

Ordinance No. 120302

Council Bill No. 113589

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE amending various sections of the Housing and Building Maintenance Code, Chapter 22 of the Seattle Municipal Code, concerning landlords and tenants, decriminalizing and amending sections that prohibit owners from taking certain actions against tenants, amending the penalties and adding a new section providing for additional remedies available for violations thereof, and amending various other sections to be consistent with the above.

3-6-01 Pass as am

Divided

CF No. _____

Date Introduced: <u>3-5-01</u>		
Date 1st Referred: <u>3-5-01</u>	To: (committee) <u>Landlord/Tenant + Land Use</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>3-26-01</u>	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor: <u>3-27-01</u>	Date Approved: <u>3/30/01</u>	
Date Returned to City Clerk: <u>4/2/01</u>	Date Published: <u>9 PM</u>	T.O. <input checked="" type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

3-26-01 Pass

(No)

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

[Handwritten Signature]

Councilmember

Committee Action:

3-6-01 Pass as amended (3-1) (Yes - UN, PS, MP / NO - UC)

Divided Report

(Handwritten mark)

3-26-01 Passed as Amended 6-3

(No: Compton, Drago, Melpner)

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

Committee: _____

(initials)

Law Department

Law Dept. Review

OMP Review

(Handwritten mark)

City Clerk Review

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Indexed

ORDINANCE 120302

AN ORDINANCE amending various sections of the Housing and Building Maintenance Code, Chapter 22 of the Seattle Municipal Code, concerning landlords and tenants, decriminalizing and amending sections that prohibit owners from taking certain actions against tenants, amending the penalties and adding a new section providing for additional remedies available for violations thereof, and amending various other sections to be consistent with the above.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 22.202.010 of the Seattle Municipal Code, which section was last amended by Ordinance 113545, is hereby amended as follows:

SMC 22.202.010 Enforcement authority--Rules.

A. ~~((Enforcement))~~ Enforcement. The Director is hereby designated the City Official to exercise the powers granted by this Code, except that the Chief of Police ~~((shall be responsible for the enforcement of))~~ is authorized to administer and enforce SMC sections ((Sections)) 22.206.180 and 22.206.190 and shall have equal ((responsibility)) authority with the Director for enforcement of SMC ((Sections)) sections 22.206.140 and 22.206.160 B3. In enforcing SMC sections 22.206.180 and 22.206.190, the Chief of Police shall encourage any owner(s) and tenant(s) involved to engage in mediation or binding arbitration pursuant to RCW 59.18.315 through RCW 59.18.350 of the State Residential Landlord Tenant Act to resolve outstanding disputes between them.

B. ~~((Rules))~~ Rules. The Director is authorized to adopt, in accordance with the Administrative Code of The City of Seattle, such rules as are necessary to implement the requirements of this Code and to carry out the duties of the Director hereunder.

Section 2. Section 22.206.180 of the Seattle Municipal Code, which section was last amended by Ordinance 113545, is hereby amended as follows:



1 **SMC 22.206.180 (~~(Harassing or retaliating against tenant)~~) Prohibited acts by owners.**

2 A. Except as otherwise specifically required or allowed by this Code or by the Residential
3 Landlord Tenant Act, chapter 59.18 RCW, it (~~(It)~~) is unlawful for any owner to (~~(interfere with a tenant's~~
4 peaceable possession of the building or premises or by committing any of the following acts)):

5 1. (~~(Changing)~~) Change or (~~(tampering)~~) tamper with any lock or locks on a door or
6 doors used by the tenant; or

7 2. (~~(Removing)~~) Remove any door, window, fuse box, or other equipment, fixtures, or
8 furniture; or

9 3. (~~(Requesting)~~) Request, (~~(causing)~~) cause or (~~(allowing)~~) allow any gas, electricity,
10 water or other utility service supplied by the owner to be discontinued; or

11 4. (~~(Removing)~~) Remove or (~~(excluding)~~) exclude a tenant from the premises except
12 pursuant to legal process; or

