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CB 117048

Diane Davis/dcd
DPD - Housing and Building Maintenance Code Enforce Amendments ORD
August 2, 2010
Version #5

ORDINANCE _____

AN ORDINANCE relating to habitable and vacant buildings; amending Sections 22.206.040, 22.206.090, 22.206.130, 22.206.160, 22.206.200, and 23.91.002 of the Seattle Municipal Code to update habitable and vacant building regulations and related enforcement provisions.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 22.206.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 115671, is amended as follows:

22.206.040 Light and ventilation((.))

A. Every habitable room in a housing unit shall have a window or windows with an area of not less than ((~~ten percent (10%)~~)) 8 percent of the floor area of the room, but in no event shall such area be less than ((~~ten (10)~~)) 10 square feet; provided, that an approved system of artificial light may be used in lieu of the window or windows required in kitchens by this section.

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Section 2. Subsection 22.206.090.A of the Seattle Municipal Code, which section was last amended by Ordinance 115671, is amended as follows:

22.206.090 Heating((.))

A. Minimum Heating Equipment. Every housing unit shall have permanently installed, functioning heating facilities and an approved power or fuel supply system which are capable of maintaining ((~~an average room temperature of at least sixty-five (65) degrees Fahrenheit measured at a point three (3) feet above the floor~~)) a minimum room temperature of 68 degrees Fahrenheit measured at a point 3 feet above the floor and 2 feet from exterior walls in all

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habitable rooms, baths and toilet rooms, when the outside temperature is ((~~twenty-four (24)~~)) 24 degrees Fahrenheit or higher. When the outside temperature is less than ((~~twenty-four (24)~~)) 24 degrees Fahrenheit, the permanently installed, functioning heating facility and approved power or fuel supply system must be capable of maintaining an average room temperature of at least ((~~fifty-eight (58)~~)) 58 degrees Fahrenheit, measured at a point ((~~three (3)~~)) 3 feet above the floor and 2 feet from exterior walls, in all habitable rooms, baths and toilet rooms.

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Section 3. Subsection 22.206.130.A of the Seattle Municipal Code, which section was last amended by Ordinance 120087, is amended as follows:

Minimum Fire and Safety Standards

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 (9) inches~~)) 10 inches and a maximum rise of ((~~eight (8) inches~~)) 7¾ inches and a minimum width of ((~~thirty (30) inches~~)) 36 inches from wall to wall. The rise and run may vary no more than ((~~one-half (1/2) inch~~)) 3/8 inch 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 having more than three (((~~3~~))) risers, except stairs to inaccessible service areas, shall have at least one (((~~1~~))) handrail mounted ((~~at least twenty-eight~~

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~~(28) inches but no more than forty-two (42) inches~~)) not less than 34 inches or more than 38 inches above the tread nose.

4. A landing having minimum horizontal dimension of ((~~thirty (30)~~)) 30 inches 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 to have created a landing in the area of its swing.

5. Every required stairway shall have headroom clearance of not less than ((~~six (6) feet six (6) inches~~)) 6 feet 8 inches 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)~~)) 400 square feet and not containing the primary bathroom or kitchen are exempt from the requirements of this subsection A.

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Section 4. Subsections A and B of Section 22.206.160 of the Seattle Municipal Code, which section was last amended by Ordinance 123141, are amended as follows:

22.206.160 Duties of owners((.))

A. It shall be the duty of all owners, regardless of any lease provision or other agreement that purports to transfer the owner's responsibilities hereunder to an operator, manager or tenant, to:

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8. Affix and maintain the street number to the building in a conspicuous place over or near the principal street entrance or entrances or in some other conspicuous place. This provision shall not be construed to require numbers on either appurtenant buildings or other buildings or structures where the Director finds that the numbering is not appropriate. Numbers shall be easily legible, in contrast with the surface upon which they are placed. Figures shall be no less than ((~~two (2)~~)) 2 inches high;

9. Maintain the building in compliance with the requirements of Section ((~~3402.1~~)) 3403.1 of the Seattle Building Code;

* * *

B. It shall be the duty of all owners of buildings that contain rented housing units, regardless of any lease provision or other agreement that purports to transfer the owner's responsibilities hereunder to an operator, manager or tenant, to:

1. Maintain in a clean and sanitary condition the shared areas, including yards and courts, of any building containing two (((~~2~~))) or more housing units;

2. Supply enough garbage cans or other approved containers of sufficient size to contain all garbage disposed of by such tenants;

3. Maintain heat in all occupied habitable rooms, baths and toilet rooms at an inside temperature, as measured at a point ((~~three (3)~~)) 3 feet above the floor and 2 feet from exterior walls, of at least ((~~sixty-five (65)~~)) 68 degrees Fahrenheit between the hours of ((~~seven (7:00)~~)) 7:00 a.m. and ((~~ten-thirty (10:30)~~)) 10:30 p.m. and ((~~fifty-eight (58)~~)) 58 degrees

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Fahrenheit between the hours of ((~~ten thirty (10:30)~~)) 10:30 p.m. and ((~~seven (7:00)~~)) 7:00 a.m. from September 1st until June 30th, when the owner is contractually obligated to provide heat;

4. Install smoke detectors on the ceiling or on the wall not less than ((~~four (4)~~)) 4 inches nor more than ((~~twelve (12)~~)) 12 inches from the ceiling at a point or points centrally located in a corridor or area in each housing unit and test smoke detectors when each housing unit becomes vacant;

* * *

Section 5. Subsection 22.206.200.A of the Seattle Municipal Code, which section was last amended by Ordinance 122397, is amended as follows:

22.206.200 Minimum standards for vacant buildings((.))

A. Maintenance Standards. Every vacant building shall conform to the standards of Sections 22.206.060; 22.206.070; 22.206.080.A, B, C, G, H and I; 22.206.130.I; 22.206.160.A.1, 3, 4, 5, 6 and 8 except when different standards are imposed by this section.

* * *

4. All vacant buildings and their accessory structures shall meet the following standards:

a. All windows shall have intact glazing or plywood of at least ((~~one-quarter (1/4)~~)) 1/4 inch thickness, painted or treated to protect it from the elements, cut to fit the opening, and securely nailed using 6D galvanized nails or woodscrews spaced not more than ((~~nine (9)~~)) 9 inches on center.

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b. Doors and service openings with thresholds located ((~~ten (10)~~)) 10 feet or less above grade, or stairways, landings, ramps, porches, roofs, or similarly accessible areas shall provide resistance to entry equivalent to or greater than that of a closed single panel or hollow core door ((~~one and three-eighths (1 3/8)~~)) 1 3/8 inches thick equipped with a ((~~one-half (1/2)~~)) 1/2 inch throw deadbolt. Exterior doors, if openable, may be closed from the interior of the building by toe nailing them to the door frame using 10D or 16D galvanized nails.

c. There shall be at least one (((~~1~~))) operable door into each building and into each housing unit. If an existing door is operable, it may be used and secured with a suitable lock such as a hasp and padlock or a ((~~one-half (1/2)~~)) 1/2 inch deadbolt or deadlatch. All locks shall be kept locked. When a door cannot be made operable, a door shall be constructed of ((~~three-quarter (3/4)~~)) 3/4 inch CDX plywood or other comparable material approved by the Director and equipped with a lock as described above.

d. All debris, combustible materials including vegetation overgrowth, litter and garbage, junk, waste, used or salvageable materials, and inoperable vehicles and vehicle parts, shall be removed from vacant building, their accessory structures, and the premises including but not limited to adjoining yard areas. The building and premises shall be maintained free from such items. The premises also shall be free from parked vehicles.

e. The Director may impose additional requirements for the closure of a vacant building, including but not limited to installation of ((~~three-quarter (3/4)~~)) 3/4 inch plywood, brick or metal coverings over exterior openings, when the standards specified in

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subsections ((~~A4a~~)) 22.206.200.A.4.a through ((~~A4d~~)) 22.206.200.A.4.d above are inadequate to secure the building:

((~~i.~~)) 1) Due to the design of the structure; or

((~~ii.~~)) 2) When the structure has been subject to two (((~~2~~))) or more unauthorized entries after closure pursuant to the standards specified above; or

((~~iii.~~)) 3) When the Director determines, in consultation with the Seattle Police Department and the Seattle Fire Department, that the structure may present a substantial risk to the health or safety of the public, or to police or fire personnel if closed to the standards of subsections ((~~A4a~~)) 22.206.200.A.4.a through ((~~A4d~~)) 22.206.200.A.4.d above.

