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**Council Bill Number:** 114247

**Ordinance Number:** 121408

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AN ORDINANCE relating to a tenant's right of first refusal, amending SMC Section 22.206.160 C to delete a tenant's right of first refusal to re-rent when an owner rehabilitates the tenant's unit.

**Status:** Passed as Amended

**Note:** Amending: Ord 115390

**Vote:** 9-0

**Date filed with the City Clerk:** 2004/03/05

**Date of Mayor's signature:** 2004/03/02 ([about the signature date](#))

**Date introduced/referred to committee:** 2002/07/15

**Committee:** Housing, Human Services & Community Development

**Sponsor:** NICASTRO

**Committee Recommendation:** Pass

**Index Terms:** LANDLORDS, CONDOMINIUMS, RENTAL-HOUSING, CONSUMER-PROTECTION, TENANTS, PROPERTY-LAW COOPERATIVES, RESIDENTIAL-BUILDINGS, CONDOMINIUMS, HOUSING

**Fiscal Note:** [Fiscal Note to Council Bill No. 114247](#)

**Electronic Copy:** [PDF scan of Ordinance No. 121408](#)

**Reference:** Amending 119617

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**Text:**

AN ORDINANCE relating to a tenant's right of first refusal, amending SMC Section 22.206.160 C to delete a tenant's right of first refusal to re-rent when an owner rehabilitates the tenant's unit.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection C of SMC Section 22.206.160, which Section was last amended by Ordinance 121276, is amended as follows:

22.206.160 Duties of owners.

\* \* \*

C. Just Cause Eviction.

1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW 59.18.290), owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant unless the owner can prove in court that just cause exists. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this section:

a. The tenant fails to comply with a three (3) day notice to pay rent or vacate pursuant to RCW 59.12.030(3); a ten (10)

day notice to comply or vacate pursuant to RCW 59.12.030(4); or a three (3) day notice to vacate for waste, nuisance (including a drug-related activity nuisance pursuant to RCW Chapter 7.43) or maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5);

b. The tenant habitually fails to pay rent when due which causes the owner to notify the tenant in writing of late rent four (4) or more times in a twelve (12) month period;

c. The tenant fails to comply with a ten (10) day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under RCW 59.18;

d. The tenant habitually fails to comply with the material terms of the rental agreement which causes the owner to serve a ten (10) day notice to comply or vacate three (3) or more times in a twelve (12) month period;

e. The owner seeks possession so that the owner or a member of his or her immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building.

"Immediate family" shall include the owner's domestic partner registered pursuant to Section 1 of Ordinance 117244 or the owner's spouse, parents, grandparents, children, brothers and sisters of the owner, of the owner's spouse, or of the owner's domestic partner. There shall be a rebuttable presumption of a violation of this subsection if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least sixty (60) consecutive days during the ninety (90) days immediately after the tenant vacated the unit pursuant to a notice of termination or eviction using this subparagraph as the cause for eviction;

f. The owner elects to sell a single-family dwelling unit and gives the tenant at least sixty (60) days written notice prior to the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month to month, with the last day of a monthly period. For the purposes of this section, an owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within thirty (30) days after the tenant has vacated, including, at a minimum, listing it for sale at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:

i. Within thirty (30) days after the tenant has vacated, the owner does not list the single-family dwelling unit for sale at a reasonable price with a realty agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

ii. Within ninety (90) days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the market, rents the unit to someone other than the former tenant, or otherwise indicates that the owner does not intend to sell the unit;

g. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;

h. The owner seeks to do substantial rehabilitation in the building; provided that, the owner must obtain a tenant relocation license if required by SMC Chapter 22.210 and at least one (1) permit necessary for the rehabilitation, other than a Master Use Permit, before terminating the tenancy. ~~Any tenants dispossessed pursuant to this provision shall be notified in writing by the owner at the time of vacating the unit that the tenant has a right of first refusal for the rehabilitated unit. The owner shall notify the tenant in writing, mailed by regular mail to the last address provided by the tenant, when the unit is ready to be reoccupied, and the tenant shall exercise such right of first refusal within thirty (30) days of the owner's notice;~~

i. The owner elects to demolish the building, convert it to a condominium or a cooperative, or convert it to a nonresidential use; provided that, the owner must obtain a tenant relocation license if required by SMC Chapter 22.210 and a permit necessary to demolish or change the use before terminating any tenancy;

j. The owner seeks to discontinue use of a housing unit unauthorized by Title 23 of the Seattle Municipal Code after

receipt of a notice of violation thereof. The owner is required to pay relocation assistance to the tenant(s) of each such unit at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

