LEG Rental Agreement Regulation and TRAO ORD D<u>3</u>2 1 CITY OF SEATTLE 2 ORDINANCE _____ 3 COUNCIL BILL 4 ..title 5 AN ORDINANCE relating to the provision of tenant relocation assistance to displaced tenants; 6 establishing requirements for residential tenancies; establishing regulations about 7 penalties and the issuance of building permits for violators of the Tenant Relocation 8 Assistance Ordinance; amending Sections 7.24.030, 7.24.050, 10.09.085, 22.210.030, 9 22.210.140, 22.210.150, and 22.210.180 of the Seattle Municipal Code and adding a new 10 Section 22.210.136; amending Section 106.6.3 of the 2012 Seattle Building Code; and amending Section R105.6.3 of the 2012 Seattle Residential Code. 11 12 ..bodv 13 WHEREAS, RCW 59.18.440 authorizes any municipal corporation required to develop a 14 comprehensive plan under RCW 36.70A.040(1) to enact a program providing reasonable 15 relocation assistance to tenants earning 50 percent or less of Area Median Income (AMI), 16 upon the demolition, substantial rehabilitation, or change of use of residential property, or 17 upon the removal of use restrictions in an assisted-housing development; and 18 WHEREAS, in 1990, The City of Seattle (City) passed the Tenant Relocation Assistance 19 Ordinance (TRAO) because of the difficulty for low-income persons who are displaced 20 by demolition, change of use, substantial rehabilitation, or removal of use restrictions 21 from assisted housing to locate affordable substitute rental housing, and who also do not 22 have sufficient time to save money for relocation costs or to find comparable housing 23 when they are evicted as a result of such displacement; and 24 WHEREAS, since 2004, under the TRAO 1,325 low-income households have been assisted with 25 relocation funds and time to move; and 1

Asha Venkataraman

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

WHEREAS, RCW 59.18.140 allows for a change in the amount of rent to become effective with 30 days written notice to each affected tenant upon completion of the term of the rental agreement; and WHEREAS, TRAO does not provide for assistance or additional notice when tenants are displaced from housing as a result of rent increases; and WHEREAS, tenants sometimes find that TRAO eligible renovation, demolition, change of use, or removal of use restrictions is done after a rent increase has caused the tenant to move and that they have, as a result, 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 tenant into moving out and then applies for a demolition, renovation, or change of use permit or removal of use restrictions; and WHEREAS, DPD has had an increasing number of calls from tenants concerned about significant rent increases, but there are no regulatory limits on the amount of a rent increase, and enforcement of state and city regulations requiring proper notice for rent increases is a tenant responsibility; and WHEREAS, the City finds it is in the public interest to protect and financially assist low-income tenants; and WHEREAS, it is a hardship for low-income tenants to have to move without relocation assistance, and of the estimated 313,000 housing units in Seattle, only approximately 29 percent of them are affordable to people with incomes under 50 percent of AMI; and

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

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

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 7.24.030 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.030 Rental agreement requirements ((+))

A. Any rental agreement or renewal of a rental agreement for a residential rental unit in ((the City of)) Seattle entered into after ((the effective date of the ordinance adding this subsection A)) October 28, 1998 shall include or shall be deemed to include a provision requiring a minimum of ((sixty ())60(())) days prior written notice whenever the periodic or monthly housing costs to be charged a tenant is to increase by ten (((10))) percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding ((twelve ())12(())) month period.

- B. No rental agreement entered into after ((the effective date of the ordinance codified in this chapter)) October 2, 1993 that creates or purports to create a tenancy from month to month or from period to period on which rent is payable, may:
- 1. Require occupancy for a minimum term of more than one (((1))) month or period;

from residential use to another residential use ((which)) that requires the displacement of existing tenants, such as a conversion to a retirement home where payment for long-term care is a requirement of tenancy, or conversion to an emergency shelter or transient hotel. For purposes of this ((chapter)) Chapter 22.210, "change of use" shall not mean a conversion of a rental dwelling unit to a condominium.

C. "Demolition" means the destruction of any dwelling unit or the relocation of an existing dwelling unit or units to another site.

