

May 10, 2024

MEMORANDUM

To: Public Safety Committee
From: Ann Gorman, Analyst
Subject: CB 120777 – SFD Abatement Authority for Dangerous Buildings

On May 14, 2024, the Public Safety Committee will discuss and may vote on [Council Bill \(CB\) 120777](#), which would amend the Seattle Fire Code to: (1) more clearly define the authority of Seattle Fire Department (SFD) fire code officials¹ to abate unsafe building conditions; and (2) grant the City the authority to recover any costs associated with that abatement. “Abatement” in this context refers to making safer that which is currently unsafe through a range of means, from the removal of debris that poses a fire risk up to and including a building’s demolition.

CB 120777 declares an emergency on the basis that fires in vacant buildings have increased dramatically in recent years² and pose an ongoing threat to the public peace, health, and safety, and it would take effect immediately upon passage by a 3/4 vote of the Council and subsequent approval by the Mayor. The bill conforms to City Charter requirements (Article IV, Section 1.I) relating to the declaration of an emergency. However, the authority described in the bill would inhere for a fire code official’s abatement actions with respect to all buildings, not just those that are vacant (i.e., the cause for the emergency declaration).

This memorandum describes the bill and discusses next steps. Proposed amendments to the bill will be presented in Committee.

Background

SFD maintains a list of buildings that it has determined are both vacant and “either derelict, unsafe, or a public nuisance.” Informally, this list is known within SFD as the SFD Dangerous Building List, and it currently has over 100 entries. Buildings on the list have come to SFD’s attention following fire and medical response or complaints made through the department’s building inspection program.

A subset of those buildings, approximately 40, have already experienced at least one fire leading to SFD response. Fire Department staff have indicated that a building that remains standing after a fire can become structurally impaired from the effects of the fire and the impacts of its being extinguished, and such buildings are progressively more at risk of partial or total collapse from subsequent fires.

¹ This memo uses lowercase for “fire code official,” consistent with the City of Seattle Fire Code. This term is not a job title; rather, it refers to a person who is performing a certain body of work.

² SFD’s data show reports of 77 such fires in 2021, 91 in 2022, 130 in 2023, and approximately 30 to date in 2024.

The main risks from a building's collapse are risks to individuals. The National Institute of Standards and Technology (NIST) has found that, nationally, approximately 20 percent of firefighter deaths responsive to structure fires have been the result of structural collapse.³ Additionally, "vacant" buildings are not necessarily empty buildings. People may be using them in an unauthorized manner as an activity space or as shelter, or to engage in illicit behaviors.

The Seattle Department of Construction and Inspections (SDCI) oversees the City's Vacant Building Monitoring Program, which has the goal of helping to prevent the neighborhood blight that is commonly associated with vacant buildings. The SDCI program governs (a) vacant buildings for which some type of permit has been issued and (b) vacant buildings about which SDCI has received a complaint relating to lack of maintenance or improper accessibility and has reasonably substantiated their vacancy through on-site inspection. The program allows SDCI to charge monitoring fees and, in some cases, to collect civil penalties and inspection charges. On a given day there are approximately 350 buildings enrolled in the Vacant Buildings Monitoring Program. These buildings have come to SDCI's attention either through the permitting process or via complaint; SDCI does not maintain an authoritative list of buildings in Seattle that are vacant.

The Vacant Building Monitoring program, which was established in 2019, is part of the City's Housing and Building Maintenance Code (HBMC), which is part of the Seattle Municipal Code (SMC). [Ordinance 126913](#), passed by the Council in September 2023, amended HBMC standards for the maintenance and monitoring of vacant buildings in several ways. The legislation also provided SDCI with the authority to file a property lien to collect unpaid fees and charges assessed under the program. The Vacant Building Monitoring program currently operates at a revenue deficit.

In contrast to SFD's Dangerous Building List, buildings enrolled in the Vacant Building Monitoring program are not necessarily considered dangerous. Many of these vacant buildings are structurally sound, secure from unlawful ingress, and awaiting the finalization of a SDCI demolition permit.

Outside of the Vacant Building Monitoring program, SDCI may also declare a building unfit for human habitation and require the building's owner either to repair or demolish it. (If SDCI requires repairs, the department may additionally require that a certified engineer document that identified deficiencies are remedied.) This declaration requires a building owner's ongoing non-compliance with minimum HBMC maintenance standards and for the building to be in a state of serious deterioration. When a building owner does not repair a building that is unfit for human habitation, SDCI may initiate the permitting process for the building to be demolished, consistent with all SMC requirements for the demolition including geotechnical review. This process may be lengthy. SDCI also has the authority to file a property lien to collect its costs associated with repair or demolition of a building unfit for human habitation.

