

Ordinance No. 120087

Council Bill No. 113355

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to housing code enforcement, adding a new Section 22.206.217 to the Seattle Housing and Building Maintenance Code, SMC Chapter 22.200 et. seq., and amending Seattle Municipal Code Sections 22.200.030, 22.204.050, 22.206.130, 22.206.200, 22.206.220, 22.206.230, 22.206.250 and Section 22.206.280.

Oversee

9/8/00 Pass 2-
9-11-00 Passed

CF No. _____

Date Introduced:	SEP 5 2000	
Date 1st Referred:	SEP 5 2000	To: (committee) Landlord/Tenant & Land Use Committee
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	9-11-00	Full Council Vote: 8-0
Date Presented to Mayor:	9-12-00	Date Approved:
Date Returned to City Clerk:	9-15-00	Date Published: 18 PM
Date Vetted by Mayor:		T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Passed Over Veto:		Date Veto Published:
		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]
Councilmember

NICASTRO

Committee Action:

9/8/00 Pass 2-0 UN, PS

9-11-00 Passed 8-0 (Excused: Pageleu)

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

Committee: _____

(Initial/Date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

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Submitted for Council

5 ORDINANCE 120087

6 AN ORDINANCE relating to housing code enforcement, adding a new Section 22.206.217 to
7 the Seattle Housing and Building Maintenance Code, SMC Chapter 22.200 et. seq., and
8 amending Seattle Municipal Code Sections 22.200.030, 22.204.050, 22.206.130,
9 22.206.200, 22.206.220, 22.206.230, 22.206.250 and Section 22.206.280.

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

11 Section 1. Subsection B of Section 22.200.030 of the Seattle Municipal Code, which was
12 adopted by Ordinance 113545, is amended as follows:

13 22.200.030 Scope

14 * * *

15 B. The minimum standards set forth in SMC Sections 22.206.010 through 22.206.140
16 shall be advisory only for all housing units (~~which~~) that are owner-occupied and in which no
17 rooms are rented or leased to others, except as provided by Section 22.202.~~((010))~~035 for owner-
18 requested inspections; and

19 * * *

20 Section 2. Section 22.204.050 of the Seattle Municipal Code, which was last amended
21 by Ordinance 115671, is further amended as follows:

22 22.204.050 "D"

23 A. "Director" means the Director of the Department of Design, Construction and Land
24 Use for (~~of~~) the City of Seattle and/or the Director's designee.

25 B. "Dormitory" means a guest room containing two (2) or more beds.

26 C. "Dwelling" means any building containing two (2) or fewer dwelling units.

27 D. "Dwelling unit" means a building or portion of a building intended to be occupied by
28 one (1) family and containing sleeping, eating, cooking and sanitation facilities required by this
29 Code.



Section 3. Section 22.206.130 of the Seattle Municipal Code, which was last amended by Ordinance 115671, is further amended as follows:

22.206.130 Requirements.

A. Stair and Stairway Construction.

1. All stairs, except stairs to inaccessible service areas, exterior stairs on grade and winding, circular or spiral stairs shall have a minimum run of nine inches (9") and a maximum rise of eight inches (8") and a minimum width of thirty inches (30") from wall to wall. The rise and run may vary no more than one-half inch (1/2") in any flight of stairs.

2. All exterior stairs on grade and winding, circular and spiral stairs shall be in good repair and shall be configured for safe use and travel.

3. Every stairway (~~except stairs to inaccessible service areas,~~) having more than three (3) risers, except stairs to inaccessible service areas, shall have at least one (1) handrail mounted at least twenty-eight inches (28") but no more than forty-two inches (42") above the tread nose.

4. A landing having a minimum horizontal dimension of thirty inches (30") shall be provided at each point of access to a stairway; provided, that stairs to an inaccessible service area need not have such a landing. A door that swings away from a stairway is considered (~~shall be deemed~~) to have created a landing in the area of its swing.

5. Every required stairway shall have headroom clearance of not less than six feet six inches (6'6") measured vertically from the nearest tread nose to the nearest soffit.

6. Stairs or ladders within an individual dwelling unit used to gain access to intermediate floor areas of less than four hundred (400) square feet and not containing the primary bathroom or kitchen are exempt from the requirements of this subsection A.

B. Number of Exits.

1. Occupied floors containing one (1) or more housing unit(s) above the first floor or on any floor where the means of egress does not discharge within four feet (4'), measured vertically, of adjacent ground level (~~in a basement~~) shall have access to not less than two (2) unobstructed exits (~~which~~) that meet the standards of (~~this~~) SMC Section 22.206.130; provided, that:

~~(4)~~ a. Housing units (~~in a two (2) story building~~) may have a single exit if located on a second floor (~~which~~) that has an occupant load of not more than ten (10)



persons ~~((above the first floor))~~ or in a basement ~~((having))~~ that has an occupant load of not more than ten (10) persons~~((may have one (1) exit))~~; or

~~((2))~~ b. A housing unit ~~((on the second floor))~~ may have a single ~~((one (1)))~~ exit if the exit ~~((is a stairway or corridor leading directly to the outside and contains no openings in the stairway or corridor))~~ leads directly to a street, alley, other public right of way or yard

