

SDCI Director's Report

Vacant Buildings Ordinance

April 2017

Introduction

The Seattle Department of Construction and Inspections (SDCI) is proposing to amend the Land Use Code and the Housing and Building Maintenance Code to modify standards related to the maintenance and demolition of vacant buildings, in order to respond to an increase in the problems associated with vacant structures in the city.

Summary of the Proposal

Vacant Building Maintenance (SMC 22.206.200)

- Strengthen the standards for securing the windows of vacant buildings to require slightly thicker plywood and fastening with screws rather than nails, and add the option of using clear polycarbonate panels or other approved materials instead of plywood.
- Establish an expedited process for removing garbage, junk, or other debris from a vacant property if the owner does not respond to a notice of violation.

Demolition of Unfit Buildings (SMC 22.208.020)

- Establish an expedited process for ordering the demolition of a vacant building that can be documented as hazardous.

Demolition of Housing (SMC 23.40.006)

- In instances when a final redevelopment permit has not yet been issued, reduce the length of time that rental housing must sit vacant before a demolition permit can be issued (from 12 months to 4 months), and expand this provision to apply in commercial, industrial, and multifamily zones (in addition to single-family zones).

Background

Buildings are often left unoccupied while the property owner is preparing for redevelopment or sale, or while various legal issues get resolved. While there is nothing inherently unlawful about a vacant structure, regulations in the Seattle Housing and Building Maintenance Code (HBMC) require that vacant structures are adequately secured and maintained.

Despite the standards in the HBMC, problems associated with vacant structures have become increasingly common in neighborhoods throughout the city in the last few years. The housing inspection team at SDCI is currently handling cases for roughly 250 properties with vacant buildings, including 62 buildings reported in 2015 (up over 400% from the previous year). Most of these properties are single-family residences. A few of the vacant structures have been determined to be unfit for human habitation or use because they have crumbling foundations, sagging roofs, rodent infestation, or other characteristics included as criteria in the HBMC. Many are awaiting demolition for future redevelopment. Property owners often have difficulty ensuring that their buildings are adequately maintained and kept secure in the months or years while they await redevelopment, creating opportunities for squatting and other forms of illegal entry and allowing properties to fall into a state of extreme disrepair.

Illegal use of vacant structures can create health and safety hazards for occupants, neighbors, and emergency services providers such as fire fighters and medics. According to information provided from the Seattle Fire Department, there has been a dramatic increase in fires in vacant buildings in the last few years. Vacant buildings can also be the site of illegal drug use and other criminal activities that create concerns for neighbors and the Seattle Police Department. Fire and police resources, as well as those of code enforcement, must be expended on problems at the buildings. The high level of redevelopment and homelessness have exacerbated these issues.

When SDCI receives a complaint for an open vacant building, the Director issues an Emergency Order for the building to be secured, then works with other City departments to secure the building from illegal entry if the owner does not do so. If anyone is in the building, they must be removed before the building is secured. The owner can enter into a “trespass agreement” with the Seattle Police Department, which authorizes police to remove unauthorized occupants when they are found in the building. In some such instances, the building is only vacant for a short period of time before it is demolished, and these actions sufficiently limit any further entry and address the health and safety concerns. Other properties may be left vacant for months or years, and are repeatedly illegally used as their condition deteriorates and they become more and more vulnerable to entry.

Sometimes the only solution to a problem vacant building is demolition. The HBMC and Land Use Code contain standards that govern the demolition of structures, including permit criteria for property owners interested in demolition. The standards for the demolition of housing are stricter than for other uses. These stricter standards were adopted several decades ago in order to help protect the city’s housing supply at a time when quality, affordable housing was being replaced with surface parking lots. While limitations on the demolition of usable housing have an important purpose, it can take a considerable amount of time for even a building no longer useful as a residence to meet the criteria necessary to receive a demolition permit. Under the current Land Use Code, with few exceptions, permit approvals for the demolition of housing cannot be granted until a property has been issued a permit for redevelopment.

The process to demolish an unsafe vacant structure can be equally challenging. Even very decrepit, dangerous buildings go through a several month civil process before the City can order demolition. If the property owner is absent or otherwise unresponsive and does not complete the demolition, the City must then pursue a court order and use City resources to demolish the building. In the interim, the buildings create health and safety issues and can be difficult to monitor by City code enforcement, police, and fire staff.

EXAMPLES



House in Green Lake neighborhood.
 Vacant for 1 year.
 Multiple fires and reports of criminal activity.



