 residential area demolished or converted by the estimated
9 development cost (per net square foot) of newly-constructed,
10 average quality residential units in the downtown. For the
11 first year following passage of this ordinance that cost shall
12 be \$120 per square foot. On the anniversary date of this
13 ordinance in each subsequent year, the Director shall adjust
14 the development cost factor up or down to reflect, as nearly
15 as possible, the actual net square foot cost of constructing
16 average quality residential units in the downtown area.

16 When the net residential area of replacement housing
17 constructed exceeds the net residential area of housing
18 demolished, the excess replacement housing may, after certifi-
19 cation by the Director, be credited to the owner. The credited
20 area may, for a period of five years, be applied to reduce the
21 owner's housing replacement requirement.

21 Section 6. Exceptions to Housing Replacement Requirement.

22 The housing replacement requirement shall not apply when
23 owners: 1) can prove to the Director's satisfaction that the
24 building to be demolished has been vacant continuously since
25 January 1, 1974; or 2) demolish or change the use of two or
26 fewer structures containing four or fewer housing units in the
27 same block. If more than two structures or more than four
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1 units are demolished or changed to a non-residential use on
2 the same block, then the replacement requirements of Section 5
3 shall apply to all structures and units demolished or changed
4 to a non-residential use including those that were or would
5 have been exempted pursuant to this section.

6 Section 7. Administrative Relief from Housing Replacement
7 Requirement. The Director may provide full or partial relief
8 from the housing replacement requirement, if the owner
9 establishes with clear and convincing proof that:

- 10 1. The literal interpretation and strict application of
11 the housing replacement requirement of this ordinance
12 would prevent the owner making profitable use of the
13 property. "Profitable use of the property" shall not
14 be the highest, best, or expectant use of the property
15 but any use which may lawfully and reasonably
develop on the property.
- 16 2. The requested relief would be consistent with the
17 spirit and purpose of the Housing Preservation
18 Ordinance and adopted Downtown Housing Plan or
component, as applicable and;
- 19 3. The requested relief does not go beyond the minimum
20 necessary to permit reasonable development of the
21 property, and does not constitute a grant of special
22 privilege inconsistent with the limitations upon
23 other similar properties.

24 When relief from the housing replacement requirement is
25 sought the Director shall request from the Director of
26 Community Development a report and recommendation analyzing
27 the owner's ability to make profitable use of property if the
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1 housing replacement requirement is imposed. The Community
2 Development Director's report shall be made available to owner
3 and to any member of the public who requests it. The owner
4 and any member of the public shall have fourteen days from the
5 date the report is published to make comments to the Director
6 concerning the appropriateness of the relief requested.

7 Section 8. Appeal of Decision. Decisions granting or
8 denying administrative relief may be appealed by the applicant
9 or any interested person pursuant to the following procedures:

10 1. Time of Filing. Appeals shall be filed with the
11 Hearing Examiner by five o'clock p.m. of the fifteenth
12 calendar day following issuance of notice of the
13 decision. When the last day of the appeal period so
14 computed is a Saturday, Sunday, or federal or City
15 holiday, the period shall run until five o'clock p.m.
16 on the next business day. The appeal shall be in
17 writing and shall clearly state the specific error or
18 errors in the Director's decision and the specific
19 relief sought. The appeal shall be accompanied by
20 payment of the filing fee as set forth in Section
21 3.02.125 of the Seattle Municipal Code, governing
22 Hearing Examiner Filing Fees. In form and content,
23 the appeal shall conform with the rules of the
24 Hearing Examiner.

25 2. Pre-hearing Conference. On the Hearing Examiner's
26 motion, or at the request of any party of record, the
27 Hearing Examiner may have a conference prior to the
28 hearing in order to entertain pre-hearing motions,
clarify issues, or consider other relevant matters.

- 1 3. Notice of Hearing. Notice of the hearing on the
- 2 appeal shall be mailed at least twenty days prior to
- 3 the scheduled hearing date to parties of record.
- 4 4. Scope of Review. Appeals shall be considered de novo.
- 5 5. Standard of Review. The Director's decision shall be
- 6 affirmed unless the Hearing Examiner finds such
- 7 decision to be arbitrary and capricious.
- 8 6. Hearing Examiner's Decision. The Hearing Examiner
- 9 shall issue a decision within fourteen days after
- 10 closing the record and may affirm, reverse, remand or
- 11 modify the Director's decision. Written findings and
- 12 conclusions supporting the Hearing Examiner's deci-
- 13 sion shall be made.
- 14 7. Notice of Hearing Examiner's Decision. Notice of the
- 15 Hearing Examiner's decision shall be mailed on the
- 16 same date of the decision to the parties of record.
- 17 8. Appeal of Hearing Examiner's Decision. An appeal of
- 18 any Hearing Examiner's decision must be filed in King
- 19 County Superior Court within fourteen days of the
- 20 issuance of the decision.

21 Section 9. Tenant Evictions. For one hundred eighty days

22 prior to application for a housing demolition license for any

23 housing unit, tenants in those units shall be evicted only for

24 failure to pay rent after service of a three-day notice to pay

25 rent or vacate pursuant to RCW 59.12.030(3), for failure to

26 comply with reasonable terms of a lease or rental agreement

27 after service of a ten-day notice pursuant to RCW 59.12.030(4),

28 or for destroying property or creating a nuisance after

service of a three-day notice pursuant to RCW 59.12.030(5).

