

Ordinance No. 119617

Council Bill No. 112834

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to land use and zoning, the Seattle Building Code, and the Housing and Building Maintenance Code; amending Sections 22.206.160, 23.44.041, 23.84.028, and 23.90.019 of the Seattle Municipal Code, relating to accessory dwelling units; and, if approved by the State of Washington, amending Section 310.6 of the Seattle Building Code relating to minimum ceiling heights in dwelling units.

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This file is complete and ready

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Law Department

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The City of Seattle - Legislative Department

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Councilmember

Committee Action:

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(Excused: Choe, Donaldson, Licata, Podolowski)

This file is complete and ready for presentation to Full Council. Committee: _____
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Law Department

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AN ORDINANCE relating to land use and zoning, the Seattle Building Code, and the Housing and Building Maintenance Code; amending Sections 22.206.160, 23.44.041, 23.84.028, and 23.90.019 of the Seattle Municipal Code, relating to accessory dwelling units; and, if approved by the State of Washington, amending Section 310.6 of the Seattle Building Code relating to minimum ceiling heights in dwelling units.

WHEREAS, accessory dwelling units provide the opportunity for affordable housing due to the generally lower construction costs for creating a unit within an existing structure, and lack of additional land costs;

WHEREAS, accessory dwelling units can provide home owners with supplemental income to help an owner meet existing mortgage payments, or to help a renter afford home ownership;

WHEREAS, the ability to create accessory dwelling units in single family homes provides additional housing opportunities that can be accommodated in a single family neighborhood while having relatively little impact on the character of the neighborhood;

WHEREAS, the 1993 Washington Housing Policy Act required local jurisdictions to permit accessory dwelling units and encouraged their development in existing single family homes as a major component of reducing the cost of housing; and

WHEREAS, the City of Seattle's Comprehensive Plan, adopted in 1994, stresses the provision of affordable housing (G2, H10), promotes efficiency in adapting the housing stock (H15); and permits accessory housing units in single family zones, subject to the restrictions designed to limit impacts and protect neighborhood character (L75); and

WHEREAS, one goal of the 1998 Seattle Housing Action Agenda is to increase the supply of moderate income housing, with Land Use Code regulatory changes to help with the creation of accessory dwelling units as one tool to accomplish this goal; and

WHEREAS, on April 13, 1998 City Council, with the Mayor concurring, adopted a resolution that established the City's top budget priorities for the 1999-2000 biennial budget and the Capital Improvement Program, which resolution stated that the "City is committed to developing and implementing an affordable housing action agenda for both home ownership and rental housing;" and

1
2 WHEREAS, from December 1994, when accessory dwelling units were first permitted in
3 single family areas in Seattle, up to May 31, 1999, approximately 786 previously
4 existing units have been legalized (permit issued) and 241 new units have had permits
5 issued;
6

7
8 **NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS**
9 **FOLLOWS:**
10

11
12 **Section 1.** Subsection C of Section 22.206.160 of the Seattle Municipal Code, which
13 Section was last amended by Ordinance 118441, is amended to correct a section reference
14 number and the department's name as follows:
15

16 **22.206.160 Duties of owners.**
17

18 * * *

19
20 **C. Just Cause Eviction.**

21 1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW
22 59.18.290), owners may not evict residential tenants without a court order, which can be
23 issued by a court only after the tenant has an opportunity in a show cause hearing to contest
24 the eviction (RCW 59.18.380). In addition, owners of housing units shall not evict or
25 attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any
26 tenant unless the owner can prove in court that just cause exists. The reasons for termination
27 of tenancy listed below, and no others, shall constitute just cause under this section:

28 a. The tenant fails to comply with a three (3) day notice to pay rent or
29 vacate pursuant to RCW 59.12.030(3); a ten (10) day notice to comply or vacate pursuant to
30 RCW 59.12.030(4); or a three (3) day notice to vacate for waste, nuisance (including a drug-
31 related activity nuisance pursuant to RCW Chapter 7.43) or maintenance of an unlawful
32 business or conduct pursuant to RCW 59.12.030(5);

33 b. The tenant habitually fails to pay rent when due which causes the
34 owner to notify the tenant in writing of late rent four (4) or more times in a twelve (12)
35 month period;

36 c. The tenant fails to comply with a ten (10) day notice to comply or
37 vacate that requires compliance with a material term of the rental agreement or that requires
38 compliance with a material obligation under RCW 59.18;

39 d. The tenant habitually fails to comply with the material terms of the
40 rental agreement which causes the owner to serve a ten (10) day notice to comply or vacate
41 three (3) or more times in a twelve (12) month period;

1 e. The owner seeks possession so that the owner or a member of his
2 or her immediate family may occupy the unit as that person's principal residence and no
3 substantially equivalent unit is vacant and available in the same building. "Immediate family"
4 shall include the owner's domestic partner registered pursuant to Section 1 of Ordinance
5 117244 or the owner's spouse, parents, grandparents, children, brothers and sisters of the
6 owner, of the owner's spouse, or of the owner's domestic partner. There shall be a rebuttable
7 presumption of a violation of this subsection if the owner or a member of the owner's
8 immediate family fails to occupy the unit as that person's principal residence for at least sixty
9 (60) consecutive days during the ninety (90) days immediately after the tenant vacated the
10 unit pursuant to a notice of termination or eviction using this subparagraph as the cause for
11 eviction;