- i. Two Thousand Dollars (\$2,000) for a tenant household with an income during the past twelve (12) months at or below fifty (50) percent of the County median income, or
- ii. Two (2) months' rent for a tenant household with an income during the past twelve (12) months above fifty (50) percent of the County median income;
- k. The owner seeks to reduce the number of individuals residing in a dwelling unit to comply with the maximum limit of individuals allowed to occupy one (1) dwelling unit, as required by SMC Title 23, and:
  - i. (A) The number of such individuals was more than is lawful under the current version of SMC Title 23 or Title 24 but was lawful under SMC Title 23 or 24 on August 10, 1994,
  - (B) That number has not increased with the knowledge or consent of the owner at any time after August 10, 1994, and
  - (C) The owner is either unwilling or unable to obtain a permit to allow the unit with that number of residents,
  - ii. The owner has served the tenants with a thirty (30) day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit,
  - iii. After expiration of the thirty (30) day notice, the owner has served the tenants with and the tenants have failed to comply with a ten (10) day notice to comply with the limit on the number of occupants or vacate, and
  - iv. If there is more than one (1) rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit;
- l. i. The owner seeks to reduce the number of individuals who reside in one (1) dwelling unit to comply with the legal limit after receipt of a notice of violation of the SMC Title 23 restriction on the number of individuals allowed to reside in a dwelling unit, and:
  - (A) The owner has served the tenants with a thirty (30) day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit; provided that, no thirty (30) day notice is required if the number of tenants was increased above the legal limit without the knowledge or consent of the owner,
  - (B) After expiration of the thirty (30) day notice required by subsection C11i(A) above, or at any time after receipt of the notice of violation if no thirty (30) day notice is required pursuant to subsection C11i(A), the owner has served the tenants with and the tenants have failed to comply with a ten (10) day notice to comply with the maximum legal limit on the number of occupants or vacate, and
  - (C) If there is more than one (1) rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the option of the owner, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit.
- ii. For any violation of the maximum legal limit on the number of individuals allowed to reside in a unit that occurred with the knowledge or consent of the owner, the owner is required to pay relocation assistance to the tenant(s) of each such unit at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:
  - (A) Two Thousand Dollars (\$2,000) for a tenant household with an income during the past twelve (12) months at or below fifty (50) percent of the county median income, or

(B) Two (2) months' rent for a tenant household with an income during the past twelve (12) months above fifty (50) percent of the county median income;

m. The owner seeks to discontinue use of an accessory dwelling unit for which a permit has been obtained pursuant to SMC Section 23.44.041 after receipt of a notice of violation of the development standards provided in that section. The owner is required to pay relocation assistance to the tenant household residing in such a unit at least two (2) weeks prior to the date set for termination of the tenancy, at the rate of:

i. Two Thousand Dollars (\$2,000) for a tenant household with an income during the past twelve (12) months at or below fifty (50) percent of the county median income, or

ii. Two (2) months' rent for a tenant household with an income during the past twelve (12) months above fifty (50) percent of the county median income;

n. An emergency order requiring that the housing unit be vacated and closed has been issued pursuant to SMC Section 22.206.260 and the emergency conditions identified in the order have not been corrected;

o. The owner seeks to discontinue sharing with a tenant the owner's own housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a tenant of an accessory dwelling unit authorized pursuant to SMC Section 23.44.041 that is accessory to the housing unit in which the owner resides, so long as the owner has not received a notice of violation of the development standards of SMC Section 23.44.041 regarding that unit. If the owner has received such a notice of violation, subsection C1m of this section applies;

p. A tenant, or with the consent of the tenant, his or her subtenant, sublessee, resident or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises, and the owner has specified in the notice of termination the crime alleged to have been committed and the general facts supporting the allegation, and has assured that the Department of Planning and Development has recorded receipt of a copy of the notice of termination. For purposes of this subsection a person has "engaged in criminal activity" if he or she:

i. Engages in drug-related activity that would constitute a violation of RCW Chapters 69.41, 69.50 or 69.52, or

ii. Engages in activity that is a crime under the laws of this state, but only if the activity substantially affects the health or safety of other tenants or the owner.

2. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this subsection C shall be deemed void and of no lawful force or effect.

3. With any termination notices required by law, owners terminating any tenancy protected by this section shall advise the affected tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons.

4. If a tenant who has received a notice of termination of tenancy claiming subsection C1e, C1f, or C1m of this section as the ground for termination believes that the owner does not intend to carry out the stated reason for eviction and makes a complaint to the Director, then the owner must, within ten (10) days of being notified by the Director of the complaint, complete and file with the Director a certification stating the owner's intent to carry out the stated reason for the eviction. The failure of the owner to complete and file such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction action based on this ground.

5. In any action commenced to evict or to otherwise terminate the tenancy of any tenant, it shall be a defense to the action that there was no just cause for such eviction or termination as provided in this section.

6. It shall be a violation of this section for any owner to evict or attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant using a notice which references subparagraphs 1e, 1f, 1h, 1k, 1l, or 1m of this subsection C as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason

for or condition justifying the termination of such tenancy.

7. An owner who evicts or attempts to evict a tenant or who terminates or attempts to terminate the tenancy of a tenant using a notice which references subparagraphs 1e, 1f or 1h of this subsection C as the ground for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy shall be liable to such tenant in a private right for action for damages up to Two Thousand Dollars (\$2,000), costs of suit or arbitration and reasonable attorney's fees.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 3. 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 \_\_\_\_\_, 2004, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2004. \_\_\_\_\_  
President of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2004. \_\_\_\_\_ Gregory J.  
Nickels, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2004. \_\_\_\_\_ City Clerk

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