(1) At ground level; or

(2) By way of an exterior stairway; or

(3) By way of an enclosed stairway with a fire-resistant rating of one (1) hour or more that serves only that housing unit and has no connection with any other floor below the floor of the housing unit being served or any other area not a part of the housing unit being served; or

~~((3))~~ c. Housing units above the first floor or in a basement may have one (1) exit if:

~~((a-))~~ (1.) An approved automatic fire-sprinkler system is provided for ~~((all))~~ exit ways and common areas in the building, or

~~((b-))~~ (2.) Built to the single exit requirements of ~~((Chapter 33))~~ Code Alternate 1004.2b of the 1997 Seattle Building Code, adopted by Ordinance 119079, or the single exit provisions of the building code in effect when the building was constructed, altered, rehabilitated or repaired, whichever is least restrictive.

2. Floors other than those containing housing units shall meet the exit standards of the building code in effect when the building, structure or premises was constructed or, if altered, rehabilitated or repaired, shall meet the exit standards in effect when the floor was altered, rehabilitated or repaired.

~~((4))~~ 3. If two (2) exits are required, ~~((A))~~ a fire escape ~~((which))~~ that meets the standards of subsection D ~~((of this section))~~ may be used as one (1) of the required exits.

C. Stairway Enclosures.

1. The standards for stairway enclosures are ~~((shall be))~~ as follows:

a. The walls of all portions of a stairway enclosure shall be at least one (1) hour fire-resistive construction. Materials fastened to walls or floors of stairway enclosures shall



comply with the 1997 Seattle Building Code adopted by Ordinance 119079, Section ((4204)) 804; provided, that:

(1) Existing partitions forming part of a stairway enclosure shall be permitted in lieu of one (1) hour fire-resistive construction if they are constructed of lath and plaster that is not cracked, loose or broken; or

(2) Existing wainscoting and other decorative woodwork that ((which)) was lawful at the time of installation is permitted if it is coated with an approved fire-retardant.

b. Each opening onto a stairway enclosure shall be protected by a self-closing door and latching assembly providing fire-resistance equivalent to that provided by a solid wood door and assembly at least one and three-fourths inches (1-3/4") thick.

2. Stairway enclosures need not meet the above standards if:

a. A lawfully installed automatic fire-extinguishing system is provided for all corridors, stairs and common areas within the building; ((or))

b. The stairway enclosure connects to only two (2) floors and is not connected to corridors or stairways serving other floors; or

c. The stairway enclosure is in a dwelling unit.

D. Fire Escapes. An ((E)) existing fire escape((s)) that is ((are)) structurally sound may be used as one (1) means of egress, provided that the pitch does not exceed sixty degrees (60°), the width is not less than eighteen inches (18"), the run of the treads is not less than four inches (4"), and the fire escape ((they)) extends to the ground or is ((are)) provided with counterbalanced stairs reaching to the ground. Access to a fire escape shall be from an opening having a minimum dimension of twenty-nine inches (29") in all directions when open. The sill of a ((the)) fire escape window shall be no more than thirty inches (30") above the floor and the exterior landing.

E. Corridors, Doors and Openings.

1. Corridors shall have a fire-resistance not less than that of wood lath and plaster that is not cracked, loose or broken.

2. Existing dead-end corridors longer than thirty feet (30') that serve housing units((;)) shall be eliminated, unless an approved automatic sprinkler system is lawfully installed



throughout the affected corridor, or unless approved smoke detectors are lawfully installed outside the door of each housing unit whose corridor exit door is located beyond the thirty-foot (30') limitation. The detectors may be self-contained or installed as part of the electrical system.

3. Exit doors shall be self-closing, self-latching, and when serving an occupant load of fifty (50) or more shall swing in the direction of exit travel. Exit doors from housing units that ~~((which))~~ do not open directly into a stairway enclosure are ~~((shall be))~~ exempt from these requirements if they were installed and are maintained in accordance with safety codes and ordinances in effect at the time of installation.

4. Exit doors shall be openable from the inside without the use of a key or other special device, knowledge or effort.

5. All doors opening into a corridor ~~((, except doors opening directly to the outside,))~~ and not included as part of a stairway enclosure shall be of solid wood at least one and three-eighths inches (1-3/8") ~~((inches))~~ thick, or shall provide equivalent fire-resistance, except that doors opening directly to the outside, and doors in buildings where a lawfully installed automatic fire-sprinkler system is provided throughout all exitways and other public rooms and areas within the building need not meet this standard.

6. Transoms and openings other than doors, from corridors to rooms shall be fixed closed and shall be covered with a minimum of five-eighths-inch (5/8") gypsum Type "X" wallboard on both sides.

7. Gravity-closing metal overhead or pocket doors in an exit path shall be removed or shall be permanently secured in the open position.

8. All corridor walls, floors and ceilings shall be of one (1) hour fire-resistive construction, or shall be repaired in accordance with codes and ordinances in effect at the time the corridor was constructed.

F. Exit Signs. Every exit doorway or change of direction of a corridor shall be marked with a well-lighted exit sign or placard having green, legible letters at least five inches (5") high.