12 f. The owner elects to sell a single-family dwelling unit and gives the
13 tenant at least sixty (60) days written notice prior to the date set for vacating, which date
14 shall coincide with the end of the term of a rental agreement, or if the agreement is month to
15 month, with the last day of a monthly period. For the purposes of this section, an owner
16 "elects to sell" when the owner makes reasonable attempts to sell the dwelling within thirty
17 (30) days after the tenant has vacated, including, at a minimum, listing it for sale at a
18 reasonable price with a realty agency or advertising it for sale at a reasonable price in a
19 newspaper of general circulation. There shall be a rebuttable presumption that the owner did
20 not intend to sell the unit if

21 (i) within thirty (30) days after the tenant has vacated, the
22 owner does not list the single-family dwelling unit for sale at a reasonable price with a realty
23 agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

24 (ii) within ninety (90) days after the date the tenant vacated or
25 the date the property was listed for sale, whichever is later, the owner withdraws the rental
26 unit from the market, rents the unit to someone other than the former tenant, or otherwise
27 indicates that the owner does not intend to sell the unit.

28 g. The tenant's occupancy is conditioned upon employment on the
29 property and the employment relationship is terminated;

30 h. The owner seeks to do substantial rehabilitation in the building,
31 provided that the owner must obtain a tenant relocation license if required by SMC Chapter
32 22.210 and at least one (1) permit necessary for the rehabilitation, other than a Master Use
33 Permit, before terminating the tenancy. Any tenants dispossessed pursuant to this provision
34 shall be notified in writing by the owner at the time of vacating the unit that the tenant has a
35 right of first refusal for the rehabilitated unit. The owner shall notify the tenant in writing,
36 mailed by regular mail to the last address provided by the tenant, when the unit is ready to be
37 reoccupied, and the tenant shall exercise such right of first refusal within thirty (30) days of
38 the owner's notice;

39 i. The owner elects to demolish the building, convert it to a
40 condominium or a cooperative, or convert it to a nonresidential use; provided, that the owner

1 must obtain a tenant relocation license if required by SMC Chapter 22.210 and a permit
2 necessary to demolish or change the use before terminating any tenancy;

3 j. The owner seeks to discontinue use of a housing unit unauthorized
4 by Title 23 of the Seattle Municipal Code after receipt of a notice of violation thereof. The
5 owner is required to pay relocation assistance to the tenant(s) of each such unit at least two
6 (2) weeks prior to the date set for termination of the tenancy, at the rate of

7 i. Two Thousand Dollars (\$2,000) for a tenant household with
8 an income during the past twelve (12) months at or below fifty (50) percent of the County
9 median income, or

10 ii. Two (2) months' rent for a tenant household with an income
11 during the past twelve (12) months above fifty (50) percent of the County median income;

12 k. The owner seeks to reduce the number of individuals residing in a
13 dwelling unit to comply with the maximum limit of individuals allowed to occupy one (1)
14 dwelling unit, as required by SMC Title 23, and:

15 i. (A) The number of such individuals was more than is lawful
16 under the current version of SMC Title 23 or Title 24 but was lawful under SMC Title 23 or
17 24 on August 10, 1994,

18 (B) That number has not increased with the knowledge or
19 consent of the owner at any time after August 10, 1994, and

20 (C) The owner is either unwilling or unable to obtain a
21 permit to allow the unit with that number of residents,

22 ii. The owner has served the tenants with a thirty (30) day
23 notice, informing the tenants that the number of tenants exceeds the legal limit and must be
24 reduced to the legal limit,

25 iii. After expiration of the thirty (30) day notice, the owner has
26 served the tenants with and the tenants have failed to comply with a ten (10) day notice to
27 comply with the limit on the number of occupants or vacate, and

28 iv. If there is more than one (1) rental agreement for the unit,
29 the owner may choose which agreements to terminate, provided that the owner may either
30 terminate no more than the minimum number of rental agreements necessary to comply with
31 the legal limit on the number of occupants, or, at the owner's option, terminate only those
32 agreements involving the minimum number of occupants necessary to comply with the legal
33 limit;

34 l. i. The owner seeks to reduce the number of individuals who reside
35 in one (1) dwelling unit to comply with the legal limit after receipt of a notice of violation of
36 the SMC Title 23 restriction on the number of individuals allowed to reside in a dwelling unit
37 and:

38 (A) The owner has served the tenants with a thirty (30)
39 day notice, informing the tenants that the number of tenants exceeds the legal limit and must
40 be reduced to the legal limit, provided that no thirty (30) day notice is required if the number

1 of tenants was increased above the legal limit without the knowledge or consent of the
2 owner,

3 (B) After expiration of the thirty (30) day notice
4 required by subsection C1li(A) above, or at any time after receipt of the notice of violation if
5 no thirty (30) day notice is required pursuant to subsection C1li(A), the owner has served the
6 tenants with and the tenants have failed to comply with a ten (10) day notice to comply with
7 the maximum legal limit on the number of occupants or vacate, and

8 (C) If there is more than one (1) rental agreement for
9 the unit, the owner may choose which agreements to terminate, provided that the owner may
10 either terminate no more than the minimum number of rental agreements necessary to comply
11 with the legal limit on the number of occupants, or, at the option of the owner, terminate only
12 those agreements involving the minimum number of occupants necessary to comply with the
13 legal limit.

