SEATTLE CITY COUNCIL

Legislative Summary

CB 118678

Record No.: CB 118678 **Type:** Ordinance (Ord) **Status:** Passed

Version: 2 **Ord. no:** Ord 125054 **In Control:** City Clerk

File Created: 04/13/2016

Final Action: 06/17/2016

Title: AN ORDINANCE relating to tenant protections; establishing regulations and enforcement provisions related to residential rent increases on properties that do not meet basic maintenance standards; transferring primary enforcement authority for all sections of Title 22, Subtitle 2 of the Seattle Municipal Code (Housing Code) to the Director of the Seattle Department of Construction and Inspections; amending the penalty structure for certain violations of the Housing Code; amending Sections 22.202.010, 22.202.050, 22.204.090, 22.206.180, 22.206.220, 22.206.280, and 22.206.305 of the Seattle Municipal Code; and adding a new Section 22.202.080.

	Date
Notes:	
Filed with City Clerk:	6/17/2016
Mayor's Signature:	6/17/2016
Sponsors: Sawant	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Attachments:

Drafter: bonita.chinn@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	04/19/2016	Mayor's leg transmitted to Council	City Clerk			
	Action Text:	The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk					
	Notes:						
1	City Clerk	04/19/2016	sent for review	Council President's Office			
	Action Text:	The Council Bill (CB) was sent for review. to the Council President's Office					
	Notes:						

1	Council President's Office	04/22/2016	sent for review	Affordable Housing, Neighborhoods, and Finance Committee

Action Text: The Council Bill (CB) was sent for review. to the Affordable Housing, Neighborhoods, and Finance Committee

Notes:

1	Full Council	05/09/2016	referred	Affordable Housing, Neighborhoods, and Finance Committee

Action Text: The Council Bill (CB) was referred. to the Affordable Housing, Neighborhoods, and Finance Committee

Notes:

1	Affordable Housing, Neighborhoods, and Finance Committee	05/18/2016	discussed	

Action Text: The Council Bill (CB) was discussed.

1	Affordable Housing, Neighborhoods, and Finance Committee	06/01/2016	pass as amended	Pass

Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).

Notes: The bill was amended as described in the Central Staff memo. Amendments 1, 3, 4, 5 and a substitute Amendment 6 were approved by a vote of 5-0. Amendment 2A passed 4-1, with CM Burgess dissenting and stating a preference for 2B or 2C over 2A.

Amendments 1, 2A, 5 and 6 were also adjusted with a technical correction as described in a supplemental handout.

CMs O'Brien and Sawant left the committee meeting after this discussion.

In Favor: 5 Chair Burgess, Vice Chair Herbold, Member Johnson, Alternate O'Brien, Sawant

Opposed: 0

1	Full Council	06/06/2016	passed	Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

2	City Clerk	06/09/2016	submitted for Mayor's signature	Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor

Notes:

2	Mayor	06/10/2016	Signed	

Action Text: The Council Bill (CB) was Signed.

Notes:

2	Mayor	06/17/2016	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

2	City Clerk	06/17/2016	attested by City Clerk	

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 125054

COUNCIL BILL 118678

AN ORDINANCE relating to tenant protections; establishing regulations and enforcement provisions related to residential rent increases on properties that do not meet basic maintenance standards; transferring primary enforcement authority for all sections of Title 22, Subtitle 2 of the Seattle Municipal Code (Housing Code) to the Director of the Seattle Department of Construction and Inspections; amending the penalty structure for certain violations of the Housing Code; amending Sections 22.202.010, 22.202.050, 22.204.090, 22.206.180, 22.206.220, 22.206.280, and 22.206.305 of the Seattle Municipal Code; and adding a new Section 22.202.080.

