

ORDINANCE No. 112383

COUNCIL BILL No. 104620

AN ORDINANCE relating to housing, establishing minimum maintenance standards for rental housing in the downtown area; creating a Downtown Housing Maintenance Fund to provide financing for maintenance and rehabilitation of downtown rental housing; establishing a process for the appointment of receivers for downtown rental housing that is purposefully left unoccupied; and providing penalties for violations.

UP
Law Department

The City of S

REC'D OMB AUG 06 1985

Honorable President:

Your Committee on _____

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

Pass as amended

Vote

COMPTROLLER FILE No. _____

Introduced: NOV 3 1984	By: EXECUTIVE REQUEST
Referred: NOV 3 1984	To: HRFH
Referred: DEC 3 1984	To: UR
Referred:	To:
Reported: AUG 5 1985	Second Reading: AUG 5 1985
Third Reading: AUG 5 1985	Signed: AUG 5 1985
Presented to Mayor: AUG 6 1985	Approved: OR-01-85
Returned to City Clerk:	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: OK

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

Urban Redevelopment

referred the within Council Bill No. 104620

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

pass as amended July 31, 1955

Vote 6-0



Committee Chair

ORDINANCE 112383

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AN ORDINANCE relating to housing, establishing minimum maintenance and occupancy standards for rental housing in the downtown area; creating a Downtown Housing Maintenance Account to provide financing for maintenance and rehabilitation of downtown rental housing; establishing a process for the appointment of receivers for downtown rental housing that is purposefully left unoccupied; and providing penalties for violations.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1.

Title. This ordinance shall be cited as the "Downtown Housing Maintenance Ordinance".

Section 2.

A. Findings. The Seattle City Council hereby finds:

1. Low-income housing in downtown and adjacent lower First Hill is a scarce and diminishing resource. There has been a net loss of more than 15,000 housing units in the downtown since 1960.
2. There exists an extreme shortage of low-income rental housing in the downtown area, resulting in a negligible vacancy rate for habitable low-income housing.
3. Many low-income tenants are unable to locate rental housing of any kind. These homeless persons are increasingly seeking housing in already overcrowded emergency shelters, and when such shelters are full, finding themselves on the city's streets.
4. Due to the drastic reduction in public funding, particularly federal funding, allocated to low-income housing since 1980, there are very few resources available to preserve or add new units to the existing supply of low-income housing.
5. Existing rental units in the downtown and adjacent lower First Hill constitute most of the remaining low-income rental housing in the City. The number of such units downtown is diminishing as a result of increased pressure for more intensive development downtown. Plans for major downtown development adjacent to lower First Hill have also put increased pressure on the low-income rental housing on lower First Hill.
6. Frequently, development speculation results in the premature closure of habitable existing buildings and the withdrawal of low-income rental units from the market long before such closure would be needed for any physical redevelopment of such buildings' sites.
7. There exists, especially in the downtown and adjacent First Hill a substantial number of abandoned or vacant residential units which create blight and constitute a danger to public health, safety and welfare.

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8. Buildings which are vacant and not carefully secured and maintained frequently attract homeless persons seeking temporary shelter. This unsupervised use of these unheated buildings results in a fire hazard to the buildings and to the residents of nearby structures.

9. Because of the conditions described above, there exists in the City a housing emergency. This necessitates that existing low-income rental housing in the downtown and adjacent lower First Hill be both maintained and offered for rent.

B. Purpose.

This ordinance, therefore, is enacted to supplement the City's existing housing and building safety codes and;

1. to reduce blight and threats to public health, safety and welfare by requiring that low-income units be both maintained and offered for rent, where feasible;
2. to relieve the effects of the City's housing emergency by preventing the premature withdrawal of units from the rental market;
3. to maximize the use of existing scarce low-income housing resources;
4. to provide public financial and management support, where appropriate, to assist owners to maintain low-income units in safe and habitable condition and available for occupancy;
5. to respect the owner's right to use and control private property, consistent with the above purposes and constitutional protections.

Section 3. Definitions.

- A. Director: The Director of the Department of Construction and Land Use or the Director's designee.
- B. Downtown: That portion of the City between the waterfront and Interstate Five and between Royal Brougham Way and Denny Way.
- C. Lower First Hill: That portion of the City between Interstate Five and Boren Avenue and between Pike Street and James Street.
- D. Low-income Rental Unit: All rental units which have been rented at or below 30% of 50% 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 at any time during the two year period prior to an inspection or complaint instituted under this Ordinance. Household size for a SRO or studio unit shall be deemed to be one person, for a one bedroom unit shall be deemed to be two persons, and for a two bedroom unit shall be deemed to be three persons.

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- E. Owner: Any person who, alone or jointly, has title to or an ownership interest in any building, with or without actual possession thereof, including any person who as agent, or executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building.
- F. Person: Any individual, firm, corporation, association or partnership and its agents or assigns.
- G. Rental Unit: Any dwelling unit, house-keeping room, or guest room as defined in the Seattle Housing Code (Chapter 22.204 of the Seattle Municipal Code) which has been occupied by tenants pursuant to rental agreements, oral or written, express or implied.
- H. SRO (Single Room Occupancy): An existing housing unit with one main sleeping and living room of at least seventy (70) square feet. Such housing unit may also include a kitchen niche or cooking facilities and/or a private bath or may share common bathroom facilities and/or cooking facilities.

Section 4. Applicability.

The provisions of this ordinance shall apply to all low-income rental units if such rental units are situated in buildings located downtown or in lower First Hill and if such buildings contained any occupied rental units on or after November 5, 1984.

Section 5. Duty to Rent Habitable Low-income Rental Units.

- A. Owners of habitable low-income rental units or of low-income rental units that can feasibly be made habitable shall make a good faith effort to rent all such units.
- B. An owner's failure or refusal to make such a good faith effort to rent shall constitute a violation of this ordinance.
- C. In determining whether an owner is failing or refusing to make a good faith effort to rent habitable low-income rental units or low-income rental units that can feasibly be made habitable, the Director may consider any actions by the owner which are inconsistent with keeping such units rented. Evidence of a lack of good faith may include, but shall not be limited to, the following:
 - 1. maintaining a building vacancy rate in excess of twenty per cent;
 - 2. failing to offer an unoccupied unit for rent within seven days of the unit becoming unoccupied, except under the circumstances provided for in Section 10;
 - 3. offering units for rent at a rental rate which substantially exceeds prevailing rents for comparable rental units;
 - 4. significantly reducing building services;
 - 5. changing rules, regulations, terms or conditions of tenancy so as to substantially and detrimentally affect the rights and obligations of tenants or prospective tenants;

- 1 6. willfully or wantonly failing to comply with applicable codes
2 with respect to the low-income rental units or building, the
3 violation of which substantially endangers or impairs the
4 health or safety of the occupants;
- 5 7. committing or causing vandalism or the intentional destruc-
6 tion of a rental unit or building;
- 7 8. knowingly permitting a tenant to commit waste or to vandalize
8 a rental unit.

9 **Section 6. Duty to Repair Low-income Rental Units.**

- 10 A. Owners of low-income rental units shall repair such units when
11 such units can feasibly be made habitable. A unit can feasibly be
12 made habitable if, after consideration of variances, deferrals and
13 extensions of time for compliance as provided for in Section 7
14 below, the cost of the repairs necessary to make the unit habi-
15 table does not exceed the amount which the owner may be required
16 to contribute as provided in Subsections B, C, and D together with
17 the amount to be contributed by the City.
- 18 B. Except as provided in Subsection D below the owner's contribution
19 to the cost of repairs necessary to make a low-income rental unit
20 habitable shall not exceed \$2,000 per low-income rental unit for
21 any three-year period and the total repair cost of any low-income
22 rental unit under this subsection shall not exceed \$4,000 per low-
23 income rental unit for any three-year period.
- 24 C. In determining the cost of repairing a low-income rental unit, the
25 following rules shall apply:
 - 26 1. The cost of repairs to common areas or building systems shall
27 be allocated to all the low-income rental units in the
28 building which are required to be offered for rent, not
 solely to low-income rental units which are vacant or not
 habitable; provided that, if the shared building systems
 and/or common area costs allocated to one or more units would
 cause those units to exceed the maximum total stated above,
 the excess allocated shared costs may be reallocated among
 the remaining units required to be offered for rent to the
 extent that such reallocation does not cause the total repair
 costs of such remaining units to exceed the maximum cost
 stated in Subsection B above.
 2. The unit-specific costs of repairing low-income rental units
 shall be allocated to specific units.
 3. Costs of all capital repairs shall be included in calculating
 the owner's maximum contribution over a three-year period.
 The costs of ordinary maintenance shall not be included. For
 the purposes of this section, all repairs which are ordered
 to remedy code violations upon the first inspection of a ren-
 tal unit under this ordinance shall be deemed capital
 repairs; during subsequent inspections capital costs for
 repairs to correct code violations shall be counted only if
 the Director determines that such repairs are not ordinary
 maintenance.
 4. Any individual unit whose total unit-specific and allocated
 shared repair costs exceed the maximum allowed by this
 Ordinance shall be determined to be not feasible to repair.

1 D. The owner's required contribution to the repair of a unit shall be
2 unlimited to the extent that the unit is not habitable because the
3 owner has:

- 4 1. willfully or wantonly failed to comply with applicable
5 building and safety codes; or
6 2. committed or caused vandalism or the intentional destruction
7 of any rental unit in the building; or
8 3. knowingly permitted a tenant to commit waste or to vandalize
9 a rental unit.

10 **Section 7. Variances, Deferrals, and Extended Time for Compliance.**

11 A. In specific buildings containing low-income rental units, the
12 Director may authorize under conditions specified in subsections B
13 and C the following types of departure from the standards and
14 requirements of Sections 4.02 through 4.16 of the Housing Code
15 (Chapter 22.206 of the Seattle Municipal Code):

- 16 1. A variance;
17 2. A deferral from compliance for up to three years, with the
18 possibility of one renewal for up to an additional three
19 years;
20 3. extended time for compliance, with repair work scheduled over
21 a period not to exceed eighteen months, provided that such
22 schedule is arranged to minimize as much possible the amount
23 of time a unit is not available for occupancy.

24 B. The Director may grant the departures authorized by this section
25 if he determines that both of the following conditions or cir-
26 cumstances exist:

- 27 1. A literal interpretation and strict application of the stan-
28 dards and requirements would result in an undue or unne-
cessary hardship, other than solely a financial hardship, and
would adversely affect the preservation and enjoyment of a
substantial property right of the owner or tenant of the sub-
ject building; and
2. Because of the conditions or circumstances applying to the
subject building or to the occupancy thereof, the departure
will not be materially detrimental or injurious to the
safety, health, or general welfare of the occupants thereof,
or of neighboring property or occupancies or of the public.

29 C. In addition, in determining whether or not any departure from the
30 requirements of the Housing Code is appropriate and, if so,
31 whether to grant a variance, a deferral, or extended time for
32 compliance, the Director shall consider, among others, the
33 following factors:

- 34 1. the remaining useful life of the unit or building and the
35 length of time it is likely to be available for low income
36 occupancy;

2. how materially the departure would affect the living conditions of the tenants;
3. the permanency of the condition of the item, unit, structure, or system for which the departure is sought and the degree to which it might deteriorate over the period for which the departure is sought;
4. the difficulty of bringing the item, unit, structure or system into compliance if the departure is not granted.

D. Examples of items which might be varianced, deferred or given extended time for compliance are shown below. Since no two buildings are ever alike and the nature and extent of violations could change over short periods of time, these examples would not apply in all cases. The examples stated below are for illustrative purposes only and are not intended as a complete or exclusive list of the items which may be deferred or the nature of the deferral which might be granted.

1. Examples of items, which, under appropriate circumstances might be varianced include:

Section 4.03: Floor Area - This section provides for the minimum space and occupancy standards of the Housing Code. For example, a dwelling unit is required to have at least one room which shall have not less than one hundred twenty (120) square feet of floor area, etc... A variance could be granted where areas are one (1) or two (2) percent smaller than required.

Section 4.05: Bathroom Fixtures - Lavatories are required to be provided on each floor at a rate of one for every additional ten (10) guests, etc... A variance can be granted for a lesser number of bathroom lavatories especially when rooms are equipped with operating lavatory sinks.

Section 4.11: Electrical - Kitchens are to be provided with not less than three (3) outlets. A variance can be granted to allow less than (3) electrical outlets generally based on the small size of the kitchen.

2. Examples of items, which, under appropriate circumstances ces might be deferred include:

Section 4.05: Kitchen - Every dwelling unit must be provided with a kitchen, and every kitchen must be provided with a sink, hot and cold running water, counter work space, cabinets etc... A deferral could be granted for the counter space requirement if a table is provided that could serve as counter space.

Section 4.12: Stair Construction - Every required stairway, except in dwellings are required to have headroom clearance of not less than six (6) feet six (6) inches measured vertically, etc... A deferral could be granted, provided adequate padding and warning signs were installed.

1 Section 4.06: Structural components - Structural
2 components of buildings shall be reasonably decay
3 free. A building that appears to have a limited,
4 useful life has window sills and sashes with dry
5 rot. A deferral could be granted for dry rot in
6 wooden window sills where no moisture is seeping
7 through the sill and no weather is coming through
8 the meeting of the sill and sash. A deferral could
9 not be granted for dry rot in the window sash,
10 since such dry rot would make the windows unsafe
11 for tenants to use.