14 ii. For any violation of the maximum legal limit on the number
15 of individuals allowed to reside in a unit that occurred with the knowledge or consent of the
16 owner, the owner is required to pay relocation assistance to the tenant(s) of each such unit at
17 least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

18 (A) Two Thousand Dollars (\$2,000) for a tenant
19 household with an income during the past twelve (12) months at or below fifty (50) percent
20 of the county median income, or

21 (B) Two (2) months' rent for a tenant household with
22 an income during the past twelve (12) months above fifty (50) percent of the county median
23 income;

24 m. The owner seeks to discontinue use of an accessory dwelling unit
25 for which a permit has been obtained pursuant to SMC Section ((23.44.025)) 23.44.041 after
26 receipt of a notice of violation of the development standards provided in that section. The
27 owner is required to pay relocation assistance to the tenant household residing in such a unit
28 at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

29 i. Two Thousand Dollars (\$2,000) for a tenant household with
30 an income during the past twelve (12) months at or below fifty (50) percent of the county
31 median income, or

32 ii. Two (2) months' rent for a tenant household with an income
33 during the past twelve (12) months above fifty (50) percent of the county median income;

34 n. An emergency order requiring that the housing unit be vacated and
35 closed has been issued pursuant to SMC Section 22.206.260 and the emergency conditions
36 identified in the order have not been corrected;

37 o. The owner seeks to discontinue sharing with a tenant the owner's
38 own housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy
39 of a tenant of an accessory dwelling unit authorized pursuant to SMC Section ((23.44.025))
40 23.44.041 that is accessory to the housing unit in which the owner resides, so long as the
41 owner has not received a notice of violation of the development standards of SMC Section

1 ((23.44.025)) 23.44.041 regarding that unit. If the owner has received such a notice of
2 violation, subsection C1m applies;

3 p. A tenant, or with the consent of the tenant, his or her subtenant,
4 sublessee, resident or guest, has engaged in criminal activity on the premises, or on the
5 property or public right-of-way abutting the premises, and the owner has specified in the
6 notice of termination the crime alleged to have been committed and the general facts
7 supporting the allegation, and has assured that the Department of Design, Construction and
8 Land Use has recorded receipt of a copy of the notice of termination. For purposes of this
9 subsection a person has "engaged in criminal activity" if he or she:

10 i. Engages in drug-related activity that would constitute a
11 violation of RCW Chapters 69.41, 69.50 or 69.52; or

12 ii. Engages in activity that is a crime under the laws of this
13 state, but only if the activity substantially affects the health or safety of other tenants or the
14 owner.

15 2. Any rental agreement provision which waives or purports to waive any
16 right, benefit or entitlement created by this subsection C shall be deemed void and of no
17 lawful force or effect.

18 3. With any termination notices required by law, owners terminating any
19 tenancy protected by this section shall advise the affected tenant or tenants in writing of the
20 reasons for the termination and the facts in support of those reasons.

21 4. If a tenant who has received a notice of termination of tenancy claiming
22 subsection C1e, C1f, or C1m as the ground for termination believes that the owner does not
23 intend to carry out the stated reason for eviction and makes a complaint to the Director, then
24 the owner must, within ten (10) days of being notified by the Director of the complaint,
25 complete and file with the Director a certification stating the owner's intent to carry out the
26 stated reason for the eviction. The failure of the owner to complete and file such a
27 certification after a complaint by the tenant shall be a defense for the tenant in an eviction
28 action based on this ground.

29 5. In any action commenced to evict or to otherwise terminate the tenancy of
30 any tenant, it shall be a defense to the action that there was no just cause for such eviction or
31 termination as provided in this section.

32 6. It shall be a violation of this section for any owner to evict or attempt to
33 evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant
34 using a notice which references subparagraphs 1e, 1f, 1h, 1k, 1l, or 1m of this subsection C
35 as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated
36 reason for or condition justifying the termination of such tenancy.

37 7. An owner who evicts or attempts to evict a tenant or who terminates or
38 attempts to terminate the tenancy of a tenant using a notice which references subparagraphs
39 1e, 1f, or 1h of this subsection C as the ground for eviction or termination of tenancy without
40 fulfilling or carrying out the stated reason for or condition justifying the termination of such

1 tenancy shall be liable to such tenant in a private right for action for damages up to Two
2 Thousand Dollars (\$2,000), costs of suit or arbitration and reasonable attorney's fees.
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5 **Section 2.** Section 23.44.041 of the Seattle Municipal Code, which was last amended
6 by Ordinance 119027, is further amended as follows:
7

8 **23.44.041 Accessory dwelling units.**

9 Accessory dwelling units may be permitted subject to the standards in subsection A of this
10 ((s))Section ((until two thousand five hundred (2,500) applications for new (not for
11 legalization of existing) accessory dwelling units are filed. If, prior to the occurrence of the
12 foregoing condition, applications are filed for accessory dwelling units which would cause the
13 concentration of single family structures with new accessory dwelling units to exceed twenty
14 (20) percent of all single family structures in single family zones in any one (1) census tract
15 or in an area formed by a circle with a radius of one thousand (1,000) feet from the point at
16 which three (3) or more census tracts meet, no further applications may be accepted for
17 accessory dwelling units in such census tract or area)). The Master Use Permit process set
18 forth in Chapter 23.76 shall be followed to authorize these uses.

19 A. The Director may authorize an accessory dwelling unit if the Director finds that
20 the unit meets the following development and use standards:

21 1. A single family dwelling may have no more than one (1) accessory dwelling
22 unit, and only one (1) accessory dwelling unit shall be allowed per lot.