1 Section 10. Tenant Notice. At least 120 days before
2 issuance of a Housing Demolition License, the owner must
3 deliver to each tenant in the building to be demolished written
4 notice of his intention to apply for a Housing Demolition
5 License and a relocation assistance certification form
6 described in Section 11 of this ordinance. The notice, which
7 shall be on a form provided by the Director, shall describe
8 the relocation benefits available to eligible tenants and
9 shall explain the tenant's right to remain in possession until
10 demolition unless evicted for cause as defined in Section 9 of
11 this ordinance. Notice shall be delivered to each tenant
12 personally and written acknowledgement of service on the
13 tenant shall be secured, or notice shall be delivered by
14 registered or certified mail with return receipt requested.
15 In addition, a copy of the notice shall be posted at every
entrance to the building.

16 Section 11. Relocation Assistance. Tenants displaced by
17 demolition or change of use shall receive from the owner, at
18 least five days before the date they are required to vacate,
19 a relocation assistance payment in the amount of:

20 (a) \$2,000.00 for tenants whose household income is
21 below 50% of the Seattle-Everett SMSA median income;

22 (b) \$1,000.00 for tenants whose household income is
23 50 to 80% of the median income;

24 provided that an owner who pays the actual cost of relocating
25 tenants into comparable housing at comparable cost, which
26 housing is approved by the Director of Community Development,
27 shall not be required to pay relocation assistance as
28 described in this section.

1 Relocation assistance payments shall be in addition to the
2 refund of any deposits or other sums to which the tenant is
3 lawfully entitled. At the option of the owner or the tenant,
4 relocation assistance shall be paid in the form of excused rent
5 payments. Owners shall give each tenant written notice in
6 advance of his or her entitlement to relocation assistance in
7 the form of excused rent. Tenants who vacate prior to
8 receiving full relocation assistance in the form of reduced
9 rents shall receive, at least five days before the date they
10 vacate, the difference between the set off rent and their full
11 relocation entitlement. Each tenant claiming relocation
12 assistance shall submit to the owner, within 30 days of receipt
13 of the relocation assistance certification form, a sworn,
14 notarized statement, setting forth the tenants total annual
15 gross income for the previous calendar year and the total
16 gross income for the year in which the statement is submitted.
17 The statement shall be on a form provided by the Director and
18 shall be delivered to the tenants with the tenant notice
19 required by Section 9 of this ordinance. The owner may
20 challenge the income verification of any tenant by submitting
21 to the Director proof of income not disclosed by the tenant.
22 Any tenant who refuses to provide information regarding his or
23 her income when requested by the Director, or any tenant who
24 misrepresents any information regarding income or entitlement
25 to relocation benefits, shall be denied relocation assistance.
26 Any tenant evicted contrary to the requirements of Section 9
27 of this ordinance, in the one hundred eighty day period
28 immediately preceding an owner's application for a demolition
license, shall be entitled to relocation assistance as pro-
vided in this section.

1 Section 12. Low Income Housing Replacement Fund. All
2 owner contributions pursuant to Section 5 of this ordinance
3 made in lieu of providing replacement housing, shall be
4 deposited in the Low-Income Housing Replacement Fund created
5 by Ordinance No. 109220. Monies deposited in the fund shall
6 be used solely to assist in the production or rehabilitation
7 of housing units for low income tenants. The Mayor or his
8 designee is hereby authorized to implement a program for
9 producing and rehabilitating housing units for low income
10 tenants with such funds. To effectuate such a program, all
11 monies in the Low Income Housing Replacement Fund are hereby
12 appropriated for such program and the City Comptroller is
13 authorized to draw and the City Treasurer to pay the necessary
14 warrants upon vouchers approved by the Mayor or his designee
15 from appropriated funds.

16 Section 13. Administration. The Director shall administer
17 and enforce the provisions of this ordinance and is authorized
18 to adopt reasonable rules and regulations consistent with the
19 ordinance to carry out his duties. Whenever an owner fails to
20 comply with the provisions of this ordinance, the Director
21 shall refuse the requested license.

22 Section 14. Penalties. The failure of an owner or tenant
23 to comply with any of the provisions of this ordinance, or any
24 deliberate attempt by an owner to evade application of this
25 ordinance, or any misrepresentation of a material fact in any
26 application or other writing required by this ordinance shall
27 constitute a violation of this ordinance subject to the
28 provisions of Chapter 12A.02 of the Seattle Criminal Code, and
any person convicted of such violation shall be punished by

(To be used for all Ordinances except Emergency.)

imposition of a fine or forfeiture not to exceed Five Hundred Dollars (\$500.00). Each day's violation of any applicable provision shall constitute a separate offense.

Section 15. Ordinance 109220, and its amendments, Ordinances 109432, 109973 and 110661 are hereby repealed.

Section 15. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the.....day of....., 19 ..,
and signed by me in open session in authentication of its passage this.....day of
....., 19 ..

President.....of the City Council.

Approved by me this.....day of....., 19 ..

Mayor.

Filed by me this.....day of....., 19 ..

Attest:.....
City Comptroller and City Clerk.

(SEAL)

Published.....

By.....
Deputy Clerk.

owner has made reasonable progress toward constructing the housing but circumstances such as strikes, material shortages, or weather caused delays which prevented completion of the replacement housing in the required three-year period. If an extension is granted, the Director may require the owner to post a bond or provide other security to assure that the replacement housing will be completed within the extension period granted.

