
Council Bill Number: 115866

Ordinance Number: 122397

AN ORDINANCE relating to Housing and Building Maintenance Code enforcement, amending Sections 22.202.050, 22.206.160, 22.206.200, 22.206.220, 22.206.230, 22.206.280, 22.206.290, 22.208.030, 22.208.050, 22.208.150, 22.208.160 adding new Sections 22.206.235, 22.206.315, and repealing Sections 22.206.300, 22.206.310 and Ch. 22.207 of the Seattle Municipal Code.

Status: Passed

Note: Fourth Quarter 2006 Salary Ordinance

Vote: 7-0 (Excused: Conlin, Drago)

Date filed with the City Clerk: 2007/05/23

Date of Mayor's signature: 2007/05/15 ([about the signature date](#))

Date introduced/referred to committee: 2007/04/09

Committee: Urban Development and Planning

Sponsor: STEINBRUECK

Committee Recommendation: Pass

Index Terms: CODE-ENFORCEMENT, LAND-USE-CODE, PUBLIC-REGULATIONS, ADMINISTRATIVE-PROCEDURES, FINES, NUISANCE-ABATEMENT, HOUSING , DEPARTMENT-OF-PLANNING-AND-DEVELOPMENT

Fiscal Note: [Fiscal Note to Council Bill No. 115866](#)

Electronic Copy: [PDF scan of Ordinance No. 122397](#)

Reference: Amending: Ord 121408, 121076, 120087, 120302, 117861, 113545, 119509; Relating: CB 114865, 115867

Text:

AN ORDINANCE relating to Housing and Building Maintenance Code enforcement, amending Sections 22.202.050, 22.206.160, 22.206.200, 22.206.220, 22.206.230, 22.206.280, 22.206.290, 22.208.030, 22.208.050, 22.208.150, 22.208.160 adding new Sections 22.206.235, 22.206.315, and repealing Sections 22.206.300, 22.206.310 and Ch. 22.207 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection F of Section 22.202.050 of the Seattle Municipal Code, which section was last amended by Ordinance 121076, is amended as follows:

22.202.050 Housing and Abatement Accounting Unit.

* * *

F. Fines and penalties collected pursuant to subsections A, B, D, E, F, and G of ~~SMC~~ Section 22.206.280, ~~SMC~~ ~~Chapter 22.207~~ and ~~SMC~~ Section 22.208.150.

Section 2. Subsection A of Section 22.206.160 of the Seattle Municipal Code, which section was last amended by Ordinance 121408, is 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:

1. Remove all garbage, rubbish and other debris from the premises;
2. Secure any building which became vacant against unauthorized entry as required by Section 22.206.200 of this Code;
3. Exterminate insects, rodents and other pests which are a menace to public health, safety or welfare. Compliance with the Director's Rule governing the extermination of pests shall be deemed compliance with this subsection 3;
4. Remove from the building or the premises any article, substance or material imminently hazardous to the health, safety or general welfare of the occupants or the public, or which may substantially contribute to or cause deterioration of the building to such an extent that it may become a threat to the health, safety or general welfare of the occupants or the public;
5. Remove vegetation and debris as required by ~~SMC~~ Section 10.52.030;
6. Lock or remove all doors and/or lids on furniture used for storage, appliances, and furnaces which are located outside an enclosed, locked building or structure;
7. Maintain the building and equipment in compliance with the minimum standards specified in Sections 22.206.010 through 22.206.140 and in a safe condition, except for maintenance duties specifically imposed in Section 22.206.170 on the tenant of the building; provided that this subsection 7 shall not apply to owner-occupied dwelling units in which no rooms are rented to others;
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) inches high;
9. Maintain the building in compliance with the requirements of ~~Section 104(d)~~ Section 3402.1 of the Seattle Building Code;
10. Comply with any emergency order issued by the Department of Planning and Development; and
11. Furnish tenants with keys for the required locks on their respective housing units and building entrance doors.

* * *

Section 3. Subsection F of Section 22.206.200 of the Seattle Municipal Code, which section was last amended by Ordinance 120087, is amended as follows:

22.206.200 Minimum standards for vacant buildings.

* * *

F. Inspection of Vacant Buildings.

1. When the Director has reason to believe that a building is vacant, the Director may inspect the building and the premises. If the Director identifies a violation of the minimum standards for vacant buildings, a notice of violation shall

may be issued pursuant to ~~SMC~~ Section 22.206.220. Thereafter the premises shall be inspected quarterly to determine whether the building and its accessory structures are vacant and closed to entry in conformance with the standards of this Code.

