

ORDINANCE No. 115058

COUNCIL BILL No. 107895

The City of

AN ORDINANCE relating to land use and zoning, amending Sections 23.84.016, 23.84.030 and adding a new Section 23.40.006 to the Seattle Municipal Code to add provisions requiring an approved replacement use prior to the demolition or change of use of housing units, and declaring an emergency.

Honorable President:

Your Committee on Housing

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

4/24/90 Per to 24-0

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: <u>April 9, 1990</u>	By: <u>Weeks</u>
Referred: <u>April 9, 1990</u>	To: <u>Housing, Human Services &amp; Ed.</u>
Referred:	To:
Referred:	To:
Reported: <u>APR 30 1990</u>	Second Reading: <u>APR 30 1990</u>
Third Reading: <u>APR 30 1990</u>	Signed: <u>APR 30 1990</u>
Presented to Mayor: <u>APR 30 1990</u>	Approved: <u>MAY 7 1990</u>
Returned to City Clerk: <u>MAY 7 1990</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

OK

*Law Department*

# The City of Seattle—Legislative Department

e of

Date Reported  
and Adopted

## REPORT OF COMMITTEE

President:

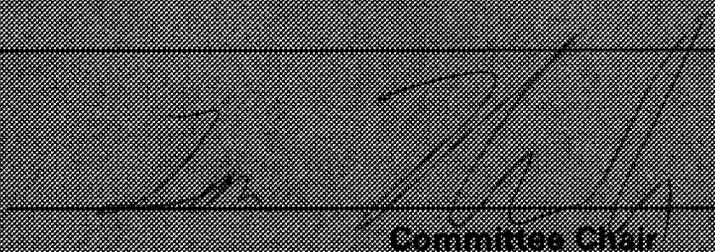
Committee on Housing, Human Services & Education

was referred the within Council Bill No. 107895

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

4/24/98 Pass as Amended (Walter Lewis)

**Vote 8-0**

  
\_\_\_\_\_  
Committee Chair

#6  
C.B. 107895

ORDINANCE 115058

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3 AN ORDINANCE relating to land use and zoning, amending Sections  
4 23.84.016, 23.84.030 and adding a new Section 23.40.006 to  
5 the Seattle Municipal Code to add provisions requiring an  
6 approved replacement use prior to the demolition or change of  
7 use of housing units, and declaring an emergency.

8 WHEREAS, the supply of rental housing units available to the  
9 City's low and moderate income residents is not sufficient to  
10 meet the demand; and

11 WHEREAS, requiring that a replacement use be established  
12 prior to demolition of housing units will encourage maximum use  
13 of structures for housing purposes, in many cases as low and mod-  
14 erate income rental units, and will help to avoid unnecessary  
15 depletion of the City's housing stock through the premature demo-  
16 lition of housing units; and

17 WHEREAS, on December 11, 1989, this Council adopted Ordinance  
18 114866, which established in the Land Use Code the requirement  
19 for an approved replacement use prior to the demolition of hous-  
20 ing; and

21 WHEREAS, notice and hearing requirements were suspended and  
22 Ordinance 114866 was adopted as an interim ordinance which will  
23 expire on May 15, 1990; and

24 WHEREAS, the City Council has held a public hearing on this  
25 ordinance to make the replacement use requirements a permanent  
26 part of the Land Use Code; and

27 WHEREAS, unless this ordinance is adopted on an emergency  
28 basis, it will not take effect by May 16, 1990, and many housing  
structures which are currently subject to the replacement use  
requirements of the interim ordinance could be demolished before  
the permanent ordinance would take effect; NOW, THEREFORE:

BE IT ENACTED BY THE CITY OF SEATTLE AS FOLLOWS:

1 Section 1. That Section 23.84.016 of the Seattle Municipal  
2 Code, as last amended by Ordinance 114623, is amended to read as  
3 follows:

4 **23.84.016 "H"**

5 \* \* \*

6  
7 "Housing unit" means any dwelling unit, housekeeping unit,  
8 guest room, dormitory, or single occupancy unit.

9 \* \* \*

10 Section 2. That Section 23.84.030 of the Seattle Municipal  
11 Code, as last amended by Ordinance 113977, is amended to read as  
12 follows:

13 **23.84.030 "P"**

14 \* \* \*

15  
16 "Parking, non-required" means one (1) or more parking spaces  
17 not required by either the Land Use Code (Title 23 SMC) or the  
18 Zoning Code (Title 24 SMC) as accessory to a principal use and  
19 not imposed as a mitigating measure pursuant to the State  
20 Environmental Policy Act.