G. Enclosure of Vertical Openings.

1. Elevator shafts ~~((;))~~ and other vertical openings shall be protected with construction as required for stairway ~~((s))~~ enclosures in subsection C1 or by fixed wire-glass set in steel frames, or by assemblies ~~((which))~~ that comply with Chapter ~~((43))~~ 7 of the 1997 Seattle Building Code adopted by Ordinance 119079 ~~((, Fire Resistive Standards))~~.



2. Doors on vertical openings shall be of solid wood at least one and three-eighths inches (1-3/8") (~~inches~~) thick or shall provide equivalent fire resistance.

H. Separation of Occupancies. Occupancy separations shall be provided as specified in Section ~~((503))~~ 302 and Table ~~((5))~~ 3-B of the 1997 Seattle Building Code adopted by Ordinance 119709.

I. Guardrails. A guardrail shall be provided whenever walking surfaces, including stairs, are thirty inches (30") or more above adjacent surfaces, except in building service areas. Every guardrail shall be at least thirty-six inches (36") in height unless it is an existing guardrail (~~which~~) that was (~~constructed~~) in compliance with the standards in effect at the time the guardrail was constructed, is in good condition, and is between twenty-eight (28) and forty-two (42) inches (~~((42"))~~) in height. Open guardrails shall have intermediate rails.

J. Emergency Escape Windows and Doors.

1. (~~In buildings constructed after August 10, 1972, every~~) Every room (used for sleeping purposes) below the fourth story that was constructed for, converted to or established for sleeping purposes after August 10, 1972, shall have at least one (1) operable window or exterior door approved for emergency escape or rescue.

2. (~~Every room converted or established for sleeping purposes below the fourth story after August 10, 1972 shall have at least one (1) operable window or exterior door approved for emergency escape or rescue.~~)

~~((3))~~ Emergency escape windows and doors shall not open into (~~space~~) an area without a means of escape. The emergency escape window or door shall be operable from the inside to provide a full clear opening without the use of separate tools. All emergency escape windows shall have a minimum net clear opening of 5.7 square feet. The minimum net clear openable height dimension shall be twenty-four inches (24"). The minimum net clear openable width dimension shall be twenty inches (20"). When a window is provided as a means of escape or rescue, it shall have a finished sill height not more than forty-four inches (44") above the floor.

~~((4))~~3. Every room below the fourth story used for sleeping purposes (~~below the fourth story which~~) that had on January 1, 1990 an operable window or door that (~~meets~~) met the requirements of Section 1204 of the 1985 Seattle Building Code adopted by Ordinance 113700 and 113701, as amended, for emergency escape or rescue (~~rescue~~), regardless of the date of construction of the building, shall maintain that operable window or door as required by subsection J(~~(3))~~2 (~~of this section~~).



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5 K. Bars, grilles, grates or similar devices may be installed on emergency escape windows
or doors, provided:

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7 1. Such devices are equipped with approved release mechanisms (~~(which)~~) that are
openable from the inside without the use of a key or special knowledge or effort; and

8
9 2. The building is equipped with smoke detectors as required by this Code.

10 L. Dwellings (~~(shall be)~~) are exempt from the requirements of subsections B through H
11 of this section; provided, that for purposes of this subsection, no building containing residential
and (~~(commercial)~~) commercial uses or other similar mixed uses (~~(shall be deemed)~~) is considered
a dwelling.

12
13 **Section 4.** Subsection F of Section 22.206.200 of the Seattle Municipal Code, which was
last amended by Ordinance 118396, is amended as follows:

14 **22.206.200 Minimum standards for vacant buildings.**

15 * * *

16 **F. Inspection of Vacant Buildings.**

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18 1. When the Director has reason to believe that a building is vacant, the Director may
inspect the building and the premises. If the Director identifies a violation of the minimum
19 standards for vacant buildings, a (~~(n)~~)Notice of ((v))Violation shall be issued pursuant to SMC
20 Section 22.206.220. Thereafter the premises shall be inspected quarterly to determine whether
the building and its accessory structures are vacant and closed to entry in conformance with the
standards of this Code.

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22 2. Quarterly inspections shall cease at the earliest of the following:

23 a. When the building is repaired pursuant to the requirements of this Code and
reoccupied;

24
25 b. When the building is repaired pursuant to the requirements of this Code and has
subsequently been subject to three (3) consecutive quarterly inspections without further
26 violation; or

27 c. When the building and any accessory structures have been demolished.

28
29 3. A building or structure accessory thereto that remains vacant and open to entry after
the closure date in a Director's Order or (~~(n)~~)Notice of ((v))Violation is found and declared to be

a public nuisance. The Director is hereby authorized to summarily close the building to unauthorized entry. The costs of closure shall be collected from the owner in the manner provided by law.

4. Quarterly inspection charges shall be assessed and collected as a fee under the Permit Fee Ordinance (SMC Chapters 22.900((4))A -- 22.900((4))T).