5. If a building component of a vacant building or a structure accessory to a vacant building does not meet the standards of Section 22.206.060, the component or a portion thereof may be removed in accordance with applicable codes, provided the Director determines that the removal does not create a hazardous condition.

6. Interior floor, wall and ceiling coverings in vacant structures need not be intact so long as the Director determines they do not present a hazard. If a hole in a floor presents a hazard, the hole shall be covered with ((~~three-quarter (3/4)~~)) 3/4 inch plywood, or a material of equivalent strength, cut to overlap the hole on all sides by at least ((~~six (6)~~)) 6 inches. If a hole in a wall presents a hazard, the hole shall be covered with ((~~one-half (1/2)~~)) 1/2 inch Type X gypsum, or a material of equivalent strength, cut to overlap the hole on all sides by at least ((~~six (6)~~)) 6 inches. Covers for both floor and wall holes shall be securely attached.

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Section 6. Subsection 23.91.002, of the Seattle Municipal Code, last amended by Ordinance 123209, is amended as follows:

A. Violations of the following provisions of Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage in residential zones (Sections 23.44.006 and 23.44.040, and Chapter 23.45), unless the lot contains a vacant structure subject to the vacant building maintenance standards contained in subsection 22.206.200.A;

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014 and 23.44.040, and Chapter 23.45);

3. Parking of vehicles in a single-family zone (Section 23.44.016), unless the lot contains a vacant structure subject to the vacant building maintenance standards contained in subsection 22.206.200.A;

* * *

Section 7. Severability. 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, owner, or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons, owners, or circumstances.

Section 8. This ordinance shall take effect and be in force 30 days from and 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.

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Passed by the City Council the ____ day of _____, 2010, and signed by me in open session in authentication of its passage this _____ day of _____, 2010.

_____
President _____ of the City Council

Approved by me this ____ day of _____, 2010.

_____
Michael McGinn, Mayor

Filed by me this ____ day of _____, 2010.

_____
City Clerk

(Seal)

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Form revised: August 9, 2010

FISCAL NOTE FOR NON-CAPITAL PROJECTS

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Legislation Title:
AN ORDINANCE relating to habitable and vacant buildings; amending Sections 22.206.040, 22.206.090, 22.206.130, 22.206.160, 22.206.200, and 23.91.002 of the Seattle Municipal Code to update habitable and vacant building regulations and related enforcement provisions.

Summary of the Legislation: This legislation authorizes administrative changes to the Housing and Building Maintenance Code (HBMC) to make enforcement more streamlined both for DPD inspection staff and for property owners who have code violations on a property with a vacant building. In order to facilitate these changes on parcels containing vacant buildings, all code requirements related to vacant buildings will be located in the Housing and Building Maintenance Code, rather than having some violations in the HBMC and others in Chapter 23.91 of the Land Use code. This legislation also expands the premises maintenance requirements in the HBMC vacant building standards to specifically include removal of junk, vehicles, and hazardous vegetation from the premises. At the same time, enforcement of junk storage and parking on vacant building properties is removed from Land Use Code citation enforcement.

This proposal will also bring certain Housing and Building Maintenance Code requirements in line with current Seattle Building Code standards, which have changed since the HBMC requirements were implemented, so that standards in these two codes will be consistent.

Background: Regarding enforcement of the City's minimum vacant building standards, currently the vacant building inspector must issue multiple documents for various violations located in separate codes for one building. There may be as many as four separate enforcement documents necessary for a single building: a Notice of Violation for any violation of the vacant building standards, an Emergency Order for a building open to entry or otherwise immediately hazardous, a citation for junk storage or unlawful parking on the property, and a citation for weeds and vegetation overgrowth. This multiplicity of documents is administratively burdensome for the inspection staff and confusing for the recipient. It would be more efficient for the City and less confusing for the building owner to have all violations at the property encompassed in a single Notice of Violation, whereby the property owner would have only one set of deadlines and penalties to deal with. It is believed that vacant building violations enforcement will thereby be more effective and more efficient.