12 The deferral for the window sill could be revoked;
13 if upon subsequent inspection, conditions had
14 deteriorated and moisture was seeping into the wall
15 or the room.

- 16 3. Examples of items, for which, under appropriate circumstances
17 an extended time for compliance might be authorize include:

18 Section 4.07: Shelter - Every building shall be
19 protected so as to provide shelter for the occu-
20 pants against the weather. A building roof has a
21 number of leaks and an inspection in November
22 reveals that the building must be completely
23 reroofed. Work to patch the leaks is ordered and
24 scheduled immediately; an extension for reroofing
25 is granted until late the following spring, to be
26 scheduled when the weather is more accommodating.

27 Section 4.08: Maintenance - Every foundation, room
28 and exterior wall, etc. shall be reasonably
weathertight, watertight, damp free, etc. A large
building has leaky mortar joints in the exterior
walls, but an inspecting structural engineer has
determined that the wall is sound enough to permit
the owner an extended period of time during which
to schedule the repair, e.g. two sides during one
summer, the remaining two sides during a second
summer.

- E. The Director of Community Development or his designee is hereby
authorized to apply to the Director for any departure from the
Housing Code authorized by this section. No other person is
authorized to make such application.
- F. If the Director determines after inspection of a unit or building
that a condition or circumstance has changed which materially and
detrimentally affects the health or safety of the tenants, their
neighbors, or the general public, the Director may revoke an order
granting a deferral or extended time for compliance.
- G. In addition, the departures authorized under this section shall be
automatically revoked for any unit which is no longer available
for low income occupancy as defined by this ordinance.

Section 8. Loans and Grants to Owners.

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- A. The Director of Community Development may authorize loans and grants to owners and receivers from the Downtown Housing Maintenance Account described in Section 9 and/or from such Community Development Block Grant Funds or other similarly restricted funds as may have been appropriated for the rehabilitation of rental units downtown or may in the future be appropriated specifically for the repair of low-income rental units pursuant to this Ordinance. Such loans and grants shall be made only for the reasonable cost of repairs necessary to make low-income rental units habitable and for the reasonable cost of any other repairs to the building in which such units are located which are necessary to make such units habitable. Such loans and grants shall be made only in accordance with the criteria set forth in this Section.
 - B. The Director of Community Development may make grants for repairs necessary to make low-income rental units habitable. The maximum grant amount shall be \$2,000 per unit, to be awarded after the owner has committed his own maximum contribution to the repair of a unit.
 - C. The Director of Community Development may extend loans for the repair of low-income units as follows:
 - 1. The maximum loan amount shall be \$4,000 per unit.
 - 2. The Director of Community Development may authorize the forgiveness of such loans at a rate of 20% per year, with a maximum forgiveness of \$600 per year for each year the unit remains available for low-income occupancy, such forgiveness to continue until the entire amount has been forgiven; provided that the unit continues to be available for low-income occupancy during the entire forgiveness period.
 - 3. The loans shall be made with no interest charged while the unit remains available for low income occupancy.
 - 4. If for any reason the units become unavailable for low-income occupancy, the remainder of the loan shall be required to be repaid, and in addition the Director of Community Development may require the immediate repayment of the remaining balance or said Director may charge interest on the remaining balance at the then prevailing rate for the Washington State Housing Commission bond program.
 - D. The total amount of grants and loans authorized under this section shall not exceed \$4,000 per unit for any three-year period.
 - E. The Director of Community Development shall prescribe such additional terms and conditions of such loans and grants as he deems appropriate. Within 30 days of the effective date of this ordinance, the Director of Community Development shall promulgate regulations describing the circumstances under which loans and grants will be approved and the general terms and conditions of such loans and grants.

Section 9. Downtown Housing Maintenance Account.

- 1 A. There is hereby created in the City Treasury an account in the
2 General Trust Fund designated the "Downtown Housing Maintenance
3 Account", from which Account grants and loans as specified in
4 Section 8 of this ordinance may be made to owners or receivers to
5 assist them in placing low-income rental units in habitable con-
6 dition and from which Account shall be paid costs and expenses
7 incurred by the City in connection with the repair of low-income
8 rental units or buildings that can feasibly be made habitable.
- 9 B. Money from the following sources shall be deposited in the Fund:
- 10 1. Such sums as may be received by gift, bequest or contractual
11 arrangement for maintenance and rehabilitation of downtown
12 low-income rental housing purposes; and
 - 13 2. Such sums as may be recovered by the City as repayment of
14 loans or as reimbursement of costs of expenses of repair of
15 units that were found to be uninhabitable where such funds
16 originated from this account.
- 17 C. The monies in the Account are hereby appropriated for the purposes
18 described above and the City Comptroller is authorized to draw and
19 the City Treasurer to pay the necessary warrants upon vouchers
20 approved by the Director of Community Development from the
21 appropriated Account.

Section 10. Termination of Duty to Repair and Duty to Rent.

- 22 A. The owner's duty to repair low-income rental units that can
23 feasibly be made habitable and the owner's duty to make a good
24 faith effort to rent low-income rental units shall cease if any of
25 the following circumstances occur:
- 26 1. the Director determines that it is not feasible to repair
27 units pursuant to Sections 6 and 12 or pursuant to the admi-
28 nistrative relief provisions in Sections 10 and 12; or
 - 29 2. a demolition or change of use permit covering the units
30 is issued under the Housing Preservation Ordinance (Chapter
31 22.210 of the Seattle Municipal Code) or any successor
32 ordinance and the owner complies with the terms of said
33 Ordinance; or
 - 34 3. the rental rate at which the units are offered for rent has
35 exceeded the low-income rental rate established in Subsection
36 3D. for more than two years.
 - 37 4. the rental unit is occupied by the owner as his or her per-
38 sonal residence.
- 39 B. There shall be no duty to offer a low-income rental unit for rent
40 during a reasonable period of time necessary to repair or rehabi-
41 litate a unit or building if such repair or rehabilitation makes
42 occupancy of that unit temporarily impracticable.

**Section 11. Administrative Relief from Duty to Rent and Duty to
Make Habitable.**

43 In accordance with the procedures specified in Section 12 the Director
44 may provide full or partial relief from the duty to offer low-income
45 rental units for rent and/or the duty to make low-income rental units
46 habitable, if the owner establishes with clear and convincing proof
47 that:
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- 1 A. The literal interpretation and strict application of the duty or
offer for rent or the duty to make habitable constitute an
2 unconstitutional taking of the owner's property.
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4 B. The requested relief would be consistent to the extent possible
with the objectives of this Ordinance.
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6 C. The requested relief does not go beyond the minimum necessary to
prevent the unconstitutional taking of property, and does not
constitute a grant of special privilege inconsistent with the
limitations upon other similar properties.

7 **Section 12. Administrative Investigation of and Determination on**
8 **Alleged Failures to Rent or Repair.**

9 A. Inspection

10 The Director shall inspect any building that he has reason to
believe contains low-income rental units that the owner is not
making a good faith effort to rent or low-income rental units that
are not habitable but could feasibly be made habitable.

11 B. Application for and Determination on Departures

- 12 1. If the Director finds low-income rental units that are not
habitable, he shall notify the Director of Community
Development who shall have 15 days to determine if an appli-
cation for a departure or departures as authorized in Section
7 is appropriate and, if so, to submit an application
requesting such departures to the Director.
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14 2. If application for departure is made, the Director shall
serve upon owner of the building, as shown upon the records
of the Department of Records and Elections of King County a
Notice of Probable Violation and Application for Departure
citing the specific rental units which are not habitable, and
the specific Code Violations identified and stating the spe-
cific variances, deferrals and/or extended time for
compliance requests made and stating that the Director will
accept comments on said application for a period of 10 days
from service of the Notice. The Notice and Application shall
be served and posted in the manner prescribed for a Complaint
stated below. After the close of the comment period, the
Director shall issue his decision granting, modifying or
denying the requested departures and shall notify the owner,
the Director of Community Development and those submitting
comments of the decision.

15 C. Determination of Feasibility to Make Units Habitable

16 After the Director has granted or denied the requested departures,
if any, he shall, using the standards as prescribed in Section 6,
make a determination as to the feasibility of making the uninhabi-
table units habitable.

17 D. Issuance of Complaint and Notice

- 18 1. If the Director finds that the owner has not made a good
faith effort to rent or that the building contains low-income
rental units that are not habitable but could feasibly be
made habitable, he shall serve upon the owner of the
building, as shown upon the records of the Department of
Records and Elections of King county, a complaint, iden-
tifying the specific low-income rental units which are not
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1 being offered for rent in good faith, the specific uninhabitable low-income rental units that could feasibly be made
2 habitable, and, where applicable, the corrective action which
3 the owner must take to make any low-income rental unit habitable and the amount of assistance available to the owner as
4 determined by the Director of Community Development. The
5 complaint shall be delivered by personal service, registered
6 mail, or certified mail with return receipt requested, and
7 shall be posted in a conspicuous place on the property. No
8 complaint shall be issued for uninhabitable units if the
9 owner holds a valid permit for the repairs, alterations, or
10 improvements necessary to correct the noted deficiencies and
11 is, in the opinion of the Director, making reasonable
12 progress toward correcting those deficiencies.

7 2. The complaint shall: contain a notice that a hearing will
8 be held before the Director at a specified time and place not
9 less than ten (10) nor more than thirty (30) days after service of the complaint; explain that all parties have the
10 right to file an answer to the complaint; advise the parties that they may appear in person or by representative and
11 give testimony at the time and place designated in the
12 complaint, and advise the parties that they may seek
13 relief and present evidence as to whether or not administrative relief from the strict enforcement of the requirements
14 of this ordinance as provided in Section 11 should be
15 granted.

13 3. A copy of the complaint shall be filed with the King County
14 Department of Records and Elections. In addition to serving
15 and posting the complaint, the Director shall mail or cause
16 to be delivered to the occupants of all rental units and/or
17 commercial units in the building a notice informing the
18 occupants of the filing of the complaint and advising them of
19 the relevant procedures.

16 E. Administrative Hearing

17 The Director shall hold a hearing at the time and place specified
18 in the complaint to take testimony on the allegations stated in
19 the complaint and the defenses to such allegations and to receive
20 evidence as to whether or not administrative relief should be
21 granted in accordance with the standards set forth in Section 11,
22 if such relief is sought by the owner at the hearing.

20 F. Report of Director of Community Development on Request for
21 Administrative Relief

22 When administrative relief is sought pursuant to Section 11, the
23 Director shall request from the Director of Community Development
24 a report and recommendation analyzing whether application of the
25 duties from which relief is sought would constitute an unconstitutional taking and the nature of the relief which would be
26 appropriate, if any. The Community Development Director's report
27 shall be made available to the owner and to any member of the
28 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.

27 G. Determination and Order of Director After Hearing

28 After the hearing provided for in Subsection E and the report and
public comment provided for in Subsection F the Director shall
issue a written decision granting or denying administrative
relief, if such relief has been requested and, if upon con-

1 sideration of the complete record before him the Director deter-
2 mines that the owner is not making a good faith effort to rent
3 low-income rental units, or that the owner's building contains
4 low-income rental units that are not habitable but could feasibly
5 be made habitable, then he shall issue and cause to be served upon
6 the owner in the manner provided in subsection D and shall post in
7 a conspicuous place on the property, an order requiring the owner
8 to repair, alter, or improve the uninhabitable units and/or make a
9 good faith effort to rent vacant low-income rental units in the
10 building within a time to be specified in the order. When deter-
11 mining a time for compliance, the Director shall take into
12 consideration:

1. Any departures granted pursuant to Section 7;
2. Any administrative relief granted pursuant to Section 11;
3. The availability of city funds for repair of the units;
4. The type and degree of hazard cited in the complaint;
5. The owner's ability to correct the noted deficiencies;
6. The procedural requirements for obtaining a permit to correct the noted deficiencies;
7. The complexity of the required repairs or corrective action, including seasonal considerations, construction requirements and the legal rights of affected tenants; and
8. Circumstances beyond the owner's control.

15 **Section 13. Appeal to Hearing Examiner from Order of Director.**

- 16 A. Within fifteen (15) days from the date of service and posting of
17 an order issued by the Director, the owner may file a written
18 notice of appeal with the Office of the Hearing Examiner. The
19 notice of appeal shall state the specific errors in the Director's
20 order of proceedings and the specific grounds upon which a rever-
21 sal or modification of the order is sought. The Director's deci-
22 sion to grant or deny administrative relief pursuant to Section 11
23 and the issues determined therein shall not be appealable to the
24 Hearing Examiner. The notice of appeal shall be accompanied by a
25 filing fee of Twenty-five Dollars (\$25.00).
- 26 B. The Hearing Examiner shall consider the appeal in accordance with
27 the procedures established by the Administrative Code of The City
28 of Seattle (Chapter 3.02 of the Seattle Municipal Code) for
hearing contested cases. Notice of hearing shall be provided to
all parties not less than ten (10) days prior to the hearing. The
Hearing Examiner's review shall be de novo. The Hearing Examiner
may affirm, reverse or modify the order of the Director only if it
is determined that the Director's decision is clearly erroneous.
- C. The Hearing Examiner's final written decision containing findings
of fact and conclusions of law shall be mailed to the parties of
record and filed with the King County Department of Records and
Elections.