WHEREAS, in September 2014 the City Council adopted Resolution 31546, in which the Mayor and Council jointly convened the Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee to evaluate potential strategies to make Seattle more affordable, equitable, and inclusive; and in particular to promote the development and preservation of affordable housing for residents of the City; and

WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*, which outlines a multi-prong approach of bold and innovative solutions to address Seattle's housing affordability crisis; and

WHEREAS, in October 2015 the Council adopted Resolution 31622, which declared the Council's intent to expeditiously consider strategies recommended by the HALA Advisory Committee; and

WHEREAS, the HALA Advisory Committee's recommendations include strategies to support and help tenant households; and

WHEREAS, according to residential market surveys conducted by Dupre + Scott, the average market rate rent for one bedroom apartment units in Seattle increased by 35 percent between 2011 and 2016; and

WHEREAS, residential property owners may increase rents irrespective of the condition of the housing units they own; and

WHEREAS, the Rental Registration and Inspection Ordinance, Chapter 22.214 of the Seattle Municipal Code, establishes a checklist of maintenance standards required for rental housing and requires that all housing units subject to Chapter 22.214 meet the standards established in Sections 22.214.050.L and 22.214.050.M; and

WHEREAS, RCW 59.18.060 states "the landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular: (1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulations governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition endangers or impairs the health or safety of the tenant"; and

WHEREAS, RCW 59.18.070 provides a process and timelines for a tenant to seek correction of defective conditions in a rental housing unit; and

WHEREAS, RCW 59.18.085 provides remedies to tenants who rent dwelling units that are condemned or unlawful to occupy; and

WHEREAS, Seattle's housing stock includes renter-occupied units with severe physical problems, including signs of mice and cockroaches, open cracks or holes in the interior, exposed wiring, and other deficiencies that could endanger tenants' health and safety; and

WHEREAS, tenants in rental units where Housing and Building Code violations exist can currently be subject to rent increases, as exemplified by the widely reported experience of tenants at the Charles Street Apartments located at 6511 Rainier Avenue South who received notices of large rent increases, some reported to be in excess of 100 percent, shortly before a City inspection found 225 Housing and Building Code violations on the site; and

WHEREAS, the Mayor and Council find that prohibiting rent increases until rental units comply with housing code requirements will encourage landlords to comply with those standards and thereby promote the health, safety, and welfare of the general public;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 22.202.010.A of the Seattle Municipal Code, which section was last amended by Ordinance 120302, is amended as follows:

22.202.010 Enforcement authority – Rules((.))

A. Enforcement. The Director is hereby designated the City Official to exercise the powers granted by this ((~~Code~~)) Title 22 ((~~, except that the Chief of Police is authorized to administer and enforce Sections 22.206.180 and 22.206.190 and shall have equal authority with the Director for enforcement of SMC Sections 22.206.140 and 22.206.160 B3. In enforcing SMC Sections 22.106.180 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~~)). The Chief of Police shall provide assistance to the Director in enforcing Title 22 when requested by the Director.

* * *

Section 2. Section 22.202.050 of the Seattle Municipal Code, last amended by Ordinance 122397, is amended as follows:

22.202.050 Housing and Abatement Accounting ((~~Unit.~~)) unit

A restricted accounting unit designated as the "Housing and Abatement Account" is established in the Construction and Land Use Fund from which account the Director is hereby authorized to pay the costs and expenses incurred for the repair, alteration, improvement, vacation and closure, removal or demolition of any building, structure, or other dangerous condition pursuant to the provisions of this ((~~Code~~)) Title 22, or pursuant to any other ordinance administered and enforced by the Director declaring any building, structure or premises to be a public nuisance and ordering the abatement thereof. Money from the following sources shall be paid into the Housing and Abatement Accounting Unit:

* * *

F. Fines and penalties collected pursuant to ((~~subsections A, B, D, E, F, and G of Section~~)) Section 22.208.150 and subsections 22.206.280.A, 22.206.280.B, 22.206.280.D, 22.206.280.E, and 22.206.280.F ((~~and Section 22.208.150~~)).

