

Ordinance No. 119896Council Bill No. 113120

The City of Seattle

Council Bill/Ordinance

AN ORDINANCE relating to enforcement of the Housing and Building Maintenance Code and the Land Use Code, making procedural modifications and corrections thereto, amending Sections 22.207.004, 22.207.006, 22.207.010, 22.207.012, 23.91.004, 23.91.006, 23.91.010 and 23.91.012 of the Seattle Municipal Code.

3-15-00 Hold - D3-21-00 Pass 3

CF No. _____

Date Introduced:	MAR 8 2000	
Date 1st Referred:	MAR 8 2000 To: (committee) landlord/Tenant & Land Use Committee	
Date Re - Referred:	MAR 8 2000 To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
Date Presented to Mayor:	Date Approved:	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetted by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

[Signature]

MICASTRO
Councilmember

Land

91.012

Committee Action:

3-15-00 Hold - Discussion

3-21-00 Pass 3-0 (UN, PS, MP)

This file is complete and ready for presentation to Full Council.

Committee: _____

(Initial/Date)

Law Department

Law Dept. Review

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Review

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City Clerk
Review

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ORDINANCE 119896

AN ORDINANCE relating to enforcement of the Housing and Building Maintenance Code and the Land Use Code, making procedural modifications and corrections thereto, amending Sections 22.207.004, 22.207.006, 22.207.010, 22.207.012, 23.91.004, 23.91.006, 23.91.010 and 23.91.012 of the Seattle Municipal Code.

WHEREAS the Washington land use petition act (RCW 36.70C) sets forth requirements for judicial review of land use decisions by local jurisdictions;

WHEREAS the decisions of the Seattle Hearing Examiner issued pursuant to SMC 22.207.012 and SMC 23.91.012 are land use decisions as defined in RCW 36.70C.020; and

WHEREAS minor procedural changes are needed and Ordinance 119509 contained minor errors that need correction.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 22.207.004 of the Seattle Municipal Code, which was adopted by Ordinance 119509, is amended as follows:

SMC 22.207.004 Citation.

A. Citation. If after investigation the Director determines that the standards or requirements of provisions referenced in Section 22.207.002 have been violated, the Director may issue a citation to the owner and/or other person or entity responsible for the violation. The citation shall include the following information((:)): 1) the name and address of the person to whom ((which)) the citation is issued; (2) a reasonable description of the location of the property on which the violation occurred; (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the person cited must respond to the citation within eighteen (18) ((fifteen (15))) days after service; (6) a space for entry of the applicable penalty; (7) a statement that a response must be received at ((sent to)) the Office of Hearing Examiner ((and postmarked)) not later than 5:00 p.m. ((midnight)) on the date the response is due; (8) the name, address and phone number of the Office of Hearing Examiner where the citation is to be filed; (9) a statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this chapter; and (10) a certified statement of the inspector issuing the citation, authorized by RCW 9A72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of



1 such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of
2 mailing (~~three (3) days after the date of mailing~~). If a citation sent by first class mail is returned as
undeliverable, service may be made by posting the citation at a conspicuous place on the property.

3 **Section 2.** Section 22.207.006 of the Seattle Municipal Code, which was adopted by Ordinance
4 119509, is amended as follows:

5 **SMC 22.207.006 Response to citations.**

6 A. A ~~Within fifteen (15) days after the date the citation is served,~~ a person must respond to a
citation in one (1) of the following ways:

7 1((A)). Paying the amount of the monetary penalty specified in the citation, in which case
8 the record shall show a finding that the person cited (~~has~~) committed the violation; or

9 2 ((B)). Requesting in writing a mitigation hearing to explain the circumstances surrounding
10 the commission of the violation and providing a mailing address to which notice of such hearing
may be sent; or

11 3 ((C)). Requesting a contested hearing in writing specifying the reason why the cited
12 violation did not occur or why the person cited is not responsible for the violation, and providing
a mailing address to which notice of such hearing may be sent.

13 B. A response to a citation must be received by the Office of the Hearing Examiner no later than
14 eighteen (18) days after the date the citation is served. When the last day of the appeal period so
computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the
next business day.