F. Joint Ventures.

- 1) An owner may fulfill the housing replacement requirement by means of a verifiable, legally enforceable joint venture agreement with a for-profit or nonprofit developer.
- 2) Except for low-income replacement housing as provided in subsection 11(D)(2), any joint venture agreement must be entered into and approved by the Director of Community Development as satisfying the purpose of the Ordinance before the building permit is issued in connection with the non-residential development or within one year of issuance of the demolition permit or before issued in connection with the replacement housing, whichever occurs sooner.
- 3) An owner shall not receive replacement housing credits for housing units which have or will receive direct subsidy from other public or private entities. Replacement housing required by this Ordinance, a property use and development agreement or a Council conditional use permit shall not be credited to the replacement obligation of more than one owner.

7-15R.14A/

*Jt. venture
satisfy
purpose*

Divided Report

Includes L-1 + L-2 zones

4. L3, BI

convert

percent of the net residential area demolished or converted.

5. L2, L1, M, IG, and IH Zones. Housing demolished or converted shall be replaced anywhere in the City with 25 percent of the net residential area demolished or converted.

6. SF Zone. No replacement is required.

B. Alternative Methods of Replacement. Replacement housing may be provided at the owner's election by: 1) relocation for residential use of the units to be replaced to another site, 2) construction of new units, 3) rehabilitation of existing residential structures which can be shown to the Director's satisfaction to have been vacant continuously for five years prior to the date of application for a housing demolition license, or 4) the contribution to the Low Income Housing Replacement Fund provided for in section 14 of this Ordinance. Under the fourth alternative, the contribution amount shall be based upon the cost at the time the contribution is made of providing low-income replacement housing in the area in which the replacement would be constructed (downtown for downtown housing, anywhere outside of downtown for other housing). That cost shall be calculated by multiplying one quarter of the net residential area required to be replaced pursuant to Section 11(A) by the estimated development cost (per net square foot) of newly constructed, average quality residential units in the area as determined yearly by the Director of the Department of Community Development. On the anniversary date of this Ordinance in each subsequent year, the Director of the Department of Community Development shall

owner has made reasonable progress toward constructing the housing but circumstances such as strikes, material shortages, or weather caused delays which prevented completion of the replacement housing in the required three-year period. If an extension is granted, the Director may require the owner to post a bond or provide other security to assure that the replacement housing will be completed within the extension period granted.

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- 1) An owner may fulfill the housing replacement requirement by means of a verifiable, legally enforceable joint venture agreement with a for-profit or nonprofit developer.
- 2) Except for Low-income replacement housing as provided in subsection 11(D)(2), any joint venture agreement must be entered into and approved by the Director of Community Development before the building permit is issued in connection with the non-residential development or within one year of issuance of the demolition permit or before issued in connection with the replacement housing, whichever occurs sooner.
- 3) An owner shall not receive replacement housing credits for housing units which have or will receive direct subsidy from other public or private entities. Replacement housing required by this Ordinance, a property use and development agreement or a Council conditional use permit shall not be credited to the replacement obligation of more than one owner.

1 or his designee is hereby authorized to implement a program for pro-
2 ducing and rehabilitating housing units for low income tenants with
3 such funds. To effectuate such a program, all monies in the Low
4 Income Housing Replacement Fund are hereby appropriated for such
5 program and the City Comptroller is authorized to draw and the City
6 Treasurer to pay the necessary warrants upon vouchers approved by the
7 Mayor or his designee from appropriated funds.

8 Section 15. Administration. The Director shall administer and
9 enforce the provisions of this ordinance and is authorized to adopt
10 reasonable rules and regulations consistent with the Ordinance to
11 carry out his duties. Whenever an owner fails to comply with the pro-
12 visions of this Ordinance, the Director shall refuse the requested
13 license.

14 Section 16. Penalties. The failure of an owner or tenant to
15 comply with any of the provisions of this Ordinance, or any deliberate
16 attempt by an owner to evade application of this Ordinance, or any
17 misrepresentation of a material fact in any application or other
18 writing required by this Ordinance shall constitute a violation of
19 this Ordinance and shall be subject to a civil penalty not to exceed
20 Five Hundred Dollars (\$500.00) pursuant to Chapter 12A.02 of the
21 Seattle Criminal Code. Each day's violation of any applicable provi-
22 sion shall constitute a separate offense.

23 Section 17. Severability.

24 The provisions of this Ordinance are declared to be separate and
25 severable. The invalidity of any clause, sentence, paragraph, sub-
26 division, section or portion of this Ordinance, or the invalidity of
27 the application thereof to any person or circumstance shall not affect
28 the validity of the remainder of this Ordinance, or the validity of
its application to other persons or circumstances.

Section 18. Ordinance 109220, and its amendments, Ordinances
109432, 109973 and 110661 are hereby repealed.

7-15R.1/JS:ksr

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Take out
WSCTC
exemption
street

Section 13. Administrative Relief from Housing Replacement
Requirements.

A. The Director may provide full or partial relief from the housing replacement requirement, if the owner establishes with clear and convincing proof that:

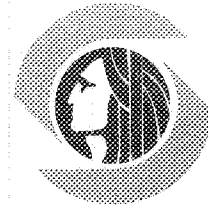
1. The literal interpretation and strict application of the housing replacement requirement of this Ordinance would prevent the owner from making profitable use of the property. "Profitable use of the property" shall not be the highest, best, or expectant use of the property but any use which may lawfully and reasonably develop on the property;
2. The requested relief would be consistent to the extent possible with the objectives of the Housing Preservation Ordinance and adopted Downtown Plan or component, as applicable;
3. The requested relief does not go beyond the minimum necessary to permit reasonable development of the property, and does not constitute a grant of special privilege inconsistent with the limitations upon other similar properties.