23 2. One (1) of the dwelling units in the structure shall be occupied by one (1)
24 or more owners of the property as the owner's(s) permanent and principal residence. ((;
25 provided that)) The owner occupant must occupy the owner-occupied dwelling unit for
26 more than six (6) months of each calendar year. The owner-occupant may not receive rent
27 for the owner-occupied dwelling unit. If a complaint that an owner has violated these
28 requirements is filed, the owner shall

29 submit evidence to the Director ((may waive this requirement for
30 temporary absences of less than one (1) year, where the accessory unit has been a permitted
31 use for at least two (2) years and the owner submits proof of absence from the Puget Sound
32 region)) showing good cause, such as job dislocation, sabbatical leave, education, or illness,
33 for waiver of this requirement for up to three years absence from the Puget Sound region.
34 Upon such showing the Director may waive the requirement;

35 or b. c. re-occupy the structure; or
36 or d. remove the accessory dwelling unit.

37 3. Any number of related persons may occupy each unit in a single family
38 residence with an accessory dwelling unit provided that if unrelated persons occupy either
39 unit, the total number of persons occupying both units together may not exceed eight (8).

40 4. Accessory dwelling units may not be located in any structure detached
41 from the single family dwelling.

1 5. The floor area of the accessory dwelling unit may exceed one thousand
2 (1,000) square feet only if ~~((a permit was filed to construct the portion of))~~ the structure in
3 which the accessory dwelling unit is located ~~((before May 31, 1996, and))~~ was in existence as
4 of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

5 6. Only one (1) principal entrance to the structure may be located on each
6 ~~((front or street side))~~ street-facing facade of the residence except:

7 a. where two (2) entrances on the front or street side existed on
8 January 1, 1993 or;

9 b. where the Director determines that topography, screening or other
10 design solution is effective in de-emphasizing the presence of a second entrance, so there do
11 not appear to be two principal entrances.

12 7. ~~((A minimum of two (2) off-street parking spaces shall be provided, which~~
13 ~~spaces may be in tandem. The Director may waive the requirement for one (1) or both of the~~
14 ~~spaces if the accessory dwelling unit is not located in a residential parking zone (RPZ) or in~~
15 ~~the University District Parking Overlay Area or Alki Area, pursuant to Maps A and B,~~
16 ~~Section 23.54.015, and if topography or location of existing principal or accessory structures~~
17 ~~makes provision of one (1) or both of the parking spaces unduly burdensome. The applicant~~
18 ~~need not apply for a variance in order for the Director to waive this requirement. If the~~
19 ~~accessory dwelling unit is located in an RPZ and if topography or location of existing~~
20 ~~structures makes provision of one (1) or both of the parking spaces unduly burdensome, the~~
21 ~~Director may wave the parking requirement if a parking study is completed and if adequate~~
22 ~~parking capacity exists. On street parking shall be considered at capacity when the utilization~~
23 ~~rate is seventy-five (75) percent or greater within a four hundred (400) foot walking distance~~
24 ~~of the subject property. The parking waiver process cannot be used to eliminate existing~~
25 ~~parking spaces in order to create an accessory dwelling unit.))~~ A minimum of one (1) off-
26 street parking space per accessory dwelling unit shall be provided, which space may be in
27 tandem with parking provided for the principal dwelling unit.

28 a. The Director may waive the parking requirement for an accessory
29 dwelling unit if topography or location of existing principal or accessory structures makes
30 provision of a parking space physically or economically infeasible and, for properties located
31 in residential parking zones (RPZs), a parking study is conducted and shows that the
32 utilization rate for on-street parking within a four hundred (400) foot walking distance of the
33 subject property is less than seventy-five (75) percent. Parking may not be waived for
34 accessory dwelling units within the University District or Alki Parking Overlay Areas as
35 shown on Maps A and B, Section 23.54.015;

36 b. The applicant need not apply for a variance in order to waive the
37 parking requirement. The parking waiver process cannot be used to eliminate an existing
38 required parking space in order to create an accessory dwelling unit, unless replaced
39 elsewhere on the lot.

40 8. Ceiling height.

1 a. If the portion of the single-family dwelling in which the accessory dwelling unit is
2 located was in existence prior to October 17, 1979, the minimum ceiling height shall be six
3 (6) feet eight (8) inches measured per Sections 310.6.1 and 3403 of the Seattle Building
4 Code (SBC), or ~~((F))~~ the minimum ceiling height shall be six (6) feet four (4) inches if a hard-
5 wired smoke detector is located in the accessory dwelling unit.

6 b. If the portion of the single-family dwelling in which the accessory dwelling unit is
7 located was constructed on or subsequent to October 17, 1979, the minimum ceiling height
8 shall be seven (7) feet ~~((six (6) inches))~~ measured per ~~((Sections 310.6.1 and 3403 of the~~
9 ~~Seattle Building Code))~~ the SBC.