15 **Section 3.** Section 22.207.010 of the Seattle Municipal Code, which was adopted by Ordinance
16 119509, is amended as follows:

17 **22.207.010 Mitigation hearings.**

18 A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held
19 within thirty (30) days after written response to the citation requesting such hearing is received by the
Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to
20 the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

21 B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing, which shall not
22 be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not
be compelled to attend. A representative from DCLU may also be present and may present additional
23 information, but attendance by a representative from DCLU is not required.
24



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2 C. Disposition. The Hearing Examiner shall determine whether the person's explanation justifies
3 reduction of the monetary penalty; however, the monetary penalty may not be reduced unless ((the
4 ~~person provides at the hearing a certificate of compliance from~~) DCLU affirms or certifies that the
5 violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether
6 to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another;
7 or whether correction of the violation was commenced promptly prior to citation but that full
8 compliance was prevented by a condition or circumstance beyond the control of the person cited.

9
10 D. Entry of Order. After hearing the explanation of the person cited and any other information
11 presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited
12 committed the violation and assessing a monetary penalty in an amount determined pursuant to this
13 section. The Hearing Examiner's decision is the final decision of the City on this matter.

14
15 **Section 4.** Section 22.207.012 of the Seattle Municipal Code, which was adopted by Ordinance
16 119509, is amended as follows:

17
18 **22.207.012 Contested case hearing.**

19
20 A. Date and Notice. If a person requests a contested case hearing, the hearing shall be held
21 within sixty (60) days after the written response to the citation requesting such hearing is received.

22
23 B. Hearing. Contested case hearings shall be conducted pursuant to the procedures for hearing
24 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
hearing contested cases, except as modified by this section. The issues heard at the hearing shall be
limited to those raised in writing in the response to the citation and that are within the jurisdiction of the
Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the
production of documents.

C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed
statement of the facts constituting the specific violation which the person cited is alleged to have
committed or by reason of defects or imperfections, provided such lack of detail, or defects or
imperfections do not prejudice substantial rights of the person cited.

D. Amendment of Citation. A citation may be amended prior to the conclusion of the hearing to
conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

E. Evidence at Hearing. The certified statement or declaration authorized by RCW 9A.72.085
submitted by an inspector shall be prima facie evidence that a violation occurred and that the person
cited is responsible. The certified statement or declaration of the inspector authorized under RCW
9A.72.085 and any other evidence accompanying the report shall be admissible without further
evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also
be admissible without further evidentiary foundation. The person cited may rebut the DCLU evidence



1 and establish that the cited violation(s) did not occur or that the person contesting the citation is not
2 responsible for the violation.

3 F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an
4 order finding that the person cited committed the violation. If the violation remains uncorrected, the
5 Hearing Examiner shall impose the applicable penalty. The Hearing Examiner may reduce the monetary
6 penalty in accordance with the mitigation provisions in Section 22.207.010 if the violation has been
7 corrected. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner
8 shall enter an order dismissing the citation.

9 G. Appeal. The Hearing Examiner's decision (~~((shall be))~~) is the final decision of the City. Any
10 judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's
11 decision in accordance with RCW 36.70C.040 (~~((unless one of the parties initiates review by writ of~~
12 ~~certiorari in King County Superior Court within fifteen (15) days after entry of the Hearing Examiner's~~
13 ~~decision))~~)).

14 **Section 5.** Section 23.91.004 of the Seattle Municipal Code, which was adopted by Ordinance
15 119473, is amended as follows:

16 **SMC 23.91.004 Citation**

17 A. Citation. If after investigation the Director determines that the standards or requirements of
18 provisions referenced in Section 23.91.002 have been violated, the Director may issue a citation to the
19 owner and/or other person or entity responsible for the violation. The citation shall include the following
20 information(~~(;)~~): 1) the name and address of the person to whom (~~((which))~~) the citation is issued; (2) a
21 reasonable description of the location of the property on which the violation occurred; (3) a separate
22 statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the
23 person cited must respond to the citation within eighteen (18) (~~((fifteen (15)))~~) days after service; (6) a
24 space for entry of the applicable penalty; (7) a statement that a response must be sent to the Hearing
Examiner and received (~~((postmarked))~~) not later than 5:00 p.m. (~~((midnight))~~) on the date the response is
due; (8) the name, address and phone number of the Hearing Examiner where the citation is to be filed;
(9) a statement that the citation represents a determination that a violation has been committed by the
person named in the citation and that the determination shall be final unless contested as provided in this
chapter; and (10) a certified statement of the inspector issuing the citation, authorized by RCW
9A72.085, setting forth facts supporting issuance of the citation.