Section 3. A new Section 22.202.080 is added to the Seattle Municipal Code as follows:

22.202.080 Documentation of notices

All written notices required by Chapter 22.200 through 22.208 to be provided to or served on tenants by property owners, or on property owners by tenants, shall be documented in such a manner as to confirm the date on which the notice was received. The use of email is allowed for written notices required under Section 22.206.180.

Section 4. Section 22.204.090 of the Seattle Municipal Code, last amended by Ordinance 115671, is amended as follows:

22.204.090 "H((.))"

((~~A.~~)) "Habitable room" means space in a building occupied, used, designed, or intended to be used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, laundry rooms, storage or utility space, and similar areas are not habitable rooms.

((~~B.~~)) "Hazard" means a condition that exposes any person to the risk of illness, bodily harm, or loss of or damage to possessions.

((~~C.~~)) Historic. See "Building, historic."

((~~D.~~)) "Hotel" means a building ((~~which~~)) that contains six (((~~6~~))) or more guest rooms and is intended for occupancy by transients.

((~~E.~~)) "Housekeeping unit" means a housing unit of one (((~~1~~))) or more rooms, used for living, sleeping, and cooking and sharing a common bathroom.

((~~F.~~)) "Housing costs" means the compensation or fees paid or charged, usually periodically, for the use of any housing unit. For purposes of this Chapter 22.204, housing costs include rent and any periodic or monthly fees for other services such as storage and parking paid to the landlord by the tenant. Housing costs do not include utility charges that are based on usage and that the tenant has agreed in the rental agreement to pay, unless the tenant was not obligated to pay utility charges under the terms of the previous rental agreement.

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

Section 5. Section 22.206.180 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

22.206.180 Prohibited acts by owners ((.))

((~~A.~~)) Except as otherwise specifically required or allowed by this ((~~Code~~)) Title 22 or by the Washington State Residential Landlord-Tenant Act, chapter 59.18 RCW, it is unlawful for any owner to:

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

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

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

((~~4.~~)) D. Remove or exclude a tenant from the premises except pursuant to legal process; or

((~~5.~~)) E. Evict, increase rent, reduce services, increase the obligations of a tenant, or otherwise 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~~)) Title 22 to the Seattle Department of Construction and Inspections 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.~~)) F. Enter a tenant's housing unit or premises except:

((~~a.~~)) 1. At reasonable times with the tenant's consent, after giving the tenant:

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

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

((~~b.~~)) 2. In an emergency; or

((~~c.~~)) 3. In case of abandonment as defined by state law; or

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

((~~a.~~)) 1. Distributing leaflets in a lobby and other common areas and at or under tenants' doors;

((~~b.~~)) 2. Posting information on bulletin boards, provided that tenants comply with all generally applicable rules of the landlord governing the use of such boards. Such rules cannot specifically exclude the posting of information related to tenant organizing activities if the rules permit posting of other types of information by tenants;

((~~c.~~)) 3. Initiating contact with tenants;

((~~d.~~)) 4. Assisting tenants to participate in tenant organization activities;

((~~e.~~)) 5. Holding meetings, including political caucuses or forums for speeches of public officials or candidates for public office, unattended by management, conducted at reasonable times and in an orderly manner on the premises, held in any community rooms or recreation rooms if these rooms are open for the use of the tenants; provided that the tenant

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

H. Increase the periodic or monthly housing costs to be charged a tenant by 10 percent or more over the periodic or monthly housing costs charged the same tenant for the same housing unit and the same services for any period or month during the preceding 12-month period without giving the tenant at least 60 days prior written notice of the cost increase. The notice shall describe how the tenant may obtain information about the rights and obligations of tenants and landlords under this Chapter 22.206; or

I. Increase the periodic or monthly housing costs to be charged a tenant by less than 10 percent over the periodic or monthly housing costs charged the same tenant for the same housing unit and the same services for any period or month during the preceding 12-month period without giving the tenant at least 30 days prior written notice of the cost increase. The notice shall describe how the tenant may obtain information about the rights and obligations of tenants and landlords under this Chapter 22.206; or

J. Increase the periodic or monthly housing costs to be charged a tenant by any amount if the Director has determined the housing unit does not comply with the checklist prescribed by subsection 22.214.050.L and the weighted requirements of 22.214.050.M.