10 ~~((B-- Legalization of Existing Accessory Dwelling Units.~~

11 ~~Accessory dwelling units which existed on January 1, 1993, and are not otherwise~~
12 ~~qualified as a legal nonconforming use, may be legally established if the following~~
13 ~~requirements are satisfied:~~

14 1. ~~An application for a Master Use Permit meeting the requirements of SMC~~
15 ~~Chapter 23.76 is filed on or before May 31, 1996;~~

16 2. ~~The accessory dwelling unit shall be determined to meet the Housing and~~
17 ~~Building Maintenance Code (Chapters 22.200 through 22.208) standards. In addition, if the~~
18 ~~portion of the single-family dwelling in which the accessory dwelling unit is located was in~~
19 ~~existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8)~~
20 ~~inches measured per Sections 310.6.1 and 3403 of the Seattle Building Code. The minimum~~
21 ~~ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in~~
22 ~~the dwelling unit. If the portion of the single-family dwelling in which the accessory dwelling~~
23 ~~unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling~~
24 ~~height shall be seven (7) feet six (6) inches measured per Sections 310.6.1 and 3403 of the~~
25 ~~Seattle Building Code;~~

26 3. ~~Development and use standards in subsection A, above, are met or~~
27 ~~applications for permits for modifications required for compliance are filed. If final inspection~~
28 ~~approval for those modifications is not obtained within two (2) years from the date of~~
29 ~~application for the Master Use Permit, the Master Use Permit and Building Permit shall be~~
30 ~~canceled and the unit removed or application made to establish the unit as a new accessory~~
31 ~~dwelling unit. The Director may require final approval of permits in less than two (2) years in~~
32 ~~high hazard situations.))~~

33 ~~((C))~~B. Certification of Owner Occupancy. After issuance of a permit establishing an
34 accessory dwelling unit, the Department of Design, Construction and Land Use shall record
35 as a deed restriction in the King County Office of Records and Elections a certification by the
36 owner(s) under oath in a form prescribed by the Director that one (1) of the dwelling units is
37 occupied by the owner(s) of the property as the owner's(s') principal and permanent residence
38 and a statement by the owner(s) that the owner(s) will notify any prospective purchasers of
39 the requirements of this Section. When ownership of a single-family residence with an
40 approved accessory dwelling unit changes, the new owner(s) shall either submit a new owner
41 occupancy certification to the Department of Design, Construction and Land Use for

1 recording, or remove the accessory dwelling unit. Failure to submit a new certificate or
2 remove the accessory dwelling unit within ~~((thirty (30) days))~~ one (1) year of transfer of
3 ownership shall be a violation of the Land Use Code subject to civil penalties provided in
4 Section 23.90.018. Falsely certifying owner occupancy or failure to comply with the terms of
5 the owner occupancy certification shall be subject to a civil penalty of Five Thousand Dollars
6 (\$5,000), in addition to any criminal penalties.

7 ~~((D. Notice of Application for an Accessory Housing Unit. The Director shall
8 provide notice of the application of a permit for an accessory housing unit by General Mailed
9 Release, and the applicant shall post one (1) land use sign visible to the public at each street
10 frontage abutting the site except, when there is no street frontage or the site abuts an
11 unimproved street, the Director shall require either more than one (1) sign and/or an
12 alternative posting location so that notice is clearly visible to the public. Additional notice
13 may be provided by door to door delivery to properties within two hundred (200) feet of the
14 site. The notice shall state the criteria the proposed unit must meet in order for a permit to be
15 granted and that the DCLU decision is nonappealable, and shall explain how to obtain general
16 information and how to report noncompliance with the criteria before and after the permit is
17 issued. The land use sign may be removed by the applicant within fourteen (14) days after
18 final action on the application has been completed.))~~

19 ~~((E))~~C. Single family Status Unaffected. A single family dwelling with an accessory
20 dwelling unit shall be considered a single-family residence for purposes of rezone criteria
21 (Section 23.34.011).

22 ~~((F. At least three (3) months prior to reaching the two thousand five hundred
23 (2,500) limit on applications for new accessory dwelling units or on September 1, 1999,
24 whichever is earlier, the Department of Construction and Land Use and the Strategic
25 Planning Office shall submit to the City Council a report regarding accessory dwelling units
26 established, and, if deemed necessary, recommendations for revisions to the regulations and
27 procedures related to accessory dwelling units. Such report shall include an analysis of the
28 number, location and characteristics of accessory dwelling units (e.g., size, number of parking
29 waivers granted, the number of previously unauthorized units legalized, etc.) and an analysis
30 of the impacts of those units. Within six (6) months of receiving the report, the City Council
31 shall review the report and consider the recommendations proposed. If the City has reached
32 or is nearing two thousand five hundred (2,500) applications, the City Council shall determine
33 whether to authorize further permits or otherwise revise the provisions. Any revisions that
34 would involve amendments to the City's Comprehensive Plan shall be considered as part of
35 the annual process for amending the Plan.~~

36 If applications are filed for permits for accessory dwelling units which would cause
37 the concentration of new structures with accessory dwelling units to exceed twenty (20)
38 percent of the number of single-family residences in single-family zones in any one (1) census
39 tract or in an area bounded by a circle with a radius of one thousand (1,000) feet from a point
40 where three (3) or more census tracts meet, the Department of Construction and Land Use
41 shall notify the City Council. Within three (3) months, that department shall submit a report

1 to the City Council containing an analysis of the number, location and character of the single-
2 family structures with accessory dwelling units in the tract or area exceeding the twenty (20)
3 percent threshold. The City Council shall request that the neighborhood planning
4 organization for the affected neighborhood submit a recommendation within three (3) months
5 of that request regarding action to be taken. Within six (6) months of receiving the
6 neighborhood planning organization's recommendation, the City Council shall review the
7 report and consider recommendations proposed. The City Council shall determine whether to
8 authorize further permits or otherwise revise the provisions. Any revisions that would
9 involve amendments to the City's Comprehensive Plan shall be considered as part of the
10 annual process for amending that Plan.)