13 5. (~~(Evicting)~~) Evict, (~~(increasing)~~) increase rent, reduce services, increase the
14 obligations of a tenant or otherwise (~~(imposing, threatening or attempting)~~) impose, threaten, or attempt any
15 punitive measure against a tenant for the reason that the tenant has in good faith reported violations of this
16 Code to the Department of Design, Construction and Land Use(~~(s)~~) or to the Seattle Police Department, or
17 otherwise asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out
18 of the tenant's occupancy of the building; or

19 6. (~~(Entering)~~) Enter a tenant's housing unit or premises except:

20 a. At reasonable times with the tenant's consent, after giving the tenant:

21 (i) at least two (2) days' notice of intent to enter(~~(s)~~) for the purpose of
22 inspecting the premises, making necessary or agreed repairs, alterations or
23 improvements, or supplying necessary or agreed services(~~(s)~~); or



1 (ii) at least one (1) day's notice for the purpose of exhibiting the dwelling
2 unit to prospective or actual purchasers, (~~mortgages~~) mortgagees, tenants, workers
3 or contractors; or

4 b. In an emergency ; or

5 c. In case of abandonment as defined by state law ((-)) ; or

6 7. Prohibit a tenant or the tenant's authorized agent or agents, if accompanied by the
7 tenant, from engaging in the following activities when related to building affairs or tenant organization:

8 a. Distributing leaflets in a lobby and other common areas and at or under
9 tenants' doors;

10 b. Posting information on bulletin boards, provided that tenants comply with
11 all generally applicable rules of the landlord governing the use of such boards.

12 Such rules cannot specifically exclude the posting of information related to tenant
13 organizing activities if the rules permit posting of other types of information by
14 tenants;

15 c. Initiating contact with tenants;

16 d. Assisting tenants to participate in tenant organization activities;

17 e. Holding meetings, including political caucuses or forums for speeches of
18 public officials or candidates for public office, unattended by management,

19 conducted at reasonable times and in an orderly manner on the premises, held in any
20 community rooms or recreation rooms if these rooms are open for the use of the

21 tenants; provided that the tenant complies with all other generally applicable rules
22 of the landlord governing the use of such rooms. Any generally applicable rules

23 must be written and posted in or near such a room. If a community or recreation
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1 room is not available, meetings may take place in common areas which include a
2 laundry room, hallway or lobby; provided all generally applicable rules of the
3 landlord governing such common areas and applicable fire and safety codes are
4 followed.

5 B. The following rebuttable presumptions shall apply in any proceeding to collect a civil
6 penalty for violation of subsection 22.206.180 A5.

7 1. Any owner who takes any action listed in subsection 22.206.180 A5 within ninety
8 (90) days after a tenant has in good faith reported violations of this Code (chapter 22.206 SMC) to the
9 Department of Design, Construction and Land Use or to the Seattle Police Department, or otherwise
10 asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out of a
11 tenant's occupancy of the building, or within ninety (90) days after any inspection or proceeding by a
12 governmental agency resulting from such legal right asserted, exercised or attempted to be exercised by a
13 tenant, creates a rebuttable presumption affecting the burden of proof that the action was taken for the
14 reason that the tenant had in good faith reported violations of this Code to the Department of Design,
15 Construction and Land Use or to the Seattle Police Department or otherwise asserted, exercised or
16 attempted to exercise any legal rights granted the tenant by law; except that, if at the time an owner gives a
17 notice of termination of tenancy pursuant to chapter 59.12 RCW, the tenant is in arrears in rent or in breach
18 of any other lease or rental obligation, there is a rebuttable presumption that the landlord's action is neither
19 a reprisal nor retaliatory action against the tenant.

20 2. A tenant who makes a complaint or report to a governmental authority about an
21 owner or owner's property within ninety (90) days after notice of a proposed increase in rent or other action
22 in good faith by the owner creates a rebuttable presumption that the complaint or report was not made in
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1 good faith, unless the complaint or report was that the proposed increase in rent or other action was
2 unlawful, in which case no such presumption applies.