1. When a tenant is notified of a proposed increase in periodic or monthly housing costs, if the tenant believes the housing unit has defective conditions and does not comply with the checklist prescribed by subsection 22.214.050.L and the weighted

requirements of 22.214.050.M, the tenant may notify the owner of the potential application of this Section 22.206.180.J.

2. Notification from a tenant to an owner must be in writing, describe the defective conditions, and be sent to the landlord prior to the effective date listed in the notice of housing costs increase the tenant received from the landlord.

3. After written notice to the owner has been provided, and before the housing costs increase takes effect, the tenant or owner may request an inspection from the Director.

4. Upon inspection, if the Director determines the unit meets the requirements of subsections 22.214.050.L and 22.214.050.M or that the conditions violating subsections 22.214.050.L and 22.214.050.M were caused by the tenant, the housing costs increase shall take effect on the date specified in the notice of the housing costs increase.

5. If the Director determines that the unit does not comply with the checklist prescribed by subsection 22.214.050.L and the weighted requirements of subsection 22.214.050.M, the housing costs increase shall not take effect until the Director determines that the housing unit complies with the checklist and the weighted requirements of subsection 22.214.050.M. This determination must occur before the tenant may lawfully refuse payment of the housing cost increase.

6. If a tenant pays the increased housing costs prior or subsequent to a determination by the Director that the housing unit does not comply with the checklist and the weighted requirements of subsection 22.214.050.M, the owner shall refund to the tenant the amount by which the housing costs paid exceeded the amount of housing costs otherwise due, or provide a credit in that amount against the tenant's housing costs for the next rental period. The refund or credit shall be prorated to reflect the period that the housing unit was determined to be

in compliance with the checklist and the weighted requirements of subsection 22.214.050.M. If the owner elects to provide a refund rather than provide a credit, the refund shall be paid to the tenant before the beginning of the next rental period. When calculating a pro-rata amount to be credited or refunded, a 30-day month shall be used.

7. If a tenant denies access to the tenant's housing unit to conduct an inspection, the increase in housing costs shall take effect on the date access to the dwelling unit was denied by the tenant, or on the effective date of the housing costs increase identified in the notice of the housing costs increase, whichever is later.

8. The Director shall describe, by rule, SDCI's role when a tenant notifies SDCI that a landlord has given the tenant notice pursuant to RCW 59.12.030 (3) (3 day pay rent or vacate notice) and when the housing cost increase has been lawfully prohibited pursuant to subsection 22.206.180.J.5.

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

~~1. Any owner who takes any action listed in subsection 22.206.180.A.5 within 90 days after a tenant has in good faith reported violations of this Code (Chapter 22.206) to the Seattle Department of Construction and Inspections 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 a tenant's occupancy of the building, or within 90 days after any inspection or proceeding by a governmental agency resulting from such legal right asserted, exercised or attempted to be exercised by a tenant, creates a rebuttable presumption affecting the burden of proof that the action was taken for the reason that the tenant had in good faith reported violations of this Code to the Seattle Department of Construction and Inspections or to the~~

~~Seattle Police Department or otherwise asserted, exercised or attempted to exercise any legal rights granted the tenant by law; except that, if at the time an owner gives a notice of termination of tenancy pursuant to chapter 59.12 RCW, the tenant is in arrears in rent or in breach of any other lease or rental obligation, there is a rebuttable presumption that the landlord's action is neither a reprisal nor retaliatory action against the tenant.~~

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

~~3. The rebuttable presumption under subsection 22.206.180.B.1 shall not apply with respect to an increase in rent if the owner, in a notice to the tenant of an increase in rent, specifies reasonable grounds for said increase and the notice of said increase does not violate subsection 7.24.030.A.~~))