Section 5. The title of Subchapter VII of the Seattle Municipal Code, which was adopted by Ordinance 113545, is hereby amended to read as follows:

Subchapter VII Alternative Materials and Design, Variances and Enforcement

* * *

Section 6. A new Section 22.206.217 is added to the Seattle Municipal Code, to read as follows:

22.206.217 Variances

A. The Director may grant a variance from the standards and requirements of SMC Sections 22.206.010 through 22.206.140 and Section 22.206.200 if the Director determines that all of the following conditions or circumstances exist:

1. Unusual conditions exist at the subject property which were not created by the current owner, tenant or occupant;

2. The requested variance does not go beyond the minimum necessary to afford relief;

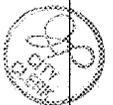
3. The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity;

4. The literal interpretation and strict application of the applicable provisions or requirements of this Code would cause undue hardship or practical difficulties; and

5. The requested variance would be consistent with the spirit and purpose of this Code.

B. Application for and Processing of Variances.

1. The current owner or tenant of a building may request a variance on a form provided by the Department. The request must describe the standards or requirements of SMC Sections



22.206.010 through 22.206.140 or of SMC Section 22.206.200 from which a variance is requested and explain how the requested variance complies with subsections (1) through (5) of SMC Section 22.202.217 A. A variance request must contain the address of the property, the name and address of all persons having an interest in the property, and the names and addresses of all parties affected by the condition or conditions for which a variance is requested, including all property owners and occupants. The Director shall establish by Rule submittal requirements for a variance request.

2. Upon receipt of a variance request, the Director shall contact the requestor to arrange the date and time of an inspection to view the conditions for which the variance is sought and to ascertain compliance with subsections (1) through (5) of SMC Section 22.202.217 A. The inspection shall be conducted within thirty (30) days after a variance request is received, unless a later inspection is agreed to by the requestor. The Director also shall notify in writing all other persons identified in the variance request of the request and of the opportunity to submit information or comments on the request. Comments about a variance request must be received by the Department within twenty (20) days after the date of mailing the notification of a variance request.

C. The Director shall decide whether to grant a variance within thirty (30) days after the inspection conducted pursuant to subsection B. When a variance is authorized, conditions or mitigating measures may be required as deemed necessary to ensure continued compliance with subsections (1) through (5) of SMC Section 22.202.217 A or to otherwise carry out the spirit and purpose of this Code. The variance decision shall be mailed to the requestor and to all affected parties identified in the written request for a variance and other interested parties who submitted information or comments about a variance request.

D. Records. The Director shall maintain a record in Department files of all variance requests and decisions. The record shall include findings regarding compliance with the conditions of subsections (1) through (5) of SMC Section 22.202.217 A and any conditions or mitigating measures required by the Director in granting the variance.

E. Appeal of Variance Decision. Any person with an ownership interest in a building or premises for which a variance request has been made, or any tenant of such property, may appeal the Director's decision on the variance by filing an appeal with the Hearing Examiner.

1. Variance appeals shall be filed with the Hearing Examiner, with the applicable filing fee specified in SMC Section 3.02.125, by five (5:00) p.m. of the twentieth day following the mailing of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. An appeal shall be deemed filed when it is actually received by the Hearing



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5 Examiner's Office. The Hearing Examiner's time and date stamp shall be prima facie evidence
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2. An appeal shall be in writing and shall state:

a. The name and address of the appellant;

b. The ownership or other interest of the appellant in the building or premises that is the subject of the variance decision;

c. The names and addresses of all tenants or other occupants of the building or premises and, if the appellant is an owner of the property, of all other persons with an ownership or other interest in the building or premises;

d. The specific objections to the Director's decision;

e. The relief sought.

3. Notice of a hearing on the appeal shall be mailed by the Hearing Examiner at least twenty (20) days prior to the scheduled hearing date to the Director and to all affected parties identified pursuant to subsection (c) of SMC Section 22.206.217 E2.

4. Appeals shall be considered de novo and shall be limited to objections raised in the appeal statement. The Director's decision shall be affirmed unless the Hearing Examiner finds the Director's decision to be clearly erroneous. The person requesting the variance shall have the burden of proving, by preponderance of the evidence, all elements related to justifying the variance.

5. Within thirty (30) days after the hearing is conducted, the Hearing Examiner shall issued a decision on a variance appeal. The Hearing Examiner's decision shall be mailed to the appellant, the Director and to other affected parties on the day it is issued.

6. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review shall be as provided by RCW 36.70C and must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 7. Section 22.206.220 of the Seattle Municipal Code, which was last amended by Ordinance 115671, is further amended as follows:

22.206.220 Notice of ((v))Violation.

A. The Director shall inspect any building or premises which the Director has reason to believe may not be in compliance with the standards and requirements of SMC Sections 22.206.010 through 22.206.170, and SMC Section 22.206.200 ~~((of this Code))~~. If the ~~((those))~~ standards and requirements of SMC Sections 22.206.010 through 22.206.120, Sections 22.206.150 through 22.206.170 or of Section 22.206.200 have not been met, the Director shall serve a ~~((n))~~ Notice of ~~((v))~~ Violation on the owner and/or other person responsible for the violation pursuant to this ~~((s))~~ Section. The ~~((n))~~ Notice of ~~((v))~~ Violation shall:

1. Identify each violation of the standards and requirements of this Code and the corrective action necessary to bring the building and premises into compliance; and

2. Specify a time for compliance.

B. No ~~((n))~~ Notice of ~~((v))~~ Violation shall be issued as a result of an advisory inspection performed pursuant to SMC Section 22.202.~~((040))~~035 unless~~((:))~~

~~((1-F))~~ the building is in condominium or cooperative ownership~~((:))~~

~~2. The building is occupied by a tenant or tenants and violations of Section 22.206.130 or Section 22.206.140 are found).~~

C. After a ~~((n))~~ Notice of ~~((v))~~ Violation or ~~((o))~~ Order has been filed with the King County Department of Records and Elections pursuant to SMC Section 22.206.220 J, a ~~((n))~~ Notice of ~~((v))~~ Violation or ~~((o))~~ Order for the same violation need not be served upon a new owner. If a new ~~((n))~~ Notice of ~~((v))~~ Violation is not issued and served upon a new owner, the Director shall grant the new owner the same number of days to comply with the ~~((n))~~ Notice of ~~((v))~~ Violation as was given the previous owner~~((:))~~ in the ~~((n))~~ Notice of ~~((v))~~ Violation. The compliance period shall be the number of days between the date of issuance of the ~~((n))~~ Notice of ~~((v))~~ Violation and the date for compliance stated in the text of the ~~((n))~~ Notice. The compliance period for the new owner shall begin on the date that the conveyance is completed.

D. The ~~((n))~~ Notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, at the person's last known address. If the address of the responsible person is unknown and cannot be found after a reasonable search, the ~~((n))~~ Notice may be served by publishing it once each week for two (2) consecutive weeks in the legal newspaper for the City, and by mailing to



the person a copy of the ((n))Notice or ((o))Order by first class mail to the last known address, or if unknown, to the address of the property subject to the ((n))Notice of ((v))Violation and by posting a copy of the ((n))Notice in a conspicuous place on the property. If a ((n))Notice of ((v))Violation is directed to a tenant or other person responsible for the violation who is not the owner, a copy of the ((n))Notice shall be sent to the owner of the property.

E. In addition, a copy of the ((n))Notice or ((o))Order may be posted at a conspicuous place on the property.

F. The Director may order that any other work in the building or on the premises be stopped until the violations in the ((n))Notice have been corrected if, in the Director's opinion, the continuation of other work will impair the owner's ability to comply with this Code in a timely manner.

G. Nothing herein shall hinder or limit in any manner the Director's authority or ability to bring an action pursuant to SMC Chapter 22.208 to abate a nuisance((s)) or to issue an emergency order pursuant to SMC Section 22.206.260.

H. In addition to serving and posting the ((n))Notice or ((o))Order, the Director may mail or cause to be delivered to all housing and/or commercial rental units in the building a notice which informs each occupant of the ((n))Notice of ((v))Violation and the relevant requirements and procedures.

I. In calculating a time for compliance, the Director shall consider:

1. The type and degree of violations found;
2. Applicable time limits for correction of similar violations ((as)) provided in the State Landlord-Tenant Act, RCW Chapter 59.18;
3. The responsible party's demonstrated intent to repair, demolish, or vacate and close the building. ((as evidenced by)) Evidence of the responsible party's intent may include, but is not limited to:

a. A signed construction contract with a licensed contractor to perform the required work by a specific date and for reasonable compensation((s));

b. Proof of the availability of financial resources to perform the required work with such funds placed in a segregated account to be used only for required repairs or a binding commitment from an established lending institution providing sufficient funds to complete the required repairs;



c. The filing of a complete application for any permit required to perform the required work and evidence of payment of any required fees;

4. The procedural requirements for obtaining a permit to correct the violations;

5. The complexity of the repairs, seasonal considerations, construction requirements and the legal prerogatives of tenants; and

6. Circumstances beyond the control of the responsible person.

J. Unless a request for review by the Director is made in accordance with SMC Section 22.206.230, a ~~((n))~~Notice of ~~((v))~~Violation shall be the decision of the Director. A copy of the ~~((n))~~Notice of ~~((v))~~Violation shall be filed with the King County Department of Records and Elections. The Director is not required to file a copy of the ~~((n))~~Notice of ~~((v))~~Violation if the ~~((n))~~Notice is directed only to a tenant or tenants.

Section 8. Section 22.206.230 of the Seattle Municipal Code, which was last amended by Ordinance 118441, is further amended as follows:

22.206.230 Review by the Director

A. Any person affected by a ~~((n))~~Notice of ~~((v))~~Violation issued ~~((by the Director))~~ pursuant to SMC Section 22.206.220 may ~~((obtain))~~ request a review of the ~~((n))~~Notice by the Director. ~~((by requesting such review))~~ Such a request must be made in writing within ten (10) days after service of the ((n))Notice. When the last day of the period so computed is a Saturday, Sunday, federal or City holiday, the period shall run until five (5:00) p.m. of the next business day.