The remainder of the amendments are in the nature of administrative "clean-up." Since the HBMC was adopted almost 20 years ago, the Seattle Building Code has been updated and the

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standards for residential buildings have changed, while the HBMC provisions have remained the same. These amendments make the HBMC code provisions consistent with current building code standards in the areas of fire and safety standards, light and ventilation standards, heating standards, and owners' duties. Owners of those units that may not be able to meet current standards but were code-compliant when constructed will still have the option, as they do now, of obtaining approval of those obsolete but still serviceable building elements via the variance process.

Please check one of the following:

XX **This legislation does not have any financial implications.** (*Stop here and delete the remainder of this document prior to saving and printing.)*

There will be some small administrative savings in the vacant building enforcement process. The only other anticipated costs will be for minor updating of public information materials and enforcement documents.

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Director's Report and Recommendations

Vacant Building enforcement and Housing Code Amendments

Overview

The Department of Planning and Development (DPD) is proposing amendments to the Housing and Building Maintenance Code and the Land Use Code, to streamline vacant building enforcement by including junk storage, vehicle storage and parking, and overgrown vegetation as premises maintenance violations in the Vacant Building Standards in SMC 22.206.200, and to update housing code standards to conform to current Seattle Building Code standards. DPD developed this legislation following a request by the City Council's Committee on the Built Environment, who expressed interest in improving and streamlining enforcement efforts at vacant structures.

Vacant Building Standards and Land Use Code amendment regarding premises maintenance

Currently a vacant building may be subject to as many as four separate violation notices from a single inspection, including a Notice of Violation (NOV) for building maintenance deficiencies and citations for premises conditions such as junk storage, parked vehicles, and vegetation overgrowth. This legislation would streamline this process by allowing DPD to include all conditions relating to the vacant building and its premises in one enforcement document, the Notice of Violation. Consolidating these enforcement actions into a NOV will simplify and streamline the process for the City code enforcement team, so that community problems resulting from vacant buildings may be addressed more effectively. The amendments will also simplify the enforcement process for the customer (the vacant building owner), who will have just one document to understand, one case number to reference, and one set of potential penalties to encourage compliance.

The Vacant Building Standards, which contain specific provisions regarding building and premises maintenance, are enforced via Notice of Violation under the Housing and Building Maintenance Code (HBMC), SMC 22.206.200. NOVs give the property owner a period of time to come into compliance, after which civil penalties ranging from $150 to $500 per day will accrue. To obtain a judgment for those penalties, DPD must refer the case to the Law Department for Municipal Court action and a court order. This NOV process would not change, but the NOV would encompass other violations at the site in addition to those concerning building maintenance.

(In addition to a NOV for vacant building violations, an HBMC Emergency Order also may be issued if the building is open to entry or otherwise immediately dangerous to the community. Emergency orders would continue to be issued even under this proposal; the procedure for imminent hazards would not change.)

This proposal takes "junk" storage and parking of vehicles, when these violations are at a site with a vacant building, out of the Land Use Code citation process in SMC Chapter 23.91, and includes them as elements of premises maintenance for vacant buildings under the Housing and Building Maintenance Code. The revised ordinance language also is consistent with the Department's view that parking on a site containing a vacant house is an unauthorized accessory use. See SMC 23.42.020. While a house is occupied, parking one's vehicles would

be customarily incidental to the business of daily life in that occupied house. Once the house is vacant, however, the house is not being used as a residence and therefore parking is no longer a legitimate accessory use. The amendments to the vacant building standards clarify that a site with a vacant building is not to be used as a de facto parking lot.

Finally, as to vegetation, keeping a vacant property free from vegetation overgrowth that may be unsafe, a fire hazard, or potential rodent harborage is not specifically included in the current standards for vacant buildings, but will be added to those standards under this proposal. The Weeds and Vegetation Ordinance, SMC Chapter 10.52, may be used for vegetation that encroaches on public property, but it is not effective for addressing problems caused by vegetation overgrowth on private, unoccupied property. Nonetheless such vegetation overgrowth is often of the most concern to the neighborhood with a vacant building in its midst. It is viewed as contributing to the structure's neglected and uncared-for appearance, thereby contributing to an environment attractive to unauthorized intruders, illegal dumping, and criminal activity. Specifically including a requirement in the Vacant Building Standards to maintain vegetation will clarify that such property maintenance is one of the responsibilities of a vacant building owner.

