

CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL _____

1 AN ORDINANCE relating to residential rental agreements, the payment of relocation assistance
2 to displaced tenants, the issuance of building permits, and establishing penalties, and
3 amending Seattle Municipal Code Sections 7.24.030, 22.204.200, 22.210.030,
4 22.210.140, 22.210.150, 22.210.180, and section 106.6.3 of the 2012 Seattle Building
5 Code, SMC 22.100.010 and Section R105.6.3 of the 2012 Seattle Residential Code, SMC
6 22.150.010, and adding a new section 22.210.136.

7
8 WHEREAS, RCW 59.18.440 authorizes any municipal corporation required to develop a
9 comprehensive plan under RCW 36.70A.040(1) to enact a program providing reasonable
10 relocation assistance to tenants earning 50 percent or less of Area Median Income (AMI),
11 upon the demolition, substantial rehabilitation, or change of use of residential property, or
12 upon the removal of use restrictions in an assisted-housing development; and

13 WHEREAS in 1990, The City of Seattle (City) passed the Tenant Relocation Assistance
14 Ordinance (TRAO) because of the difficulty for low-income persons who are displaced
15 by demolition, change of use, substantial rehabilitation, or removal of use restrictions
16 from assisted housing to locate affordable substitute rental housing, and who also do not
17 have sufficient time to save money for relocation costs or to find comparable housing
18 when they are evicted as a result of such displacement; and

19 WHEREAS, since 2004, under the TRAO 1,325 low-income households have been assisted with
20 relocation funds and time to move; and

21 WHEREAS, RCW 59.18.140 allows for a change in the amount of rent to become effective with
22 thirty days written notice to each affected tenant upon completion of the term of the
23 rental agreement; and

24 WHEREAS, TRAO does not provide for assistance or additional notice when tenants are
25 displaced from housing as a result of rent increases; and

26 WHEREAS, tenants sometimes find that TRAO eligible renovation, demolition, or change of use
27 is done after they have moved because of a rent increase and that they have, as a result,
28 been deprived the relocation assistance and additional time to move they would have
otherwise received; and

WHEREAS, under Seattle Municipal Code Section 22.210.180 the Department of Planning and
Development (DPD) has the authority to collect penalties under TRAO if a permit
applicant is untruthful by declaring vacant an occupied rental or harasses or intimidates a

1 tenant into moving out and then applies for a demolition, renovation, or change of use
2 permit; and

3 WHEREAS, DPD has had an increasing number of calls from tenants concerned about
4 significant rent increases but there are no regulatory limits on the amount of a rent
5 increase and enforcement of state and city regulations requiring proper notice for rent
6 increases is a tenant responsibility; and

7 WHEREAS, the City finds it is in the public interest to protect and financially assist low-income
8 tenants; and

9 WHEREAS, it is a hardship for low-income tenants to have to move without relocation
10 assistance, and of the estimated 313,000 housing units in Seattle, only approximately 29
11 percent of them are affordable to people with incomes under 50 percent of AMI; and

12 WHEREAS, the City, tenants, and property owners have a shared interest in ensuring that the
13 law is followed by all property owners who are required to provide relocation assistance
14 to tenants;

15 WHEREAS, the Council finds that owners should pay relocation assistance to tenants who are
16 displaced as a result of the owner's substantial rehabilitation of a dwelling unit regardless
17 of whether permits are required from the City to accomplish the rehabilitation;

18 WHEREAS, in Washington, month-to-month tenancies may be terminated without cause and in
19 Seattle enacted the Just Cause Eviction Ordinance (JCEO) in 1980, which requires
20 landlords to have just cause to evict a tenant; and

21 WHEREAS, the JCEO was previously applied to fixed term tenancies at the end of their term
22 until 2000, when the Washington State Court of Appeals, ruled that JCEO did not apply
23 to tenants at the end of term leases and the City Council finds that tenants in a fixed term
24 tenancy should have the same protections against eviction or termination of tenancy at
25 the expiration of a fixed term tenancy as do tenants having a month-to-month tenancy;
26 and

27 WHEREAS, the purpose of the Rental Agreement Regulation Ordinance (RARO) is to regulate
28 residential rental agreements; and

WHEREAS, the current RARO does not regulate the expiration of fixed term leases or provide
for their conversion to month-to-month periodic tenancies at the expiration of the fixed
term lease, and

1 NOW, THEREFORE,

2 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

3 Section __. Section 7.24.030 of the Seattle Municipal Code, last amended by ordinance
4 _____, is amended as follows:

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6 A. Any rental agreement or renewal of a rental agreement for a residential rental unit in the
7 City of Seattle entered into after the effective date of the ordinance adding this subsection A
8 shall include or shall be deemed to include a provision requiring a minimum of sixty (60)
9 days prior written notice whenever the periodic or monthly housing costs to be charged a
10 tenant is to increase by ten (10) percent or more over the periodic or monthly rental rate
11 charged the same tenant for the same housing unit and same services for any period or
12 month during the preceding twelve (12) month period.