³ Stroup, D. and Bryner, N, "[Structural Collapse Research at NIST](#)," Proceedings of the Interflam Conference, 2007.

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Abatement and Summary Abatement

Summary abatement actions are those taken when a fire code official finds that conditions are sufficiently *hazardous to life and property* that an immediate response to them is necessary – “summary” has roughly the same meaning as “immediate” in this context. The demolition of a structurally unsound building in the aftermath of a fire response and the removal of flammable materials from the perimeter of an active fire response scene are both examples of summary abatement.

Abatement, on the other hand, is a tool that SFD may use to address conditions that are merely *unsafe* and that do not require immediate attention. The Fire Code gives a fire code official the authority to direct a property owner or occupant to abate unsafe conditions or cause them to be abated, including the service of a letter of violation. Again, as an example, a fire code official could direct abatement of a pile of debris when its location and/or environment posed a fire hazard.

CB 120777 does not expand a fire code official’s abatement or summary abatement authority. Rather, it clarifies the conditions under which that authority may be exercised.

International Fire Code and City of Seattle Fire Code

The City adopts new building codes legislation approximately every three years, and the Fire Code is one of the City’s building codes. The Fire Code is based on the International Fire Code (IFC), which is a national model code. Both the Washington State Legislature and Washington State Building Code Council have specified the IFC as the minimum standard for use throughout our state, though the State fire code contains additional legislated provisions. The Executive periodically makes Seattle-specific local enhancements to the State fire code, and these are legislated by the Council. The Code was last updated via [Ordinance 126283](#), passed by the Council in February 2021.⁴ CB 120777 would make several amendments to two sections of the Fire Code, which are described below.

Amendments to the Seattle Fire Code in CB 120777

CB 120777 includes Fire Code amendments throughout that would make the bill’s provisions applicable to, e.g., not just “a building” but to “a building or portion thereof.” This change encompasses such possibilities as a building with intact walls but roof support beams that have been weakened by fire to the extent that their potential failure is a safety risk. The change may have the effect of expanding the range within which SFD’s abatement and summary abatement authority may be exercised.

⁴ The effective date for the 2021 Seattle building codes is no sooner than September 30, 2024. Therefore, the 2018 Fire Code is currently in effect. References in this memo to the City “Fire Code” are to the 2018 Seattle Fire Code.

Other amendments to the Fire Code would:

- Define a public nuisance⁵ with specific applicability to unsafe buildings and authorize the fire code official to abate that public nuisance. The bill also adopts a broader definition of “public nuisance” from the Revised Code of Washington ([RCW Chapter 7.48](#), which pertains to nuisances) for the Fire Code as a whole.
- Add a requirement that unsafe structures be taken down and made safe as the Fire Chief or fire code official deems necessary, and
- Make more explicit the basis for the fire code official (who may be the incident commander) to invoke summary abatement authority. Where the current Fire Code describes “hazardous” conditions as potentially giving rise to summary abatement, CB 120777 would require that these conditions pose an imminent danger to life and property and that it is not practical to seek compliance by a future date certain.
- Add language stating that summary abatement may include demolition. SFD believes that this language captures the intent of the IFC, but such direct statement is not present in the IFC. SFD also believes that CB 120777, if passed, would be the first such city-level clarification of IFC model code regarding summary abatement.
- Provide the authority for the City to recover its costs associated with actions taken by the Fire Code Official (for abatement and summary abatement) and the incident commander (for summary abatement only), including by the filing of a property lien. RCW Chapter 7.48 provides abatement authority for a public nuisance.

Fiscal and Operational Impact

The fiscal note transmitted with CB 120777 includes a 2024 cost range – for abatement and summary abatement actions undertaken or initiated by SFD consistent with the bill – of \$350,000 to \$500,000. The Executive has indicated that this range was based on estimated demolition costs for one typical commercial building and three typical residential buildings (i.e., single-family houses). Per the fiscal note, the cost range reflects the fact that demolition costs can vary widely based on construction type and materials, the presence or absence of asbestos, and the qualities and safety risks of the building site. The fiscal note does not provide an estimate of costs for 2025.