25 B. Service. The citation may be served by personal service in the manner set forth in RCW
26 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of
27 such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of
28 mailing (~~((three (3) days after the date of mailing))~~). If a citation sent by first class mail is returned as
undeliverable, service may be made by posting the citation at a conspicuous place on the property.

1 **Section 6.** Section 23.91.006 of the Seattle Municipal Code, which was adopted by Ordinance
2 119473, is amended as follows:

3 **SMC 23.91.006 Response to citations.**

4 A. A ~~Within fifteen (15) days after the date the citation is served,~~ a person must respond to a
citation in one (1) of the following ways:

5 1((A)). Paying the amount of the monetary penalty specified in the citation, in which case
6 the record shall show a finding that the person cited ((has)) committed the violation; or

7 2 ((B)). Requesting in writing a mitigation hearing to explain the circumstances surrounding
the commission of the violation and providing a mailing address to which notice of such hearing
8 may be sent; or

9 3 ((C)). Requesting a contested hearing in writing specifying the reason why the cited
violation did not occur or why the person cited is not responsible for the violation, and providing
10 a mailing address to which notice of such hearing may be sent.

11 B. A response to a citation must be received by the Office of the Hearing Examiner no later than
eighteen (18) days after the date the citation is served. When the last day of the appeal period so
computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the
next business day.

13 **Section 7.** Section 23.91.010 of the Seattle Municipal Code, which was adopted by Ordinance
14 119473, is amended as follows:

15 **23.91.010 Mitigation hearings.**

16 A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held
within thirty (30) days after written response to the citation requesting such hearing is received by the
17 Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to
the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

18 B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing which shall not
be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not
19 be compelled to attend. A representative from DCLU may also be present and may present additional
information, but attendance by a representative from DCLU is not required.
20

21 C. Disposition. The Hearing Examiner shall determine whether the person's explanation justifies
reduction of the monetary penalty; however, the monetary penalty may not be reduced unless ((the
22 ~~person provides at the hearing a certificate of compliance from~~)) DCLU affirms or certifies that the
violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether
23
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1 to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another;
2 or whether correction of the violation was commenced promptly prior to citation but that full
compliance was prevented by a condition or circumstance beyond the control of the person cited.

3 D. Entry of Order. After hearing the explanation of the person cited and any other information
4 presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited
5 committed the violation and assessing a monetary penalty in an amount determined pursuant to
6 trisection. The Hearing Examiner's decision is the final decision of the City on the matter.

7 **Section 8.** Section 23.91.012 of the Seattle Municipal Code, which was adopted by Ordinance
8 119473, is amended as follows:

9 **23.91.012 Contested hearing.**

10 A. Date and Notice. If a person requests a contested hearing, the hearing shall be held within
11 sixty (60) days after the written response to the citation requesting such hearing is received.

12 B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing
13 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
14 hearing contested cases, except as modified by this section. The issues heard at the hearing shall be
15 limited to those that are raised in writing in the response to the citation and that are within the
jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of
witnesses and the production of documents.

16 C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed
17 statement of the facts constituting the specific violation which the person cited is alleged to have
18 committed or by reason of defects or imperfections, provided such lack of detail, or defects or
19 imperfections do not prejudice substantial rights of the person cited.

20 D. Amendment of Citation. A citation may be amended prior to the conclusion of the hearing to
21 conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

22 E. Evidence at Hearing. The certified statement or declaration authorized by RCW 9A.72.085
23 submitted by an inspector shall be prima facie evidence that a violation occurred and that the person
24 cited is responsible. The certified statement or declaration of the inspector authorized under RCW
9A.72.085 and any other evidence accompanying the report shall be admissible without further
evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also
be admissible without further evidentiary foundation. The person cited may rebut the DCLU evidence
and establish that the cited violation(s) did not occur or that the person contesting the citation is not
responsible for the violation.

F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an
order finding that the person cited committed the violation. If the violation remains uncorrected, the

Hearing Examiner shall impose the applicable penalty. The Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in 23.91.010 if the violation has been corrected. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

G. Appeal. The Hearing Examiner's decision ((shall be)) is the final decision of the City. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision in accordance with RCW 36.70C.040 ((unless one of the parties initiates review by writ of certiorari in King County Superior Court within fifteen (15) days after entry of the Hearing Examiner's decision)).

Section 9. 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.

Passed by the City Council the 27th day of March, 2000, and signed by me in open session in authentication of its passage this 27th day of March, 2000.