B. When relief from the housing replacement requirement is sought, the Director shall request from the Director of the Department of Community Development a report and recommen-

7-15R.16A/

Your
Seattle
Community Development

David Moseley, Director
Charles Royer, Mayor



October 18, 1984

The Honorable Norman B. Rice
President, Seattle City Council
11th Floor Municipal Building
Seattle, Washington 98104

Via: Gary Zarker, Director, Office of Management and Budget

Dear Councilman Rice:

Subject: Housing Preservation Ordinance (HPO)

Attached is an ordinance designed to help protect our remaining stock of low income housing, especially those units threatened by the continued development boom in downtown Seattle. The HPO is the product of months of hard work by DCD, DCLU and Law Department staff. This ordinance is also the product of discussion and dialogue between City staff and the community and business groups and individuals concerned about the problem of preserving affordable housing.

Please contact Ted Burton of my staff, x4097, when you wish to discuss this ordinance.

Sincerely,

David Moseley
Director

DM:gcb

Attachment

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor



October 18, 1984

GB # 6789

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Community Development

SUBJECT: An ordinance, cited as the "Housing Preservation Ordinance," regulating and licensing the demolition and change of use of residential structures, providing eviction protections, and requiring relocation assistance for tenants displaced by the demolition and change of use of residential structures, and appropriating funds in the Low-income Housing Replacement Fund.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

- (X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.
- () Do not file with City Council but return the proposed legislation to OMB for our review. Return to _____.

Sincerely,

Charles Royer
Mayor

By

For GARY ZARKER
Budget Director

GZ/gk/eb

Enclosure

cc: Director, DCD

City of Seattle
Department of Community Development

Legislative Request Supporting Information

In conformance with City of Seattle Standard Operating Procedure 100-014, the following information is submitted:

Title of Proposal

Housing Preservation Ordinance

Statement of Objectives

The purpose of this legislation is to:

- a) regulate and license the demolition and change of use of residential structures, except those structures owned by the Seattle Housing Authority and single-family houses demolished and replaced with single-family houses;
- b) provide replacement housing;
- c) provide eviction protections to tenants in structures to be demolished;
- d) require relocation assistance for tenants displaced by demolitions and changes of use;
- e) establish a Low-income Housing Replacement Fund to receive funds collected under the current and proposed HPO, and provide for the funds collected to be used for construction or rehabilitation of low-income housing.
- f) provide penalties for violation of the ordinance.

Dollar Amount Requested

None.

Ongoing Commitment

This ordinance replaces the current HPO, which was adopted by the City Council in August of 1980.

Personnel Requirements

Maintain existing staff capacity in DCD and DCLU; no additional staff are requested in 1985.

Facilities and Equipment Requirements

No additional requirements.

Criteria used in Evaluation

The ordinance will be considered effective to the extent it helps the City meet its Downtown Plan goal of maintaining 7700 low-income units in the downtown.

Alternative Methods of Funding and/or Alternative Methods of Accomplishing the Objective of the Legislation

No additional funding is being requested to implement this ordinance; the legislation is considered a critical part of the Mayor's Downtown Plan.

Contact Person

Ted Burton, DCD (625-4097)

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 112342

was published on July 24, 1985

P. Blair
Subscribed and sworn to before me on
July 24, 1985

Thomas Summers
Notary Public for the State of Washington,
residing in Seattle.

City of Seattle

ORDINANCE 122342

AN ORDINANCE regulating and licensing the demolition and change of use of residential structures, providing eviction protections and requiring relocation assistance for tenants displaced by the demolition and change of use of residential structures, appropriating funds in the Low Income Housing Replacement Fund, authorizing implementation of a low income housing program, providing penalties for violations, and repealing Ordinance No. 109220 as amended.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Short Title. This Ordinance shall be cited as the "Housing Preservation Ordinance."

Section 2. Findings and Purpose.

A. Findings

1. Among the most substantial environmental impacts of property development and redevelopment in Seattle are the loss of housing and the displacement of low income people who are unable to pay for the costs of relocation.
2. The supply of housing, especially those rental housing units available to the City's low and moderate income residents, is being steadily diminished by demolition and change of use. The housing market has been unable to replace rental units and, particularly, low income units which have been demolished or changed to a non-residential use.
3. Tenants displaced when their housing units are demolished or changed to a different use are increasingly unable to locate decent, safe and sanitary rental housing.
4. The loss of rental housing units has exacerbating an already critical rental housing shortage.
5. The loss of housing, especially rental housing, has been particularly severe downtown where more than 15,000 units have been lost since 1960, and the gap between the number of downtown jobs and the number of downtown housing units has increased enormously during this period.
6. Outside of downtown the low income housing demolition pressures have been greatest in the manufacturing and commercial zones and in the more intensive residential zones.

B. Purposes

Based on the above findings, the purposes of this Ordinance are as follows:

1. To mitigate the loss of scarce housing resources caused by redevelopment and change of use;
2. To ensure the replacement downtown of at least a portion of the housing being lost downtown;
3. To encourage replacement of lost units with units affordable to low-income persons;
4. To provide relocation assistance to low-income persons displaced by demolition or change of use.