D. "Director" means the Director of the Department of Planning and Development, or the Director's designee.

E. "Displacement" means, in the case of demolition, substantial rehabilitation, or change of use, that existing tenants must vacate the dwelling unit because of the demolition, substantial rehabilitation, or change of use; in the case of removal of use restrictions from an assisted housing development, it means that the nonrestricted rent of a dwelling unit after the removal of use restrictions will exceed by ((twenty)) 20 percent (((20%))) or more, exclusive of increases due to operating expenses, the restricted rent of the dwelling unit before the removal of use restrictions. For purposes of this ((chapter)) Chapter 22.210, "displacement" shall not include the permanent relocation of a tenant from one dwelling unit to another dwelling unit in the same building with the tenant's consent or the temporary relocation of a tenant for less than ((seventy-two-())72(())) hours.

F. "Dwelling unit" means a structure or that part of a structure ((which is)) used as a home, residence, or sleeping place by one (((1))) person or by two (((2))) or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

remodeling that requires displacement of a tenant and either ((which)) requires a building,

electrical, plumbing, or mechanical permit, ((and which cannot be done with the tenant in occupancy)) or is valued at \$6,000 or more for any tenant's dwelling unit.

((M-)) N. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement and includes those persons who are considered to be tenants under the State Residential Landlord-Tenant Act ((under)), chapter 59.18 RCW ((Chapter 59.18)) and those tenants whose living arrangements are exempted from the State Residential Landlord-Tenant Act under RCW 59.18.040(3) if their living arrangement is considered to be a rental or lease pursuant to RCW 67.28.180(1). For purposes of this ((chapter)) Chapter 22.210, "tenant" shall not include the owner of a dwelling unit or members of the owner's immediate family.

((N-)) O. "Use restriction" means any Federal, State, or local statute, regulation, ordinance, or contract ((which)) that, as a condition of receipt of any housing assistance, including an operating subsidy, rental subsidy, mortgage subsidy, mortgage insurance, tax-exempt financing, or low-income housing tax credits by an assisted housing development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within an assisted housing development; imposes any restrictions on the maximum rents that may be charged for any of the units within the assisted housing development; or requires that rents for the units within an assisted housing development be reviewed by any governmental body or agency before the rents are implemented or changed.

Section 5. A new Section 22.210.136 is added to the Seattle Municipal Code as follows: 22.210.136 Rent increase to avoid application of Chapter 22.210

A. No owner may increase rent for the purpose of avoiding the application of this Chapter 22.210.

- B. If a tenant has received notice of a rent increase that the tenant believes is for the purpose of avoiding the application of this Chapter 22.210, and the tenant makes a complaint to the Director, the owner shall, within ten days of being notified by the Director of the complaint, complete and file a certification with the Director stating that the rent increase is not for the purpose of avoiding the application of this Chapter 22.210. The failure of the owner to complete and timely file the certification is a defense for the tenant in an eviction action based upon the tenant's failure to pay the increased rent.
- C. Regardless of whether a certification is timely filed, the Director shall-may investigate the complaint and decide whether the rent increase was made for the purpose of avoiding the application of this Chapter 22.210. A decision by the Director that the rent increase was made for the purpose of avoiding the application of this Chapter 22.210 constitutes a finding that the owner violated subsection 22.210.136.A.
- D. There is a rebuttable presumption the rent increase was made for the purpose of avoiding the application of this Chapter 22.210 and the owner violated subsection 22.210.136.A if:
- 1. Within 90 days of the effective date of a rent increase of 20 percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding 12 months, a tenant vacates a dwelling unit and, within 180 days of the effective date of the rent increase, the owner:
 - a. Engages in substantial rehabilitation; or
- b. Applies for a permit for a substantial rehabilitation, demolition, change of use, or removal of use restrictions; and

2

3 4

5

6

7

8

9 10

11

12 13

14

15

16 17

18

19

20

2. The owner failed to complete and timely file a certification after being notified by the Director of a complaint as provided in subsection 22.210.136.B, or failed to follow the provisions of this Chapter 22.210 after completing and timely filing the certification.