B. Within seven (7) days of ((Upon)) receipt of a review request the Director shall notify by mail the person requesting the review, any persons served the ((n))Notice of ((v))Violation, and any person who has requested notice of the review, of the ((date, time and place of the Director's review. The review)) request for a review and the deadline for submitting additional information. Additional information shall be ((not less than ten (10) nor more than)) submitted to the Director no later than fifteen (15) ((twenty (20))) days after the notice of a request for a review is ((received)) mailed, unless otherwise agreed by the person requesting the review. ((Any person affected by the notice of violation may submit any written material to the Director for consideration on or before the date of the review)).

~~((B))~~ C. The Director or ((The review will consist of an informal review meeting held at the Department. A)) a representative of the Director who is familiar with the case and the



applicable ordinances will ~~((attend-))~~ review any additional information that is submitted and the basis for issuance of the Notice of Violation. ~~((The Director's representative shall explain the reasons for the issuance of the notice of violation and will consider any information presented by the persons attending.))~~ The reviewer may request clarification of information received and a site visit. ~~((At or a))~~ After the review, the Director shall:

1. Sustain the ~~((n))~~ Notice of ~~((v))~~ Violation; or
2. Withdraw the ~~((n))~~ Notice of ~~((v))~~ Violation; or
3. Continue the review to a ~~((future))~~ date certain for receipt of additional information; or
4. Amend the ~~((n))~~ Notice of ~~((v))~~ Violation. ~~((; or~~
5. ~~Grant a variance from the standards and requirements of Sections 22.206.010 through 22.206.200 if the Director determines that all of the following conditions or circumstances exist:~~
 - a. ~~Because of unusual conditions applicable to the subject property, which were not created by the owner or applicant, the strict application of this code would deprive the property owner of rights and privileges enjoyed by other similar properties; and~~
 - b. ~~The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon similar properties; and~~
 - c. ~~The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity; and~~
 - d. ~~The literal interpretation and strict application of the applicable provisions or requirements of this Code would cause undue and unnecessary hardship; and~~
 - e. ~~The requested variance would be consistent with the spirit and purpose of this Code.)~~

~~((C))~~ D. The Director shall issue a decision within ~~((seven (7) working days after the conclusion of the review))~~ fifteen (15) days after the deadline for submittal of additional information. The decision shall served, posted and filed in the manner provided in SMC Section 22.206.220. When the decision affects only a tenant or tenants, the Director is not required to file the decision with the King County Department of Records and Elections.



Section 9. Section 22.206.250 of the Seattle Municipal Code, which was last amended by Ordinance 115671, is further amended as follows:

22.206.250 Compliance

A. Compliance with a ~~((n))~~Notice, ~~((o))~~Order or decision issued pursuant to this Code shall be the responsibility of each person named ~~((eited))~~ in and served with the ~~((n))~~Notice, ~~((o))~~Order or decision. ~~((Whether cited or not, the owner of rental housing units shall always be responsible for compliance with the requirements of Sections 22.206.010 through 22.206.160 and with Sections 22.206.200 and 22.206.260 of this Code.))~~

B. Until ~~((When the Director finds))~~ a property owner or other person named in a Notice, Order or decision demonstrates, and the Director confirms by inspection, that the obligations imposed by ~~((a notice or order))~~ the standards established in this Code have been fulfilled ~~((in accordance with the standards in Sections 22.206.010 through 22.206.200)),~~ there shall be a rebuttable presumption affecting the burden of proof at trial that the violations listed in such Notice, Order or decision have not been corrected, provided, that there shall be no rebuttable presumption in any criminal prosecution under SMC Section 22.206.290. When a person named in a Notice, Order or decision demonstrates, and the Director confirms by inspection, compliance with such Notice, Order or decision and the standards established in this Code, the Director shall issue a certificate of compliance~~((;))~~ certifying that, as of the date of inspection ~~((issue))~~, the violations cited in the ~~((n))~~Notice, ~~((o))~~Order or decision have been corrected.

C. ~~((Demolition and removal of the building within the period of time set for compliance and in compliance with the Housing Preservation Ordinance (SMC Chapter 22.210) shall constitute compliance with this Code.))~~

~~((D.))~~ On issuance of a certificate of compliance, the Director warrants only that the violations listed in the ~~((n))~~Notice, ~~((o))~~Order or decision have been corrected as required by this Code. The Director makes no representation concerning other conditions in buildings, or of any equipment therein that is not listed in the ~~((n))~~Notice of ~~((v))~~Violation. ~~((and))~~ The Director shall not be responsible for any injury, damage, death or other loss of any kind sustained by any person~~((, organization or corporation))~~ arising out of any condition of the building, structure or equipment.



Section 10. Section 22.206.280 of the Seattle Municipal Code, which was last amended by Ordinance 118441, is further amended as follows:

22.206.280 Civil penalty.

A. In addition to any other sanction or remedial procedure (~~which~~) that may be available, any person violating or failing to comply with any requirement of this Code shall be subject to a cumulative civil penalty in the amount of:

(1) Fifteen Dollars (\$15.00) per day for each housing unit in violation, and Fifteen Dollars (\$15.00) per day for violations in the common area or on the premises surrounding the building or structure, from the date set for compliance until the person complies with the requirements of this Code((-)); or

(2) Seventy-five Dollars (\$75.00) per day for each building in violation of the standards contained in SMC Section 22.206.200, from the date set for compliance until the person complies with the requirements of that Section.