Apartment buildings in Lake City neighborhood.
 Vacant for over 7 years.
 Located in a commercial zone.



Houses in Roosevelt neighborhood.
 Vacant for several years.
 Located in a commercial zone.

Proposal and Analysis

The proposed amendments to the Land Use Code and HBMC are intended to respond to the public health and safety risks of vacant buildings by modifying existing standards related to their maintenance and demolition, and to make various other modifications and corrections to the affected sections of code.

SUMMARY OF PROPOSED AMENDMENTS BY SMC SECTION

SMC	CHANGE	PURPOSE
22.206.200.A.4.A Vacant Building Standards (HBMC)	Changes the strength of plywood that must be used to secure the windows of vacant buildings, modifies the method for attaching the plywood, and adds the option of using	Improve how securely the windows of vacant buildings are closed to entry, in order to reduce the likelihood of illegal entry.

SMC	CHANGE	PURPOSE
	clear polycarbonate panels or other approved materials instead of plywood.	
22.206.200.F.4 Vacant Building Standards (HBMC)	Adds a new provision to allow the Director to have junk removed from a vacant building as an enforcement action if the owner does not respond to a notice of violation by the compliance date.	Establish a faster pathway for removing junk or other debris from a vacant building if the owner is not responsive.
22.208.020.A.2 Unfit Buildings (HBMC)	Adds a new provision to allow the Director to order that a hazardous building be demolished.	Establish an expedited process for authorizing demolition of an unsafe, unfit vacant building that has been illegally occupied twice in the past 12 months.
23.40.006.A Demolition of Housing (Land Use Code)	Removes language requiring that vacant housing may be demolished only if located in a single-family zone.	More broadly apply the provision to other zones to allow vacant housing in multifamily, commercial, and industrial zones to be demolished before a redevelopment permit is issued.
23.40.006.A Demolition of Housing (Land Use Code)	Changes the length of time that rental housing must be vacant to be eligible for demolition from 12 months to 4 months.	Reduce the amount of time that a rental housing unit must be vacant before it can be demolished without a redevelopment permit.
23.40.006.A Demolition of Housing (Land Use Code)	Adds language clarifying that the demolition must not aid in the expansion of an adjacent non-residential use in a single-family or lowrise zone.	Maintain the existing policy of limiting the expansion of non-residential uses in residential zones, while allowing vacant housing to be demolished to expand commercial activities in other zones.
23.91.002.A Violations (Land Use Code)	Adds language that a citation for junk storage in the Land Use Code can only be issued if the building has not already been issued a notice of violation for junk storage in the HBMC.	Clarify the instances in which a citation may be used to enforce standards related to junk storage.
22.208.020 and 23.40.006	Various clarifications and typographical corrections.	Improve clarity and readability of affected code sections.

DEMOLITION OF HAZARDOUS STRUCTURES

Proposed amendments to the HBMC to create a new process for the SDCI Director to order the demolition of certain hazardous vacant buildings would allow the City to shorten the lengthy abatement process that is required today for even the most dangerous buildings. The proposal includes criteria for declaring a building hazardous in order to help ensure that the proposal addresses a small number of buildings that represent the biggest safety problems. Under the criteria, the building must meet adopted standards for unfit buildings, must have been issued an Emergency Order to close, must have been illegally occupied twice in the prior 12-months, and the Police or Fire Department must have verified in writing that the building is dangerous. Of the approximately 250 properties with vacant buildings that SDCI is currently monitoring, about 50 of the structures are also being monitored by the Seattle Police or Fire Departments because of illegal or unsafe activities. Such buildings are not likely to be repaired and returned to the city's habitable building stock. As such, this new process would not significantly increase the number of buildings demolished. Rather, the proposal would shorten the timeline for demolitions that would likely otherwise occur under existing standards. This shorter timeline would reduce the opportunity for such structures to be illegally occupied, which in turn would reduce the likelihood of unsafe conditions in the interim.

DEMOLITION OF HOUSING

Proposed amendments to the Land Use Code would allow the owner of vacant housing in any zone to receive a demolition permit before the property has reached the appropriate redevelopment milestone, rather than only housing within single-family zones. As a result of the change, the owner of a multifamily, mixed use, or commercial property would be allowed to remove housing after a required vacancy period, instead of waiting until a permit is issued to change the use of the structure or premises or the department accepts a building permit application, processes that can take several years. The proposed amendments would also reduce the amount of time that rental housing must be vacant before the owner can receive a demolition permit without a redevelopment permit from 12 months to 4 months. This reduction would help avoid months of maintenance and safety issues associated with vacant buildings and potentially allow tenants to remain in usable housing for a longer period of time. At the same time, maintaining a required vacancy period of 4-months would help ensure that good-quality rental housing is not inappropriately removed. Tenants who were residents in such buildings would still have the protection of the Just Cause Eviction Ordinance and the Tenant Relocation Assistance Ordinance as applicable.