E. The Director shall mail a copy of the Director's decision to the owner and to the tenant who made the complaint.

Section 6. Subsection 22.210.140.A of the Seattle Municipal Code, which section was last amended by Ordinance 118839, is amended as follows:

A. After the earlier of (1) the owner's application for a tenant relocation license; (2) the

22.210.140 Eviction protection ((-))

owner's application for a Master Use Permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit; or (3) the owner's application for a building permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit, the owner shall not evict any tenant except for good cause as defined in ((Section 22.206.160 C, subsections 1a, 1b, 1c, 1g, 1h, li, ln, and 1p, of the Seattle Municipal Code)) subsections 22.206.160.C.1.a, 22.206.160.C.1.b, 22.206.160.C.1.c, 22.206.160.C.1.g, 22.206.160.C.1.h, 22.206.160.C.1.i, 22.206.160.C.1.n, and 22.206.160.C.1.p, and shall not, for the purpose of avoiding or diminishing the application of this ((e)) Chapter 22.210, reduce the services to any tenant ($(\frac{1}{2})$) or materially increase or change the obligations (((apart from the obligation to pay rent))) of any tenant.

Asha Venkataraman LEG Rental Agreement Regulation and TRAO ORD D<u>3</u>2 Section 7. Section 22.210.150 of the Seattle Municipal Code, last amended by Ordinance 1 2 123899, is amended as follows: 3 22.210.150 Administrative appeals 4 A. Either an owner or a tenant may request a hearing before the Hearing Examiner to 5 appeal a determination concerning a tenant's eligibility for a relocation assistance payment ((-1)), 6 ((Either an owner or a tenant may request a hearing before the Hearing Examiner)) to resolve a 7 dispute concerning the authority to institute unlawful detainer actions before issuance of the 8 tenant relocation license required by Section 22.210.050, ((during the 90 day period after service 9 of the notice required by Section 22.210.120.)) or to review a decision of the Director pursuant to 10 subsection 22.210.136.C. 11 12

13

14

15

16

17

18

19

20

21

- B. An ((A))appeal((s)) regarding eligibility for relocation assistance shall be filed within ten days after receipt of the Director's notice of tenant eligibility for relocation assistance.
- C. A request for a hearing relating to authority to pursue unlawful detainer actions during the relocation period shall be filed prior to issuance of the tenant relocation license.
- D. An appeal to review a decision of the Director pursuant to subsection 22.210.136.C shall be filed within ten days after receipt of the Director's decision.
- E((D)). When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.
- $\underline{F}((\Xi))$. All requests for a hearing ((and)) or appeal((s)) shall be in writing and shall clearly state specific objections and the relief sought. The appellant is ((shall)) not ((be))required to pay the Hearing Examiner filing fee set forth in Section 3.02.125.

2

3

4

5

6 7

8

9 10

11

12

13

14

15

16

17

18

20

19

21

22

23

G((F)). Notice of the hearing shall be provided by the Hearing Examiner at least ten days prior to the scheduled hearing date to the tenant, the owner, the Director, and any other interested parties who have requested notice.

H(G)). A record shall be established at the hearing before the Hearing Examiner. Appeals shall be considered de novo. The Director is ((shall)) not ((be)) a necessary party to any Hearing Examiner proceedings pursuant to this Section 22.210.150.

I((H)). On the day it is issued, the Hearing Examiner shall provide the decision on the appeal to the tenant, the property owner, the Director, and all those requesting notice.

J((I)). The Hearing Examiner's decision is ((shall be)) final and conclusive unless, within ten calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in violation of constitutional provisions.

Section 8. Section 22.210.180 of the Seattle Municipal Code, last amended by Ordinance 117094, is amended as follows:

22.210.180 Violations and penalties ((z))

A. In addition to any other sanction or remedial procedure ((which)) that may be available, any person violating any provision of this ((e))Chapter 22.210 shall be subject to a cumulative civil penalty in the amount of ((One Thousand Dollars ())\$1,000(())) per day for each day from the date the violation began until the requirements of this ((e))Chapter 22.210 are satisfied, and if:

3

4 5

6

7

8

9

10

11

12 13

14

15

16

17

18

19

20

21

22

assistance not receiving it, the penalty shall be increased by the amount of the violator's share of

1. The violation resulted in a tenant who would have been eligible for relocation

the relocation assistance that should have been paid; or

2. The violation is for receipt of relocation assistance by an ineligible tenant or for failure to vacate pursuant to Section 22.210.160, the penalty shall be increased by the amount of relocation assistance received by the tenant.