3 3. The rebuttable presumption under subsection 22.206.180 B1 shall not apply with
4 respect to an increase in rent if the owner, in a notice to the tenant of an increase in rent, specifies
5 reasonable grounds for said increase and the notice of said increase does not violate SMC section
6 7.24.030A.

7
8 **Section 3.** Section 22.206.280 of the Seattle Municipal Code, which section was last amended
9 by Ordinance 120087, is hereby amended as follows:

10 **SMC 22.206.280 Civil penalty.**

11 A. In addition to any other sanction or remedial procedure that may be available and except for
12 violations of SMC section 22.206.180, any person violating or failing to comply with any requirement of
13 this Code shall be subject to a cumulative civil penalty in the amount of:

14 (1) Fifteen Dollars (\$15.00) per day for each housing unit in violation, and Fifteen Dollars
15 (\$15.00) per day for violations in the common area or on the premises surrounding the building or
16 structure, from the date set for compliance until the person complies with the requirements of this
17 Code; or

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

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

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

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

11 E. In addition to any other sanction or remedial procedure that may be available, anyone who
12 obstructs, impedes, or interferes with an attempt to inspect a building or premises pursuant to the authority
13 of an inspection warrant issued by any court or an attempt to inspect a housing unit after consent to inspect
14 is given by a tenant of the housing unit shall be subject to a civil penalty of not more than One Thousand
15 Dollars (\$1,000.00).

16 F. Any person who violates or fails to comply with subsection 22.206.180A(5),
17 22.206.180A(6), or 22.206.180A(7) shall be subject to a cumulative civil penalty in an amount not less than
18 One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) per violation. Each day
19 that a separate act or inaction occurs that is a violation of subsection 22.206.180A(5), 22.206.180A (6) or
20 22.206.180A (7) constitutes a separate violation..

21 G. The Director shall notify the City Attorney in writing of the name of any person subject to a
22 civil ((the)) penalty((-)) for violations of this Code, except that for violations of SMC section 22.206.180,
23 the Chief of Police shall notify the City Attorney. The City Attorney shall ((-with the assistance of the
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1 Director,) take appropriate action to collect the penalty. In any civil action for a penalty, the ((Director))
2 City has the burden of proving by a preponderance of the evidence that a violation exists or existed and, for
3 violations of sections other than SMC section 22.206.180, that the violation was not corrected by the date
4 established by the Director in a notice, order or decision ((;the)). The issuance of a notice of violation or an
5 order following review by the Director is not itself evidence that a violation exists.

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

11
12 **Section 4.** Section 22.206.290 of the Seattle Municipal Code, which section was last amended
13 by Ordinance 115671, is hereby amended as follows:

14 **SMC 22.206.290 Criminal penalties.**

15 A. Violation of subsection 22.206.180A(1), 22.206.180A(2), 22.206.180A(3), or
16 22.206.180A(4) of the Seattle Municipal Code, or of section 22.206.190 of the Seattle Municipal Code is a
17 gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability
18 shall be imposed for a violation of subsection 22.206.180A(1), 22.206.180A(2), 22.206.180A(3),
19 22.206.180A(4) or of subsection 22.206.190A or 22.206.190B of the Seattle Municipal Code, and none of
20 the mental states described in section 12A.04.030 need be proved. ((Anyone who violates or fails to comply
21 with the requirements of Sections 22.206.180 or 22.206.190)) No person other than he or she who
22 commits the act will be found guilty without a finding in accord with SMC 12A.04.130(B)(1) or SMC
23 12A.04.130 (B)(3). Violators shall, upon conviction:



1. Be fined in a sum not exceeding Five Thousand Dollars (\$5,000.00); and/or
2. Be imprisoned for a term not exceeding one (1) year.