11 D. Every two (2) years, DCLU shall prepare a report for the City Council stating the
12 number and location of permits issued for new accessory housing units.

13
14
15 **Section 3.** Section 23.84.028 of the SMC, which was last amended by Ordinance
16 118472, is amended as follows:

17
18 **23.84.028 "O."**

19
20 * * *

21
22 "Owner occupancy" means an occupancy of a dwelling by the legal property owner as
23 reflected in title records, or by the contract purchaser. The owner occupant of ((the)) a
24 residence containing ((the)) an accessory dwelling unit must have an interest equal to or
25 greater than any other partial owner of the property, and the owner occupant's interest must
26 be fifty (50) percent or greater. ((The owner occupant must occupy the owner-occupied
27 dwelling unit for more than six (6) months of each calendar year and may not receive rent for
28 the owner-occupied dwelling unit at any time during the year.))

29
30
31 **Section 4.** Subsection A of Section 23.90.019 of the SMC, which Section was last
32 amended by Ordinance 118472, is amended as follows:

33
34 **23.90.019 Civil penalty for unauthorized dwelling units in single family structures.**

35 A. In addition to any other sanction or remedial procedure which may be available,
36 the following penalties shall apply to any owner of a single family structure with one (1) or
37 more unauthorized dwelling unit(s). Any owner of a single family structure who is issued a
38 notice of violation for one (1) or more unauthorized dwelling unit(s) and which dwelling
39 unit(s) are not legal(ly) nonconforming uses shall be subject to a civil penalty of One
40 Thousand Dollars (\$1,000). This penalty shall be reduced to One Hundred Dollars (\$100) if
41 prior to the compliance date stated on the notice, the owner removes the unauthorized

1 dwelling unit(s). Any owner of a single family structure who voluntarily applies to legalize an
2 accessory dwelling unit prior to issuance of a notice of violation for an unauthorized dwelling
3 unit, and obtains final inspection approval for the unit within one (1) year of issuance of
4 permit, shall not be subject to a civil penalty ((of One Hundred Dollars (\$100). This penalty
5 shall be waived if: (1) the purchaser of a property with an existing unauthorized dwelling unit
6 applies to legalize the unit within sixty (60) days of becoming an owner of the property as
7 reflected in the real estate records of King County and; (2) final inspection approval for the
8 unit is obtained within two (2) years from the date of application for the Master Use Permit)).
9

10 * * *

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14 **Section 5.** Section 310.6 of the Seattle Building Code, which was adopted by
15 Ordinance 119079, is amended as follows:
16

17
18 **310.6 Room Dimensions.**
19

20 **310.6.1 Ceiling heights.** Habitable space shall have a ceiling height of not less than ((7 feet
21 6 inches (2286 mm) except as otherwise permitted in this section. Kitchens, halls, bathrooms
22 and toilet compartments may have a ceiling height of not less than)) 7 feet (2134 mm)
23 measured to the lowest projection from the ceiling. ((Where exposed beam ceiling members
24 are spaced at less than 48 inches (1219 mm) on center, ceiling height shall be measured to the
25 bottom of these members. Where exposed beam ceiling members are spaced at 48 inches
26 (1219 mm) or more on center, ceiling height shall be measured to the bottom of the deck
27 supported by these members, provided that the bottom of the members is not less than 7 feet
28 (2134 mm) above the floor.))

29 If any room in a building has a sloping ceiling, the prescribed ceiling height for the
30 room is required in only one half the area thereof. No portion of the room measuring less
31 than 5 feet (1524 mm) from the finished floor to the finished ceiling shall be included in any
32 computation of the minimum area thereof.

33 ((If any room has a furred ceiling, the prescribed ceiling height is required in two
34 thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet
35 (2134 mm).))
36

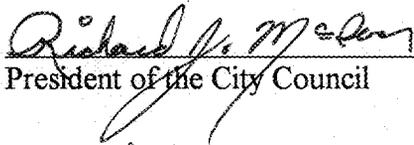
37
38 **Section 6. Severability.** The several provisions of this ordinance are declared to be
39 separate and severable and the invalidity of any clause, sentence, paragraph, subdivision,
40 section, subsection, or portion of this ordinance, or the invalidity of the application thereof to

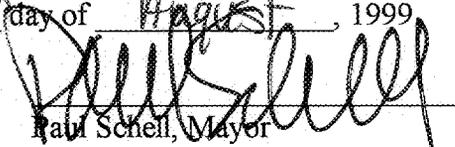
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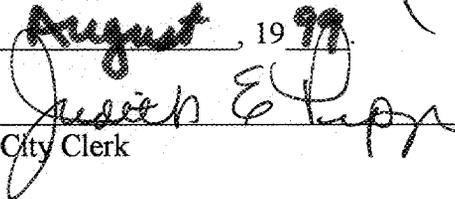
any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 7. Except for subsection 23.44.041A8b of the Land Use Code and Section 310.6 of the Seattle Building Code, this ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020. Section 23.44.041A8b and Section 310.6 of the Seattle Building Code shall take effect and be in force on the date that a letter of approval from the State of Washington is filed with the City Clerk, provided that such approval is filed no later than December 31, 1999. If such approval is not filed by December 31, 1999, the two Sections will have no force and effect.

Passed by the City Council the 23rd day of August, 1999, and signed by me in open session in authentication of its passage this 23rd day of August, 1999.


Pro Tem President of the City Council

Approved by me this 27th day of August, 1999

Paul Schell, Mayor

Filed by me this 27th day of August, 1999

City Clerk

(SEAL)

STATE OF WASHINGTON - KING COUNTY

109746
City of Seattle, City Clerk

—ss.