Section 3. Definitions.

- A. Agent: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who represent or act for or on behalf of others.
- B. Block: The entire property between three or more intersecting or intercepting platted streets, or between a platted street and a railroad right-of-way or a waterway. Provided that such distance does not extend more than four hundred feet on either side of a lot.
- C. Change of Use: The conversion of any housing unit from a residential use to a non-residential use. The lease of any housing unit by a licensed health care or medical research

facility to provide housing for patients and/or their families in accordance with an approved Major Institutions Master Plan developed pursuant to Chapter 23.80 of the Seattle Municipal Code shall not be considered a change of use.

- D. Demolition: The destruction of any housing unit or the relocation of an existing housing unit or units to another site.
- E. Director: The Director of the Department of Construction and Land Use.
- F. Downtown: That portion of the City between the waterfront and Interstate Five and between Royal Brougham Way and Denny Way.
- G. Housing Unit: Any dwelling unit, housekeeping room, or guest room as defined in the Seattle Housing Code (Chapter 22.204 of the Seattle Housing Code); provided, that any housekeeping room or guest room which can be shown by the owner, to the satisfaction of the Director, to have been last used for at least five years as non-residential lodging shall not be considered a housing unit under this Ordinance.
- H. Low-income Rental Housing: Any rental housing unit which is rented to low-income tenants at rents not to exceed 30 percent of 50 percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development (hereinafter "Seattle Everett SMSA").
- I. Low-income Tenant: Any tenant whose total household income is less than 50 percent of the median income for comparably sized households in the Seattle-Everett SMSA.
- J. Major Educational Institution: All educational institutions that are designated as "Major Institutions" in Section 23.48.02 of the Seattle Municipal Code, or any amendments or successors to that section.
- K. Net Residential Area: The total number of square feet of living space in a building based upon the interior dimensions of each housing unit and excluding stairwells, halls, lounges and other common areas.
- L. Non-required Parking Lot: One or more parking spaces not required by either The Land Use Code (Title 23 SMC) or The Zoning Code (Title 24 SMC) as accessory to a principal use and not imposed as a mitigating measure pursuant to the State Environmental Policy Act. Parking spaces proposed for major institutions shall be considered "non-required" if the added spaces would result in the entire institution exceeding the minimum number of spaces required by the Major Institution zoning code.
- M. Non-residential Lodging: Any housekeeping room or guest room which is licensed by the State of Washington under the Transient Accommodations Act and is generally not occupied by the same person for more than thirty days.
- N. Notice: A written notice unless otherwise specified.
- O. Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who undertakes the demolition or change of use of any housing unit. The word "owner" shall also include agents and any other person acting on the owner's behalf.
- P. Person: Any individual, corporation, partnership, association or other legal entity.
- Q. Rental Unit: Any housing unit as defined in this Ordinance which was last occupied or is occupied pursuant to a lawful rental agreement, oral or written, express or implied.
- R. Tenant: Any person who occupies a housing unit pursuant to a lawful lease or rental agreement, whether oral or written, express or implied. For the purposes of this Ordinance two or more persons who live together in a rental unit shall be considered one tenant.

Section 4. Application of Ordinance. This ordinance shall apply to demolition and change of use of all housing units defined herein, in the City of Seattle with the exception of the following:

- A. Any housing unit ordered demolished by the Director because of damage caused by civil commotion, malicious mischief, vandalism, tenant waste, natural disaster, or other destruction beyond the owner's control;
- B. Any housing unit owned by the Seattle Housing Authority;
- C. Any detached single family house which has not been occupied by a tenant for at least a year and which will be replaced by a detached single family house or will be relocated for residential use to another site within the City.

Section 5. Requirements for Housing Demolition and Change of Use. Prior to the demolition or change of use of any housing unit to which this Ordinance applies as indicated by Section 4, an owner must obtain a Housing Demolition License. The Director shall issue a Housing Demolition License upon the Owner's compliance with the following requirements:

- A. Obtain a permit for an appropriate replacement use as set forth in Section 6.
- B. File an application for a Housing Demolition License as provided in Section 7.
- C. Comply with tenant notice, eviction and relocation assistance requirements as provided in Sections 8, 9 and 10 and submit verification to the Director.
- D. Comply with the housing replacement requirements as provided in Sections 11, 12, and 13, secure certificate of such compliance from the Director of the Department of Community Development and submit to the Director.

Section 6. Replacement Use Permit Requirement. An owner seeking a Housing Demolition License for demolition or change of use must first obtain a use permit for an appropriate replacement use; provided, that a demolition license shall not be issued if the replacement use is a non-required parking lot; provided further, that a use permit shall not be required when demolition is ordered by the Director for reasons of health and safety; and provided further, that a use permit shall not be required when housing units are being relocated for residential use to other sites within the City.

Section 7. Housing Demolition License Application. The Housing Demolition License Application shall be according to a form established by the Director and shall include:

- A. A statement certifying the number of housing units to be demolished or changed in use and the net residential area to be lost.
- B. A list containing the name of each tenant currently residing in the structure to be demolished or changed and containing the last name and last known address of each tenant who resided in the structure during the 180-day period immediately preceding the date of application for the housing demolition license, indicating those tenancies which were terminated and the reason for each termination.
- C. Written verification of compliance with the tenant notice, eviction and relocation assistance requirements of Sections 8, 9, and 10 of this Ordinance.
- D. Written certification from the Director of Community Development that replacement housing, as required by Sections 11, 12, and 13 of this Ordinance, will be provided.
- E. The use permit for the replacement use.