B. A fine not to exceed One Thousand Dollars (\$1,000.00) per violation and/or a term of imprisonment not exceeding thirty (30) days may be imposed:

1. For violations of ~~((Section))~~ section 22.206.210;
2. For violations of ~~((Section))~~ section 22.206.260, where the person charged has had a civil judgment under ~~((Section))~~ section 22.206.280 or any of its predecessors rendered against him or her during the past five (5) years;
3. For any pattern of ~~((wilful))~~ willful, intentional, or bad-faith failure or refusal to comply with the standards or requirements of this Code.

C. Each day that anyone shall continue to violate or fail to comply with any of the foregoing provisions shall be considered a separate offense.

* * *

Section 5. A new section SMC 22.206.305 is added to the Seattle Municipal Code, as follows:

SMC 22.206.305 Tenant's Private Right of Action.

Nothing in this Code is intended to affect or limit a tenant's right to pursue a private right of action pursuant to chapter 59.18 RCW for any violation of chapter 59.18 RCW for which that chapter provides a private right of action. When an owner commits an act prohibited by SMC section 22.206.180 A(1), 22.206.180 A (2), or 22.206.180 A(7), a tenant has a private right of action against the owner for actual damages caused by the prohibited act. To the extent that actual damages are unliquidated or difficult to prove, a court may award liquidated damages of up to One Thousand Dollars (\$1,000.00) instead of actual damages. Such damages when awarded are to be on a per incident, rather than a per tenant basis. The prevailing party in any such action may recover costs of the suit and attorney fees.



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Section 6. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 7. 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 26th day of March, 2001, and signed by me in open session in authentication of its passage this 26th day of March, 2001.

Margaret Peeples
President _____ of the City Council

Approved by me this 30th day of MARCH, 2001.

Paul Schell
Mayor

Filed by me this 2nd day of April, 2001.

Janith E. Peppin
City Clerk

(Seal)



ORDINANCE _____

AN ORDINANCE amending various sections of the Housing and Building Maintenance Code, Chapter 22 of the Seattle Municipal Code, concerning landlords and tenants, decriminalizing and amending sections that prohibit owners from taking certain actions against tenants, amending the penalties and adding a new section providing for additional remedies available for violations thereof, and amending various other sections to be consistent with the above.

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B. ~~((Rules))~~ Rules. The Director is authorized to adopt, in accordance with the Administrative Code of The City of Seattle, such rules as are necessary to implement the requirements of this Code and to carry out the duties of the Director hereunder.



1 **Section 2.** Section 22.206.180 of the Seattle Municipal Code, which section was last amended
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4 A. Except as otherwise specifically required or allowed by this Code or by the Residential
5 Landlord Tenant Act, chapter 59.18 RCW, it ((H)) is unlawful for any owner to ((interfere with a tenant's
6 peaceable possession of the building or premises or by committing any of the following acts)):

7 1. ((Changing)) Change or ((tampering)) tamper with any lock or locks on a door or
8 doors used by the tenant; or

9 2. ((Removing)) Remove any door, window, fuse box, or other equipment, fixtures, or
10 furniture; or

11 3. ((Requesting)) Request, ((causing)) cause or ((allowing)) allow any gas, electricity,
12 water or other utility service supplied by the owner to be discontinued; or

13 4. ((Removing)) Remove or ((excluding)) exclude a tenant from the premises except
14 pursuant to legal process; or

15 5. ((Evicting)) Evict, ((increasing)) increase rent, reduce services, increase the
16 obligations of a tenant or otherwise ((imposing, threatening or attempting)) impose, threaten, or attempt any
17 punitive measure against a tenant for the reason that the tenant has in good faith reported violations of this
18 Code to the Department of Design, Construction and Land Use((;)) or to the Seattle Police Department, or
19 otherwise asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out
20 of the tenant's occupancy of the building; or

21 6. ((Entering)) Enter a tenant's housing unit or premises except:

22 a. At reasonable times with the tenant's consent, after giving the tenant;



1 (i) at least two (2) days' notice of intent to enter((:)) for the purpose of
2 inspecting the premises, making necessary or agreed repairs, alterations or
3 improvements, or supplying necessary or agreed services((:)); or