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

- a. When the building is repaired pursuant to the requirements of this Code and reoccupied;
- b. When the building is repaired pursuant to the requirements of this Code and has subsequently been subject to three (3) consecutive quarterly inspections without further violation; or
- c. When the building and any accessory structures have been demolished.

3. A building or structure accessory thereto that remains vacant and open to entry after the closure date in a Director's order or notice of violation is found and declared to be a public nuisance. The Director is hereby authorized to summarily close the building to unauthorized entry. The costs of closure shall be collected from the owner in the manner provided by law.

4. Quarterly inspection charges shall be assessed and collected as a fee under the Permit Fee Ordinance ~~SMC~~ Chapters 22.900A through 22.900G).

Section 4. Subsections A, C, D, G, and J of Section 22.206.220 of the Seattle Municipal Code, which section was last amended by Ordinance 120087, is amended as follows:

22.206.220 Notice of violation.

A. The Director ~~shall~~ is authorized to inspect any building or premises which the Director has reason to believe may not be in compliance with the standards and requirements of ~~SMC~~ Sections 22.206.010 through 22.206.170, and ~~SMC~~ Section 22.206.200. If the standards and requirements of ~~SMC~~ Section 22.206.010 through 22.206.120, Sections 22.206.150 through 22.206.170 or of Section 22.206.200 have not been met, the Director ~~shall serve~~ may issue a notice of violation ~~on~~ to the owner and/or other person responsible for the violation pursuant to this section. The notice of violation shall:

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

* * *

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

D. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service ; ~~registered mail, or certified mail with return receipt requested, at~~ or by first class mail to the person's last known address. If the address of the responsible person is unknown and cannot be found after a reasonable search, the notice may be served ~~by publishing it once each week for two (2) consecutive weeks in the legal newspaper for the City, and by mailing to the person a copy of the notice or order by first class mail to the last known address, or if unknown, to the address of the property subject to the notice of violation and by posting a copy of the notice in a conspicuous place on~~

the property. If a notice of violation is directed to a tenant or other person responsible for the violation who is not the owner, a copy of the notice shall be sent to the owner of the property. Nothing in this section shall be deemed to limit or preclude any action or proceeding to enforce this chapter nor does anything in this section obligate the Director to issue a notice of violation prior to initiation of a civil or criminal enforcement action except as otherwise provided in Director's rules adopted pursuant to SMC chapter 22.202.

* * *

G. Nothing herein shall hinder or limit in any manner the Director's authority or ability

to bring an action pursuant to ~~SMC~~ Chapter 22.208 to abate a nuisance an unfit building or premise or to issue an emergency order pursuant to ~~SMC~~ Section 22.206.260.

* * *

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

Section 5. Subsections A and D of Section 22.206.230 of the Seattle Municipal Code, which section was last amended by Ordinance 120087, is amended as follows:

22.206.230 Review by the Director.

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

* * *

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

Section 6. A new section 22.206.235 is added to the Seattle Municipal Code as follows:

22.206.235 Order of the Director.

A. Where review by the Director has been conducted pursuant to Section 22.206.230, the Director shall issue an order of the Director containing the decision within fifteen (15) days of the date that the review is completed. The decision shall be served and posted in the manner provided by 22.206.220.

B. Unless a request for review before the Director is made pursuant to Section 22.206.230, the notice of violation shall become the order of the Director.

C. Because civil actions to enforce Chapter 22.206 are brought in Seattle Municipal Court pursuant to Section 22.206.280, orders of the Director issued under this chapter are not subject to judicial review pursuant to chapter 36.70C RCW.

Section 7. Subsections A through G of Section 22.206.280 of the Seattle Municipal Code, which section was last amended by Ordinance 121076, is amended as follows:

22.206.280 Civil enforcement proceedings and penalties ~~penalty~~.

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

A. ~~In addition to any other sanction or remedial procedure that may be available, and except~~ Except for violations of SMC Section 22.206.180, any person violating or failing to comply with any requirement of this Code shall be subject to a cumulative civil penalty in ~~the an~~ amount of not to exceed:

~~1. Fifteen Dollars (\$15.00) One Hundred Fifty Dollars (\$150.00) per day for each housing unit in violation, and One Hundred Fifty Dollars (\$150.00) 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) per day for each housing unit in violation, and Fifteen Dollars (\$15.00) Five Hundred Dollars (\$500.00) per day for violations in the common area or on the premises surrounding the building or structure, from the date set for compliance for each day beyond ten (10) days of noncompliance until the person complies with the requirements of this Code; or 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.~~

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

~~2.3.~~ One Hundred Dollars (\$100.00) per day from the date a tenant fails to reimburse The City of Seattle for emergency relocation assistance as required by subsection D of ~~SMC~~ Section 22.206.265 until the date the relocation assistance is repaid to The City of Seattle.