1 D. The Director's order shall not be final until the time for filing
2 an appeal with the Hearing Examiner has expired or until the
3 issuance of the Hearing Examiner's decision if an appeal is taken;
4 provided that, when the Director determines that the deficiencies
5 noted in the complaint will cause immediate and irreparable harm,
6 and so states in the notice and order issued, the order shall be
7 final upon issuance by the Director.

8 **Section 14. Petition to Superior Court.**

9 Any appeal of a decision issued by the Hearing Examiner pursuant to
10 Section 13 of this Ordinance must be filed in the Superior Court
11 within thirty (30) days of the Hearing Examiner's decision.

12 **Section 15. Certificate of Compliance.**

13 A. If the Director finds that the repairs, alterations, improvements
14 or other actions required in a final order have been satisfac-
15 torily completed, he shall prepare and, upon request therefor,
16 issue to any party upon whom the final order was served, a cer-
17 tificate of compliance, stating that the deficiencies noted in the
18 final order have been corrected. The certificate of compliance
19 shall be filed with the King County Department of Records and
20 Elections.

21 B. The issuance of a certificate of compliance shall not be construed
22 to relieve from or lessen the responsibility and liability of any
23 person owning, operating or controlling any building or structure
24 or owning, operating, controlling, or installing any equipment
25 therein for any injury, death, damage, and/or loss of any sort
26 sustained by any person, organization, or corporation arising out
27 of any condition of the building, structure, or equipment; nor
28 shall the City of Seattle or the Director be held to assume any
liability by reason of any inspection, issuance of a certificate
of compliance, or any other act or omission of the City or the
Director in connection with the enforcement and administration of
this ordinance.

Section 16. Extension of Compliance Date.

The Director may, in his discretion, extend the time for compliance
with a final order. Neither extensions, nor the Director's refusal to
grant an extension shall be subject to any appeal.

Section 17. Enforcement of Final Order.

Whenever any person fails to comply with a final order, the Director
may:

- A. Institute an action in Municipal Court to collect a civil penalty
as provided in Section 18 of this ordinance; and/or
- B. Use any procedure established in any other ordinance or by any
other law for securing compliance; and/or
- C. Abate the violation pursuant to the procedures provided in Section
20; provided, that nothing herein shall prevent the Director from
using any procedure established in any other ordinance or by any
other law for securing compliance; and/or
- D. Request the Law Department to seek an injunction to compel
compliance.

Section 18. Civil Penalty.

- 1 A. In addition to any other sanction or remedial procedure which may
2 be available, any person failing to comply with a final order of
3 the Director of DCLU, violating any provision of this ordinance,
4 or deliberately attempting to evade application of this Ordinance
5 shall be subject to a civil penalty in the amount of \$500.00 per
6 day for each day of violation.
- 7 B. The penalties imposed by this Section shall be collected by a
8 civil action brought in the name of the City and commenced in
9 municipal court. The Director of Construction and Land Use shall
10 notify the City Attorney in writing of the name of any person sub-
11 ject to the penalty. The City Attorney shall, with the assistance
12 of the Director of Construction and Land Use, take appropriate
13 action to collect the penalty.

Section 19. Abatement.

8 In addition to, or as an alternative to seeking civil penalties as
9 provided in Section 18, the Director may cause the defective condition
10 or conditions to be repaired pursuant to Chapter 22.208 of the Seattle
11 Municipal Code; provided, that the Director shall not repair such con-
12 dition or conditions if the cost exceeds \$4,000 per unit, calculated
13 in accordance with the rules prescribed in Section 6.

Section 20. Receivership.

12 If a building contains uninhabitable low-income rental units that can
13 feasibly be made habitable and/or the owner of a building is not
14 making a good faith effort to rent low-income rental units or there
15 are vacant units that constitute a threat to the public health and
16 safety then the Director may request the Law Department to petition
17 the Superior Court, pursuant to RCW 7.60.010 et seq. to appoint a
18 receiver to manage and operate the building. In addition, the court
19 may be directly petitioned for the appointment of a receiver by
20 tenants who reside in the building under the following circumstances:

- 17 (1) where ten or more tenants reside in the building, three or
18 more tenants join in bringing the petition;
- 18 (2) where less than ten, but more than five tenants reside in the
19 building, two or more tenants join in bringing the petition;
- 20 (3) where five tenants or less reside in the building, one tenant
21 or more brings the petition.

21 The purpose of the receivership shall be to take possession of the
22 building for a period sufficient to accomplish and pay for repairs and
23 improvements to uninhabitable units and/or to fill vacancies in units
24 which have not been offered for rent in good faith. The receiver
25 appointed:

- 23 A. May enter into a week-to week or month-to-month rental agreements
24 for the rental of any vacant dwelling units and may take such
25 steps as may be necessary to make vacant dwelling units available
26 for rental and occupancy;
- 26 B. May enter into any contracts necessary to repair and improve the
27 building and to make uninhabitable low-income rental units
28 habitable;

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- C. May apply for and accept loans and grants from the City for the purpose of making low-income rental units habitable;
 - D. Shall be entitled to reasonable fees, commissions and necessary expenses which shall be paid out of the rents and income of the property in receivership or, upon approval by the Director, out of the Downtown Housing Maintenance Account;
 - E. Shall apply rents and income collected, to the extent not expended for repairs, improvements, and/or the preparation and rental of covered units, to the payment to City fines or penalties which may have been imposed upon the owner for violations of this ordinance or other housing ordinances and which remain unpaid. Any rents or income remaining after the above expenses are paid shall be paid to the owner.

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Section 21. Use of Remedies.

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The remedies provided for in this Ordinance are not exclusive and may be used alone or in combination with the other remedies enumerated in this Ordinance. Nothing in this Ordinance shall be construed to supersede or repeal by implication the remedies available through enforcement of the Housing Code (Ordinance 106319) or any other City codes or ordinances.

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Section 22. Severability.

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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.

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Section 23. Effective Date.

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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.

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Passed by the City Council the 5th day of August,
1985 and signed by me in open session in authentication of its passage
this 5th day of August, 1985.

Howard B. Fee
President of the City Council.

Approved by me this 8th day of August, 1985.

Charles Royer
Mayor.

Filed by me this 8th day of August, 1985.

ATTEST: *Jim Hill*
City Comptroller and City Clerk.

BY: *Theresa Dunbar*
Deputy Clerk.

(SEAL)

Published _____

7-18R.1/PM:ksr

0-112383

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

ORD. 112383

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

January 24, 1986

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

Re: Seattle Municipal Code

Dear Gregory:

This letter is in response to your five-page letter of emerging questions of January 13, 1986.

- 1. With regard to the treatment of hours of day, please conform with the following rule:

Hours of day appearing in the text of any ordinance shall be spelled out and followed by the numerical figure in parentheses. Delete the work "o'clock" when it appears in an ordinance. For example, where an ordinance refers to "five o'clock p.m.", the codification shall be "five p.m. (5:00 p.m.)."

EXCEPTION: In the initial republication, no rule was given and no rule was followed. Therefore, please follow this rule in the quarterly supplements. In other words, do not change an existing page of text if this rule is the only correction to be made.

- 2. With regard to Ordinance 112383, Section 7, Subsections D(1) - (3):

- a) Please correct the internal references in Subsection D as follows:

- (1)
 - "Section 4.03" should be "Section 22.206.030"
 - "Section 4.05" should be "Section 22.206.050"
 - "Section 4.11" should be "Section 22.206.110"

- (2)
 - "Section 4.05" should be "Section 22.206.050"
 - "Section 4.12" should be "Section 22.206.120"
 - "Section 4.06" should be "Section 22.206.060"

Gregory Dudiak
January 24, 1986
Page 2

(3)

"Section 4.07" should be "Section 22.206.070"
"Section 4.08" should be "Section 22.206.080"

- b) Please codify the text of these subsections exactly as it appears in Ordinance 112383. No explanatory editor's note is necessary.
3. Please correct the internal reference appearing in Ordinance 112383, Section 10(A)(3). "Subsection 3D" refers to section 3, subsection D of this ordinance, the definition of "Low-income Rental Unit." My assumption is that "3D" should be "22.220.030D."
 4. With regard to Ordinance 112500, this repeals the entire Energy Code, Subtitle VII of Title 22, and replaces it with a new Energy Code. Therefore all of Ordinance 108500 and its amendments are repealed, and thus Chapters 22.700 through 22.712 are repealed. The new Energy Code to be codified consists of Section 1 of Ordinance 112500 and the Seattle Energy Code Supplement. You have not received the Seattle Supplement and I will transmit it to you shortly. The Supplement is about 250 pages long. Because we are interested in obtaining the first quarterly supplement on or before February 28, 1986, please codify only Section 1 of Ordinance 112500, and codify the Seattle Energy Code Supplement in the second quarterly supplement.
 5. With regard to Section 22.804.109 which contains an incorrect internal reference to Section 22.106.050 (previously repealed), I will have to defer answering this question until a later date. Therefore, please go ahead with the quarterly supplement which will contain this error.
 6. Please correct the typographical error of omitted language contained in Ordinance 112522 at Section 3. Subsection E as it appears at Section 23.04.010 of the republished Code is still in effect and should be included in Ordinance 112522 as well as in the quarterly supplement.
 7. Please correct the typographical error of omitted language contained in Ordinance 112522 at Section 11. Subsection F as it appears at Section 23.04.106 of the republished Code is still in effect and should be included in Ordinance 112522 as well as in the quarterly supplement.
 8. a) Please correct the typographical error at Section 8 of Ordinance 112539. "Section 24.45.122" should be "Section 23.45.122."

Gregory Dudiak
January 24, 1986
Page 3

- b) Please correct the typographical error of omitted language contained in Ordinance 112539 at Section 8. The "unlettered" section as well as subsections A through D as they appear at Section 23.45.122 of the republished Code are still in effect and should be included in Ordinance 112539 as well as in the quarterly supplement.
9. Please mark and place exhibits for Title 23 consistent with previous instructions and the republished Code.
10. With regard to Section 23.49.056 as set out in Ordinance 112303 on page 42 through 44: please suspend the technical specification regarding the numeral designation of sections for this section only, and follow the subsection lettering as set out in this ordinance section.
11. Please retain the section numbers of 23.49.168, 23.49.198 and 23.49.223 for the introductory paragraphs following Subchapters VII, VIII, and XI of Chapter 23.49 respectively.
12. Please correct the "double" numerical designation of sections error contained in Ordinance 112303 on page 148. Please designate the sections as follows:
- 23.49.304 Downtown Harborfront 1, Transfer of
Development Rights; and
- 23.49.306 Downtown Harborfront 1, Parking.
13. Please correct the typographical error contained in Ordinance 112519, Section 23.49.332B(1) at page 47 line 25/26. "Exhibit 49.322B" should be "Exhibit 23.49.332B".
14. With regard to Ordinance 112539, Section 9, page 33, Section 23.54.030(E)(2), please make the following corrections to typographical errors:
- a) Delete the word "interim" from the first line so that the first line reads:
- "(2) In ((~~interim~~)) downtown zones, a maximum of two"
- b) Correct the internal reference. "23.49.14" should be "23.49.018."
15. a) Please correct the typographical error of omitted language contained in Ordinance 112303 at Section 7. Subsection D as it appears at Section 23.66.140 of the republished Code is still in effect and should be included in Ordinance 112303 as well as in the quarterly supplement.

Gregory Dudiak
January 24, 1986
Page 4

- b) Please find enclosed "Map G" as referred to in Section 23.66.140. This is an original map and we will need it returned as soon as possible.
16. Please correct the internal references contained in Ordinance 112522. References to "Chapter 23.80*" should be "Chapter 23.81".
17. a) You are correct. Ordinance 112522, Section 14, amends Section 23.81.050 not 23.80.050.
- b) You are correct. Ordinance 112303, Section 28 adds Section 23.80.020. It does not amend it.
18. Please correct the typographical error of omitted language which should had been struck-over (deleted) from Ordinance 112522, Section 14, page 100. At the end of Section 23.81.050(G)(2)(c) [sic] the language "The Council shall conduct the hearing in the manner prescribed by Section 23.81.050(H)(4)(c) [sic]" should have been struck-over (deleted) in the text of this ordinance section. Therefore, this sentence should not appear in the quarterly supplement.
19. You are correct. Ordinance 112303, Section 25, adds, does not amend, Section 23.86.007. Accordingly, this section was amended by Ordinance 112519, Section 52.
20. Placing "Map A" directly after Section 24.52.140 is great.
21. Enclosed please find Plates I, IIa, IIb and III as referenced by Section 24.64.030, Ordinance 112212. These plates should be placed directly after the section to which they are referenced.
22. a) Map A on page 176 should not be removed. This map is referenced in Section 24.80.030, which is still in effect. In fact, you may want to move the map closer to the section.
- b) The maps appearing on pages 24-177 through 24-179 should be replaced by the twelve Kroll maps referred to in Ordinance 112304. Naturally, these twelve maps should also be included in the Zoning Map Section.
- c) Please note that the running head appearing on page 24-175 is incorrect. Please correct.