4 (ii) at least one (1) day's notice for the purpose of exhibiting the dwelling
5 unit to prospective or actual purchasers, ((mortgages)) mortgagees, tenants, workers
6 or contractors; or

7 b. In an emergency ; or

8 c. In case of abandonment as defined by state law ((:)); or

9 7. Prohibit a tenant or the tenant's authorized agent or agents from engaging in the
10 following activities when related to building affairs or tenant organization:

11 a. Distributing leaflets in a lobby and other common areas and at or under
12 tenants' doors;

13 b. Posting information on bulletin boards;

14 c. Initiating contact with tenants;

15 d. Assisting tenants to participate in tenant organization activities;

16 e. Holding meetings, including political caucuses or forums for speeches of
17 public officials or candidates for public office, unattended by management, conducted at
18 reasonable times and in an orderly manner on the premises, held in any community rooms or
19 recreation rooms if these rooms are open for the use of the tenants.

20 B. The following rebuttable presumptions shall apply in any proceeding to collect a civil
21 penalty for violation of subsection 22.206.180 A5.

22 1. Any owner who takes any action listed in subsection 22.206.180 A5 within ninety
23 (90) days after a tenant has in good faith reported violations of this Code (chapter 22.206 SMC) to the
24



1 Department of Design, Construction and Land Use or to the Seattle Police Department, or otherwise
2 asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out of a
3 tenant's occupancy of the building, or within ninety (90) days after any inspection or proceeding by a
4 governmental agency resulting from such legal right asserted, exercised or attempted to be exercised by a
5 tenant, creates a rebuttable presumption affecting the burden of proof that the action was taken for the
6 reason that the tenant had in good faith reported violations of this Code to the Department of Design,
7 Construction and Land Use or to the Seattle Police Department or otherwise asserted, exercised or
8 attempted to exercise any legal rights granted the tenant by law; except that, if at the time an owner gives a
9 notice of termination of tenancy pursuant to chapter 59.12 RCW, the tenant is in arrears in rent or in breach
10 of any other lease or rental obligation, there is a rebuttable presumption that the landlord's action is neither
11 a reprisal nor retaliatory action against the tenant.

12 2. A tenant who makes a complaint or report to a governmental authority about an
13 owner or owner's property within ninety (90) days after notice of a proposed increase in rent or other action
14 in good faith by the owner creates a rebuttable presumption that the complaint or report was not made in
15 good faith, unless the complaint or report was that the proposed increase in rent or other action was
16 unlawful, in which case no such presumption applies.

17 3. The rebuttable presumption under subsection 22.206.180 B1 shall not apply with
18 respect to an increase in rent if the owner, in a notice to the tenant of an increase in rent, specifies
19 reasonable grounds for said increase and the notice of said increase does not violate SMC section
20 7.24.030A.

21
22 **Section 3.** Section 22.206.280 of the Seattle Municipal Code, which section was last amended
23 by Ordinance 120087, is hereby amended as follows:
24



1 **SMC 22.206.280 Civil penalty.**

2 A. In addition to any other sanction or remedial procedure that may be available and except for
3 violations of SMC section 22.206.180, any person violating or failing to comply with any requirement of
4 this Code shall be subject to a cumulative civil penalty in the amount of:

5 (1) Fifteen Dollars (\$15.00) per day for each housing unit in violation, and Fifteen Dollars
6 (\$15.00) per day for violations in the common area or on the premises surrounding the building or
7 structure, from the date set for compliance until the person complies with the requirements of this
8 Code; or

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

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

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

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



1 E. In addition to any other sanction or remedial procedure that may be available, anyone who
2 obstructs, impedes, or interferes with an attempt to inspect a building or premises pursuant to the authority
3 of an inspection warrant issued by any court or an attempt to inspect a housing unit after consent to inspect
4 is given by a tenant of the housing unit shall be subject to a civil penalty of not more than One Thousand
5 Dollars (\$1,000.00).