~~3. 4.~~ One Hundred Dollars (\$100.00) 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 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 ~~SMC~~ Chapter 22.206 shall be subject to a cumulative civil penalty ~~in the amount of up to One Hundred Dollars (\$100.00) One Thousand Dollars (\$1,000.00)~~ 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 property owner who fails to deposit relocation assistance as required by subsections F and G of ~~SMC~~ Section 22.206.260 shall be subject to a cumulative civil penalty of:

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

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

b. One Hundred Dollars (\$100.00) 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; 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 ~~SMC~~ Section 22.206.260, One Hundred Dollars (\$100.00) per day from the date such deposit is required until the date on which the relocation assistance required by subsections F and G of ~~SMC~~ Section 22.206.260 is deposited with The City of Seattle.

D. ~~In addition to any other sanction or remedial procedure that may be available, any~~ Any owner of housing units who violates subsection C6 of ~~SMC~~ Section 22.206.160 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~~ 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. ~~In addition to any other sanction or remedial procedure that may be available, any~~ Any person who violates or fails to comply with subsections A5, A6, or A7 of ~~SMC~~ Section 22.206.180 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~~ 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 ~~SMC~~ Section 22.206.180 constitutes a separate violation.

G. Civil actions to enforce Chapter 22.206 shall be brought exclusively in Seattle Municipal Court, except as otherwise required by law or court rule. The Director shall ~~notify request in writing that the City Attorney take enforcement action. in writing of the name of any person subject to a civil penalty 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 enforce Chapter 22.206. collect the penalty. In any civil action filed pursuant to this chapter for a penalty, the 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 issuance of a notice of violation or an order following a review by the Director is not itself evidence that a violation exists.

* * *

Section 8. Section 22.206.290 of the Seattle Municipal Code, which section was last amended by Ordinance 120302, is amended as follows:

22.206.290 Alternative Criminal penalties ~~criminal penalty.~~

~~Violations of Sections 22.206.180 A1, 22.206.180 A2, 22.206.180 A3, or 22.206.180 A4 of the Seattle Municipal Code, or of Section 22.206.190 of the Seattle Municipal Code is~~ Any person who violates or fails to comply with any of the provisions of this Chapter 22.206 and who has had an order of judgment entered against them for violating Titles 22 or 23 within the past seven (7) years from the date the criminal charge is filed shall upon conviction be guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except that absolute liability shall be imposed for a violation of Sections 22.206.180 A1, 22.206.180 A2, 22.206.180 A3, 22.206.180 A4, or of Sections 22.206.190 A or 22.206.190 B of the Seattle Municipal Code, such a violation or failure to comply, and none of the mental states described in Section 12A.04.030 need be proved. The Director may request that the City Attorney prosecute such violations criminally as an alternative to the civil procedure outlined in this chapter.

~~No person other than he or she who commits the act will be found guilty without a finding in accord with SMC Section 12A.04.130 B1 or SMC Section 12A.04.130 B3. Violators shall, upon conviction:~~

~~1. Be fined in a sum not exceeding Five Thousand Dollars (\$5,000); 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 22.206.210;~~

~~2. For violations of Section 22.206.260, where the person charged has had a civil judgment under 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 willful, intentional, or bad-faith failure or refusal to comply with the standards or requirements of this Code.~~

~~C.~~ Each day a violation of this title continues and each occurrence of a prohibited activity shall be deemed and considered a separate offense.

Section 9. A new section 22.206.315 is added to the Seattle Municipal Code as follows:

22.206.315 Appeal to Superior Court.

Final decisions of the Seattle Municipal Court on enforcement actions authorized by this chapter may be appealed pursuant to the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

Section 10. Subsections A and C of Section 22.208.030 of the Seattle Municipal Code, which section was last amended by Ordinance 117861, is amended as follows:

22.208.030 Investigation, notice and hearing.

A. The Director may investigate any building or premises which the director believes to be unfit for human habitation or other use. If the investigation reveals conditions that make the building or premises unfit for human habitation or other use, the Director shall:

1. Issue a complaint stating the conditions that make the building or premises unfit for human habitation or other use; and
2. Serve the complaint by personal service, ~~registered mail~~, or certified mail with return receipt requested, upon all persons who appear on a litigation guarantee from a licensed title insurance company as having any ownership interest in the building or premises; and
3. Post the complaint in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way.