B. Any person who does not comply with an emergency order issued by the Director pursuant to this SMC Chapter 22.206 shall be subject to a cumulative civil penalty in the amount of One Hundred Dollars (\$100.00) per day from the date set for compliance until the Director certifies that the requirements of the emergency order are fully complied with.

C. Any owner who fails to pay relocation assistance as required by subsection F of SMC Section 22.206.260 shall be subject to a cumulative civil penalty in the amount of One Hundred Dollars (\$100.00) per day for each tenant who is entitled to receive but who does not receive the required relocation assistance from the day such payment is required by this Code until the required payments are made.

D. In addition to any other sanction or remedial procedure (~~which~~) that may be available, any owner of housing units who violates SMC Section 22.206.160 C6 shall be subject to a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500.00).

E. In addition to any other sanction or remedial procedure (~~which~~) that may be available, anyone who obstructs, impedes, or interferes with an attempt to inspect a building or premises pursuant to the authority of an inspection warrant issued by any court or an attempt to inspect a housing unit after consent to inspect is given by a tenant of the housing unit shall be subject to a civil penalty of not more than One Thousand Dollars (\$1000.00).

F. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty. The City Attorney shall, with the assistance of the Director, take



appropriate action to collect the penalty. In any civil action for a penalty, the Director has the burden of proving by a preponderance of the evidence that a violation exists or existed and was not corrected by the date established by the Director in a Notice, Order or decision; the issuance of a Notice of Violation or an Order following a review by the Director is not itself evidence that a violation exists.

G. The violator may show, in mitigation of liability, that correction of the violation was commenced promptly upon receipt of notice, but that compliance within the time specified was prevented by an inability to obtain necessary materials or labor, inability to gain access to the subject building, or other condition or circumstance beyond the control of the violator, and upon a showing of the above described conditions, the court may enter judgment for less than the maximum penalty.

Section 11. Pursuant to the authority of RCW 36.70B.140(2), the processing of applications for variances pursuant to Section 5 of this Ordinance and SMC Section 22.206.217 is excluded from the provisions of RCW Sections 36.70B.060 and RCW Sections 36.70B.110 through 36.70B.130.

Section 12. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

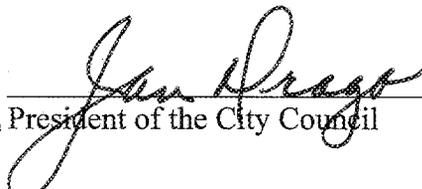
Section 13. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by SMC Section 1.04.020, except as follows:

1. The enactment of SMC Section 22.206.217 shall not be effective as to those Notices of Violation issued prior to the effective date of this ordinance;



5 2. The amendments to SMC Sections 22.206.220, 22.206.230 and 22.206.250 shall not
6 be effective as to those Notices of Violation issued before the effective date of this ordinance, so
7 that except as specifically provided in this Section, Notices of Violation issued prior to the
8 effective date of this Ordinance shall be enforced pursuant to SMC Chapter 22.206 as if this
9 Ordinance had not been enacted.

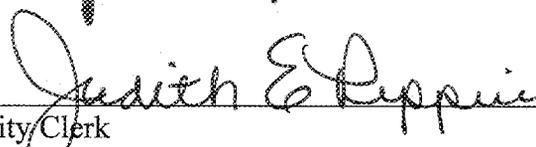
10 Passed by the City Council the 11th day of September 2000, and signed by me in
11 open session in authentication of its passage this 11th day of September, 2000.

12 
13 Pro Tem President of the City Council

14 Approved by me this 15th day of SEPTEMBER, 2000.

15 
16 Paul Schell, Mayor

17 Filed by me this 15th day of September, 2000.

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19 City Clerk

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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 *ns J. Glenn for*

From: *R. F. Krochalis*
Rick Krochalis, Director

Date: August 21, 2000

Subject: Recommended Amendments to Housing and Building Maintenance Code

With this memorandum we are transmitting for City Council consideration proposed amendments to the Housing and Building Maintenance Code (HBMC). A number of the amendments are technical corrections to clarify existing requirements and update code references. In addition DCLU is proposing to increase civil penalties for violating housing code standards for vacant buildings, streamline the procedure for reviewing issued violation notices, and accommodate requests for variances from code standards subject to citation enforcement.

Background and Summary of Recommendations

The Department of Design, Construction and Land Use (DCLU) is proposing the following amendments to the HBMC:

1. Increase from \$15.00 per day to \$75.00 per day the civil penalty for violations of the standards for maintaining vacant buildings.

This proposal is intended, first, to encourage owners of vacant buildings with violations to correct the violations and second, to increase the likelihood that the buildings will be returned to use. Our goals include reducing neighborhood blight and unsafe conditions, eliminating situations that attract unauthorized entry and illegal activity, and encouraging the continued use of the city's housing stock. The proposed penalty amount is intended to more closely align with penalties applied under the Land Use Code, where a violation may incur a penalty of either \$75.00 per day under a Notice of Violation, \$100 under a first citation or \$500 under a subsequent citation. We believe it is appropriate for vacant building penalties to be similar to Land Use Code penalties because these types of violations can have blighting effects similar to certain Land Use violations, such as junk storage.



