

July 31, 2017

## MEMORANDUM

**To:** Planning, Land Use and Zoning Committee  
**From:** Ketil Freeman, Council Central Staff  
**Subject:** Council Bill 118971 – Maintenance and Demolition of Vacant Buildings

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On August 1, the Planning, Land Use and Zoning (PLUZ) Committee will discuss and may vote on Council Bill (CB) 118971. CB 118971 would amend sections of the Land Use Code, Title 23 of the Seattle Municipal Code (SMC), and the Housing and Building Maintenance Code, Chapters 22.206 and 22.208 of the SMC, to modify regulations for maintenance and demolition of vacant buildings.

This memorandum (1) briefly describes what CB 118971 would do and (2) sets out three potential amendments to the bill, which Councilmember Herbold may offer for consideration.

### What CB 118971 Would Do

CB 118971 would amend the Housing and Building Maintenance Code and the Land Use Code to:

- Improve standards for securing vacant buildings from unauthorized entry;
- Provide the Director of the Seattle Department of Construction and Inspections (SDCI) with additional authority to order the expedited abatement of nuisance conditions, such as garbage and litter removal, at properties with vacant buildings;
- Provide the SDCI Director with additional authority to order the demolition of vacant buildings that present a danger to the public and City staff; and
- Modify Land Use Code limitations on demolition of housing by (1) shortening the length of time prior to demolition of vacant buildings from twelve to four months and (2) expanding the types of structures previously used as rental housing that may be demolished after four months from just residential uses in single-family zones to all types of structures, no matter the zone.

The changes are proposed to address public health and safety issues associated with vacant buildings that are not adequately maintained or secured.

### Potential Amendments

Potential amendments, which Councilmember Herbold may offer, are set out in the following table. The amendments may be modified before the PLUZ Committee meeting and other Councilmembers may offer additional amendments. Proposed amendments are in [track-changes](#).

Issue	Discussion	Amendment Language
<p>1. Amend Section 2 to require that SDCI conduct a replacement value analysis prior to ordering demolition of a building that has been subject to an emergency order.</p>	<p>Currently, the SDCI Director may only order demolition of a structure that is unsafe or unfit for human habitation if several conditions are met, including a determination by the Director that the cost to repair the structure exceeds half of the replacement value of a similar structure.</p> <p>CB 118971 would add authority to order demolition of a structure (1) that has been subject to an emergency order to close, (2) that has been subject to multiple unauthorized entries in a 12-month period, and (3) for which the Fire and Police departments have determined there is a danger to the general public and City staff. This new authority would allow for quicker demolition of buildings that are unsafe.</p> <p>Councilmember Herbold proposes to continue the replacement valuation requirement as a step the SDCI Director must take before ordering that a building be demolished.</p>	<p>Section 2. Section 22.208.020 of the Seattle Municipal Code, last amended by Ordinance 117861, is amended as follows:</p> <p><b>22.208.020 Standards for demolition, repair, or vacation and closure ((-))</b></p> <p>A. Whenever the Director determines, <del>((pursuant))</del> <u>according to the procedures established in Section 22.208.030 of this Code, that all or any portion of a building and/or premises is unfit for human habitation or other use, the Director shall order that the unfit building and/or premises or <u>unfit portion ((the roof)) of the building or premises be:</u></u></p> <p>1. Repaired, or demolished and removed, if the estimated cost of repairing the conditions causing the building or structure to be unsafe or unfit for human habitation or other use <del>((exceeds))</del> <u>is more than ((fifty percent (50%))) 50 percent</u> of the replacement value of a building or structure of similar size, design, type, and quality, provided that the Director may order a building or structure, for which the estimated cost of such repairs <del>((do not exceed))</del> <u>is ((fifty percent (50%))) 50 percent or less than ((of)) such replacement value, to be repaired, or demolished and removed, if the degree of structural deterioration is as described in subsection 22.208.010.A, 22.208.010.D or 22.208.010.E, and the owner has failed three ((3)) or more times in the last five ((5)) years to correct the conditions by compliance dates as ordered by the Director;</u></p> <p><u>2. Demolished and removed, at the owner's expense, if the building has been the subject of an emergency order to close pursuant to Section 22.206.260; and the estimated cost of repairing the conditions causing the building or structure to be unsafe or unfit for human habitation or other use is more than 50 percent of the replacement value of a building or structure of similar size, design, type, and quality; and the building has also been subject to two or more unauthorized entries in the preceding 12 months; and the Director has received written notice from the Seattle Fire Department or the Seattle</u></p>