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14 B. No rental agreement entered into after the effective date of the ordinance codified in this
15 chapter that creates or purports to create a tenancy from month to month or from period to
16 period on which rent is payable, may:

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18 1. Require occupancy for a minimum term of more than one (1) month or period;
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20 2. Impose penalties, whether designated as "additional rent" or fees, if a tenant terminates
21 the tenancy pursuant to law and vacates before expiration of any minimum term
22 prohibited by subsection B(1) of this section;
23
24 3. Require forfeiture of all or any part of a deposit if the tenant terminates the tenancy
25 pursuant to law and vacates before expiration of any minimum term prohibited by
26 subsection B(1) of this section; provided, that nothing in this chapter shall prevent a
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1 landlord from retaining all or a portion of a deposit as compensation for damage to the
2 premises as provided by law and the rental agreement or, as provided by law, for failure
3 to perform other obligations imposed by the rental agreement.
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5 C. If a fixed term tenancy is not renewed prior to the expiration of its term, the tenancy shall
6 convert to a month-to-month periodic tenancy by operation of law at the end of the fixed term.
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8 Section __. Subsection I of Section 22.204.200 of the Seattle Municipal Code, last
9 amended by ordinance _____, is amended as follows:

10 I. "Substantial rehabilitation" means extensive structural repair or extensive remodeling
11 that requires displacement of the tenant and either ~~((which))~~ requires a building, electrical,
12 plumbing or mechanical permit, or is valued at \$6,000 or more~~((and which cannot be done with~~
13 ~~the tenant in occupancy.~~
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18 Section __. Subsection L of Section 22.210.030 of the Seattle Municipal Code, last
19 amended by ordinance _____, is amended as follows:

20 I. "Substantial rehabilitation" means extensive structural repair or extensive remodeling
21 that requires displacement of the tenant and either ~~((which))~~ requires a building, electrical,
22 plumbing or mechanical permit, or is valued at \$6,000 or more~~((and which cannot be done with~~
23 ~~the tenant in occupancy.~~
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Section ___. A new Section 22.210.136 of the Seattle Municipal Code is added as follows:

22.210.136 Rent increase to avoid payment of relocation assistance

A. Complaint leading to certification. If a tenant has received a notice of a rent increase that the tenant believes is for the purpose of avoiding the payment of relocation assistance and makes a complaint to the Director, the owner must, within ten days of being notified by the Director of the complaint, file a certification with the Director stating that that the rent increase is not for the purpose of avoiding the payment of relocation assistance.

B. Complaint leading to investigation by Director. If a tenant files a complaint with the Director alleging that a rent increase made by the owner was for the purpose of avoiding the payment of relocation assistance under this Chapter 22.210, the Director shall investigate the complaint and decide if the rent increase was made for that purpose. A decision by the Director that the rent increase was for the purpose of avoiding the payment of relocation assistance constitutes a finding that the owner violated the provisions of this Chapter requiring the payment of relocation assistance and unless reversed on appeal to the Hearing Examiner, subjects the owner to the penalties prescribed in section 22.210.180.

There is a rebuttable presumption that a substantial rehabilitation, demolition, or change of use in violation of the requirements of Section 22.210.050 has occurred if a tenant vacates a dwelling unit within 90 days of a rent increase, and the owner applies for a permit for a substantial rehabilitation, demolition, or change of use within 90 days of the tenant vacating; and

1 1. Within 30 days after the tenant has vacated, the owner does not list the
2 dwelling unit for rent at the same rental amount or more or advertise it for rent at the same rental
3 or more in a newspaper of general circulation or rental website, such as
4 HousingSearchNorthwest, Rent.com, Craigslist, or Zillow; or

5 2. Within 90 days after the dwelling unit was timely listed or advertised for rent
6 as described in subsection 22.210.170.B.1 , the owner withdraws the unit from the rental market
7 without having rented it; or

8 3. The dwelling unit was timely listed or advertised for rent as described in
9 subsection 22.210.170.B.1 and maintained in effect as described in subsection 22.210.170.B.2,
10 but the increase in rent was in excess of the amount necessary for a reasonable return
11 considering:

12 a) The purchase price and terms of the transaction relied upon to establish
13 the cost basis of the rental unit;

14 b) The increases and decreases since the last rent increase in the
15 reasonable and necessary expenses of operation and maintenance of the building and rental unit;

16 c) The costs of capital improvements since the last rent increase;

17 d) Increases or decreases since the last increase in rent in necessary or
18 desirable services furnished by the lessor that affect the vacating tenant, or any substantial
19 deterioration of the premises since the last rent increase;

20 e) Comparability of the rent with other rents in comparable buildings and
21 areas of the City; and

22 f) A reasonable return; or

23 4. The Director requested the owner execute a certification under subsection
24 22.210.136 A and the owner failed to follow the provisions of this Chapter 22.210 after signing
25 the certification or failing to sign it.