Section 6. Subsection 22.206.220.A of the Seattle Municipal Code, which section was last amended by Ordinance 122397, is amended as follows:

22.206.220 Notice of violation((.))

A. Except as otherwise required by law, ((~~T~~))the Director is authorized to inspect or otherwise investigate any building, ((~~or~~)) premises, or actions of a landlord or tenant ((~~which~~)) that the Director has reason to believe may not be in compliance with the standards and requirements of Sections 22.206.010 through ((~~22.206.170, and Section~~)) 22.206.200. If the standards and requirements of 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

may issue a notice of violation to the owner and/or other person responsible for the violation pursuant to this ((~~section~~)) Section 22.206.220. The notice of violation shall:

1. Identify each violation of the standards and requirements of this ((~~Code~~))Title 22 and the corrective action necessary to bring the building and premises into compliance; and

2. Specify a time for compliance.

* * *

Section 7. Section 22.206.280 of the Seattle Municipal Code, last amended by Ordinance 122855, is amended as follows:

22.206.280 Civil enforcement proceedings and penalties ((~~,~~))

In addition to any other remedy that may be available at law or equity, the following are available:

A. ((~~Except for violations of Section 22.206.180, a~~)) Any person violating or failing to comply with any requirement of this ((~~Code~~)) Chapter 22.206 shall be subject to a cumulative civil penalty in an amount not to exceed:

1. ((~~One Hundred Fifty Dollars ($150.00)~~)) $150 per day for each housing unit in violation, and ((~~One Hundred Fifty Dollars ($150.00)~~)) $150 per day for violations in the common area or on the premises surrounding the building or structure, from the date the violation begins, for the first ten (((~~10~~))) days of noncompliance; and ((~~Five Hundred Dollars ($500.00)~~)) $500 per day for each housing unit in violation, and ((~~Five Hundred Dollars ($500.00)~~)) $500 per day for violations in the common area or on the premises surrounding the building or structure, for each day beyond ten (((~~10~~))) days of noncompliance until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be

deemed to begin, for purposes of determining the number of days of violation, on the date compliance is required by the notice of violation. In addition to the per diem penalty, a violation compliance inspection charge equal to the base fee set by Section 22.900B.010 shall be charged for the third inspection and all subsequent inspections until compliance is achieved. Notwithstanding the provisions of Section 22.202.050, the compliance inspection charges shall be deposited in the General Fund((~~; or~~)) .

2. ((~~One Hundred Dollars ($100.00)~~)) $100 per day from the date a tenant fails to reimburse The City of Seattle for emergency relocation assistance as required by subsection ((~~D of Section~~)) 22.206.265.D until the date the relocation assistance is repaid to The City of Seattle.

3. ((~~One Hundred Dollars ($ 100.00)~~)) $100 per day for any person who provides false or misleading information to the Director and as a result of the false or misleading information is paid emergency relocation assistance by The City of Seattle for which the person would not otherwise be eligible, from the date the person receives the emergency relocation assistance until the date the relocation assistance is repaid to The City of Seattle.

B. Any person who does not comply with an emergency order issued by the Director pursuant to this Chapter 22.206 shall be subject to a cumulative civil penalty of up to ((~~One Thousand Dollars ($1,000.00)~~)) $1,000 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 property owner who fails to deposit relocation assistance as required by subsections ((~~F and G of Section~~)) 22.206.260.F and 22.206.260.G shall be subject to a cumulative civil penalty of:

1. For each tenant with a household income during the preceding ((~~twelve (12)~~)) 12 months at or below ((~~fifty (50)~~)) 50 percent of the median family income for whom the property owner did not deposit relocation assistance as required by subsection ((~~G of Section~~)) 22.206.260.G:

a. ((~~Three Thousand Three Hundred Dollars ($3,300.00)~~)) $3,300, plus

b. ((~~One Hundred Dollars ($100.00)~~)) $100 per day from the date such deposit by the property owner is required until the date the property owner pays to the City the penalty provided for in subsection ((~~C1a~~)) 22.206.280.C.1.a; or