* * *

C. If the address of the persons appearing on the litigation guarantee identified in ~~subparagraph~~ subsection A cannot be ascertained by the Director after a reasonable search, then the Director shall make affidavit to that effect, and the complaint shall be served either by personal service or by mailing a copy of the complaint by first class mail and certified mail, postage prepaid, return receipt requested, to the address appearing on the last equalized tax assessment roll of the County Assessor and to any other address known to the County Assessor. A copy of the complaint shall also be mailed to each person whose address cannot be ascertained, to the address of the building or premises involved in the proceedings. In addition to serving and posting the complaint, the Director shall mail or cause to be delivered to all housing and commercial rental units in the building or on the premises a copy of the complaint.

* * *

Section 11. Subsection G of Section 22.208.050 of the Seattle Municipal Code, which section was last amended by Ordinance 117861, is amended as follows:

22.208.050 Appeal from order of Director.

* * *

G. Within fourteen (14) days after the hearing the Hearing Examiner shall issue a written decision containing findings of fact and conclusions and shall mail copies of the decision to the parties of record. The decision of the Hearing Examiner shall be the final decision of the City and shall have the same effect as a decision of the Director issued pursuant to Section ~~22.206.230~~ 22.206.235. The decision and order of the Hearing Examiner shall be filed by the Director with the King County Department of Records and Elections.

Section 12. Subsections A, B, and C of Section 22.208.150 of the Seattle Municipal Code, which section was last amended by Ordinance 117861, is amended as follows:

22.208.150 Civil enforcement proceedings and penalties.

A. In addition to any other remedy authorized by law or equity, Any any person failing to comply with an order issued by the Director or Hearing Examiner pursuant to this Chapter shall be subject to a cumulative civil penalty in an amount not to exceed Five Hundred Dollars (\$500) per day from the date set for compliance until the owner or a responsible party requests a reinspection and the Director verifies following reinspection that the property is in compliance.

B. Any person violating Section 22.208.130 shall be subject to a civil penalty in the amount of Five Hundred Dollars (\$500).

C. The Director shall ~~notify request in writing that~~ the City Attorney take enforcement action. ~~in writing of the name of any person subject to a penalty. The City Attorney shall, with assistance of the Director, take appropriate enforcement action, to collect the penalty.~~

* * *

Section 13. Section 22.208.160 of the Seattle Municipal Code, which was last amended by Ordinance 117861, is amended as follows:

22.208.160 Alternative Criminal penalties criminal penalty.

A. ~~Anyone~~ Any person who violates or fails to comply with any of the requirements of this Chapter 22.208 and who has had an Order of Judgment entered against them by a court of competent jurisdiction for violating Titles 22 or 23 within the past seven (7) years from the date the criminal charge is filed and who within the previous five (5) years has had a civil penalty assessed against him or her pursuant to Section 22.208.150 of this Code shall, upon conviction, be fined a sum not exceeding Five Thousand Dollars (\$5,000) or imprisoned for a term not exceeding one (1) year, or both. Each day that anyone violates or fails to comply with any of the foregoing provisions shall be a separate offense.

B. ~~A fine, not exceeding Five Thousand Dollars (\$5,000) per violation and/or a term of imprisonment not exceeding one (1) year may be imposed for any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this chapter. shall upon conviction be guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request that the City Attorney prosecute such violations criminally as an alternative to the civil procedure outlined in this chapter. Each day a violation of this title continues and each occurrence of a prohibited activity shall be deemed and considered a separate offense.~~

Section 14. Sections 22.206.300 and 22.206.310 of the Seattle Municipal Code, which were adopted by Ordinance 113545, are repealed in their entirety.

Section 15. Chapter 22.207 of the Seattle Municipal Code, which chapter was adopted by Ordinance 119509, is repealed in its entirety.

Section 16. 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 _____, 2007, and signed by me in open session in authentication of its passage this ____ day of _____, 2007. _____ President _____ of the City Council

Approved by me this ____ day of _____, 2007. _____ Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2007. _____ City Clerk

May 10, 2007 version #3 t