1 The Director shall mail copy of the Director's decision to the owner and to the tenant
2 who made the complaint. The owner or the tenant may appeal the Director's decision to the
3 Seattle Hearing Examiner within thirty days of the date of mailing of the Director's decision. The
4 appeal shall be conducted pursuant to the procedures prescribed in subsections D through I of
5 section 22.210.150.

6 Section __. Subsection 22.210.140 A of the Seattle Municipal Code, last amended by
7 Ordinance _____, is amended as follows:

8 A. After the earlier of (1) the owner's application for a tenant relocation license; (2) the owner's
9 application for a Master Use Permit necessary for demolition, change of use, substantial
10 rehabilitation, or removal of use restrictions from a dwelling unit; or (3) the owner's application
11 for a building permit necessary for demolition, change of use, substantial rehabilitation, or
12 removal of use restrictions from a dwelling unit, the owner shall not evict any tenant except for
13 good cause as defined in Section 22.206.160 C, subsections 1a, 1b, 1c, 1g, 1h, li, ln, and 1p, of
14 the Seattle Municipal Code, and shall not, for the purpose of avoiding or diminishing the
15 application of this chapter, reduce the services to any tenant, or materially increase or change the
16 obligations (~~apart from the obligation to pay rent~~) of any tenant.

19 Section __. Section 22.210.150 of the Seattle Municipal Code, last amended by Ordinance
20 _____, is amended as follows:

21 22.210.150 - Administrative appeals

22
23 A. Either an owner or a tenant may request a hearing before the Hearing Examiner to appeal a
24 determination concerning a tenant's eligibility for a relocation assistance payment., ~~Either an~~
25 ~~owner or a tenant may request a hearing before the Hearing Examiner to resolve a dispute~~
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1 concerning the authority to institute unlawful detainer actions prior to issuance of the tenant
2 relocation license required by SMC 22.210.050- ~~((during the 90 day period after service of~~
3 the notice required by Section 22.210.120.)) or to review a decision of the Director pursuant
4 to SMC 22.210.136 that the owner has or has not raised the rent to avoid payment of
5 relocation assistance.

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7 B. Appeals regarding eligibility for relocation assistance shall be filed within ten days after
8 receipt of the Director's notice of tenant eligibility for relocation assistance-

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10 C. A request for a hearing relating to authority to pursue unlawful detainer actions during the
11 relocation period shall be filed prior to issuance of the tenant relocation license.

12 D. Appeals to review a decision of the Director pursuant to SMC 22.210.136 that the owner has
13 or has not raised the rent to avoid payment of relocation assistance shall be filed within ten
14 days after receipt of the Director's decision.

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16 E(~~Ⓓ~~). When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday,
17 the period shall run until 5 p.m. on the next business day.

18 F(~~Ⓔ~~). All requests for a hearing and appeals shall be in writing and shall clearly state specific
19 objections and the relief sought. The appellant is (~~shall~~) not be required to pay the Hearing
20 Examiner filing fee set forth in Section 3.02.125

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22 G(~~Ⓕ~~). Notice of the hearing shall be provided by the Hearing Examiner at least ten days prior to
23 the scheduled hearing date to the tenant, the owner, the Director, and any other interested
24 parties who have requested notice.
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1 H((G)). A record shall be established at the hearing before the Hearing Examiner. Appeals
2 shall be considered de novo. The Director is ((shall)) not ((be)) a necessary party to any
3 Hearing Examiner proceedings pursuant to this Section 22.210.150

4 I((H)). On the day it is issued, the Hearing Examiner shall provide the decision on the appeal to
5 the tenant, the property owner, the Director, and all those requesting notice.
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7 J((I)). The Hearing Examiner's decision is ((shall-be)) final and conclusive unless, within ten
8 calendar days of the date of the Hearing Examiner decision, an application or petition for a
9 writ of review is filed in King County Superior Court. Judicial review shall be confined to
10 the record of the administrative hearing. The Superior Court may reverse the Hearing
11 Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess
12 of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or
13 in violation of constitutional provisions.
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16 Section __. Section 22.210.180 of the Seattle Municipal Code, last amended by Ordinance
17 117094, is amended as follows:

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19 A. In addition to any other sanction or remedial procedure which may be available,
20 any person violating any provision of this chapter shall be subject to a cumulative civil
21 penalty in the amount of ((One Thousand Dollars (-)))\$1,000((+)) per day for each day from
22 the date the violation began until the requirements of this chapter are satisfied, and if:

- 23
24 1. The violation resulted in a tenant who would have been eligible for
25 relocation assistance not receiving it, the penalty shall be increased by the amount of the
26 violator's share of the relocation assistance that should have been paid; or
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1 2. The violation is for receipt of relocation assistance by an ineligible
2 tenant or for failure to vacate pursuant to Section 22.210.160, the penalty shall be
3 increased by the amount of relocation assistance received by the tenant.