Gregory Dudiak
January 24, 1986
Page 5

23. The Seattle Zoning Map Section introductory page should refer to the latest zoning map ordinance only. Therefore the explanatory note should be:

"Including Changes Made by Zoning Map Ordinances through Ordinance 112497, effective November 29, 1985."

No other changes should be made to this introductory page.

24. Ordinance 112317 should not be codified, but the Kroll maps associated with the Ordinance should be included in the Zoning Map Section.
25. Ordinance 112101 should not be codified nor included in the tables. The Krolls Maps which you have previously received were corrected by this ordinance.
26. Please correct the typographical error of omitted language contained in Ordinance 112522, Section 20, page 115. The introductory references as they appear at Section 25.05.680 of the republished Code are still in effect and should be included in Ordinance 112522 as well as in the quarterly supplement.

Gregory, again, THANK YOU, THANK YOU, THANK YOU, for the care and attention to which Book Publishing Company gives the Seattle Municipal Code. With these questions, Book Publishing has inspired confidence that you are not just a fine typesetting house, but also a careful, accurate legal editing house as well.

If you have any questions regarding the above answers, let me know.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By 
ANN KELSON
Paralegal

/ak
enc.

cc: Dorothy McFarlin
Don Stout
Doug Jewett
Ken Mar
Guy Fletcher
James Fearn

JEF:jrs;hh;nl
12/10/84
V:ORD2.1

ORDINANCE _____

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3 AN ORDINANCE relating to housing, establishing minimum main-
4 tenance standards for rental housing in the downtown area;
5 creating a Downtown Housing Maintenance Fund to provide
6 financing for maintenance and rehabilitation of downtown
7 rental housing; establishing a process for the appointment
8 of receivers for downtown rental housing that is purpose-
9 fully left unoccupied; and providing penalties for
10 violations.

11 WHEREAS, a substantial portion of the residential units in
12 downtown Seattle do not meet Seattle Housing Code
13 standards; and

14 WHEREAS, substandard units are frequently left vacant by
15 landlords, resulting in a loss of already scarce low cost
16 rental housing downtown; and

17 WHEREAS, vacant rental units constitute a potential hazard to
18 the occupants of residential buildings and a threat to the
19 public health, safety and welfare; and

20 WHEREAS, the deliberate and systematic refusal by some
21 downtown property owners to re-rent habitable housing
22 units further reduces the supply of affordable rental
23 housing downtown; Now, Therefore

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

25 Section 1. Title. This ordinance shall be cited as the
26 "Downtown Housing Maintenance Ordinance".

27 Section 2. Findings and Purpose.

28 A. The City Council hereby finds that the net loss of
more than 15,000 housing units in the downtown since 1960, the
pressure for more intensive development downtown, the
increasing tendency of some speculators in downtown real
estate to refuse to rent existing housing units, and the
reduction in federal funding for low income housing since 1980
have resulted in an extreme shortage of low income rental
housing. Because of this extreme shortage, there is a
negligible vacancy rate for habitable low cost housing and
many low income residents are unable to locate rental housing
of any kind. These residents are forced into already
overcrowded shelters and, increasingly, onto the City's

1 streets. The Council further finds that there exists,
2 especially in the downtown area of the City, a substantial
3 number of substandard and/or vacant residential structures
4 which cause blight, contribute to the creation of slum
5 conditions, and constitute a danger to the public health,
6 safety and welfare.

7 B. Because of the conditions described above, there
8 exists in the City a housing emergency which necessitates that
9 existing rental housing, especially in the downtown, be both
10 maintained and occupied. This ordinance, therefore, is
11 enacted to supplement the City's existing housing and building
12 safety codes and to relieve the effects of the City's housing
13 emergency by establishing minimum maintenance and occupancy
14 standards for rental housing units downtown and by preventing
15 the deterioration and closure of residential buildings down-
16 town due to improper management and inadequate maintenance.

17 Section 3. Applicability. This ordinance shall apply to
18 all rental units in buildings downtown which contained any
19 occupied rentals units on or after January 1, 1984.

20 Section 4. Definitions. As used in this ordinance, the
21 words and phrases listed below shall be defined as follows:

- 22 A. Building: Any structure designed, used, or intended
23 to be used for human habitation.
- 24 B. Director: The Director of the Department of
25 Construction and Land Use or the Director's designee.
- 26 C. Downtown: That portion of the City between the
27 waterfront and Interstate Five and between Royal
28 Brougham Way and Denny Way.
- 29 D. Owner: Any person who, alone or jointly, has title
30 to or an ownership interest in any building, with or

1 without actual possession thereof, including any
2 person who as agent, or executor, administrator,
3 trustee, or guardian of an estate has charge, care,
4 or control of any building.

5 E. Permit: Any form of certificate, approval,
6 registration, license or other written permission
7 which is required by law, ordinance or regulation
8 to be obtained before engaging in any activity.

9 F. Person: Any individual, firm, corporation, asso-
10 ciation or partnership and their agents or assigns.

11 G. Rental Unit: Any dwelling unit, housekeeping room,
12 or guest room as defined in the Seattle Housing Code
13 (Chapter 22.204 of the Seattle Municipal Code) which
14 is in a building in which such units or rooms were
15 occupied by tenants pursuant to rental agreements,
16 oral or written, express or implied on or after
17 January 1, 1984.

18 Section 5. Substandard Buildings. Any building which,
19 due to the existence of one or more of the following con-
20 ditions constitutes a serious present threat to the public
21 health, safety and welfare shall be considered substandard.

22 A. Structural members of insufficient size or strength
23 to carry imposed loads with safety including, but
24 not limited to, the following:

- 25 1. Footings or foundations which are weakened,
26 deteriorated, or insecure;
- 27 2. Flooring or floor supports which are defective
28 or deteriorated;
3. Members of walls, partitions, or other vertical
supports that split, lean, list or buckle;

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4. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle;
5. Fireplaces or chimneys, which list, bulge or have settled.

B. Inadequate weather protection which exposes occupants of a building directly to the elements, including, but not limited to, the following:

1. Crumbling, broken, loose, or falling interior wall or ceiling covering;
2. Broken or missing doors and windows;
3. Missing, deteriorated, or ineffective waterproofing of foundations or floors;
4. Missing, deteriorated, or ineffective exterior wall covering;
5. Missing, deteriorated, or ineffective roof covering;
6. Broken, split, decayed, or buckled exterior wall or roof covering.

C. Inadequate sanitation facilities to the extent that occupants of the building or the general public are directly exposed to the risk of illness, including, but not limited to:

1. Lack of, or inadequate number of toilets, lavatories, bathtubs, showers, or kitchen sinks;
2. Defective or unsanitary plumbing or plumbing fixtures;
3. Lack of running water connections to plumbing fixtures;

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- 4. Lack of connection to an approved sewage disposal system;
 - 5. Inadequate drainage;
 - 6. Infestation by insects, vermin, rodents, or other pests;
 - 7. Failure to provide for storage and removal of garbage and rubbish.
- D. Inadequate light, heat, ventilation, or defective equipment therefor, including, but not limited to:
- 1. Lack of light and ventilation;
 - 2. Defective, deteriorated, or hazardous electrical wiring;
 - 3. Defective, hazardous, or improperly operated ventilating equipment or systems;
 - 4. Missing, defective, hazardous, or improperly operated heating equipment or systems sufficient to maintain an inside temperature of fifty-eight degrees Fahrenheit (58° F.) when the outside temperature is twenty degrees Fahrenheit (20° F.)
- E. Defective or inadequate elevators or exits, including, but not limited to exits which are unsafe, improperly located, or less than the required minimum number or dimensions.
- F. Conditions that enhance the risk of fire or accident, including, but not limited to:
- 1. Accumulations of junk and debris;
 - 2. Any portion of a building, or any device, apparatus, equipment, waste, vegetation, or other material which is in such a condition as to cause a fire or explosion or provide

1 fuel to augment the spread or intensity of a
2 fire or explosion arising from another cause;

- 3 3. Vacant housing units which constitute a threat
4 to the health and safety of the residents of
5 the building or the general public.

6 Section 6. Duty to Maintain and Rent Habitable Units.

7 All habitable rental units in downtown buildings and all
8 rental units in downtown buildings that can feasibly be made
9 habitable shall be offered to prospective tenants for rent.

10 An owner's failure or refusal to make a good faith effort to
11 rent habitable rental units or units that can feasibly be made
12 habitable shall constitute a violation of this ordinance. In
13 determining whether an owner is failing or refusing to make a
14 good faith effort to rent rental units or put and keep rental
15 units in a habitable condition, the Director may consider any
16 actions by the owner which are inconsistent with keeping units
17 habitable and/or occupied. Such actions may include, but shall
18 not be limited to, the following: maintaining a building
19 vacancy rate in excess of twenty percent; failing to offer an
20 unoccupied unit for rent within seven days; offering units at
21 a monthly rent which substantially exceeds prevailing rents
22 for comparable rental units; reducing building services;
23 changing rules, regulations, terms, or conditions of tenancy
24 so as to substantially affect the rights and obligations of
25 tenants or prospective tenants; wilfully or wantonly failing
26 to comply with applicable codes with respect to the building,
27 the violation of which substantially endangers or impairs the
28 health or safety of the occupants; committing or causing
vandalism or the intentional destruction of a rental unit or
building; failing to follow reasonable and prudent management

1 practices with respect to the building; or other negligent or
2 intentional conduct that interferes with the tenants'
3 exercise of their legal rights in relation to the building.

4 Buildings and units shall be considered habitable if they
5 are reasonably fit and safe for occupancy, whether the buildings
6 are in compliance with building, housing and other safety
7 codes or not. Rental units shall be considered habitable, and
8 shall be repaired by the owner and offered for rent if the
9 owner has:

10 A. Wilfully or wantonly failed to comply with appli-
11 cable codes with respect to the building, the
12 violation of which substantially endangers or
13 impairs the health or safety of the occupants; or

14 B. Committed or caused vandalism or the intentional
15 destruction of a rental unit or building which has
16 resulted in a condition which renders the building
17 uninhabitable; or

18 C. Failed to follow reasonable and prudent management
19 practices with respect to the building which has
20 resulted in the building's becoming uninhabitable.

21 An owner's duty to make a good faith effort to rent rental
22 units shall cease when the owner receives the permits required
23 to demolish the units or convert them to a different use.

24 Section 7. Investigation, Notice and Hearing. The Director
25 shall inspect any building that he has reason to believe is
26 substandard or contains unoccupied habitable rental units. If
27 after the inspection the Director finds the building to be
28 substandard or to contain rental units that the owner is not
making a good faith effort to rent, then he shall serve upon

1 the owner of the building, as shown upon the records of the
2 Department of Records and Elections of King County, a
3 complaint stating specifically why the building is substandard
4 and/or identifying the specific unoccupied rental units. The
5 complaint shall be delivered by personal service, registered
6 mail, or certified mail with return receipt requested, and
7 shall be posted in a conspicuous place on the property. No
8 complaint shall be issued based upon substandard conditions if
9 the owner holds a valid permit for the repairs, alterations,
10 or improvements necessary to correct the noted deficiencies
11 and is, in the opinion of the Director, making reasonable
progress toward correcting those deficiencies.

12 The complaint shall: 1) contain a notice that a hearing
13 will be held before the Director at a specified time and place
14 not less than ten (10) nor more than thirty (30) days after
15 service of the complaint; 2) explain that all parties have the
16 right to file an answer to the complaint; and 3) advise the
17 parties that they may appear either in person or by represen-
18 tative and give testimony at the time and place designated in
the complaint.

19 A copy of the complaint shall be filed with the King
20 County Department of Records and Elections. In addition to
21 serving and posting the complaint, the Director shall mail or
22 cause to be delivered to the occupants of all rental units
23 and/or commercial units in the building, a notice informing
24 the occupants of the filing of the complaint and advising
them of the relevant procedures.

25 Section 8. Determination and Order of Director After
26 Hearing. If after the hearing provided for in Section 6 of this
27 ordinance, the Director determines, based upon the standards
28

1 described in Section 4, that the building is substandard or
2 that the owner is not making a good faith effort to rent
3 rental units, then he shall issue and cause to be served upon
4 the owner in the manner provided in Section 6, and shall post
5 in a conspicuous place on the property, an order requiring the
6 owner to repair, alter, or improve the building and/or make a
7 good faith effort to rent vacant habitable rental units in the
8 building within a time to be specified in the order. When
9 determining a time for compliance, the Director shall take
into consideration:

- 10 A. The type and degree of hazard cited in the complaint;
- 11 B. The owner's ability to correct the noted deficiencies;
- 12 C. The procedural requirements for obtaining a permit to
13 correct the noted deficiencies;
- 14 D. The complexity of the required repairs or corrective
15 action, including seasonal considerations, construc-
16 tion requirements and the legal rights of affected
tenants; and
- 17 E. Circumstances beyond the owner's control.

18 Section 9. Appeal to Hearing Examiner from Order of
19 Director. Within fifteen (15) days from the date of service
20 and posting of an order issued by the Director, the owner may
21 file a written notice of appeal with the Office of the Hearing
22 Examiner. The notice of appeal shall state the specific
23 errors in the Director's order of proceedings and the specific
24 grounds upon which a reversal or modification of the order is
25 sought. The notice of appeal shall be accompanied by a filing
fee of Twenty-five Dollars (\$25.00).