2. For each tenant with a household income during the preceding ((~~twelve (~~))12((~~)~~)) months greater than ((~~fifty (~~))50((~~)~~)) percent of the median family income for whom the property owner did not deposit relocation assistance as required by subsection ((~~G of Section~~)) 22.206.260.G, ((~~One Hundred Dollars ($100.00)~~)) $100 per day from the date such deposit is required until the date on which the relocation assistance required by subsections ((~~F and G of Section~~)) 22.206.260.F and 22.206.260.G is deposited with The City of Seattle.

D. Any owner of housing units who violates ((~~subsection C6 of Section 22.206.160~~)) subsection 22.206.160.C.6 shall be subject to a civil penalty of ((~~not more than Two Thousand Five Hundred Dollars ($2,500.00)~~)) $3,500.

E. 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)~~)) $1,000.

F. ((~~Any person who violates or fails to comply with subsections A5, A6, or A7 of Section 22.206.180 shall be subject to a cumulative civil penalty of up to Five Hundred Dollars ($500.00) per violation per day. Each day that a separate action or inaction occurs that is a violation of subsections A5, A6 or A7 of Section 22.206.180 constitutes a separate violation.~~

~~G.~~)) Civil actions to enforce this Chapter 22.206 shall be brought exclusively in Seattle Municipal Court, except as otherwise required by law or court rule. The Director shall request in writing that the City Attorney take enforcement action. The City Attorney shall, with the assistance of the Director, take appropriate action to enforce this Chapter 22.206. In any civil action filed pursuant to this ((~~chapter~~)) Chapter 22.206, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed. The issuance of a notice of violation or an order following a review by the Director is not itself evidence that a violation exists.

((~~H~~))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 8. Section 22.206.305 of the Seattle Municipal Code, enacted by Ordinance 120302, is amended as follows:

22.206.305 Tenant's private right of action ((~~,~~))

Nothing in this ((~~Code~~)) Title 22 is intended to affect or limit a tenant's right to pursue a private right of action pursuant to ((~~Chapter~~)) chapter 59.18 RCW for any violation of ((~~Chapter~~)) chapter 59.18 RCW for which that chapter provides a private right of action. When an owner commits an act prohibited by ((~~SMC Sections 22.206.180 A1, 22.206.180 A2, or 22.206.180 A7~~)) Section 22.206.180, 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)~~)) $3,000 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.

Section 8. To avoid instances of eviction proceedings resulting from nonpayment of a housing cost increase after SDCI has determined that the effective date of the housing cost increase can lawfully be delayed, the Council requests that SDCI work with tenants' organizations to produce educational materials to ensure that tenants' understand the process and how they can work with the City in the event of an eviction proceeding resulting from this process.

Section 9. The Director shall report annually to the Affordable Housing, Neighborhoods and Finance Committee, or its successor committee, on all activity related to Section 22.206.180.J. This report shall include the number of inquiries from tenants and landlords, the number of inspections related to this provision, the outcome of those inspections, the number of housing cost increases delayed based on a determination by the department or refunds or credits required, and any interactions and information related to the Department's involvement in any eviction proceedings. To the extent feasible, the Director should obtain records on evictions in

Seattle and review those records to determine if the Department conducted inspections at those locations related to Section 22.206.180.J and if the eviction resulted from application of this Section 22.206.180.J. The report shall be delivered to the Council by no later than June 15 of the following calendar year (beginning June 15, 2017).

Section 10. 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 its application to any person or circumstance, does not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 11. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 6th day of June, 2016, and signed by me in open session in authentication of its passage this 6th day of June, 2016.

President Pro Tem of the City Council

Approved by me this 16 day of June, 2016.

Edward B. Murray, Mayor

Filed by me this 17th day of June, 2016.

Monica Martinez Simmons, City Clerk

(Seal)