4 B. The penalty imposed by this section shall be collected by civil action brought in
5 the name of the City. The Director shall notify the City Attorney of the name of any person
6 subject to the penalty, and the City Attorney shall, with the assistance of the Director, take
7 appropriate action to collect the penalty.
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9 C. Any tenant or person aggrieved by a violation of this ((e))Chapter 22.210 may
10 institute a private action to enforce the obligations contained in this ((e))Chapter 22.210,
11 provided, that this section does not create any right of action against the City or any City
12 officer or employee (~~thereof~~), for the failure either to require any owner to pay relocation
13 assistance or to pay tenants the amount of the owner's share with City funds. This section
14 shall be retroactive to June 22, 1993.
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16 D. In addition to any other penalty, sanction, or remedial procedure which may be
17 available, if the Director determines pursuant to Section 22.210.136 that a violation of
18 Section 22.210.050 has occurred, the owner shall not be issued a permit for a substantial
19 rehabilitation, demolition, or change of use of the subject dwelling unit until the owner has
20 paid to the City a penalty that is equivalent to the amount of relocation assistance that should
21 have been paid to the tenant had the owner complied with the requirements of Section
22 22.210.050.
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1 Section __. Section 106.6.3 of the 2012 Seattle Building Code is amended to read as
2 follows:

3 106.6.3 Issuance of permit.

4 A. Subject to paragraph B, the building official shall issue a permit to the applicant, if the
5 building official finds that the work as described in the construction documents satisfies the
6 following:
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8
9 1. It conforms to the requirements of this code and other pertinent laws, ordinances, and
10 regulations and with all conditions imposed under any of them,
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12 2. The fees specified in the Fee Subtitle have been paid, and
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14 3. The applicant has complied with all requirements to be performed prior to issuance of a permit
15 for the work under other pertinent laws, ordinances or regulations or included in a master use
16 permit, or otherwise imposed by the building official.
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18 When the permit is issued, the applicant or the applicant's authorized agent becomes the permit
19 holder.
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21 B. The building official shall not issue a permit if the owner of property that is the subject of the
22 permit application has been issued a notice of violation regarding such property for failure to
23 obtain a relocation license pursuant to SMC 22.210.050. The permit shall be issued if the owner
24 has paid the penalty imposed by SMC 22.210.180 (D).
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1 Section ___. Section R105.6.3 of the 2012 Seattle Residential Code is amended to read as
2 follows:

3 **R105.6.3 Issuance of permit.**

4 A. Subject to paragraph B, the building official shall issue a permit to the applicant if the
5 building official finds that the work as described in the construction documents satisfies the
6 following:

- 7 1. It conforms to the requirements of this code and other pertinent laws, ordinances and
8 regulations and with all conditions imposed under any of them,
- 9 2. The fees specified in the Fee Subtitle have been paid, and
- 10 3. The applicant has complied with all requirements to be performed prior to issuance of
11 a permit for the work under other pertinent laws, ordinances or regulations or
12 included in a master use permit, or otherwise imposed by the building official

13 When the permit is issued, the applicant or the applicant's authorized agent becomes the
14 permit holder.

15 B. The building official shall not issue a permit if the owner of property that is the subject of
16 the permit application has been issued a notice of violation regarding such property for
17 failure to obtain a relocation license pursuant to SMC 22.210.050. The permit shall be
18 issued if the owner has paid the penalty imposed by SMC 22.210.180 (D).

19 Section ___. Severability. The provisions of this ordinance are declared to be separate and
20 severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of
21 this ordinance, or the invalidity of its application to any person or circumstance, do not affect the
22 validity of the remainder of this ordinance, or the validity of its application to other persons or
23 circumstances.

24 Section ___. This ordinance shall take effect and be in force 30 days after its approval by
25 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
26 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 _____, 2015, and
signed by me in open session in authentication of its passage this
____ day of _____, 2015.

President _____ of the City Council

Approved by me this ____ day of _____, 2015.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

Monica Martinez Simmons, City Clerk

(Seal)