No. IN FULL

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

CT:119617 ORDINANCE

was published on

09/07/99

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

09/07/99

[Signature]

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 118617

AN ORDINANCE relating to land use and zoning, the Seattle Building Code, and the Housing and Building Maintenance Code, amending Sections 22.206.160, 22.44.041, 23.84.028, and 23.90.019 of the Seattle Municipal Code, relating to accessory dwelling units, and if approved by the State of Washington, amending Section 310.6 of the Seattle Building Code relating to minimum ceiling heights in dwelling units.

WHEREAS, accessory dwelling units provide the opportunity for affordable housing due to the generally lower construction costs for creating a unit within an existing structure, and lack of additional land costs;

WHEREAS, accessory dwelling units can provide home owners with supplemental income to help an owner meet existing mortgage payments, or to help a renter afford home ownership;

WHEREAS, the ability to create accessory dwelling units in single family homes provides additional housing opportunities that can be accommodated in a single family neighborhood while having relatively little impact on the character of the neighborhood;

WHEREAS, the 1993 Washington Housing Policy Act required local jurisdictions to permit accessory dwelling units and encouraged their development in existing single family homes as a major component of reducing the cost of housing; and

WHEREAS, the City of Seattle's Comprehensive Plan, adopted in 1994, stresses the provision of affordable housing (G2, H10), promotes efficiency in adapting the housing stock (H15), and permits accessory housing units in single family zones, subject to the restrictions designed to limit impacts and protect neighborhood character (L75); and

WHEREAS, one goal of the 1998 Seattle Housing Action Agenda is to increase the supply of moderate income housing with Land Use Code regulatory changes to help with the creation of accessory dwelling units as one tool to accomplish this goal; and

WHEREAS, on April 13, 1998 City Council, with the Mayor concurring, adopted a resolution that established the City's top budget priorities for the 1999-2000 biennial budget and the Capital Improvement Program, which resolution stated that the City is committed to developing and implementing an affordable housing action agenda for both home ownership and rental housing; and

WHEREAS, from December 1994, when accessory dwelling units were first permitted in single family areas in Seattle, up to May 31, 1999, approximately 786 previously existing units have been legalized (permit issued) and 241 new units have had permits issued.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which Section was last amended by Ordinance 118441, is amended to correct a section reference number and the department's name as follows:

22.206.160 DUTIES OF OWNERS

C. Just Cause Eviction.

1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW 59.18.290), owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.390). In addition, owners of housing units shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant unless the owner can prove in court that just cause exists. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this section:

a. The tenant fails to comply with a three (3) day notice to pay rent or a ten (10) day notice to comply or vacate pursuant to RCW 59.12.030(3); or a ten (10) day notice to comply or vacate pursuant to RCW 59.12.030(4); or a three (3) day notice to vacate for waste, nuisance (including a drug-related activity nuisance pursuant to RCW Chapter 7.43) or maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5);

b. The tenant habitually fails to pay rent when due which causes the owner to notify the tenant in writing of late rent four (4) or more times in a twelve (12) month period;

c. The tenant fails to comply with a ten (10) day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires com-

any time after August 10, 1994, and

(C) The owner is either unwilling or unable to obtain a permit to allow the unit with that number of residents;

ii. The owner has served the tenants with a thirty (30) day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit;

iii. After expiration of the thirty (30) day notice, the owner has served the tenants with a ten (10) day notice to comply with the limit on the number of occupants or vacate, and

iv. If there is more than one (1) rental agreement for the unit, the owner may choose which agreements to terminate, provided that the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit.

1. i. The owner seeks to reduce the number of individuals who reside in one (1) dwelling unit to comply with the legal limit after receipt of a notice of violation of the SMC Title 23 restriction on the number of individuals allowed to reside in a dwelling unit and:

(A) The owner has served the tenants with a thirty (30) day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit, provided that no thirty (30) day notice is required if the number of tenants was increased above the legal limit without the knowledge or consent of the owner;

(B) After expiration of the thirty (30) day notice required by subsection C1ii(A) above, or at any time after receipt of the above, or at any time after receipt of the notice of violation if no thirty (30) day notice is required pursuant to subsection C1ii(A), the owner has served the tenants with a ten (10) day notice to comply with the maximum legal limit on the number of occupants or vacate, and

(C) If there is more than one (1) rental agreement for the unit, the owner may choose which agreements to terminate, provided that the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the option of the owner, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit.

ii. For any violation of the maximum legal limit on the number of individuals allowed to reside in a unit that occurred with the knowledge or consent of the owner, the owner is required to pay relocation assistance to the tenants of each such unit at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

(A) Two Thousand Dollars (\$2,000) for a tenant household with an income during the past twelve (12) months at or below fifty (50) percent of the county median income; or

(B) Two (2) months' rent for a tenant household with an income during the past twelve (12) months above fifty (50) percent of the county median income;

iii. The owner seeks to discontinue use of an accessory dwelling unit for which a permit has been obtained pursuant to SMC Section (23.44.025) 23.44.041 after receipt of a notice of violation of the development standards provided in that section. The owner is required to pay relocation assistance to the tenant household residing in such a unit at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