26 The Hearing Examiner shall consider the appeal in accord-
27 ance with the procedures established by the Administrative
28

1 Code of The City of Seattle (Ordinance 102228) for hearing
2 contested cases. Notice of hearing shall be provided to all
3 parties not less than ten (10) days prior to the hearing. The
4 Hearing Examiner's review shall be de novo. The Hearing
5 Examiner may affirm, reverse or modify the order of the
6 Director only if it is determined that the Director's decision
7 is arbitrary and capricious.

8 The Hearing Examiner's final written decision containing
9 findings of fact and conclusions of law shall be mailed to the
10 parties of record and filed with the King County Department of
11 Records and Elections.

12 The Director's order shall not be final until the time for
13 filing an appeal with the Hearing Examiner has expired or until
14 the issuance of the Hearing Examiner's decision if an appeal
15 is taken; provided that, when the Director determines that the
16 deficiencies noted in the complaint will cause immediate and
17 irreparable harm, and so states in the notice and order
18 issued, the order shall be final upon issuance by the Director.

19 Section 10. Petition to Superior Court. Any appeal of a
20 decision issued by the Hearing Examiner pursuant to Section 8
21 of this ordinance must be filed in the Superior Court within
22 thirty (30) days of the Hearing Examiner's decision.

23 Section 11. Certificate of Compliance. If the Director
24 finds that the repairs, alterations, improvements or other
25 actions required in a final order have been satisfactorily
26 completed, he shall prepare, and upon request therefor issue
27 to any party upon whom the final order was served, a certifi-
28 cate of compliance, stating that the deficiencies noted in the
final order have been corrected. The certificate of compliance

1 shall be filed with the King County Department of Records and
2 Elections.

3 The issuance of a certificate of compliance shall not be
4 construed to relieve from or lessen the responsibility and
5 liability of any person owning, operating or controlling any
6 building or structure or owning, operating, controlling, or
7 installing any equipment therein for any injury, death, damage,
8 and/or loss of any sort sustained by any person, organization,
9 or corporation arising out of any condition of the building,
10 structure, or equipment; nor shall the City of Seattle or the
11 Director be held to assume any liability by reason of any
12 inspection, issuance of a certificate of compliance, or any
13 other act or omission of the City or the Director in connection
14 with the enforcement and administration of this ordinance.

15 Section 12. Extension of Compliance Date. The Director
16 may, in his discretion, extend the time for compliance with a
17 final order. Neither extensions, nor the Director's refusal
18 to grant an extension shall be subject to any appeal.

19 Section 13. Enforcement of Final Order. Whenever any
20 person fails to comply with a final order, the Director may:

- 21 A. Institute an action in Municipal Court to collect a
22 civil penalty as provided in Section 13 of this
23 ordinance; and/or
24 B. Abate the violation pursuant to the procedures
25 provided in this ordinance; provided, that nothing
26 herein shall prevent the Director from using any
27 procedure established in any other ordinance or by
28 any other law for securing compliance.

Section 14. Civil Penalty. Any person who fails to
comply with a final order of the Director shall be subject to

1 a civil penalty or forfeiture in an amount not to exceed five
2 hundred dollars (\$500). Each day's failure to comply shall
3 constitute a separate offense. Any deliberate attempt by an
4 owner to evade application of this ordinance shall constitute
5 a violation of this ordinance and shall subject the owner to a
6 civil penalty or forfeiture in an amount not to exceed five
7 hundred dollars (\$500.00).

8 Section 15. Abatement. In addition to, or as an alter-
9 native to seeking civil penalties as provided in Section 12,
10 the Director is hereby authorized to abate the defective
11 condition and cause such building to be repaired pursuant to
12 this section or occupied pursuant to Section 16 of this
13 ordinance, and the costs thereof shall be recovered by the
14 City in the manner provided by law.

15 The cost of such work shall be paid from amounts appro-
16 priated for abatement purposes. Unless the amount of the
17 costs thereof are repaid within 60 days of the completion of
18 the work, they shall be assessed against the real property for
19 which such costs were incurred. Upon certification by the
20 Director to the City Treasurer of the assessment amount being
21 due and owing, the City Treasurer shall certify the amount to
22 the County Treasurer, who shall enter the amount of such
23 assessment upon the tax rolls against such real property for
24 the current year as provided for in RCW 35.80.030, as now or
25 hereafter amended, and when collected shall be deposited in
26 and credited to the Downtown Housing Maintenance Fund as
27 described in Section 15 of this ordinance.

28 The remedies provided for in this section to preserve
substandard structures are not exclusive and this ordinance
shall not be construed to supersede or repeal by implication

1 the remedies available through enforcement of the Housing Code
2 (Ordinance 106319) or any other City codes or ordinances.

3 Section 16. Downtown Housing Maintenance Fund. There is
4 hereby created in the City Treasury a fund designated the
5 "Downtown Housing Maintenance Fund", from which Fund shall be
6 paid costs and expenses incurred by the City in connection
7 with the repair of any substandard building as defined by this
8 ordinance which is ordered repaired, and from which Fund loans
9 and grants may be made to private property owners to assist
10 them in complying with orders issued pursuant to this ordi-
11 nance when, in the opinion of the Director of Community
12 Development, the building repair is appropriate and the cost
13 reasonable.

14 Money from the following sources shall be deposited in the
15 Fund:

- 16 A. Such sums as may be recovered by the City as
17 reimbursement of costs and expenses of repair
18 of buildings found to be substandard;
19 B. Such Community Development Block Grant Funds or
20 other similarly restricted Funds as may by
21 ordinance be appropriated to or designated as
22 revenue of such Fund; and
23 C. Such other sums as may be received by gift or
24 bequest for housing repair or preservation purposes.

25 Monies in the Fund are hereby appropriated for the purposes
26 described above and the City Comptroller is authorized to draw
27 and the City Treasurer to pay the necessary warrants upon
28 vouchers approved by the Director of Community Development
from the appropriated Funds.

1 Section 17. Loans to Private Property Owners. The
2 Director of Community Development, in his discretion, may make
3 rehabilitation grants and loans from the Downtown Housing
4 Maintenance Fund to owners who are subject to a final order of
5 the Director.

6 Section 18. Receivership. If it is determined that a
7 building is substandard and/or that the owner of a building is
8 deliberately and intentionally refusing to re-rent units or that
9 vacant units constitute a threat to the public health and safety
10 then the Director may request the Law Department to petition
11 the Superior Court, pursuant to RCW 7.60.010 et seq. to appoint
12 a receiver to manage and operate the building. In addition,
13 tenants who reside in the building may petition the court
14 directly for appointment of a receiver. The purpose of the
15 receivership shall be to take possession of the building for a
16 period sufficient to accomplish and pay for repairs and improve-
ments to substandard dwelling units and/or to fill voluntary
vacancies. The receiver appointed:

- 17 A. May enter into week-to-week or month-to-month rental
18 agreements for the rental of any vacant dwelling
19 units and may take such steps as may be necessary to
20 make vacant dwelling units available for rental and
21 occupancy;
- 22 B. May enter into any contracts necessary to repair and
23 improve the building and to rent vacant rental units;
- 24 D. Shall be entitled to reasonable fees, commissions and
25 necessary expenses which shall be paid out of the
26 rents and income of the property in receivership or,
27 upon approval by the Director, out of the Downtown
28 Housing Maintenance Fund;

1 E. Shall apply rents and income collected, to the extent
2 not expended for repairs, improvements, and/or the
3 preparation and rental of vacant units, to the
4 payment to City fines or penalties which may have
5 been imposed upon the owner for violations of this
6 ordinance or other housing ordinances and which
7 remain unpaid. Any rents or income remaining
8 after the above expenses are paid shall be paid to
9 the owner.

10 Section 19. Severability. The provisions of this ordinance
11 are declared to be separate and severable. The invalidity of
12 any clause, sentence, paragraph, subdivision, section or portion
13 of this ordinance, or the invalidity of the application thereof
14 to any person or circumstance shall not affect the validity of
15 the remainder of this ordinance, or the validity of its
16 application to other persons or circumstances.
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(To be used for all Ordinances except Emergency.)

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.....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.

JEF:jrs;hh
10/9/84
V:ORD1.1

ORDINANCE _____

1
2
3 AN ORDINANCE relating to housing, establishing minimum main-
4 tenance standards for rental housing in the downtown area;
5 creating a Downtown Housing Maintenance Fund to provide
6 financing for maintenance and rehabilitation of downtown
7 rental housing; establishing a process for the appointment
8 of receivers for downtown rental housing that is purpose-
9 fully left unoccupied; and providing penalties for
10 violations.

11 WHEREAS, a substantial portion of the residential units in
12 downtown Seattle do not meet Seattle Housing Code
13 standards; and

14 WHEREAS, substandard units are frequently left vacant by
15 landlords, resulting in a loss of already scarce low cost
16 rental housing downtown; and

17 WHEREAS, vacant rental units constitute a potential hazard to
18 the occupants of residential buildings and a threat to the
19 public health, safety and welfare; and

20 WHEREAS, the deliberate and systematic refusal by some
21 downtown property owners to re-rent habitable housing
22 units further reduces the supply of affordable rental
23 housing downtown; Now, Therefore

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

25 Section 1. Title. This ordinance shall be cited as the
26 "Downtown Housing Maintenance Ordinance".

27 Section 2. Findings and Purpose. The City Council hereby
28 finds that the net loss of more than 15,000 housing units in
the downtown since 1960, the pressure for more intensive
development downtown, the increasing refusal of speculators in
downtown real estate to rent existing housing units, and the
reduction in federal funding for low income housing since 1980
have resulted in an extreme shortage of low income rental
housing. Because of this extreme shortage, there is a negli-
gible vacancy rate for habitable low cost housing and many low
income residents are unable to locate rental housing of any
kind. These residents are forced into already overcrowded

1 shelters and, increasingly, onto the City's streets. The
2 Council further finds that there exists, especially in the
3 downtown area of the City, a substantial number of substandard
4 and/or vacant residential structures which cause blight,
5 contribute to the creation of slum conditions, and constitute
6 a danger to the public health, safety and welfare. Because of
7 the conditions described above, there exists in the City a
8 housing emergency which necessitates that existing rental
9 housing, especially in the downtown, be both maintained and
10 occupied. This ordinance, therefore, is enacted to supplement
11 the City's existing housing and building safety codes and to
12 relieve the effects of the City's housing emergency by
13 establishing minimum maintenance and occupancy standards for
14 rental housing units downtown and by preventing the deteriora-
15 tion and closure of residential buildings downtown due to
16 improper management and inadequate maintenance.

17 Section 3. Definitions. As used in this ordinance, the
18 words and phrases listed below shall be defined as follows:

- 19 A. Building: Any structure designed, used, or intended
20 to be used for human habitation which contained any
21 occupied rental units on or after January 1, 1984.
- 22 B. Director: The Director of the Department of
23 Construction and Land Use or the Director's designee.
- 24 C. Downtown: That portion of the City between the
25 waterfront and Interstate Five and between Royal
26 Brougham Way and Denny Way.
- 27 D. Owner: Any person who, alone or jointly, has title
28 to or an ownership interest in any building, with or
without actual possession thereof, including any
person who as agent, or executor, administrator,
trustee, or guardian of an estate has charge, care,
or control of any building.

- 1 E. Permit: Any form of certificate, approval,
2 registration, license or other written permission
3 which is required by law, ordinance or regulation
4 to be obtained before engaging in any activity.
- 5 F. Person: Any individual, firm, corporation, asso-
6 ciation or partnership and their agents or assigns.
- 7 G. Rental Unit: Any dwelling unit, housekeeping room,
8 or guest room as defined in the Seattle Housing Code
9 (Chapter 22.204 of the Seattle Municipal Code) which
10 is in a building in which such units or rooms were
11 occupied by tenants pursuant to rental agreements,
12 oral or written, express or implied on or after
13 January 1, 1984.

13 Section 4. Substandard Buildings. Any building which
14 endangers or is potentially injurious to the public health,
15 safety and welfare due to the existence of one or more of the
16 following conditions shall be considered substandard.

- 17 A. Structural members of insufficient size or strength
18 to carry imposed loads with safety including, but
19 not limited to, the following:
- 20 1. Footings or foundations which are weakened,
21 deteriorated, or insecure;
 - 22 2. Flooring or floor supports which are defective
23 or deteriorated;
 - 24 3. Members of walls, partitions, or other vertical
25 supports that split, lean, list or buckle;
 - 26 4. Members of ceilings, roofs, ceiling and roof
27 supports, or other horizontal members which
28 sag, split, or buckle;

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5. Fireplaces or chimneys, which list, bulge or have settled.

B. Inadequate weather protection which exposes occupants of a building directly to the elements, including, but not limited to, the following:

1. Crumbling, broken, loose, or falling interior wall or ceiling covering;
2. Broken or missing doors and windows;
3. Missing, deteriorated, or ineffective waterproofing of foundations or floors;
4. Missing, deteriorated, or ineffective exterior wall covering;
5. Missing, deteriorated, or ineffective roof covering;
6. Broken, split, decayed, or buckled exterior wall or roof covering.