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		<p>Police Department that the building presents a danger to the general public or to City staff who might be required to enter the building;</p> <p style="text-align: center;"><del>***</del></p>
<p>2. Amend Section 3 to modify exceptions to the housing demolition limitations to reflect median MUP permitting times by project type.</p>	<p>The Land Use Code requires that structures with a dwelling unit may only be demolished if:</p> <ul style="list-style-type: none"> <li>▪ The structure is in a single-family zone and has not been occupied as a rental housing for the prior 12 months;</li> <li>▪ A Master Use Permit (MUP) decision has been issued;</li> <li>▪ A building permit has been issued;</li> <li>▪ The structure is proposed to be relocated;</li> <li>▪ The SDCI Director has ordered demolition because the structure is unsafe; or</li> <li>▪ The structure is part of the Yesler Terrace redevelopment.</li> </ul> <p>Most of these limitations were established by <a href="#">Ordinance 115058</a> in 1990. Ordinance 115058 was adopted in part to “encourage maximum use of structures for housing purposes, in many cases as low and moderate income rental units, and...avoid unnecessary depletion of the City’s housing stock through premature demolition of housing units...”<sup>1</sup></p> <p>CB 118971 would (1) expand the exception allowing demolition of residential structures in single family zones, without a MUP approval or complete building permit application, to residential structures in all zones and (2) shorten the time that the structure must have been unused from 12 to 4 months.</p>	<p><b>23.40.006 Demolition of housing</b></p> <p><del>((No))</del> <u>A</u> demolition permit for a structure containing a dwelling unit <del>((shall))</del> <u>may only</u> be issued <del>((unless))</del> <u>if</u> one of the following conditions is <del>((satisfied))</del> <u>met</u>, <del>((and))</del> <u>provided</u> that no permit for demolition of a structure containing a dwelling unit may be issued if the new use is for non-required parking:</p> <p style="padding-left: 20px;">A. The structure <del>((is a residential use in a single family zone and was not))</del> <u>has not been</u> occupied as rental housing during the prior <del>((12))</del> <u>4</u> months, <del>((unless such))</del> <u>and the demolition</u> <del>((aid))</del> <u>does not aid</u> expansion of an adjacent non-residential use <u>in a single-family or lowrise zone, except as required for extension of light rail transit lines;</u> <del>((or))</del></p> <p style="padding-left: 20px;"><u>B. A complete application for a permit or approval has been filed according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, to change the use of the structure or the premises and</u></p> <p style="padding-left: 40px;"><u>1. Except as provided in subsection 23.40.006.B.2, the application is for a Type I or Type II decision and the structure has not been occupied as rental housing during the 4 months since the Director determined the application to be complete, or</u></p> <p style="padding-left: 40px;"><u>2. The application is for a Type II decision subject to the full Design Review process described in Section 23.41.014, and the structure has not been occupied as rental housing during the 12 months since the application for Early Design Guidance;</u></p> <p style="padding-left: 20px;"><del>B.C.</del> <u>A permit or approval has been issued by the Director according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, to change the use of the structure or the premises;</u> <del>((or))</del></p> <p style="padding-left: 20px;"><del>C.D.</del> <u>A permit or approval has been issued by the Director to relocate the structure containing a dwelling unit to another lot, whether</u></p>

<sup>1</sup> Second recital to Ordinance 115058.

