

Amendment 1 Version 1 to CB 120606 – Rent Control

Sponsor: Councilmember Sawant

Technical/procedural amendments

Effect: This amendment would make the following changes:

- **Move subsection 7.28.160.E.2.d regarding withdrawal or amendment of citations related to contested hearings to new subsection 7.28.160.E.3 to allow for withdrawal or amendment of any citation and renumber subsequent subsections;**
- **Change the requirement in subsection 7.28.160.E.1.a to hear mitigation hearings from within 30 days only to allow scheduling to accommodate the Hearing Examiner's or the hearing requestor's schedule;**
- **Correct a typo in section 7.28.160.E.1.d and revise to improve readability; and**
- **Add a severability clause to allow portions of the bill to remain effective if other portions are struck down and renumber subsequent sections.**

Amend Section 1 of CB 120606 as follows:

7.28.160 Citation

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E. Hearings

1. Mitigation hearings

a. Date and notice. If a mitigation hearing is requested, the mitigation hearing shall be held within 30 days after the Office of the Hearing Examiner receives the written response to the citation requesting such hearing, or as soon as practical to accommodate the requestor's or Hearing Examiner's schedule. Notice of the time, date, and location of the hearing shall be sent to the address specified in the request for hearing not less than ten days prior to the date of the hearing.

b. Procedure at hearing. The Hearing Examiner shall hold an informal hearing that is governed by the Hearing Examiner rules and procedures. The landlord may present witnesses or written witness testimony, but witnesses may not be compelled to attend. A representative from the Department may also be present and may present additional information, but attendance by a representative from the Department is not required.

c. Disposition. The Hearing Examiner shall determine whether to reduce the monetary penalty; however, the monetary penalty may not be reduced unless the Department affirms that the violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another; or whether correction of the violation was commenced promptly prior to citation but that full compliance was prevented by a condition or circumstance beyond the control of the person cited.

d. Entry of order. After hearing the explanation of the landlord and any other information presented at the hearing, the Hearing Examiner may enter an order finding that the landlord committed the violation and ~~the determined amount of a reduced~~ amount monetary penalty amount pursuant to subsection 7.28.160.F. The Hearing Examiner's decision shall be the City's final decision.

2. Contested hearing

a. Date and notice. If a landlord requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

b. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by

the Hearing Examiner for hearing contested cases, except as modified by this subsection

7.28.160.E.2. The issues heard at the hearing shall be limited to those within the jurisdiction of the Hearing Examiner. The Office of the Hearing Examiner, either on its own or at the request of a contesting landlord, may issue subpoenas for the attendance of witnesses and the production of documents.

c. Sufficiency. A citation shall be deemed sufficient if it contains a statement of the facts that support the Department's determination that the landlord violated this Chapter 7.28.

~~d. Citation may be withdrawn or amended. A citation may be withdrawn prior to the conclusion of the hearing if the Department decides that the statement of facts supporting the citation are either incorrect or that additional facts change the Department's decision as to whether this Chapter 7.28 was violated. A citation may be amended to conform to the evidence prior to the conclusion of the hearing if additional facts are discovered that provide additional support for the citation, but only if substantial rights of the person cited are not thereby prejudiced.~~

ed. Evidence at hearing. A citation issued by the Department shall be prima facie evidence that a violation by a landlord has occurred. The signed citation and any other evidence accompanying the report shall be admissible without further evidentiary foundation. The landlord may rebut the Department's evidence and establish that the cited violation(s) did not occur or that the landlord contesting the citation is not responsible for the violation.

fe. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the landlord committed the violation. If the violation

remains uncorrected, the Hearing Examiner shall impose the applicable penalty. If the violation has been corrected, the Hearing Examiner may reduce the monetary penalty in the same manner as authorized in subsection 7.28.160.E.1. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

gf. Appeal. The Hearing Examiner's decision is final and conclusive unless the decision is appealed as allowed by applicable law.

3. Citation may be withdrawn or amended. A citation may be withdrawn prior to the conclusion of the hearing if the Department decides that the statement of facts supporting the citation are either incorrect or that additional facts change the Department's decision as to whether this Chapter 7.28 was violated. A citation may be amended to conform to the evidence prior to the conclusion of the hearing if additional facts are discovered that provide additional support for the citation, but only if substantial rights of the person cited are not thereby prejudiced.

34. Failure to appear for hearing. Failure to appear for a requested hearing will result in an order being entered finding that the landlord committed the violation as stated in the facts provided in the citation and an assessed penalty up to the maximum amount specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

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Add a new Section 5 to CB 120606 as follows and renumber subsequent sections as appropriate:

Section 5. 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 ~~56~~. If the preemption of rent control in RCW 35.21.830 is repealed without enacting any additional rent control laws that apply in Seattle, landlords are prohibited from increasing the rate of rent or the amount of any deposit charged for any rental housing unit until Sections 1, 2, and 3 of this ordinance shall take effect. If the preemption of rent control in RCW 35.21.830 is repealed at the same time as the enactment of rent control laws that preempt application of Sections 1, 2, or 3 in Seattle, then Section ~~56~~ of this ordinance shall not take effect.

Section ~~67~~. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 18 months after the date that preemption of rent control in RCW 35.21.830 is repealed without enacting any additional rent control laws that apply in Seattle. If the preemption of rent control in RCW 35.21.830 is repealed at the same time as the enactment of rent control laws that preempt application of Sections 1, 2, or 3 in Seattle, then Sections 1, 2, and 3 of this ordinance shall not take effect.

Section ~~78~~. 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.