21 \* \* \*

22 Section 3. That Seattle Municipal Code Chapter 23.40 is  
23 amended by adding a new Section 23.40.006 to read as follows:

24 **23.40.006 Demolition of Housing**

25  
26 No demolition permit for a structure containing a housing unit  
27 shall be issued unless one of the following conditions are  
28 satisfied:

1           A. A permit or approval has been issued by the Director  
2 according to the procedures set forth in Chapter 23.76,  
3 Procedures for Master Use Permits and Council Land Use Decisions,  
4 to change the use of the structure or the premises; provided that  
5 no Housing Demolition permit may issue if the new use is for  
6 non-required parking; or

7           B. A permit or approval has been issued by the Director to  
8 relocate the structure containing housing units to another lot  
9 within the City to be used, on the new lot, as housing units; or

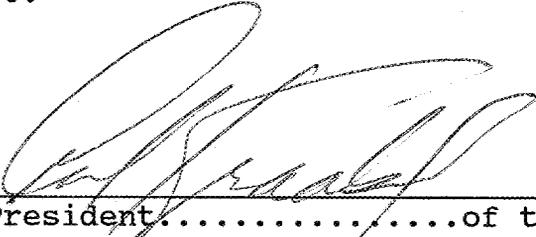
10           C. Demolition of the structure is ordered by the Director  
11 for reasons of health and safety under Chapter 22.206 or 22.208  
12 of the Housing and Building Maintenance Code or under the provi-  
13 sions of the Seattle Building Code; or

14           D. The housing unit(s) to be demolished have been contin-  
15 uously vacant since January 1, 1974.

16           Section 4. If any provision of this ordinance or its appli-  
17 cation to any person or circumstance is declared illegal the  
18 remainder of the ordinance or its application to other persons or  
19 circumstances shall not be affected thereby.

20           Section 5. The City Council hereby adopts as findings the  
21 statements made in the preamble and finds that an emergency  
22 exists that necessitates that this ordinance be adopted immedi-  
23 ately and take effect on May 16, 1990.  
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1 Passed by three fourths vote of all members of the City  
2 Council the 30th day of April, 1990, and signed by  
3 me in open session in authentication of its passage this day of  
4 April, 1990.

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7 President.....of the City Council

8 Approved by me this 30th day of April, 1990...

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11 Mayor

12 Filed by me this 7th day of May, 1990...

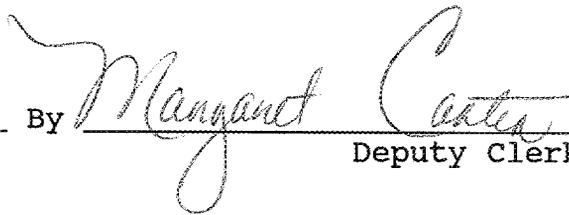
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16 Attest:

City Comptroller and City Clerk

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18 (SEAL)

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20 Published \_\_\_\_\_

By 

Deputy Clerk

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ORDINANCE \_\_\_\_\_

AN ORDINANCE relating to land use and zoning, amending Sections 23.84.016, 23.84.030 and adding a new Section 23.40.006 to the Seattle Municipal Code to add provisions requiring an approved replacement use prior to the demolition or change of use of housing units, and declaring an emergency.

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

WHEREAS, significant numbers of housing units have been lost in recent years to office and commercial development, with large numbers of additional units in danger of demolition; and

WHEREAS, it is reasonable to require that a replacement use be established prior to demolition of housing to preserve such housing until another use is imminent, and such a requirement is an appropriate use of the City's police powers; and

WHEREAS, the replacement use requirement will help to avoid depletion of the City's housing stock through the premature or unnecessary demolition or change of use of housing units; and

WHEREAS, the replacement use requirement is a critical element of the City's efforts to preserve its housing stock, and its removal would create an immediate threat of demolition of affordable housing; and

WHEREAS, on December 11, 1989, this Council adopted Ordinance 114866, which established in the Land Use Code a requirement for an approved replacement use prior to the demolition or change of use of housing; and





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Section 4. If any provision of this ordinance or its application to any person or circumstance is declared illegal the remainder of the ordinance or its application to other persons or circumstances shall not be affected thereby.

Section 5. This ordinance shall take effect on May 16, 1990.

Passed by three fourths vote of all members of the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 1990, and signed by me in open session in authentication of its passage this day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
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

RH:lc  
900226  
LC/Emer.1-.4

Seattle  
Department of Construction and Land Use



Dennis J. McLerran, Director  
Norman B. Rice, Mayor

M E M O R A N D U M

MAR 19 1990

TO: Council President Paul Kraabel  
Via Andrew Lofton, Director  
Office of Management & Budget

FROM: Dennis J. McLerran, Director *D.J.M.*

84 3106

DATE: March 16, 1990

SUBJECT: Land Use Code amendment to continue requiring a replacement use when housing is demolished.