6 F. Any person who violates or fails to comply with subsection 22.206.180A(5),
7 22.206.180A(6), or 22.206.180A(7) shall be subject to a cumulative civil penalty in an amount not less than
8 One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) per violation. Each day
9 that a violation remains uncorrected constitutes a separate violation.

10 G. The Director shall notify the City Attorney in writing of the name of any person subject to a
11 civil ((the)) penalty((-)) for violations of this Code, except that for violations of SMC section 22.206.180,
12 the Chief of Police shall notify the City Attorney. The City Attorney shall ((-with the assistance of the
13 Director,)) take appropriate action to collect the penalty. In any civil action for a penalty, the ((Director))
14 City has the burden of proving by a preponderance of the evidence that a violation exists or existed and, for
15 violations of sections other than SMC section 22.206.180, that the violation was not corrected by the date
16 established by the Director in a notice, order or decision ((;-the)). The issuance of a notice of violation or an
17 order following review by the Director is not itself evidence that a violation exists.

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



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Section 5. A new section SMC 22.206.305 is added to the Seattle Municipal Code, as follows:

SMC 22.206.305 Tenant's Private Right of Action.

Nothing in this Code is intended to affect or limit a tenant's right to pursue a private right of action pursuant to chapter 59.18 RCW for any violation of chapter 59.18 RCW for which that chapter provides a private right of action. When an owner commits an act prohibited by SMC section 22.206.180 A(1), 22.206.180 A (2), or 22.206.180 A(7), a tenant has a private right of action against the owner for actual damages caused by the prohibited act. To the extent that actual damages are unliquidated or difficult to prove, a court may award liquidated damages of up to One Thousand Dollars (\$1,000.00) instead of actual damages. The prevailing party in any such action may recover costs of the suit and attorney fees.



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Section 6. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 7. 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 _____ day of _____, 2001, and signed by me in open session in authentication of its passage this _____ day of _____, 2001.

President _____ of the City Council

Approved by me this _____ day of _____, 2001.

Mayor

Filed by me this _____ day of _____, 2001.

City Clerk

(Seal)



STATE OF WASHINGTON – KING COUNTY

--SS.

129904
City of Seattle, Clerk's Office

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.

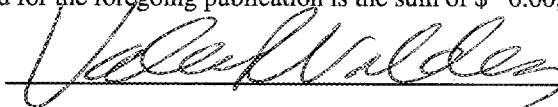
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

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was published on


04/13/01

The amount of the fee charged for the foregoing publication is the sum of \$ 0.00, which amount has been paid in full.



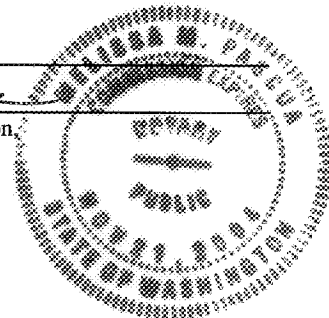
Subscribed and sworn to before me on

04/16/01



Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



State of Washington,

City of Seattle

ORDINANCE 120302

AN ORDINANCE amending various sections of the Housing and Building Maintenance Code, Chapter 22 of the Seattle Municipal Code, concerning landlords and tenants, decriminalizing and amending sections that prohibit owners from taking certain actions against tenants, amending the penalties and adding a new section providing for additional remedies available for violations thereof, and amending various other sections to be consistent with the above.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Section 22.202.010 of the Seattle Municipal Code, which section was last amended by Ordinance 113545, is hereby amended as follows:

SMC 22.202.010 ENFORCEMENT AUTHORITY -- RULES

A. (Enforcement) Enforcement. The Director is hereby designated the City Official to exercise the powers granted by this Code, except that the Chief of Police (shall be responsible for the enforcement of) is authorized to administer and enforce SMC sections (Sections) 22.206.180 and 22.206.190 and shall have equal (responsibility) authority with the Director for enforcement of SMC (Sections) sections 22.206.140 and 22.206.180 B3. In enforcing SMC sections 22.206.180 and 22.206.190, the Chief of Police shall encourage any owner(s) and tenant(s) involved to engage in mediation or binding arbitration pursuant to RCW 59.18.315 through RCW 59.18.350 of the State Residential Landlord Tenant Act to resolve outstanding disputes between them.