Although the bill would allow for the recovery of abatement and summary abatement costs incurred by or on behalf of SFD, it is not clear that this cost recovery would take place in a timely manner. Should the City place a lien against a property title for abatement costs incurred on that property, costs may not be recoverable until that property is sold. The fiscal note acknowledges that revenues may not be received until a year or more after expenditures are incurred and that in some cases expenditures may not be recoverable at all.

⁵ CB 120777 would define a public nuisance as “a building or portion thereof, or premises, that is deemed unsafe” under Section 111 of the Fire Code.

Issues for Consideration

Unknown Ongoing Costs: It is the Executive’s intent, if CB 120777 is passed by the Council, to include funding in the 2024 Mid-Year Supplemental Ordinance that will be sufficient to meet SFD’s incremental costs this year. Ongoing funding for this legislation would be included in the Mayor’s 2025-2026 Proposed Budget. As noted above, the fiscal note does not identify costs for 2025 and it is possible that SFD may require more than \$500,000 if the department chooses to demolish more buildings than are assumed in the 2024 partial year estimate. SFD is funded entirely from the City’s General Fund (GF), and the commitment of additional funding for a new purpose would both worsen the projected ongoing GF operating deficit of approximately \$260 million beginning in the 2025-2026 biennium and reduce the future amount of this fungible resource that is available to fund Council priorities.

Unknown Operational Impacts: The operational impact of this bill is not clear at this time. The Executive plans to develop a blanket contract with several demolition contractors, each of which could be called to the scene of SFD response on an emergent basis. SFD plans to work with the Law Department, the City Budget Office, and the Mayor’s Office to implement protocols for City-paid summary abatement. The fiscal note acknowledges that in the future, SFD’s FMO and/or the Law Department may require additional staff resources to support activities related to abatement and summary abatement – e.g., inspections, the issuance of liens, and the tracking of cost recovery.

All buildings demolished in Seattle must obtain from SDCI a demolition permit and all other applicable permits. SDCI has rarely issued these permits on a retroactive basis over the past several years, and the department has not established a formal protocol for their application, tracking, and issuance. Given the potential future increase in retroactive purposes from SFD summary abatement, SDCI may want to develop these protocols. Developing those protocols, and following them when warranted, may result in incremental additional costs for SDCI.

Legal considerations: Committee members were provided legal analysis of this legislation in an e-mail sent on May 10, 2024.

Potential inhibition of future development: When vacant properties are burdened by debt, such as will occur when a property lien is attached for SFD’s costs associated with a demolition, the net costs increase to redevelop that property. It is possible that CB 120777 could result not only in more vacant lots but in lots that tend to remain vacant due to their higher redevelopment cost. This could be especially true for properties in Seattle’s eight historic districts,⁶ each of which is already subject to specific development and design guidelines codified in [Chapter 25](#) of the SMC. In the future, Council may wish to consider establishing policies that seek to mitigate the higher costs of redeveloping lien-burdened vacant lots (i.e., sites on which summary abatement has occurred) as opposed to those that do not carry this type of debt.

⁶ They are the Ballard Avenue, Columbia City, Fort Lawton, Harvard-Belmont, and Sand Point Naval Air Station Landmark Districts; the International Special Review District, the Pike Place Market Historical District, and the Pioneer Square Preservation District.

Other considerations for historic districts: Outside of a health and safety emergency, the Seattle Municipal Code severely constrains the demolition of a landmarked building. Council may wish to consider a SMC amendment that makes a narrow exception when a fire code official determines that a landmarked building poses conditions that are an imminent danger to life and property (thus is subject to summary abatement).

Race and Social Justice Considerations

Attachment 1 (“Derelict Buildings: Racial Diversity”) maps onto areas that are shaded according to their percentage of Black, Indigenous, and People of Color (BIPOC) residents. This map was produced by SPD. It shows that these buildings are more concentrated in parts of the city with more BIPOC residents, and it shows a particularly high density of listed buildings in Council District 7 and Council District 2. As SFD begins to take action to abate these buildings, the effect of that action may have greater impacts in some areas than in others. These impacts could be various, including the possibility that those currently taking shelter in derelict buildings form an encampment that is more visible to the public.

CB 120777 would expand the City’s current powers to act with respect to private property. The rationale for that risk, and its grounding in public-safety concerns, is articulated in the bill’s recitals and findings. However, there is a risk that the expanded powers could be used in a way that disproportionately impacts areas with a higher concentration of BIPOC residents and/or of BIPOC property owners, as Attachment 1 suggests it may. There is precedent for this disproportionate impact in the City’s historical use of eminent-domain power in infrastructure projects.