B. The penalty imposed by this ((section)) Section 22.210.180 shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

C. Any tenant or person aggrieved by a violation of this ((e))Chapter 22.210 may institute a private action to enforce the obligations contained in this ((e)) Chapter 22.210, provided, that this <u>subsection_22.210.180.C</u> does not create any right of action against the City or any <u>City</u> officer or employee ((thereof,)) for the failure either to require any owner to pay relocation assistance or to pay tenants the amount of the owner's share with City funds. This section shall be retroactive to June 22, 1993.

D. In addition to any other penalty, sanction, or remedial procedure that may be available, any person violating subsection 22.210.136.A (as found by a decision of the Director pursuant to subsection 22.210.136.C or through an appeal of that decision pursuant to Section 22.210.150) shall not be issued a permit for the subject property for substantial rehabilitation, demolition, change of use, or a removal of use restrictions until the penalty imposed pursuant to subsection 22.210.180.A has been paid.

LEG Rental Agreement Regulation and TRAO ORD D<u>3</u>2 Section 9. Section 106.6.3 of the 2012 Seattle Building Code is amended to read as 1 2 follows: 3 106.6.3 Issuance of permit. 4 A. Subject to paragraph B, ((\(\Pi\))) the building official shall issue a permit to the applicant, 5 if the 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, 8 ordinances, and 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 11 issuance of 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 16 of the permit application is in violation of subsection 22.210.136.A of the Seattle Municipal 17 Code (as found by a decision of the Director pursuant to subsection 22.210.136.C of the Seattle 18 Municipal Code or through an appeal of that decision pursuant to Section 22.210.150 of the 19 Seattle Municipal Code) and the owner has not obtained any required tenant relocation license 20 the penalty imposed by subsection 22.210.180.A of the Seattle Municipal Code has not been 21 paid. The permit shall be issued if the penalty imposed by subsection 22,210,180.A of the Seattle Municipal Code has been paid. 22

Section 10. Section R105.6.3 of the 2012 Seattle Residential Code is amended to read as follows:

R105.6.3 Issuance of permit.

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

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

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

B. The *building* official shall not issue a permit if the owner of property that is the subject of the permit application is in violation of subsection 22.210.136.A of the Seattle Municipal Code (as found by a decision of the Director pursuant to subsection 22.210.136.C of the Seattle Municipal Code or through an appeal of that decision pursuant to Section 22.210.150 of the Seattle Municipal Code) and the owner has not obtained any required tenant relocation license and the penalty imposed by subsection 22.210.180.A of the Seattle Municipal Code has not been paid. The permit shall be issued if the penalty imposed by subsection 22.210.180.A of the Seattle Municipal Code has been paid.

2

3

4

5

6

7 8

9

10

11

Section 11. Severability. 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, do not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 12. If any section or subsection of the Seattle Municipal Code affected by this ordinance is amended by another ordinance without reference to amendments made by this ordinance, each ordinance shall be given effect to the extent that the amendments do not conflict in purpose, and the code reviser may publish the section or subsection in the official code with all amendments incorporated therein.

1	Asha Venkataraman LEG Rental Agreement Regulation and TRAO ORD D32		
1	Section 13. This ordinance shal	ll take effect and be in force 30 days after	its approval by
2	the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it		
3	shall take effect as provided by Seattle	Municipal Code Section 1.04.020.	
4	Passed by the City Council the _	day of	_, 2015, and
5	signed by me in open session in authent	tication of its passage this	
6	day of,	2015.	
7			
8	_	·	
9	Pr	residentof the City Council	
10			
11	Approved by me this day of	of, 2015.	
12			
13	_		
14	Ec	dward B. Murray, Mayor	
15			
16	Filed by me this day of	, 2015.	
17			
18	_		_
19	M	Ionica Martinez Simmons, City Clerk	
20			
21			
22	(Seal)		
23			
		17	