Section 8. Tenant Notice. At least 120 days before issuance of a Housing Demolition License, the owner must deliver to each tenant in the building to be demolished or changed in use written notice of his intention to apply for a Housing Demolition License and a relocation assistance certification form; provided, that nonprofit major educational institutions need not give such notice to students, faculty or staff who occupy housing owned by such institutions which is located

within the institution's boundaries. The notice, which shall be a form provided by the Director, shall describe the relocation benefits available to eligible tenants and shall explain the tenant's right to remain in possession until demolition unless evicted for cause as defined in Section 9 of this Ordinance. Notice shall be delivered to each tenant personally and written acknowledgement of service on the tenant shall be secured, or notice shall be delivered by registered or certified mail with return receipt requested. In addition, a copy of the notice shall be posted at every entrance to the building.

Section 9. Tenant Evictions. For one hundred eighty days prior to application for a housing demolition license for housing units, tenants in those units shall be evicted only for failure to pay rent after service of a three-day notice to pay rent or vacate pursuant to RCW 59.12.030(3), for failure to comply with reasonable terms of a lease or rental agreement after service of a ten-day notice pursuant to RCW 59.12.030(4), or for destroying property or creating a nuisance after service of a three-day notice pursuant to RCW 59.12.030(5). Any tenant evicted contrary to the requirements of this section shall be entitled to relocation assistance as provided in Section 10 of this Ordinance.

Section 10. Relocation Assistance.

- A. With the exception of students, faculty or staff who are the tenants of nonprofit major educational institutions inside major institutions boundaries, tenants whose household income is at or below 80 percent of median household income and who are displaced by demolition or change of use shall be relocated by the owner at the owner's expense into comparable housing in a comparable location at comparable rent as approved by the Director.
- B. In lieu of such relocation, an owner may elect to pay to the tenants, at least five days before the date they are required to vacate, a relocation assistance payment in the amount of:
 - 1. For a single tenant: \$1,500 when income is at or below 50 percent of the Seattle-Everett SMSA median income; \$750 when income is between 50 percent and 80 percent of the median income;
 - 2. For tenants whose household contains two or more people: \$2,000 when household income is at or below 50 percent of the median income; \$1,000 when household income is between 50 percent and 80 percent of median income.

Relocation assistance shall be in addition to the refund of any deposits or other sums to which the tenant is lawfully entitled.

- C. If the owner elects to make relocation assistance payments, then either the owner or the tenant may elect to have such payments made in the form of excused rent payments. Owners shall give each tenant written notice in advance of his or her entitlement to relocation assistance in the form of excused rent. Tenants shall receive, at least five days before the date they are required to vacate, the difference between the set off rent and their full relocation entitlement.
- D. Each tenant claiming relocation assistance shall submit to the owner, within 30 days of receipt of the relocation assistance certification form, a sworn, notarized statement setting forth the tenant's total annual gross income for the previous calendar year and the total gross income for the year in which the statement is submitted. The statement shall be on a form provided by the Director and shall be delivered to the tenants with the tenant notice required by Section 8 of this Ordinance. The owner may challenge the income verification of any tenant by submitting to the Director proof of income not disclosed by the tenant.
- E. Any tenant who refuses to provide information regarding his or her income when requested by the Director or any tenant who misrepresents any information regarding income or entitlement to relocation benefits shall be denied relocation assistance.

F. Owners shall not be required to pay relocation assistance to eligible tenants when the tenant establishes tenancy in the unit after the one hundred twenty days' notice required by Section 8 was delivered to the tenants in the building; provided, that the owner must advise the tenant, in writing, prior to the tenant's acceptance of tenancy, that the unit will be demolished within one hundred twenty days. Any eligible tenant who is not advised of the intended demolition shall be entitled to full relocation benefits.

Section 11. Housing Replacement Requirement.

A. Replacement Ratios. Owners who demolish or convert housing to another use in the City shall replace the net residential area demolished or converted as follows:

1. Downtown. Housing demolished or converted shall be replaced downtown with 100 percent of the net residential area demolished or converted; provided, that the Director may, in his discretion, approve replacement housing that is within two blocks of downtown.
2. MR, CG, BC, NC3, C1, and C2 Zones. Housing demolished or converted shall be replaced anywhere in the City with 100 percent of the net residential area demolished or converted.
3. MR Zones. Housing demolished or converted shall be replaced anywhere in the City with 50 percent of the net residential area demolished or converted.
4. L3, B1, BN, MC2 and NC1 Zones. Housing demolished or converted shall be replaced anywhere in the City with 35 percent of the net residential area demolished or converted.
5. M, I8, and IM Zones. Housing demolished or converted shall be replaced anywhere in the City with 25 percent of the net residential area demolished or converted.
6. L2, L1 and SF Zones. No replacement is required.