2. Implement new procedures for processing requests for variances from HBMC requirements. Propose changes to the substantive requirements for variances which would make it slightly easier to qualify for a variance.

Current HBMC provisions require that a Notice of Violation (NOV) first must be issued before a property owner has an opportunity to request a variance from housing code standards. In 1999, however, some housing code provisions began to be enforced by citation instead of NOV. Thus it is impossible for a variance to be sought for those provisions that are now enforced by citation: requirements for exits and for security. Historically, variances from exit and security standards have been fairly common. For example, some older buildings, which do not meet current requirements for stairways, can be made safe in their current configuration. The proposal would provide an opportunity to request a variance from most of the requirements for renter-occupied housing without first receiving a NOV.

As proposed, building owners and tenants would be able to request a variance and would have to show that the criteria for variances can be satisfied. The proposed process would inform and seek input from all owners and tenants at a property for which a variance has been requested, would require an inspection of the premises to view the conditions for which a variance is sought, and would provide a procedure for appealing DCLU's decision to the Hearing Examiner. The proposal would allow DCLU to impose conditions or require mitigating measures if deemed necessary for compliance with the code.

In addition, the proposal would change the substantive requirements for variances to make it slightly easier to qualify for a variance. First, it would remove the language requiring comparison to other similar properties, provisions which were modeled on the Land Use Code. For the housing code, however, comparisons with other properties are not as relevant as health, safety, sanitation, and minimizing the potential for injury.

Second, the proposal would allow a variance in order to avoid "undue hardship or practical difficulties" instead of allowing a variance only to avoid "undue and unnecessary hardship." The proposed standard is more practical and is similar to the language for the equivalent standard in the Land Use Code.

3. Simplify the procedure for requested reviews of Notices of Violation by the Director by eliminating the requirement for a meeting at the department and adjusting process time frames.

The proposal would eliminate the requirement for holding a meeting at the department while continuing to allow all interested parties to a NOV to submit relevant information for consideration in the review. Similar changes were made to the Land Use Code in 1999.



As proposed, there would be no change in the time frame for requesting a review. Interested parties would be notified of the review and would have fifteen days to submit additional information after a review notice is mailed. The reviewer could request additional information and a site visit, and would be required to issue a decision within fifteen days after the deadline for submittal of additional information.

4. Clarify language on complying with notices or orders issued under HBMC. Add a rebuttable presumption that violations have not been corrected if compliance is not demonstrated and confirmed by DCLU inspection. Add language to clarify the burden of proof in an action for civil penalties.

It is not unusual for a tenant who files a complaint of housing code violations to move out of the unit after a NOV has been issued and before or during repairs. An ongoing issue for enforcement staff is the difficulty created when an inspector is denied access to the unit to verify that violations have been cured. The proposal would create a rebuttable presumption affecting the burden of proof at trial that violations cited in a NOV have not been corrected. It is hoped that this change would motivate more property owners to allow the inspector access to verify compliance, and it would improve DCLU's ability to prosecute violation cases for civil penalties when access is denied.

The proposal also adds language stating that in any civil action to collect a penalty for a violation, DCLU has the burden of proving by a preponderance of the evidence that a violation was found and not corrected by the compliance date and cannot rely only on issuance of a violation notice or other order to prove that a violation existed. This language does not change the status quo, rather it is added to clarify that this is the way the enforcement system currently works.

5. Clarify and improve the readability of the language for technical requirements for stairs and stairway construction; number of exits; stairway enclosures; fire escapes; corridors, doors and openings; enclosure of vertical openings; separation of occupancies; guardrails; bars, grilles, grates and similar devices; and requirements for dwellings. Clarify the requirements for emergency escape windows and doors, including the addition of substantive requirements to the HBMC which currently are incorporated by reference to the Seattle Building Code. Update changed Seattle Building Code references.

The proposal contains a number of grammatical and syntactical changes to several technical requirements which do not change the current standards but are intended to improve the clarity of the code language and to incorporate into the HBMC some Building Code standards which are currently incorporated by reference. In addition, the Seattle Building Code was reorganized relatively recently, and the proposal would update the relevant Building Code references which have changed.

6. Update the department name and correct references to other code sections. Remove reference to code provisions which have been repealed.



Review Process

Interdepartmental review occurred in June, July and August. Notice to the public was published 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 September issue of DCLU's INFO. The draft legislation is available at DCLU's Public Resource Center and has been sent to interested parties.

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

SEPA Environmental Review Determination

A Determination of Non-significance with no recommended conditioning will be published on Thursday, August 24, 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 telephone at (206)233-3893.

kw
HBMC Ord Transmittal
8/18/2000





STATE OF WASHINGTON - KING COUNTY

123073
City of Seattle, Clerk's Office

—ss.

No. ORDINANCE IN

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:120087 ORD IF FUL

was published on
10/04/00

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

[Handwritten signature]
Subscribed and sworn to before me on
10/04/00
[Handwritten signature]
Notary Public for the State of Washington,
residing in Seattle