B. (Rules) Rules. The Director is authorized to adopt, in accordance with the Administrative Code of The City of Seattle, such rules as are necessary to implement the requirements of this Code and to carry out the duties of the Director hereunder.

SECTION 2. Section 22.206.180 of the Seattle Municipal Code, which section was last amended by Ordinance 113545, is hereby amended as follows:

SMC 22.206.180 (HARASSING OR RETALIATING AGAINST TENANT) PROHIBITED ACTS BY OWNERS

A. Except as otherwise specifically required or allowed by this Code or by the Residential Landlord Tenant Act, Chapter 59.18 RCW, it is unlawful for any owner to (interfere with a tenant's peaceable possession of the building or premises or by committing any of the following acts):

1. ((Changing)) Change or ((tampering)) tamper with any lock or locks on a door or doors used by the tenant; or
2. ((Removing)) Remove any door, window, fuse box, or other equipment, fixtures, or furniture; or
3. ((Requesting)) Request, ((causing)) cause or ((allowing)) allow any gas, electricity, water or other utility service supplied by the owner to be discontinued; or
4. ((Removing)) Remove or ((excluding)) exclude a tenant from the premises except pursuant to legal process; or
5. ((Evicting)) Evict, ((increasing)) increase rent, reduce services, increase the obligations of a tenant or otherwise ((imposing, threatening or attempting)) impose, threaten, or attempt any punitive measure against a tenant for the reason that the tenant has in good faith reported violations of this Code to the Department of Design, Construction and Land Use((,)) or to the Seattle Police Department, or otherwise asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out of the tenant's occupancy of the building; or
6. ((Entering)) Enter a tenant's housing unit or premises except:

a. At reasonable times with the tenant's

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)) 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 SMC 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)) 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 that may be available, any owner of housing units who violates SMC ((Section)) section 22.206.180 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 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 (\$1,000.00).

F. Any person who violates or fails to comply with subsection 22.206.180A(5), 22.206.180A(6) or 22.206.180A(7) shall be subject to a cumulative civil penalty in an amount not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) per violation. Each day that a separate act or inaction occurs that is a violation of subsection 22.206.180A(5), 22.206.180A(6) or 22.206.180A(7) constitutes a separate violation.

G. The Director shall notify the City Attorney in writing of the name of any person subject to a civil ((the)) penalty ((for)) for violations of this Code, except that for violations of SMC section 22.206.180, the Chief of Police shall notify the City Attorney. 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)) City has the burden of proving by a preponderance of the evidence that a violation exists or existed and, for violations of sections other than SMC section 22.206.180, that the violation was not corrected by the date established by the Director in a notice, order or decision ((; the)). The issuance of a notice of violation or an order following review by the Director is not itself evidence that a violation exists.

((G.))H. 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 4. Section 22.206.290 of the Seattle Municipal Code, which section was last amended by Ordinance 115971, is hereby amended as follows:

SMC 22.206.290 CRIMINAL PENALTIES

A. Violation of subsection 22.206.180A(1), 22.206.180A(2), 22.206.180A(3), or 22.206.180A(4) of the Seattle Municipal Code, or of section 22.206.190 of the Seattle Municipal Code, is a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for a violation of subsection 22.206.180A(1), 22.206.180A(2), 22.206.180A(3), 22.206.180A(4) or of such subsection 22.206.190A or 22.206.190B of the Seattle Municipal Code, and none of the mental states described in section 12A.04.030 need be proved. (Anyone who violates or fails to comply with the requirements of Sections 22.206.180 or 22.206.190) No person other than he or she who commits the violation shall be liable without a finding in