B. Alternative Methods of Replacement. Replacement housing may be provided at the owner's election by: 1) relocation for residential use of the units to be replaced to another site, 2) construction of new units, 3) rehabilitation of existing residential structures which can be shown to the Director's satisfaction to have been vacant continuously for five years prior to the date of application for a housing demolition license, or 4) the contribution to the Low Income Housing Replacement Fund provided for in section 14 of this ordinance. Under the fourth alternative, the contribution amount shall be based upon the cost at the time the contribution is made of providing low-income replacement housing in the area in which the replacement would be constructed (downtown for downtown housing, anywhere outside of downtown for other housing). That cost shall be calculated by multiplying one quarter of the net residential area required to be replaced pursuant to Section 11(A) by the estimated development cost (per net square foot) of newly constructed, average quality residential units in the area as determined yearly by the Director of the Department of Community Development. On the anniversary date of this Ordinance in each subsequent year, the Director of the Department of Community Development shall adjust the development cost factor up or down to reflect, as nearly as possible, the actual net square foot cost of constructing average quality residential units in the area.

C. Rental Housing. Rental housing that is demolished or converted shall be replaced with rental housing. Except as provided below, such replacement housing shall remain rental housing for a period of at least twenty years. Owners who provide replacement rental housing shall execute a monitoring agreement with the Director. After five years from the issuance of a certificate of occupancy of rental units, an owner may convert rental units to condominiums in accordance with the City's condominium conversion ordinance if the owner

makes a contribution to the Low-Income Housing Replacement Fund. The contribution shall be a prorated amount based on the square footage of housing units originally demolished or converted, the number of years left on the 20 year rental requirement and the dollar amount per net square foot which would be paid pursuant to subsection 11(B) of this Ordinance calculated as of the time of the buy-out.

D. Low Income Replacement Housing Incentives.

1. Owners who replace demolished or converted housing with Low-Income Housing shall provide one square foot of replacement net residential area for each four square feet of net residential area which would otherwise have been required under subsection 11(A) for non low-income replacement housing. Such housing shall remain low income housing for a period of at least 20 years subject to the buy-out provision for conversion of rental units to condominiums contained in subsection 11(C) above.
2. When the net residential area of Low-Income replacement housing constructed exceeds the net residential area of Low-Income Housing required pursuant to subsection D(1) above or when privately financed Low-Income Housing is constructed in the absence of any housing replacement requirement, the owner shall upon certification by the Director that such housing will remain low-income housing for twenty years, receive from the Director a Low-Income Replacement Housing credit certificate. The certificate shall specify the location of the housing and the total net residential area of the excess low-income housing constructed. The credited area may, for a period of five years, be applied to reduce housing replacement requirements incurred by the owner or by others. Low-Income Replacement Housing credit certificates may not be used downtown unless the housing for which the certificate was issued was constructed downtown.

E. Replacement Implementation. Replacement housing shall be completed and ready for occupancy within three years of the date of issuance of the Housing Demolition License. Owners shall post a bond, letter of credit, set-aside letter or other security acceptable to the Director, in the amount of the contribution the owner would be required to pay to the

Low Income Housing Replacement Fund if no replacement housing were provided pursuant to subsection 11(B). Should the required replacement housing not be constructed in the time period provided by this Ordinance, the bond or other security shall be forfeited and the proceeds placed in the Low Income Housing Replacement Fund. The three year housing replacement period may be extended if the Director determines that the owner has made reasonable progress toward constructing the housing but circumstances such as strikes, material shortages or weather caused delays which prevented completion of the replacement housing in the required three-year period. If an extension is granted, the Director may require the owner to post a bond or provide other security to assure that the replacement housing will be completed within the extension period granted.

F. Joint Ventures.

- 1) An owner may fulfill the housing replacement requirement by means of substantial participation in a verifiable, legally enforceable joint venture agreement with a for-profit or nonprofit developer.
- 2) Except for low-income replacement housing as provided in subsection 11(D)(2), any joint venture agreement must be entered into and approved by the Director of Community Development before the building permit is issued in connection with the non-residential development or within one year of issuance of the demolition permit or before issued in connection with the replacement housing.

whichever occurs sooner.

- 3) An owner shall not receive replacement housing credits for housing units which have or will receive direct subsidy from other public or private entities. Replacement housing required by this Ordinance, a property use and development agreement or a Council conditional use permit shall not be credited to the replacement obligation of more than one owner.

Section 12. Exceptions to Housing Replacement Requirement.

- A. The housing replacement requirement shall not apply to any housing unit continuously vacant since January 1, 1974.
- B. The housing replacement requirement shall not apply when owners demolish or change the use of two or fewer structures containing four or fewer housing units in the same block. If more than two structures or more than four units are demolished or changed to a non-residential use on the same block, then the replacement requirements of Section 11 shall apply to all structures and units demolished or changed to a non-residential use including those that were or would have been exempted pursuant to this section.
- C. The housing replacement requirement shall not apply to housing units owned by major educational institutions which were located within major institution boundaries and which were last used for student, faculty or staff housing prior to the effective date of this Ordinance. Other housing owned by educational institutions shall be subject to the housing replacement requirement unless wholly or partially exempted from such requirement as part of a City-approved master plan. In determining the extent of such an exemption, the City Council shall consider the importance of the proposed institutional use of the affected property, the effect of the demolition or conversion on the supply of low-income housing and on the character of the neighborhood and the existence of alternatives to housing demolition or conversion.
- D. The housing replacement requirement shall not apply to the demolition or change of use of any housing unit in a building subject to and referenced in housing mitigation conditions included in a property use and development agreement or Council conditional use permit approved by the City prior to the effective date of this Ordinance.

Section 13. Administrative Relief from Housing Replacement Requirements.