Attached for your review is a Director's Report and ordinance which propose to add to the Land Use Code a requirement that a Master Use Permit for a new use be issued before housing can be demolished or converted to another use. This requirement is exactly the same as the provision which has been in our Housing Preservation Ordinance (HPO) since 1980. However, the recent Washington State Supreme Court decision which struck down portions of the HPO renders this provision unenforceable unless adopted in a new ordinance.

The ordinance is the permanent version of the emergency interim ordinance which was adopted on December 15, 1989. The proposed ordinance would go into effect May 16, 1990, the day after the interim ordinance expires.

Because the proposal is administrative, it is exempt from environmental review requirements. Since it is the same as requirements which have been in place almost ten years, we do not anticipate major budget impacts from the proposed legislation. Training information will be given to staff by memo, and ordinance copying costs and new Book Publishing code pages will total \$85.00. A revised public information bulletin on obtaining a Housing Demolition License will take 10 hours of staff time and copying costs for a 1,000 bulletins, or \$870. New procedures may also be developed to recognize the changes in the status of the HPO, which will take approximately 30 hours, or \$2,130. The total estimated cost of the proposed change is \$3,085.

Councilmember Tom Weeks has agreed to sponsor this bill. If you have any questions, please call Rebecca Herzfeld at 684-8880.

DJM:rh

LC/rh.1

## DIRECTOR'S REPORT

### Amendment to the Land Use Code to Require a replacement use when Housing is Demolished

March 8, 1990

The Department of Construction and Land Use is proposing an amendment to the Land Use Code which would add a requirement that a Master Use Permit for a new use be issued before housing can be demolished or converted to another use. This requirement is exactly the same as the provision which has been in the City's Housing Preservation Ordinance (HPO) since 1980. A copy of the proposed ordinance adopting this amendment is attached to this report.

The intent of the replacement use requirement is to preserve housing for as long as possible before it is torn down. While it does not prevent demolition or require that the housing be occupied, it does keep existing housing stock standing and increase the potential of its being used. It also keeps housing from being demolished for speculative reasons and prevents the blighting effects of large numbers of vacant lots being held for future development.

The HPO required that a permit for a replacement use be obtained before housing could be demolished or converted to another use. Two exceptions to this rule were also included. If the housing had been vacant since 1974, or if the City ordered it to be demolished for public safety reasons, the replacement use requirement was waived. The HPO also stated that housing could not be demolished in order to provide parking that was not required by the Land Use Code or by the environmental conditions placed on a project. This provision was included because of concern that people who wanted to demolish housing could say that they were putting in a parking lot, a use that requires relatively little investment, and which is often an interim use of property.

In 1987, the State Supreme Court has struck down the portion of the HPO which required housing to be replaced when it was demolished. In October, 1989, the Court invalidated the provisions of the HPO which required relocation assistance for displaced tenants. When these two major portions of the HPO were struck down, the requirement for a replacement use became unenforceable, even though this provision was not challenged.

In December, 1989, the City Council adopted an ordinance moving the replacement use requirement from the HPO to the Land Use Code. Because there was not enough time to give the 30 day hearing notice required for a Land Use Code amendment, the ordinance was adopted as an emergency interim bill. It expires on May 15, 1990.

The proposed ordinance which would adopt the replacement use provision as a permanent part of the Land Use Code is the same as the one adopted on an interim basis in December 1990, with one exception. The provision allowing housing to be replaced by parking required by the environmental conditioning of a project was inadvertently left out of the interim ordinance, and is included in the permanent version. This is accomplished by adding a definition of "non-required parking", which is taken from the HPO.

The permanent ordinance is proposed to be adopted on an emergency basis, so that it will go into effect the day after the interim ordinance expires. This will avoid having any period of time when people can apply for and receive demolition permits for housing without having a replacement use, and is necessary to preserve the City's housing stock.

replace.doc

# City of Seattle

Executive Department-Office of Management and Budget

Andrew J. Lofton, Director  
Norman B. Rice, Mayor



COPY RECEIVED

March 21, 1990

MAR 22 1990

The Honorable Mark Sidran  
City Attorney  
City of Seattle

SEATTLE CITY ATTORNEY

*Schneider / Watson*

Dear Mr. Sidran:

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

REQUESTING  
DEPARTMENT: Construction and Land Use

SUBJECT: An ordinance relating to land use and zoning, amending Sections 23.84.016, 23.84.030 and adding a new Section 23.40.006 to the Seattle Municipal Code to add provisions requiring an approved replacement use prior to the demolition or change of use of housing units, and declaring an emergency.

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

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Mona Goode, 4-8080.