Margaret Rogers
President _____ of the City Council

Approved by me this 30th day of March, 2000.

Paul Scull
Mayor

Filed by me this 31st day of March, 2000.

Judith E. Rupp
City Clerk

(Seal)





City of Seattle

Paul Schell, Mayor

Department of Design, Construction and Land Use

R. F. Krochalis, Director

MEMORANDUM

To: Margaret Pageler, City Council President, via
Margaret Klockars, Law Department

From: Rick Krochalis, Director *pk*

Date: February 17, 2000

Subject: Recommended Amendments to Citation Enforcement Process

With this memorandum we are transmitting for City Council consideration proposed legislation amending the City's citation enforcement system. At present, we are asking for limited, technical amendments to improve the process. In March we will be reporting to the Landlord/Tenant and Land Use Committee on our first six months using citations and our interest in expanding this approach in certain areas.

Background and Summary of Recommendations

The Department of Design, Construction and Land Use (DCLU) is proposing procedural amendments to the citation enforcement sections of the Housing and Building Maintenance Code and the Land Use Code. It is necessary to amend the provisions which establish a time frame for appealing citation decisions in order to comply with the Washington Land Use Petition Act (LUPA, RCW 36.70C). In addition, the proposed legislation includes other procedural changes to simplify administration for both the Hearing Examiner and DCLU.

Under LUPA, the period of time for appealing final local jurisdiction land use decisions is 21 days. "Land use decisions" include decisions on "the enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property" (RCW 36.70C.020). The proposed legislation would lengthen the period for appealing citations from 15 to 21 days.

To improve and simplify administration of the citation system, we are proposing several procedural changes. First, they would allow DCLU to certify or affirm at a mitigation hearing whether a property is in compliance with code standards, instead of requiring a respondent to bring a certificate of compliance issued by DCLU. Second, when a citation has been mailed to a responsible party, service would be deemed to have occurred as of the date of mailing instead of three days after mailing. At the same time, the time frame for responding to a citation would be lengthened from fifteen to eighteen days to ensure



that persons receiving a citation continue to have adequate time to respond. Lastly, responses to citations would have to be received by the Hearing Examiner on the last day of the response period, instead of being accepted if postmarked on the last day of the response period.

Interdepartmental review occurred in February 2000. Notice to the public was provided in the City's official newspaper, the *Daily Journal of Commerce*, and in DCLU's General Mailed Release. Additional notice will be provided in the March issue of DCLU's INFO. The draft legislation has been available at DCLU's Public Resource Center.

The costs associated with these amendments would be minimal and would be covered by existing resources.

SEPA Environmental Review Determination

The proposed legislation amending the City's Housing and Building Maintenance Code and Land Use Code to comply with the Washington Land Use Petition Act (RCW 36.70C) and to simplify administrative procedures is categorically exempt from threshold determination and EIS requirements per WAC 197-11-800(20).

Public Hearing Scheduled

A public hearing on this legislation has been scheduled before the City Council's Landlord/Tenant and Land Use Committee at 9:30 am, Tuesday, March 21, 2000.

If you have any questions about this proposed legislation, please contact Karen White of my staff by email at karen.white@ci.seattle.wa.us or by phone at (206) 233-3893.

kw
LUPATransmittal
2/14/2000



STATE OF WASHINGTON - KING COUNTY

116750

City of Seattle, City Clerk

—ss.

No. FULL ORDINAN

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:119896 ORD IN FUL

was published on

04/06/00

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

Subscribed and sworn to before me on

04/07/00

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 119809

AN ORDINANCE relating to enforcement of the Housing and Building Maintenance Code and the Land Use Code, making procedural modifications and corrections thereto, amending Sections 22.207.004, 22.207.006, 22.207.010, 22.207.013, 23.91.004, 23.91.006, 23.91.010 and 23.91.012 of the Seattle Municipal Code.

WHEREAS the Washington land use petition act (RCW 36.70C) sets forth requirements for judicial review of land use decisions by local jurisdictions;

WHEREAS the decisions of the Seattle Hearing Examiner issued pursuant to SMC 22.207.012 and SMC 23.91.012 are land use decisions as defined in RCW 36.70C-020; and

WHEREAS minor procedural changes are needed and Ordinance 119509 contained minor errors that need correction.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Section 22.207.004 of the Seattle Municipal Code, which was adopted by Ordinance 119509, is amended as follows:

SMC 22.207.004 CITATION.