In summary, under this proposal the owner of a vacant building will receive not two, three, or four separate documents, with different time frames for compliance, different penalty structures, and different methods of contesting the violation finding. Instead, just one Notice of Violation would be issued, including all the problems relating to building and premises maintenance at the site in one document.

Housing and Building Maintenance Code standards for light and ventilation, heating, and fire and safety

When the Housing and Building Maintenance Code was enacted, it incorporated provisions to correlate to the building code in effect at that time. Over the past two decades, some of the standards in the Seattle Building Code have changed in response to changing construction methods and safety considerations. While it is permissible for our housing code to contain stricter standards than current building code allows, the changes in the standards affected by this proposal reflect a judgment that a residential building may be safe with these standards. Currently, property owners that are cited with violations of provisions in the housing code that are inconsistent with current building code standards must request a housing code variance in order to have their property evaluated under the current building code provisions. This proposal would bring the housing code standards into line with building code requirements, so that the owner would not have to go through the variance process simply because the two codes are conflicting. This would provide more certainty for property owners and more consistent enforcement for the entire city.

Appendix A is a chart detailing the specific changes to the code provisions. The highlights of the proposed changes are as follows.

1. Update the light and ventilation standards as to window size in the Housing and Building Maintenance Code to be consistent with those in the current Seattle Building Code;

2. Update the heating standards as to attainable temperatures in cold weather in the Housing and Building Maintenance Code to be consistent with those in the current Seattle Building Code;

3. Update the fire and safety standards as to stairway configuration in the Housing and Building Maintenance Code to be consistent with those in the current Seattle Building Code.

Minor changes correcting outdated formatting and expired references also are proposed, but are not addressed in this report.

APPENDIX A

Current HBMC Standard	Current Building Code Standard	Proposal
Light and Ventilation - Habitable Rooms:	***Light, Ventilation and Heating - Habitable Rooms.***	***Light and ventilation***
Every habitable room in a housing unit to have window(s) with an area of not less than **ten percent** of the floor area of the room, but in no event shall such area be less than ten (10) square feet... SMC 22.206.040.A	All habitable rooms shall be provided with aggregate glazing area of no less than **8 percent** of the floor area of such rooms. SBC R303.1	Window size: from 10% to **8%** of floor area.
Minimum Mechanical Standards - Heating - Minimum Heating Equipment:	***Light, Ventilation and Heating***	***Heating***
Housing unit must have permanently installed heating equipment that can heat the room to at least **65°F** measured 3 feet from the floor when the outdoor temperature is 24 degrees or higher; heat must reach **58°F** when the outside temp is below 24 degrees. SMC 22.206.090 & 22.206.160	Required heating to **68°F** measured 3 feet from the floor and 2 feet from the exterior wall. SBC R303.8	Minimum temperature to be reached: from 65°F to **68°F** measured 3 feet from the floor and 2 feet from the exterior wall; heat must reach **58°F** measured 3 feet from the floor and 2 feet from the wall when the outside temp is below 24 degrees.
Minimum Fire and Safety Standards -Stairways:	***Means of Egress - Stairways:***	***Stairways***
Maximum **8 inch rise**. Minimum **9 inch run**. Variation no more than **1/2 inch**. Width: no less than **30 inches** from wall to wall. Handrail height between **28"**and **42"** above the tread nose. Headroom clearance not less than **6'6"** measured vertically from the nearest tread nose to the nearest soffit. SMC 22.206.130.A.	Riser Height: maximum rise **7 ¾ inches**. Tread Depth: minimum tread depth (run) **10 inches**. Variation no more than **3/8 inch**. Width not less than **36 inches**; 31.5 inches if one handrail; 27 inches if two handrails. Handrail height not less than **34"** or more than **38"**. Headroom not less than **6'8".** SBC R311.5.	Maximum riser height reduced from **8 inches** to **7 ¾ inches**. Minimum tread run increased from **9 inches** to **10 inches**. Variation from max of **½ inch** to max of **3/8 inch**. Width from no less than **30 inches** to no less than **36 inches**. Handrail height from between 28 and 42 inches to **between 34 and 38 inches**. Headroom in stairway from min of **6'6"** to min of **6'8".**