These changes would balance the need to address the nuisance and safety risks of vacant buildings with the need to protect the city's housing stock. It would also help reduce the costs associated with monitoring and maintenance that a property owner—or City regulatory agencies—may otherwise incur. It is possible that the changes could result in the removal of some housing that may not be immediately replaced, leaving the lots undeveloped in the interim. For most neighborhoods, this will be preferable to having a dangerous vacant building at the site. Due to population growth, property value appreciation, and housing production that the City of Seattle is experiencing, such instances are expected to be rare.

The proposed amendments to the Land Use Code would also modify a requirement that a demolition without a redevelopment permit must not aid in the expansion of an adjacent non-residential use. This requirement would remain in single-family zones and be expanded to include lowrise zones, consistent with the original intent to protect housing stock from expanding institutional uses, while allowing vacant housing to be demolished to expand commercial activities in other types of zones. In midrise, highrise, and commercial zones, commercial uses are allowed and demolition is often conducted to prepare for mixed-use construction including commercial uses. Existing standards would continue to limit the ability of property owner to convert a lot into non-required surface parking.

BUILDING/SITE MAINTENANCE

The proposed amendments related to vacant building maintenance in the HMBC would strengthen the standards for securing windows from entry and provide a faster pathway for removing junk or other debris from a vacant property if the owner is not responsive. Current standards for securing windows with plywood have not been sufficient to meet their intended purposing of preventing illegal entry. In addition, clear polycarbonate panels and other commercial-grade materials have arisen as suitable alternatives to plywood in recent years. Any additional costs associated with increasing the required thickness of plywood or the method of attaching plywood are expected to be minimal.

The current process for enforcement of the maintenance standards for vacant buildings requires that the City issue a Notice of Violation then pursue a court order for damages. Where junk and debris are present at a vacant building and there are no other maintenance issues with the property, the City is not authorized to remove the junk without going through a court process. The proposed amendments would create a faster pathway to have junk removed, similar to an existing process for addressing vacant buildings that are open to entry. The owner of the property in violation of the junk storage standards would be issued a Notice of Violation with the opportunity to comply, after which time the City would have the authority to clean up the property and collect the cost of the cleanup from the owner. This change is not expected to impact a large number of properties.

The proposal would amend the Land Use Code related to the violation of junk storage standards, clarifying the instances in which a citation may be used to enforce standards for junk storage. The existing process for responding to complaints about junk or debris on a property varies depending on whether the building is vacant or not, creating some issues for enforcement staff when junk or other debris is being stored at a building and the occupancy status of the building is unclear.

The proposed amendments would make various other modifications to the affected sections of the HMBC and the Land Use Code, fixing typographical errors and improving the clarity and readability of existing standards. These changes are intended to improve administration of existing standards, and are not expected to impact the production or cost of housing.

Comprehensive Plan Consistency

The following Seattle 2035 Comprehensive Plan policies are directly applicable to this proposal:

LU 13.15 "Encourage housing preservation within major institution overlay districts and limit impacts on housing in surrounding areas. Discourage conversion or demolition of housing within a major institution's campus, allowing it only when the institution needs to expand or when the institution replaces the lost housing with new housing. Prohibit the demolition of noninstitutional housing for replacement by principal-use parking that is not necessary to meet the parking requirement. Prohibit development by a major institution outside of the MIO district boundaries when it would result in the demolition or conversion of residential buildings into nonresidential uses, unless authorized by an adopted master plan."

H 2.4 "Encourage use of vacant or underdeveloped land for housing and mixed-use development, and promote turning vacant housing back into safe places to live."

H 2.5 "Encourage the replacement of housing that is demolished or converted to nonresidential or higher-cost residential use."

Recommendation

SDCI recommends adoption of the proposed amendments to the Housing and Building Maintenance and Land Use Codes. This proposal responds to an increase in the illegal occupancy of open vacant structures in the City by modifying existing standards related to maintenance and demolition consistent with the Comprehensive Plan.