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	<p>Councilmember Herbold proposes to amend CB 118971 (1) to allow the expansion of the exception to residential structures in all zones, but maintain the current 12-month vacancy period; and (2) to authorize earlier demolition for structures for which a MUP application has been made.</p> <p>Vacant structures on sites for which a MUP application has been made could be demolished after 4 months, for projects not subject to full Design Review, and 12 months for projects subject to full Design Review.</p> <p>Between 2012 and 2016, the median permitting time for MUPs not subject to full Design Review was between 3.4 to 8 months, depending on the complexity of the projects. Between 2014 and 2015, the median permitting time for projects subject to full Design Review, from early design guidance application to MUP decision, was approximately 12.5 months.</p>	<p>within the City limits or outside the City limits, to be used, on the new lot, as a dwelling unit; (<del>or</del>)</p> <p><del>D</del><u>E</u>. A complete building permit application for construction of a new principal structure on the same lot as the structure to be demolished has been submitted to the Director, the demolition permit application and the building permit application are categorically exempt from review under Chapter 25.05, Environmental Policies and Procedures, the issuance of some other approval is not required by <u>this</u> Title 23 or Title 25 as a condition to issuing the demolition permit, and the Director has approved a waste diversion plan pursuant to Section 23.40.007;</p> <p><del>E</del><u>F</u>. Demolition of the structure is ordered by the Director for reasons of health and safety under Chapter 22.206 or 22.208 of the Housing and Building Maintenance Code, or under the provisions of the Seattle Building Code or the Seattle Residential Code; or</p> <p><del>F</del><u>G</u>. The structure is in the MPC-YT zone.</p>
<p>3. Option A - Add a new non-codified section requesting that SDCI propose legislation implementing a mandatory vacant building monitoring program and establish parameters for development of the program.</p>	<p>Councilmember Herbold proposes to add a new section to the bill requesting that SDCI prepare legislation and a cost estimate for a Vacant Property Registration Ordinance (VPRO).</p> <p>VPROs are programs that require owners to register vacant properties and participate in monitoring programs to ensure that the properties do not become harmful to their neighborhoods. The number of local jurisdictions with VPROs has increased since the 2008 and 2009 national</p>	<p><u>Section 5. The Council requests that the Director of the Seattle Department of Construction and Inspections propose legislation no later than March 31, 2018, to establish a mandatory Vacant Property Registration and Monitoring Program. At a minimum, the program should: (1) establish triggering events for registration of vacant buildings, (2) authorize the SDCI Director to determine a building valuation at time of vacancy, (3) specify minimum requirements for securing and maintaining vacant buildings; (4) establish a penalty structure for failure to comply with registration and maintenance standards; and (5) establish a fee structure to allow for cost-recovery by the City for program administration. The Council further requests that SDCI provide a preliminary estimate of start-up costs needed to establish a Vacant Property Registration and Monitoring Program by September 25, 2017,</u></p>

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	foreclosure crisis. A survey of VPRO characteristics can be found <a href="#">here</a> . <sup>2</sup>	<u>to allow Council consideration of potential appropriations during deliberations on the proposed 2018 budget.</u>
Option B - Add a new non-codified section requesting that SDCI propose legislation implementing a mandatory vacant building monitoring program and establish parameters for development of the program. Defer the effective date of sections of the legislation providing new demolition authority to the Director pending submittal of the legislation.	<p>Seattle does not currently have a VPRO program. However, SDCI does have program authorized by SMC <a href="#">Section 22.206.200</a> whereby the SDCI Director may place a vacant building, for which there has been a violation of maintenance standards, in a quarterly monitoring program.</p> <p>Councilmember Herbold proposes two options. One requests that SDCI prepare legislation and a cost estimate for a VPRO program. The other makes the same request, but establishes that sections 2 and 3 of CB 118971, which grants the SDCI Director additional authority to order demolition of unsafe vacant buildings and expands exceptions to the limitation on the demolition of housing, would not become effective until a bill that would establish a VPRO is transmitted to Council.</p>	<p><u>Section 5. The Council requests that the Director of the Seattle Department of Construction and Inspections proposes legislation no later than January 31, 2018, to establish a mandatory Vacant Property Registration and Monitoring Program. At a minimum, the program should: (1) establish triggering events for registration of vacant buildings, (2) authorize the SDCI Director to determine a building valuation at time of vacancy, (3) specify minimum requirements for securing and maintaining vacant buildings; (4) establish a penalty structure for failure to comply with registration and maintenance standards; and (5) establish a fee structure to allow for cost-recovery by the City for program administration. The Council further requests that SDCI provide a preliminary estimate of start-up costs needed to establish a Vacant Property Registration and Monitoring Program by September 25, 2017, to allow Council consideration of potential appropriations during deliberations on the proposed 2018 budget.</u></p> <p>Section 5. <u>Section 1, 4 and 5 of 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. Section 2 and 3 of this ordinance shall take effect on the date a council bill meeting the requirements of Section 5 of this ordinance is introduced and referred for Council consideration.</u></p>

cc: Kirstan Arestad, Central Staff Director

<sup>2</sup> Yun Sang Lee, Patrick Terranova, and Dan Immergluck. *New Data on Local Vacant Property Registration Ordinances*. Cityscape: A Journal of Policy Development and Research. Volume 15, Number 2 (2013). <https://www.huduser.gov/portal/periodicals/cityscpe/vol15num2/article22.html>.