C. Inadequate sanitation facilities to the extent that occupants of the building or the general public are directly exposed to the risk of illness, including, but not limited to:

1. Lack of, or inadequate number of toilets, lavatories, bathtubs, showers, or kitchen sinks;
2. Defective or unsanitary plumbing or plumbing fixtures;
3. Lack of running water connections to plumbing fixtures;
4. Lack of connection to an approved sewage disposal system;
5. Inadequate drainage;

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- 6. Infestation by insects, vermin, rodents, or other pests;
- 7. Failure to provide for storage and removal of garbage and rubbish.
- D. Inadequate light, heat, ventilation, or defective equipment therefor, including, but not limited to:
 - 1. Lack of light and ventilation;
 - 2. Defective, deteriorated, or hazardous electrical wiring;
 - 3. Defective, hazardous, or improperly operated ventilating equipment or systems;
 - 4. Missing, defective, hazardous, or improperly operated heating equipment or systems sufficient to maintain an inside temperature of fifty-eight degrees Fahrenheit (58° F.) when the outside temperature is twenty degrees Fahrenheit (20° F.).
- E. Defective or inadequate elevators or exits, including, but not limited to exits which are unsafe, improperly located, or less than the required minimum number or dimensions.
- F. Conditions that enhance the risk of fire or accident, including, but not limited to:
 - 1. Accumulations of junk and debris;
 - 2. Any portion of a building, or any device, apparatus, equipment, waste, vegetation, or other material which is in such a condition as to cause a fire or explosion or provide fuel to augment the spread or intensity of a fire or explosion arising from another cause;

1 3. Vacant housing units which constitute a threat
2 to the health and safety of the residents of
3 the building or of the general public.

4 Section 5. Vacant Units. All habitable rental units in
5 downtown buildings and all rental units in downtown buildings
6 that can feasibly be made habitable shall be offered to
7 prospective tenants for rent. An owner's failure or refusal
8 to make a good faith effort to rent habitable rental units or
9 units that can feasibly be made habitable shall constitute a
10 violation of this ordinance. A vacancy rate in excess of twenty
11 percent in any habitable building, any single habitable rental
12 unit which is unoccupied for forty-five days or more, or any
13 other action by the owner which is inconsistent with keeping
14 units occupied, shall be considered evidence of an owner's
15 deliberate refusal to rent units.

16 Buildings and units shall be considered habitable if they
17 are reasonably fit and safe for occupancy, whether the buildings
18 are in compliance with building, housing and other safety
19 codes or not. Rental units shall be considered habitable, and
20 shall be repaired by the owner and offered for rent if the
21 owner has:

- 22 A. Wilfully or wantonly failed to comply with appli-
23 cable codes with respect to the building, the
24 violation of which substantially endangered or
25 impaired the health or safety of the occupants; or
26 B. Committed or caused vandalism or the intentional
27 destruction of a rental unit or building which has
28 resulted in a condition which renders the building
 uninhabitable; or

1 C. Failed to follow reasonable and prudent management
2 practices with respect to the building which has
3 resulted in the building's becoming uninhabitable.

4 Section 6. Investigation, Notice and Hearing. The Director
5 shall inspect any building that he has reason to believe is
6 substandard or contains unoccupied habitable rental units. If
7 after the inspection the Director finds the building to be
8 substandard or to contain rental units that are deliberately
9 not rented, he shall serve upon the owners of the building, as
10 shown upon the records of the Department of Records and Elections
11 of King County, a complaint stating specifically why the building
12 is substandard and/or identifying the specific unoccupied rental
13 units. The complaint shall be delivered by personal service,
14 registered mail, or certified mail with return receipt requested,
15 and shall be posted in a conspicuous place on the property.
16 No complaint shall be issued based upon substandard conditions
17 if the owner holds a valid permit for the repairs, alterations,
18 or improvements necessary to correct the noted deficiencies and
19 is, in the opinion of the Director, making reasonable progress
20 toward correcting those deficiencies.

21 The complaint shall: 1) contain a notice that a hearing
22 will be held before the Director at a specified time and place
23 not less than ten (10) nor more than thirty (30) days after
24 service of the complaint; 2) explain that all parties have the
25 right to file an answer to the complaint; and 3) advise the
26 parties that they may appear either in person or by represen-
27 tative and give testimony at the time and place designated in
28 the complaint.

A copy of the complaint shall be filed with the King
County Department of Records and Elections. In addition to

1 serving and posting the complaint, the Director shall mail or
2 cause to be delivered to the occupants of all rental units
3 and/or commercial units in the building, a notice informing
4 the occupants of the filing of the complaint and advising
5 them of the relevant procedures.

6 Section 7. Determination and Order of Director After
7 Hearing. If after the hearing provided for in Section 6 of this
8 ordinance, the Director determines, based upon the standards
9 described in Section 4, that the building is substandard or
10 that rental units are deliberately unoccupied, he shall issue
11 and cause to be served upon the owner in the manner provided
12 in Section 6, and shall post in a conspicuous place on the
13 property, an order requiring the owner to repair, alter, or
14 improve the building and/or place vacant habitable rental units
15 in the building on the market for rent within a time to be
16 specified in the order. When determining a time for compliance,
17 the Director shall take into consideration:

- 18 A. The type and degree of hazard cited in the complaint;
- 19 B. The owner's ability to correct the noted deficiencies;
- 20 C. The procedural requirements for obtaining a permit to
21 correct the noted deficiencies;
- 22 D. The complexity of the required repairs or corrective
23 action, including seasonal considerations, construc-
24 tion requirements and the legal rights of affected
25 tenants; and
- 26 E. Circumstances beyond the owner's control.

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28 Director. Within fifteen (15) days from the date of service
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2 errors in the Director's order of proceedings and the specific
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5 fee of Twenty-five Dollars (\$25.00).

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7 ance with the procedures established by the Administrative
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13 Director only if it is determined that the Director's decision
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10 The issuance of a certificate of compliance shall not be
11 construed to relieve from or lessen the responsibility and
12 liability of any person owning, operating or controlling any
13 building or structure or owning, operating, controlling, or
14 installing any equipment therein for any injury, death, damage,
15 and/or loss of any sort sustained by any person, organization,
16 or corporation arising out of any condition of the building,
17 structure, or equipment; nor shall the City of Seattle or the
18 Director be held to assume any liability by reason of any
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20 other act or omission of the City or the Director in connection
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the County Treasurer, who shall enter the amount of such
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1 the current year as provided for in RCW 35.80.030, as now or
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3 and credited to the Downtown Housing Maintenance Fund as
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14 ordinance which is ordered repaired, and from which Fund loans
15 shall be made to private property owners to assist them in
16 complying with orders issued pursuant to this ordinance when,
17 in the opinion of the Director of Community Development, the
building repair is appropriate and the cost reasonable.

18 Money from the following sources shall be deposited in the
19 Fund:

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21 reimbursement of costs and expenses of repair
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16 the Superior Court, pursuant to RCW 7.60.010 et seq. to appoint
17 a receiver to manage and operate the building. In addition,
18 tenants who reside in the building may petition the court
19 directly for appointment of a receiver. The purpose of the
20 receivership shall be to take possession of the building for a
21 period sufficient to accomplish and pay for repairs and improve-
22 ments to substandard dwelling units and/or to fill voluntary
23 vacancies. The receiver appointed:

- 24 A. May enter into week-to-week or month-to-month rental
25 agreements for the rental of any vacant dwelling
26 units and may take such steps as may be necessary to
27 make vacant dwelling units available for rental and
28 occupancy;
- B. May enter into any contracts necessary to repair and
improve the building and to rent vacant rental units;

1 D. Shall be entitled to reasonable fees, commissions and
2 necessary expenses which shall be paid out of the
3 rents and income of the property in receivership or,
4 upon approval by the Director, out of the Downtown
5 Housing Maintenance Fund;

6 E. Shall apply rents and income collected, to the extent
7 not expended for repairs, improvements, and/or the
8 preparation and rental of vacant units, to the
9 payment to City fines or penalties which may have
10 been imposed upon the owner for violations of this
11 ordinance or other housing ordinances and which
12 remain unpaid. Any rents or income remaining
13 after the above expenses are paid shall be paid to
14 the owner.

15 Section 18. Severability. The provisions of this ordinance
16 are declared to be separate and severable. The invalidity of
17 any clause, sentence, paragraph, subdivision, section or portion
18 of this ordinance, or the invalidity of the application thereof
19 to any person or circumstance shall not affect the validity of
20 the remainder of this ordinance, or the validity of its
21 application to other persons or circumstances.
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(To be used for all Ordinances except Emergency.)

Section 19. 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 ..

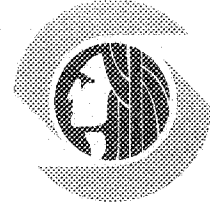
Attest:.....
City Comptroller and City Clerk.

(SEAL)

Published.....

By.....
Deputy Clerk.

Your
Seattle
Community Development



David Moseley, Director
Charles Royer, Mayor

October 24, 1984

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

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

Dear Councilman Rice:

Subject: Downtown Housing Maintenance Ordinance

Attached is an ordinance designed to help maintain our remaining stock of affordable housing in the downtown -- the Downtown Housing Maintenance Ordinance (DHMO). The DHMO 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, the community, business groups and individuals concerned about the problem of maintaining affordable housing in the downtown.

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 # 6790

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 "Downtown Housing Maintenance Ordinance," relating to housing, establishing minimum maintenance standards for rental housing in the downtown area, and creating a Downtown Housing Maintenance Fund to provide financing for maintenance and rehabilitation of downtown rental housing.

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.

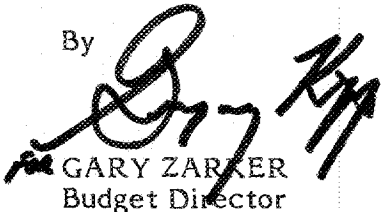
After reviewing this request and drafting appropriate legislation:

- 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


GARY ZARKER
Budget Director

GZ/gk/eba

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

Downtown Housing Maintenance Ordinance

Statement of Objectives

The purpose of this legislation is to:

- a) require minimum maintenance and occupancy standards for rental housing in downtown Seattle;
- b) create a Downtown Housing Maintenance Fund to provide financing for maintenance and rehabilitation of downtown rental housing;
- c) establish a process for the appointment of receivers for downtown rental housing that is deliberately left unoccupied;
- d) provides penalties for violation of the ordinance.

Dollar Amount Requested

None at this time.

Ongoing Commitment

This ordinance signifies an ongoing commitment by the City to help maintain the remaining low-income housing stock in the downtown, as specified in the statement of objectives.

Personnel Requirements

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

Facilities and Equipment Requirements

No additional requirements.

Criteria Used in Evaluation

This 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 at this time; the legislation is considered a critical part of the Mayor's Downtown Plan.

Contact Person

Ted Burton, DCD (625-4097)

Affidavit of Publication

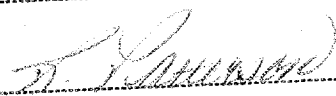
STATE OF WASHINGTON KING COUNTY—SS.

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.

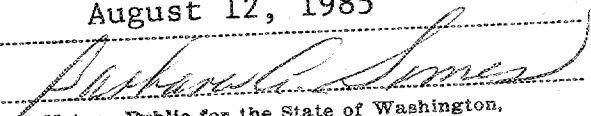
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 112383

was published on August 12, 1985



Subscribed and sworn to before me on
August 12, 1985



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

City of Seattle

ORDINANCE 112383

AN ORDINANCE relating to housing, establishing minimum maintenance and occupancy standards for rental housing in the downtown area; creating a Downtown Housing Maintenance Account to provide financing for maintenance and rehabilitation of downtown rental housing; establishing a process for the appointment of receivers for downtown rental housing that is purposefully left unoccupied; and providing penalties for violations.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1.

Title. This ordinance shall be cited as the "Downtown Housing Maintenance Ordinance".

Section 2.

A. Findings. The Seattle City Council hereby finds:

1. Low-income housing in downtown and adjacent lower First Hill is a scarce and diminishing resource. There has been a net loss of more than 15,000 housing units in the downtown since 1960.
2. There exists an extreme shortage of low-income rental housing in the downtown area, resulting in a negligible vacancy rate for habitable low-income housing.
3. Many low-income tenants are unable to locate rental housing of any kind. These homeless persons are increasingly seeking housing in already overcrowded emergency shelters, and when such shelters are full, finding themselves on the city's streets.
4. Due to the drastic reduction in public funding, particularly federal funding, allocated to low-income housing since 1980, there are very few resources available to preserve or add new units to the existing supply of low-income housing.
5. Existing rental units in the downtown and adjacent lower First Hill constitute most of the remaining low-income rental housing in the City. The number of such units downtown is diminishing as a result of increased pressure for more intensive development downtown. Plans for major downtown development adjacent to lower First Hill have also put increased pressure on the low-income rental housing on lower First Hill.
6. Frequently, development speculation results in the premature closure of habitable existing buildings and the withdrawal of low-income rental units from the market long before such closure would be needed for any physical redevelopment of such buildings' sites.
7. There exists, especially in the downtown and adjacent First Hill a substantial number of abandoned or vacant residential units which create blight and constitute a danger to public health, safety and welfare.
8. Buildings which are vacant and not carefully secured and maintained frequently attract homeless persons seeking temporary shelter. This unsupervised use of these unheated buildings results in a fire hazard to the buildings and to the residents of nearby structures.
9. Because of the conditions described above, there exists in the City a housing emergency. This necessitates that existing low-income rental housing in the downtown and adjacent lower First Hill be both maintained and offered for rent.