Sincerely,

Norman B. Rice  
Mayor

by

*M. Goode for*

ANDREW J. LOFTON  
Budget Director

AL/mg/lw

Enclosure

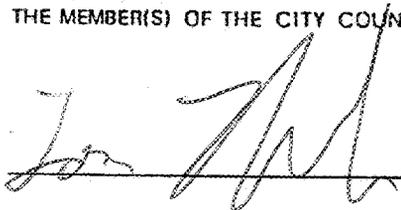
cc: Director, DCLU

TIME AND DATE STAMP

\*\*\* IT IS ASSUMED YOU ARE WILLING TO SPONSOR THIS LEGISLATION. IF NOT, PLEASE RETURN TO THE COUNCIL PRESIDENT'S OFFICE.

**SPONSORSHIP**

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FOR CITY COUNCIL PRESIDENT USE ONLY**

COMMITTEE(S) REFERRED TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

26315  
City of Seattle

-ss.

No.

Affidavit of Publication

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

Ord 115058

was published on

05/14/90

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

*[Signature]*

Subscribed and sworn to before me on

MAY 14 1990

*[Signature]*

Notary Public for the State of Washington,  
residing in Seattle

# City of Seattle

## ORDINANCE 114855

AN ORDINANCE relating to land use and zoning, amending Sections 23.84.018, 23.84.030 and adding a new Section 23.84.005 to the Seattle Municipal Code to add provisions requiring an approved replacement use prior to the demolition or change of use of housing units, and declaring an emergency.

WHEREAS, the supply of rental housing units available to the City's low and moderate income residents is not sufficient to meet the demand; and

WHEREAS, requiring that a replacement use be established prior to demolition of housing units will encourage maximum use of structures for housing purposes, in many cases as low and moderate income rental units, and will help to avoid unnecessary depletion of the City's housing stock through the premature demolition of housing units; and

WHEREAS, on December 11, 1989, this Council adopted Ordinance 114856, which established in the Land Use Code the requirement for an approved replacement use prior to the demolition of housing; and

WHEREAS, notice and hearing requirements were suspended and Ordinance 114856 was adopted as an interim ordinance which will expire on May 15, 1990; and

WHEREAS, the City Council has held a public hearing on this ordinance to make the replacement use requirements a permanent part of the Land Use Code; and

WHEREAS, unless this ordinance is adopted on an emergency basis, it will not take effect by May 16, 1990, and many housing structures which are currently subject to the replacement use requirements of the interim ordinance could be demolished before the permanent ordinance would take effect; NOW, THEREFORE:

BE IT ENACTED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That Section 23.84.016 of the Seattle Municipal Code, as last amended by Ordinance 114823, is amended to read as follows:

23.84.016 "g"

\* \* \*

"Housing unit" means any dwelling unit, housekeeping unit, guest room, dormitory, or single occupancy unit.

\* \* \*

Section 2. That Section 23.84.030 of the Seattle Municipal Code, as last amended by Ordinance 113977, is amended to read as follows:

23.84.030 "g"

\* \* \*

"Parking, non-required" means one (1) or more parking spaces not required by either the Land Use Code (Title 23 SMC) or the Building Code (Title 24 SMC) as necessary to a principal use and not imposed as a mitigating measure pursuant to the State Environmental Policy Act.

\* \* \*

Procedures for Master Use Permits and Council Land Use Decisions, to change the use of the structure or the premises; provided that no Housing Demolition permit may issue if the new use is for non-required parking; or

B. A permit or approval has been issued by the Director to relocate the structure containing housing units to another lot within the City to be used, on the new lot, as housing units; or

C. Demolition of the structure is ordered by the Director for reasons of health and safety under Chapter 22.206 or 22.208 of the Housing and Building Maintenance Code or under the provisions of the Seattle Building Code; or

D. The housing unit(s) to be demolished have been continuously vacant since January 1, 1974.

Section 4. If any provision of this ordinance or its application to any person or circumstance is declared illegal the remainder of the ordinance or its application to other persons or circumstances shall not be affected thereby.

Section 5. The City Council hereby adopts as findings the statements made in the preamble and finds that an emergency exists that necessitates that this ordinance be adopted immediately and take effect on May 16, 1990.

Passed by three fourths vote of all members of the City Council the 30th day of April, 1990, and signed by me in open session in authentication of its passage this 30th day of April, 1990.

PAUL KRAABEL,  
President of the City Council.  
Approved by me this 30th day of April, 1990.  
NORMAN H. RICE,  
Mayor.

Filed by me this 7th day of May, 1990.  
Attest: NORWARD J. BROOKS,  
City Comptroller and City Clerk.  
(Seal) By: MARGARET CARTER,  
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.  
Date of official publication in Daily Journal of Commerce, Seattle, May 14, 1990.  
(28315)