A. Citation. If after investigation the Director determines that the standards or requirements of provisions referenced in Section 22.207.002 have been violated, the Director may issue a citation to the owner and/or other person or entity responsible for the violation. The citation shall include the following information((s)): (1) the name and address of the person to whom ((which)) the citation is issued; (2) a reasonable description of the location of the property on which the violation occurred; (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the person cited must respond to the citation within eighteen (18) ((fifteen (15))) days after service; (6) a space for entry of the applicable penalty; (7) a statement that a response must be received at ((sent to)) the Office of Hearing Examiner ((and postmarked)) not later than 5:00 p.m. ((midnight)) on the date the response is due; (8) the name, address and phone number of the Office of Hearing Examiner where the citation is to be filed; (9) a statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this chapter; and (10) a certified statement of the inspector issuing the citation, authorized by RCW 9A72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of mailing ((three (3) days after the date of mailing)). If a citation sent by first class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property.

SECTION 2. Section 22.207.006 of the Seattle Municipal Code, which was adopted by Ordinance 119509, is amended as follows:

SMC 22.207.006 RESPONSE TO CITATIONS.

A. AWithin fifteen (15) days after the date the citation is served, a person must respond to a citation in one (1) of the following ways:

1((A)). Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited ((has)) committed the violation; or

2 ((B)). Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or

3 ((C)). Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than eighteen (18) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

SECTION 3. Section 22.207.010 of the Seattle Municipal Code, which was adopted by Ordinance 119509, is amended as follows:

22.207.010 MITIGATION HEARINGS.

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within thirty (30) days

G. Appeal. The Hearing Examiner's decision ((shall be)) is the final decision of the City. Any judicial review must be commenced within two (2) days of issuance of the Hearing Examiner's decision in accordance with RCW 36.70C-040 (unless one of the parties initiates review by writ of certiorari in King County Superior Court within fifteen (15) days after entry of the Hearing Examiner's decision)).

SECTION 5. Section 23.91.004 of the Seattle Municipal Code, which was adopted by Ordinance 119473, is amended as follows:

SMC 23.91.004 CITATION

A. Citation. If after investigation the Director determines that the standards or requirements of provisions referenced in Section 23.91.002 have been violated, the Director may issue a citation to the owner and/or other person or entity responsible for the violation. The citation shall include the following information((s)): (1) the name and address of the person to whom ((which)) the citation is issued; (2) a reasonable description of the location of the property on which the violation occurred; (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the person cited must respond to the citation within eighteen (18) ((fifteen (15))) days after service; (6) a space for entry of the applicable penalty; (7) a statement that a response must be sent to the Hearing Examiner and received ((postmarked)) not later than 5:00 p.m. ((midnight)) on the date the response is due; (8) the name, address and phone number of the Hearing Examiner where the citation is to be filed; (9) a statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this chapter; and (10) a certified statement of the inspector issuing the citation, authorized by RCW 9A72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of mailing ((three (3) days after the date of mailing)). If a citation sent by first class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property.

SECTION 6. Section 23.91.006 of the Seattle Municipal Code, which was adopted by Ordinance 119473, is amended as follows:

SMC 23.91.006 RESPONSE TO CITATIONS.

A. AWithin fifteen (15) days after the date the citation is served, a person must respond to a citation in one (1) of the following ways:

1((A)). Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited ((has)) committed the violation; or

2 ((B)). Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or

3 ((C)). Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than eighteen (18) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

SECTION 7. Section 23.91.010 of the Seattle Municipal Code, which was adopted by Ordinance 119473, is amended as follows:

23.91.010 MITIGATION HEARINGS.

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within thirty (30) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing which shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not be compelled to attend. A representative from DCLU may also be present and may present additional information, but attendance by a representative from DCLU is not required.

C. Disposition. The Hearing Examiner shall determine whether the person's or

session in authenticatio, of its passage this 27th day of March, 2000.

MARGARET CARTER,
President of the City Council.
Approved by me this 31st day of March, 2000.
PAUL SCHELL,
Mayor.
Filed by me this 31st day of March, 2000.
(Seal) JUDITH E. PIPPIN,
City Clerk.
Publication ordered by JUDITH PIPPIN,
City Clerk.

((Boldface denotes deletion))

Date of official publication in Daily Journal of Commerce, Seattle, April 5, 2000.

4/6(116750)