B. Purpose.

This ordinance, therefore, is enacted to supplement the City's existing housing and building safety codes and:

1. to reduce blight and threats to public health, safety and welfare by requiring that low-income units be both maintained and offered for rent, where feasible;
2. to relieve the effects of the City's housing emergency by preventing the premature withdrawal of units from the rental market;
3. to maximize the use of existing scarce low-income housing resources;
4. to provide public financial and management support, where appropriate, to assist owners to maintain low-income units in safe and habitable condition and available for occupancy;
5. to respect the owner's right to use and control private property, consistent with the above purposes and constitutional protections.

Section 3. Definitions.

- A. Director:** The Director of the Department of Construction and Land Use or the Director's designee.
- B. Downtown:** That portion of the City between the waterfront and Interstate Five and between Royal Brougham Way and Benny Way.
- C. Lower First Hill:** That portion of the City between Interstate Five and Boren Avenue and between Pike Street and James Street.
- D. Low-income Rental Unit:** All rental units which have been rented at or below 30% of 50% 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 at any time during the two year period prior to an inspection or complaint instituted under this Ordinance. Household size for a SRQ or studio unit shall be deemed to be one person, for a one bedroom unit shall be deemed to be two persons, and for a two bedroom unit shall be deemed to be three persons.
- E. Owner:** Any person who, alone or jointly, has title to or an ownership interest in any building, with or without actual possession thereof, including any person who as agent, or executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building.
- F. Person:** Any individual, firm, corporation, association or partnership and its agents or assigns.
- G. Rental Unit:** Any dwelling unit, house-keeping room, or guest room as defined in the Seattle Housing Code (Chapter 22.204 of the Seattle Municipal Code) which has been occupied by tenants pursuant to rental agreements, oral or written, express or implied.

H. SRQ (Single Room Occupier)

An existing housing unit with one main sleeping and living room of at least seventy (70) square feet. Such housing unit may also include a kitchen niche or cooking facilities and/or a private bath or may share common bathroom facilities and/or cooking facilities.

Section 4. Applicability.

The provisions of this ordinance shall apply to all low-income rental units if such rental units are situated in buildings located downtown or in lower First Hill and if such buildings contained any occupied rental units on or after November 5, 1984.

Section 5. Duty to Rent Habitable Low-income Rental Units.

- A.** Owners of habitable low-income rental units or of low-income rental units that can feasibly be made habitable shall make a good faith effort to rent all such units.
- B.** An owner's failure or refusal to make such a good faith effort to rent shall constitute a violation of this ordinance.
- C.** In determining whether an owner is failing or refusing to make a good faith effort to rent habitable low-income rental units or low-income rental units that can feasibly be made habitable, the Director may consider any actions by the owner which are inconsistent with keeping such units rented. Evidence of a lack of good faith may include, but shall not be limited to, the following:
1. maintaining a building vacancy rate in excess of twenty per cent;
 2. failing to offer an unoccupied unit for rent within seven days of the unit becoming unoccupied, except under the circumstances provided for in Section 10;
 3. offering units for rent at a rental rate which substantially exceeds prevailing rents for comparable rental units;
 4. significantly reducing building services;
 5. changing rules, regulations, terms or conditions of tenancy so as to substantially and detrimentally affect the rights and obligations of tenants or prospective tenants;
 6. willfully or wantonly failing to comply with applicable codes with respect to the low-income rental units or building, the violation of which substantially endangers or impairs the health or safety of the occupants;
 7. committing or causing vandalism or the intentional destruction of a rental unit or building;
 8. knowingly permitting a tenant to commit waste or to vandalize a rental unit.

Section 6. Duty to Repair Low-income Rental Units.

- A.** Owners of low-income rental units shall repair such units when such units can feasibly be made habitable. A unit can feasibly be made habitable if, after consideration of variances, deferrals and extensions of time for compliance as provided for in Section 7 below, the cost of the repairs necessary to make the unit habitable does not exceed the amount which the owner may be required to contribute as provided in Subsections B, C, and D together with the amount to be contributed by the City.
- B.** Except as provided in Subsection D below the owner's contribution to the cost of repairs necessary to make a low-income rental unit habitable shall not exceed \$2,000 per low-income rental unit for any three-year period and the total repair cost of any low-income rental unit under this subsection shall not exceed \$4,000 per low-income rental unit for any three-year period.
- C.** In determining the cost of repairing a low-income rental unit, the following rules shall apply:
1. The cost of repairs to common areas or building systems shall be allocated to all the low-income rental units in the building which are required to be offered for rent, not solely to low-income rental units which are vacant or not habitable; provided that, if the shared building systems and/or common area costs allocated to one or more units would cause those units to exceed the maximum total stated above, the excess allocated shared costs may be reallocated among the remaining units required to be offered for rent to the extent that such reallocation does not cause the total repair costs of such remaining units to exceed the maximum cost stated in Subsection B above.
 2. The unit-specific costs of repairing low-income rental units shall be allocated to specific units.
 3. Costs of all capital repairs shall be included in calculating the owner's maximum contribution over a three-year period. The costs of ordinary maintenance shall not be included. For the purposes of this section, all repairs which are ordered to remedy code violations upon the first inspection of a rental unit under this ordinance shall be deemed capital repairs; during subsequent inspections capital costs for repairs to correct code violations shall be counted only if the Director determines that such repairs are not ordinary maintenance.
 4. Any individual unit whose total unit-specific and allocated shared repair costs exceed the maximum allowed by this Ordinance shall be determined to be not feasible to repair.
- D.** The owner's required contribution to the repair of a unit shall be unlimited to the extent that the unit is not habitable because the owner has:
1. willfully or wantonly failed to comply with applicable building and safety codes; or
 2. committed or caused vandalism or the intentional destruction of any rental unit in the building; or
 3. knowingly permitted a tenant to commit waste or to vandalize a rental unit.

Section 7. Variances, Deferrals, and Extended Time for Compliance.

- A.** In specific buildings containing low-income rental units, the Director may authorize under conditions specified in Subsections B and C the following types of departure from the standards and requirements of Sections 4.02 through 4.15 of the Housing Code (Chapter 22.206 of the Seattle Municipal Code):
1. A variance.
 2. A deferral from compliance for up to three years, with the possibility of one renewal for up to an additional three years;
 3. extended time for compliance, with repair work scheduled over a period not to exceed eighteen months, provided that such schedule is arranged to minimize as much as possible the amount of time a unit is not available for occupancy.

E. The Director may grant the departures authorized by this section if he determines that both of the following conditions or circumstances exist:

1. A literal interpretation and strict application of the standards and requirements would result in an undue or unnecessary hardship, other than solely a financial hardship, and would adversely affect the preservation and enjoyment of a substantial property right of the owner or tenant of the subject building; and
2. Because of the conditions or circumstances applying to the subject building or to the occupancy thereof, the departure will not be materially detrimental or injurious to the safety, health, or general welfare of the occupants thereof, or of neighboring property or occupancies or of the public.

C. In addition, in determining whether or not any departure from the requirements of the Housing Code is appropriate and, if so, whether to grant a variance, a deferral, or extended time for compliance, the Director shall consider, among others, the following factors:

1. the remaining useful life of the unit or building and the length of time it is likely to be available for low income occupancy;
2. how materially the departure would affect the living conditions of the tenants;
3. the permanency of the condition of the item, unit, structure, or system for which the departure is sought and the degree to which it might deteriorate over the period for which the departure is sought;
4. the difficulty of bringing the item, unit, structure or system into compliance if the departure is not granted.

D. Examples of items which might be variances, deferred or given extended time for compliance are shown below. Since no two buildings are ever alike and the nature and extent of violations could change over short periods of time, these examples would not apply in all cases. The examples stated below are for illustrative purposes only and are not intended as a complete or exclusive list of the items which may be deferred or the nature of the deferral which might be granted.

1. Examples of items, which, under appropriate circumstances might be variances include:

Section 4.03: Floor Area - This section provides for the minimum space and occupancy standards of the Housing Code. For example, a dwelling unit is required to have at least one room which shall have not less than one hundred twenty (120) square feet of floor area, etc... A variance could be granted where areas are one (1) or two (2) percent smaller than required.

Section 4.04: Bathroom Fixtures - Lavatories are required to be provided on each floor at a rate of one for every additional ten (10) guests, etc... A variance can be granted for a lesser number of bathroom lavatories especially when rooms are equipped with operating lavatory sinks.

Section 4.11: Electrical - Kitchens are to be provided with not less than three (3) outlets. A variance can be granted to allow less than (3) electrical outlets generally based on the small size of the kitchen.

2. Examples of items, which, under appropriate circumstances might be deferred include:

Section 4.05: Kitchen - Every dwelling unit must be provided with a kitchen, and every kitchen must be provided with a sink, hot and cold running water, counter work space, cabinets etc... A deferral could be granted for the counter space requirement if a table is provided that could serve as counter space.

Section 4.12: Stair Construction - Every required stairway, except in dwellings are required to have headroom clearance of not less than six (6) feet six (6) inches measured vertically, etc... A deferral could be granted, provided adequate padding and warning signs were installed.

Section 4.06: Structural Components - Structural components of buildings shall be reasonably decay free. A building that appears to have a limited useful life has window sills and sashes with dry rot. A deferral could be granted for dry rot in wooden window sills where no moisture is seeping through the sill and no weather is coming through the meeting of the sill and sash. A deferral could not be granted for dry rot in the window sash, since such dry rot would make the windows unsafe for tenants to use.

The deferral for the window sill could be revoked; if upon subsequent inspection, conditions had deteriorated and moisture was seeping into the wall or the room.

3. Examples of items, for which, under appropriate circumstances an extended time for compliance might be authorized include:

Section 4.07: Shelter - Every building shall be protected so as to provide shelter for the occupants against the weather. A building roof has a number of leaks and an inspection in November reveals that the building must be completely reroofed. Work to patch the leaks is ordered and scheduled immediately; an extension for reroofing is granted until late the following spring, to be scheduled when the weather is more accommodating.

Section 4.08: Maintenance - Every foundation, room and exterior wall, etc. shall be reasonably weathertight, watertight, damp free, etc. A large building has leaky mortar joints in the exterior walls, but an inspecting structural engineer has determined that the wall is sound enough to permit the owner an extended period of time during which to schedule the repair, e.g. two sides during one summer, the remaining two sides during a second summer.

E. The Director of Community Development or his designee is hereby authorized to apply to the Director for any departure from the Housing Code authorized by this section. No other person is authorized to make such application.

F. If the Director determines after inspection of a unit or building that a condition or circumstance has changed which materially and detrimentally affects the health or safety of the tenants, neighbors, or the general public, the Director may revoke an order granting a deferral or extended time for compliance.

G. In addition, the departures authorized under this section shall be automatically revoked for any unit which is no longer available for low income occupancy as defined by this ordinance.

Section 8. Loans and Grants to Owners

A. The Director of Community Development may authorize loans and grants to owners and receivers from the Downtown Housing Maintenance Account described in Section 9 and/or from such Community Development Block Grant funds or other similarly restricted funds as may have been appropriated for the rehabilitation of rental units downtown or may in the future be appropriated

specifically for the repair of low-income rental units pursuant to this Ordinance. Such loans and grants shall be made only for the reasonable cost of repairs necessary to make low-income rental units habitable and for the reasonable cost of any other repairs to the building in which such units are located which are necessary to make such units habitable. Such loans and grants shall be made only in accordance with the criteria set forth in this Section.

B. The Director of Community Development may make grants for repairs necessary to make low-income rental units habitable. The maximum grant amount shall be \$2,000 per unit, to be awarded after the owner has committed his own maximum contribution to the repair of a unit.

C. The Director of Community Development may extend loans for the repair of low-income units as follows:

1. The maximum loan amount shall be \$4,000 per unit.
2. The Director of Community Development may authorize the forgiveness of such loans at a rate of 20% per year; with a maximum forgiveness of \$600 per year for each year the unit remains available for low-income occupancy, such forgiveness to continue until the entire amount has been forgiven; provided that the unit continues to be available for low-income occupancy during the entire forgiveness period.
3. The loans shall be made with no interest charged while the unit remains available for low income occupancy.
4. If for any reason the units become unavailable for low-income occupancy, the remainder of the loan shall be required to be repaid, and in addition the Director of Community Development may require the immediate repayment of the remaining balance or said Director may charge interest on the remaining balance at the then prevailing rate for the Washington State Housing Commission bond program.

D. The total amount of grants and loans authorized under this section shall not exceed \$4,000 per unit for any three-year period.

E. The Director of Community Development shall prescribe such additional terms and conditions of such loans and grants as he deems appropriate. Within 30 days of the effective date of this ordinance, the Director of Community Development shall promulgate regulations describing the circumstances under which loans and grants will be approved and the general terms and conditions of such loans and grants.

Section 9. Downtown Housing Maintenance Account

A. There is hereby created in the City Treasury an account in the General Trust Fund designated the "Downtown Housing Maintenance Account", from which Account grants and loans as specified in Section 8 of this ordinance may be made to owners or receivers to assist them in placing low-income rental units in habitable condition and from which Account shall be paid costs and expenses incurred by the City in connection with the repair of low-income rental units or buildings that can feasibly be made habitable.