The bill’s use of “trespassers” to describe those occupying buildings identified by SFD as vacant may unfairly criminalize individuals who are experiencing homelessness. When these individuals occupy a derelict building, it is possible that they are doing so not by choice but due to a dearth of other options. They may also be seeking to remain apart from the known or potential predatory behavior of others, and they may be experiencing the effects of mental illness and fearful of interactions. Grouping all such individuals together, along with those who choose to trespass with criminal intent, may obscure the complexity of homelessness, which is sometimes be a public-safety issue but more generally reflects a lack of social-service and housing options. CB 120777 seeks to reduce the number of unauthorized places that an individual experiencing homelessness could shelter, but it would not address the city’s shelter shortage. It would, however, on a timeline that is currently unknown, reduce the risk of injury or death to which individuals experiencing homelessness are exposed when they take refuge in dangerous buildings.

Next Steps

The Public Safety Committee plans to vote on CB 120777 and proposed amendments on May 14. The bill could then be voted on by the City Council on May 21.

Attachments:

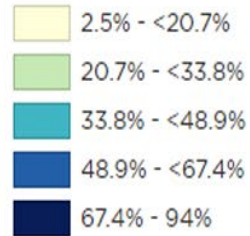
1. "Derelict Buildings: Racial Diversity"

cc: Ben Noble, Director
Aly Pennucci, Deputy Director
Greg Doss, Supervising Analyst

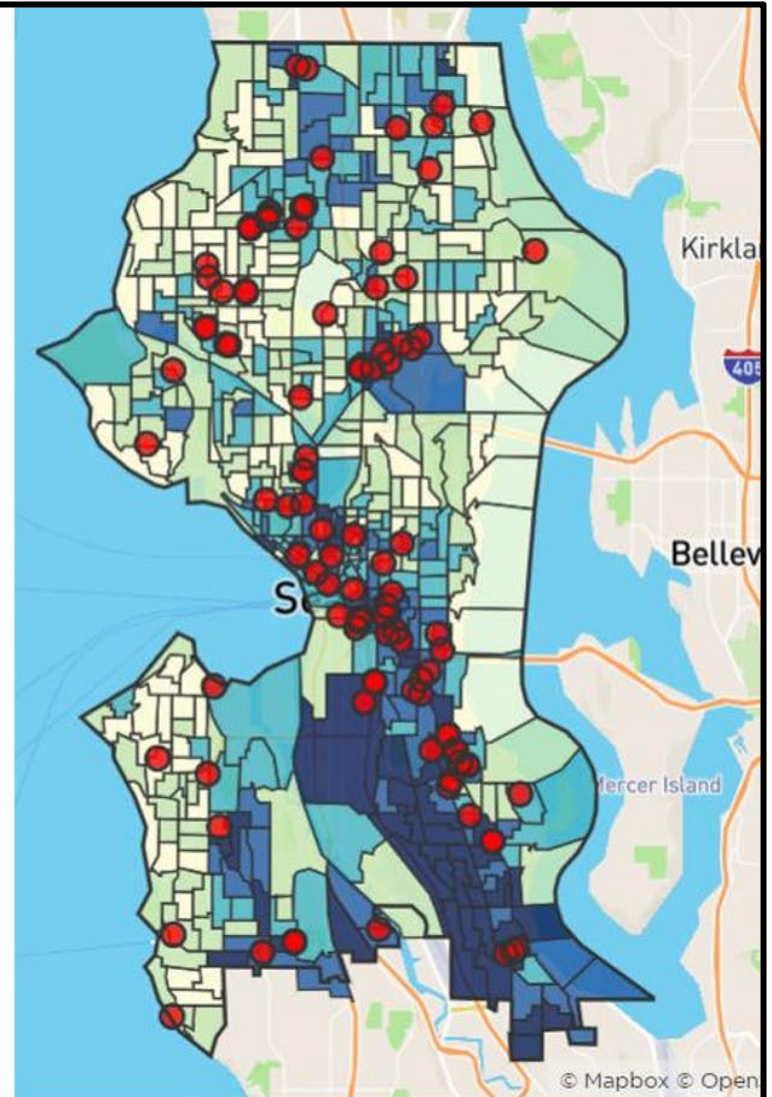
Derelict Buildings: Racial Diversity

- Seattle, WA
- DerelictBuildings_SFD_2024-04-16_Mapping

Black, Indigenous, and People of Color per capita



Sources: US Census Bureau ACS 5-year 2018-2022



Date
4/23/2024

Seattle Fire
Department



City of Seattle