1. Two Thousand Dollars (\$2,000) for a tenant household with an income during the past twelve (12) months at or below fifty (50) percent of the county median income; or

ii. Two (2) months' rent for a tenant household with an income during the past twelve (12) months above fifty (50) percent of the county median income;

iv. An emergency order requiring that the housing unit be vacated and closed has been issued pursuant to SMC Section 22.206.390 and the emergency conditions identified in the order have not been corrected;

v. The owner seeks to discontinue sharing with a tenant the owner's own housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a tenant of an accessory dwelling unit authorized pursuant to SMC Section (23.44.025) 23.44.041 that is necessary to the housing unit in which the owner resides, so long as the owner has not received a notice of violation of the development standards of SMC Section (23.44.025) 23.44.041 regarding that unit. If the owner has received such a notice of

vi. The owner of the property and principal resident(s) permanent and principal residence (if provided that) the owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director (may waive this requirement for temporary absences of less than one (1) year, where the accessory unit has been a permitted use for at least two (2) years and the owner submits proof of absence from the Puget Sound region) showing good cause, such as job dislocation, substantial travel, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

7. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

4. Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if (a) a permit was filed to construct the portion of the structure in which the accessory dwelling unit is located (before May 31, 1996, and) was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each (front or street sided) street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or

b. where the Director determines that topography, screening or other design solution is effective in deemphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. (A minimum of two (2) off-street parking spaces shall be provided, which spaces may be in tandem. The Director may waive the requirement for one (1) or both of the spaces if the accessory dwelling unit is not located in a residential parking zone (RPZ) or in the University District. Parking in the Overlay Area or Alki Area, pursuant to Maps A and B, Section 23.54.015, and if topography or location of existing structures principal or accessory structures makes provision of one (1) or both of the parking spaces unduly burdensome, the applicant need not apply for a variance in this requirement. If the Director to waive this requirement is located the accessory dwelling unit is located in an RPZ and if topography or location of existing structures makes provision of one (1) or both of the parking spaces unduly burdensome, the Director may waive the parking requirement if a parking study is completed and if adequate parking capacity exists. On-street parking shall be considered at capacity when the utilization rate is seventy-five (75) percent or greater within a four hundred (400) foot walking distance of the subject property. The parking waiver process cannot be used to eliminate existing parking spaces in order to create an accessory dwelling unit.) A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

a. If the portion of the single-family dwelling in which the accessory dwelling unit is located is a detached structure, the

formation and how to report non-compliance with the criteria before and after the permit is issued. The land use sign may be removed by the applicant within fourteen (14) days after final action on the application has been completed.)

(E) Single family Status Unaffected. A single family dwelling with an accessory dwelling unit shall be considered a single-family residence for purposes of recone criteria (Section 23.34.011).

(F. At least three (3) months prior to reaching the two thousand five hundred (2,500) limit on applications for new accessory dwelling units or on September 1, 1999, whichever is earlier, the Department of Construction and Land Use and the Strategic Planning Office shall submit to the City Council a report regarding accessory dwelling units established and, if deemed necessary, recommendations for revisions to the regulations and procedures related to accessory dwelling units. Such report shall include an analysis of the number, location and characteristics of accessory dwelling units (e.g., size, number of parking waivers granted, the number of previously unauthorized units legalized, etc.) and an analysis of the impacts of these units. Within six (6) months of receiving the report, the City Council shall review the report and consider the recommendations proposed. If the City has reached or is nearing two thousand five hundred (2,500) applications, the City Council shall determine whether to authorize further permits or otherwise revise the provisions. Any revisions that would involve amendments to the City's Comprehensive Plan shall be considered as part of the annual process for amending the Plan.

If applications are filed for permits for accessory dwelling units which would cause the concentration of new structures with accessory dwelling units to exceed twenty (20) percent of the number of single family residences in single-family zones in any one (1) census tract or in an area bounded by a circle with a radius of one thousand (1,000) feet from a point where three (3) or more census tracts meet, the Department of Construction and Land Use shall notify the City Council. Within three (3) months, that department shall submit a report to the City Council containing an analysis of the number, location and character of the single-family structures with accessory dwelling units in the tract or area exceeding the twenty (20) percent threshold. The City Council planning organization for the affected neighborhood shall submit a recommendation within three (3) months of that request regarding action to be taken. Within six (6) months of receiving the neighborhood planning organization's recommendation, the City Council shall review the report and consider the recommendations proposed. The City Council shall determine whether to authorize further permits or otherwise revise the provisions. Any revisions that would involve amendments to the City's Comprehensive Plan shall be considered as part of the annual process for amending that Plan.)

D. Every two (2) years, DCU shall prepare a report for the City Council stating the number and location of permits issued for new accessory housing units.

SECTION 3. Section 23.84.028 of the SMC, which was last amended by Ordinance 118472, is amended as follows:

23.84.028 "O."

"Owner occupancy" means an occupancy of a dwelling by the legal property owner as reflected in title records, or by the contract purchaser. The owner occupant of (the) a residence containing (the) an accessory dwelling unit must have an interest equal to or greater than any other partial owner of the property, and the owner occupant's interest must be fifty (50) percent or greater. (The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year and may not receive rent for the owner-occupied dwelling unit at any time during the year.)

SECTION 4. Subsection A of Section 23.90.019 of the SMC, which Section was last amended by Ordinance 118472, is amended as follows:

23.90.019 CIVIL PENALTY FOR UNAUTHORIZED DWELLING UNITS IN SINGLE FAMILY STRUCTURES.

A. In addition to any other sanction or remedial procedure which may be available, the following penalties shall apply to any owner of a single family structure with