B. Money from the following sources shall be deposited in the Fund:

1. Such sums as may be received by gift, bequest or contractual arrangement for maintenance and rehabilitation of downtown low-income rental housing purposes; and
2. Such sums as may be recovered by the City as repayment of loans or as reimbursement of costs of expenses of repair of units that were found to be uninhabitable where such funds originated from this account.

C. The monies in the Account are hereby appropriated for the purposes described above and the City Comptroller is authorized to draw and the City Treasurer to pay the necessary warrants upon vouchers approved by the Director of Community Development from the appropriated Account.

Section 10. Termination of Duty to Repair and Duty to Rent

A. The owner's duty to repair low-income rental units that can feasibly be made habitable and the owner's duty to make a good faith effort to rent low-income rental units shall cease if any of the following circumstances occur:

1. the Director determines that it is not feasible to repair units pursuant to Sections 6 and 12 or pursuant to the administrative relief provisions in Sections 10 and 12; or
2. a demolition or change of use permit covering the units issued under the Housing Preservation Ordinance (Chapter 22.210 of the Seattle Municipal Code) or any successor ordinance and the owner complies with the terms of said Ordinance; or
3. the rental rate at which the units are offered for rent has exceeded the low-income rental rate established in Subsection 3D. for more than two years.
4. the rental unit is occupied by the owner as his or her personal residence.

B. There shall be no duty to offer a low-income rental unit for rent during a reasonable period of time necessary to repair or rehabilitate a unit or building if such repair or rehabilitation makes occupancy of that unit temporarily impracticable.

Section 11. Administrative Relief from Duty to Rent and Duty to Make Habitable

In accordance with the procedures specified in Section 12 the Director may provide full or partial relief from the duty to offer low-income rental units for rent and/or the duty to make low-income rental units habitable, if the owner establishes with clear and convincing proof that:

- A. The literal interpretation and strict application of the duty to offer for rent or the duty to make habitable constitute an unconstitutional taking of the owner's property.
- B. The requested relief would be consistent to the extent possible with the objectives of this Ordinance.
- C. The requested relief does not go beyond the minimum necessary to prevent the unconstitutional taking of property, and does not constitute a grant of special privilege inconsistent with the limitations upon other similar properties.

Section 12. Administrative Investigation and Determination on Alleged Failures to Rent in Good Faith.

A. Inspection

The Director shall inspect any building that he has reason to believe contains low-income rental units that the owner is not making a good faith effort to rent or low-income rental units that are not habitable but could feasibly be made habitable.

B. Application for and Determination on Departures

1. If the Director finds low-income rental units that are not habitable, he shall notify the Director of Community Development who shall have 15 days to determine if an application for a departure or departures as authorized in Section 7 is appropriate and, if so, to submit an application requesting such departures to the Director.
2. If application for departure is made, the Director shall serve upon owner of the building, as shown upon the records of the Department of Records and Elections of King County a Notice of Probable Violation and Application for Departure citing the specific rental units which are not habitable, and the specific Code Violations identified and stating the specific variances, deferrals and/or extended time for compliance requests made and stating that the Director will accept comments on said application for a period of 10 days from service of the Notice. The Notice and Application shall be served and posted in the manner prescribed for a Complaint stated below. After the close of the comment period, the Director shall issue his decision granting, modifying or denying the requested departures and shall notify the owner, the Director of Community Development and those submitting comments of the decision.

C. Determination of Feasibility to Make Units Habitable

After the Director has granted or denied the requested departures, if any, he shall, using the standards as prescribed in Section 6, make a determination as to the feasibility of making the uninhabitable units habitable.

D. Issuance of Complaint and Notice

1. If the Director finds that the owner has not made a good faith effort to rent or that the building contains low-income rental units that are not habitable but could feasibly be made habitable, he shall serve upon the owner of the building, as shown upon the records of the Department of Records and Elections of King County, a complaint, identifying the specific low-income rental units which are not being offered for rent in good faith, the specific uninhabitable low-income rental units that could feasibly be made habitable, and, where applicable, the corrective action which the owner must take to make any low-income rental unit habitable and the amount of assistance available to the owner as determined by the Director of Community Development. The complaint shall be delivered by personal service, registered mail, or certified mail with return receipt requested, and shall be posted in a conspicuous place on the property. No complaint shall be issued for uninhabitable units if the owner holds a valid permit for the repairs, alterations, or improvements necessary to correct the noted deficiencies and is, in the opinion of the Director, making reasonable progress toward correcting these deficiencies.
2. The complaint shall: contain a notice that a hearing will be held before the Director at a specified time and place not less than ten (10) nor more than thirty (30) days after service of the complaint; explain that all parties have the right to file an answer to the complaint, advise the parties that they may appear in person or by representative and give testimony at the time and place designated in the complaint, and advise the parties that they may seek relief and present evidence as to whether or not administrative relief from the strict enforcement of the requirements of this ordinance as provided in Section 11 should be granted.
2. A copy of the complaint shall be filed with the King County Department of Records and Elections. In addition to serving and posting the complaint, the Director shall mail or cause to be delivered to the occupants of all rental units and/or commercial units in the building a notice informing the occupants of the filing of the complaint and advising them of the relevant procedures.

E. Administrative Hearing

The Director shall hold a hearing at the time and place specified in the complaint to take testimony on the allegations stated in the complaint and the defenses to such allegations and to receive evidence as to whether or not administrative relief should be granted in accordance with the standards set forth in Section 11, if such relief is sought by the owner at the hearing.

F. Report of Director of Community Development on Request for Administrative Relief

When administrative relief is sought pursuant to Section 11, the Director shall request from the Director of Community Development a report and recommendation analyzing whether application of the duties from which relief is sought would constitute an unconstitutional taking and the nature of the relief which would be appropriate, if any. 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.

G. Determination and Order of Director After Hearing

After the hearing provided for in Subsection E and the report and public comment provided for in Subsection F the Director shall issue a written decision granting or denying administrative relief, if such relief has been requested and, if upon consideration of the complete record before him the Director determines that the owner is not making a good faith effort to rent low-income rental units, or that the owner's building contains low-income rental units that are not habitable but could feasibly be made habitable, then he shall issue and cause to be served upon the owner in the manner provided in subsection D and shall post in a conspicuous place on the property, an order requiring the owner to repair, alter, or improve the uninhabitable units and/or make a good faith effort to rent vacant low-income rental units in the building within a time to be specified in the order. When determining a time for compliance, the Director shall take into consideration:

1. Any departures granted pursuant to Section 7;
2. Any administrative relief granted pursuant to Section 11;
3. The availability of city funds for repair of the units;
4. The type and degree of hazard cited in the complaint;
5. The owner's ability to correct the noted deficiencies;
6. The procedural requirements for obtaining a permit to correct the noted deficiencies;

7. Complexity of the required repairs or corrective action, including seasonal considerations, construction requirements and the legal rights of affected tenants; and

B. Circumstances beyond the owner's control.

Section 13. Appeal to Hearing Examiner from Order of Director.

- A. Within fifteen (15) days from the date of service and posting of an order issued by the Director, the owner may file a written notice of appeal with the Office of the Hearing Examiner. The notice of appeal shall state the specific errors in the Director's order of proceedings and the specific grounds upon which a reversal or modification of the order is sought. The Director's decision to grant or deny administrative relief pursuant to Section 11 and the issues determined therein shall not be appealable to the Hearing Examiner. The notice of appeal shall be accompanied by a filing fee of Twenty-five Dollars (\$25.00).
- B. The Hearing Examiner shall consider the appeal in accordance with the procedures established by the Administrative Code of the City of Seattle (Chapter 2.02 of the Seattle Municipal Code) for hearing contested cases. Notice of hearing shall be provided to all parties not less than ten (10) days prior to the hearing. The Hearing Examiner's review shall be de novo. The Hearing Examiner may affirm, reverse or modify the order of the Director only if it is determined that the Director's decision is clearly erroneous.
- C. The Hearing Examiner's final written decision containing findings of fact and conclusions of law shall be mailed to the parties of record and filed with the King County Department of Records and Elections.
- D. The Director's order shall not be final until the time for filing an appeal with the Hearing Examiner has expired or until the issuance of the Hearing Examiner's decision if an appeal is taken; provided that, when the Director determines that the deficiencies noted in the complaint will cause immediate and irreparable harm, and so states in the notice and order issued, the order shall be final upon issuance by the Director.

Section 14. Petition to Superior Court.

Any appeal of a decision issued by the Hearing Examiner pursuant to Section 13 of this Ordinance must be filed in the Superior Court within thirty (30) days of the Hearing Examiner's decision.

Section 15. Certificate of Compliance.

- A. If the Director finds that the repairs, alterations, improvements or other actions required in a final order have been satisfactorily completed, he shall prepare and, upon request therefor, issue to any party upon whom the final order was served, a certificate of compliance, stating that the deficiencies noted in the final order have been corrected. The certificate of compliance shall be filed with the King County Department of Records and Elections.
- B. The issuance of a certificate of compliance shall not be construed to relieve from or lessen the responsibility and liability of any person owning, operating or controlling any building or structure or owning, operating, controlling, or installing any equipment therein for any injury, death, damage, and/or loss of any sort sustained by any person, organization, or corporation arising out of any condition of the building, structure, or equipment; nor shall the City of Seattle or the Director be held to assume any liability by reason of any inspection, issuance of a certificate of compliance, or any other act or omission of the City or the Director in connection with the enforcement and administration of this ordinance.

Section 16. Extension of Compliance Date.

The Director may, in his discretion, extend the time for compliance with a final order. Neither extensions, nor the Director's refusal to grant an extension shall be subject to any appeal.

Section 17. Enforcement of Final Order.

Whenever any person fails to comply with a final order, the Director may:

- A. Institute an action in Municipal Court to collect a civil penalty as provided in Section 18 of this ordinance; and/or
- B. Use any procedure established in any other ordinance or by any other law for securing compliance; and/or
- C. Abate the violation pursuant to the procedures provided in Section 20; provided, that nothing herein shall prevent the Director from using any procedure established in any other ordinance or by any other law for securing compliance; and/or
- D. Request the Law Department to seek an injunction to compel compliance.

Section 18. Civil Penalty.

- A. In addition to any other sanction or remedial procedure which may be available, any person failing to comply with a final order of the Director of DCU, 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 19. Abatement.

In addition to, or as an alternative to seeking civil penalties as provided in Section 18, the Director may cause the defective condition or conditions to be repaired pursuant to Chapter 22.208 of the Seattle Municipal Code; provided, that the Director shall not repair such condition or conditions if the cost exceeds \$4,000 per unit, calculated in accordance with the rules prescribed in Section 6.

Section 20. Receivership.

If a building contains uninhabitable low-income rental units that can feasibly be made habitable and/or the owner of a building is not making a good faith effort to rent low-income rental units or there are vacant units that constitute a threat to the public health and safety then the Director may request the Law Department to petition the Superior Court, pursuant to RCW 7.60.010 et seq. to appoint a receiver to manage and operate the building. In addition, the court may be directly petitioned for the appointment of a receiver by tenants who reside in the building under the following circumstances:

- (1) where ten or more tenants reside in the building, three or more tenants join in bringing the petition;
- (2) where less than ten, but more than five tenants reside in the building, two or more tenants join in bringing the petition;
- (3) where five tenants or less reside in the building, one tenant or more brings the petition.

The purpose of the receivership shall be to take possession of the building for a period sufficient to accomplish and pay for repairs and improvements to uninhabitable units and/or to fill vacancies in units which have not been offered for rent in good faith. The receiver appointed:

- A. May enter into a week-to-week or month-to-month rental agreements for the rental of any vacant dwelling units and may take such steps as may be necessary to make vacant dwelling units available for rental and occupancy;
- B. May enter into any contracts necessary to repair and improve the building and to make uninhabitable low-income rental units habitable;
- C. May apply for and accept loans and grants from the City for the purpose of making low-income rental units habitable;
- D. Shall be entitled to reasonable fees, commissions and necessary expenses which shall be paid out of the rents and income of the property in receivership or, upon approval by the Director, out of the Downtown Housing Maintenance Account;
- E. Shall apply rents and income collected, to the extent not expended for repairs, improvements, and/or the preparation and rental of covered units, to the payment to City fines or penalties which may have been imposed upon the owner for violations of this ordinance or other housing ordinances and which remain unpaid. Any rents or income remaining after the above expenses are paid shall be paid to the owner.

Section 21. Use of Remedies.

The remedies provided for in this Ordinance are not exclusive and may be used alone or in combination with the other remedies enumerated in this Ordinance. Nothing in this Ordinance shall be construed to supersede or repeal by implication the remedies available through enforcement of the Housing Code (Ordinance 126313) or any other City codes or ordinances.

Section 22. 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 23. Effective Date.

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 5th day of August, 1985, and signed by me in open session in authentication of its passage this 5th day of August, 1985.

NORMAN B. RICE,
President of the City Council.

Approved by me this 8th day of August, 1985.

CHARLES ROYER,
Mayor.

Filed by me this 8th day of August, 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, August 12, 1985. (C. 695-5)