- A. The Director may provide full or partial relief from the housing replacement requirement, if the owner establishes with clear and convincing proof that:
1. The literal interpretation and strict application of the housing replacement requirement of this Ordinance would prevent the owner from making profitable use of the property. "Profitable use of the property" shall not be the highest, best, or expectant use of the property but any use which may lawfully and reasonably develop on the property;
 2. The requested relief would be consistent to the extent possible with the objectives of the Housing Preservation Ordinance and adopted Downtown Plan or component, as applicable;
 3. The requested relief does not go beyond the minimum necessary to permit reasonable development of the property, and does not constitute a grant of special privilege inconsistent with the limitations upon other similar properties.
- B. When relief from the housing replacement requirement is sought, the Director shall request from the Director of the Department of Community Development a report and recommendation analyzing the owner's ability to make profitable use

of property if housing replacement requirement is imposed. The Community Development Director's report shall be made available to the owner and to any member of the public who requests it. The owner and any member of the public shall have fourteen days from the date the report is published to make comments to the Director concerning the appropriateness of the relief requested. Thereafter, the Director shall issue a written decision granting or denying administrative relief.

- C. Decisions granting or denying administrative relief may be appealed by the applicant or any interested person pursuant to the following procedures:

1. **Time of Filing.** Appeals shall be filed with the Hearing Examiner by five o'clock p.m. of the fifteenth calendar day following issuance of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five o'clock p.m. on the next business day. The appeal shall be in writing and shall clearly state the specific error or errors in the Director's decision and the specific relief sought. The appeal shall be accompanied by payment of the filing fee as set forth in Section 3.02.125 of the Seattle Municipal Code, governing Hearing Examiner Filing Fees. In form and content, the appeal shall conform with the rules of the Hearing Examiner.
2. **Pre-hearing Conference.** On the Hearing Examiner's motion, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.
3. **Notice of Hearing.** Notice of the Hearing on the appeal shall be mailed at least twenty days prior to the scheduled hearing date to parties of record.
4. **Scope of Review.** Appeals shall be considered de novo.
5. **Standard of Review.** The Director's decision shall be affirmed unless the Hearing Examiner finds such decision clearly erroneous.
6. **Hearing Examiner's Decision.** The Hearing Examiner shall issue a decision within fourteen days after closing the record and may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made.
7. **Notice of Hearing Examiner's Decision.** Notice of the Hearing Examiner's decision shall be mailed on the same date of the decision to the parties of record.
8. **Appeal of Hearing Examiner's Decision.** An appeal of any Hearing Examiner's decision must be filed in King County Superior Court within thirty days of the issuance of the decision.

Section 14. Low Income Housing Replacement Fund. All owner contributions pursuant to Section 11 of this Ordinance made in lieu of providing replacement housing, shall be deposited in the Low-Income Housing Replacement Fund created by Ordinance No. 109220. Monies deposited in the fund shall be used solely to assist in the production or rehabilitation of housing units for low income tenants. The Mayor or his designee is hereby authorized to implement a program for producing and rehabilitating housing units for low income tenants with such funds. To effectuate such a program, all monies in the Low Income Housing Replacement Fund are hereby appropriated for such

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program and the City Comptroller is authorized to draw and the City Treasurer pay the necessary warrants upon vouchers approved by the Mayor or his designee from appropriated funds.

Section 15. Administration. The Director shall administer and enforce the provisions of this ordinance and is authorized to adopt reasonable rules and regulations consistent with the ordinance to carry out his duties. Whenever an owner fails to comply with the provisions of this ordinance, the Director shall refuse the requested license.

Section 16. Penalties.

- A. In addition to any other sanction or remedial procedure which may be available, any person violating any provision of this Ordinance or deliberately attempting to evade application of this Ordinance shall be subject to a civil penalty in the amount of \$500.00 per day for each day of violation.
- B. The penalties imposed by this Section shall be collected by a civil action brought in the name of the City and commenced in municipal court. The Director of Construction and Land Use shall notify the City Attorney in writing of the name of any person subject to the penalty. The City Attorney shall, with the assistance of the Director of Construction and Land Use, take appropriate action to collect the penalty.

Section 17. Use Of Carry Over Subsidized Housing Area Credit.

Notwithstanding any of the provisions of the Ordinance, owners of carry over subsidized housing area credits, as described in Section 10 of Ordinance 109220 as amended (Section 22.210.100 of the Seattle Municipal Code), for which a certificate of occupancy was issued prior to the effective date of this Ordinance, may use those carry over credits to satisfy any housing replacement obligation that the owner, or any association or other legal entity in which the owner is a participant, may incur pursuant to this Ordinance; provided, that use of the carry over housing credits shall be governed by the housing demolition license fee reduction provisions described in Section 8 of Ordinance 109220, as amended (Section 22.210.080 of the Seattle Municipal Code). Any housing replacement obligation remaining after the carry over housing credits are expended shall be satisfied pursuant to the terms of this Ordinance.

Section 18. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 19. Ordinance 109220, and its amendments, Ordinances 109452, 109973 and 110661 are hereby repealed.

Section 20. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of July, 1985, and signed by me in open session in authentication of its passage this 15th day of July, 1985.

MAN B. RICE
President of the City Council

Approved by me this 19th day of July, 1985.

CHARLES ROYER
Mayor

Filed by me this 19th day of July, 1985.

Attest: TIM HILL
City Comptroller and City Clerk

(Seal) By THERESA DUNBAR
Deputy Clerk

Publication ordered by TIM HILL, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, July 24, 1985.

(C-678)