

August 14, 2017

MEMORANDUM

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

On August 15, 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 sets out updated and additional amendments to the amendments discussed on August 1, 2017 and described in the staff memorandum dated July 31, 2017.

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 CB 118971 to add recitals describing the problem the bill seeks to address.</p>	<p>Recitals are sometimes used to explain the purpose for an ordinance or to detail legislative history. The bill, as introduced, does not set out recitals.</p> <p>Councilmember Herbold proposes to add recitals establishing the competing policy and regulatory objectives that the Council is trying to balance and detailing the problem statement for the ordinance and potential amendments.</p>	<p><u>WHEREAS, from 2013 to 2016 the City experienced a 58% increase in complaints about vacant buildings, including buildings that have been subject to unauthorized entry; and</u> <u>WHEREAS, inspection of vacant buildings that are uninhabitable or have been subject to unauthorized entry can be dangerous to City Staff; and</u> <u>WHEREAS, sometimes demolition of poorly maintained vacant buildings is required for the public health, safety, and welfare; and</u> <u>WHEREAS, the City is experiencing a housing shortage; and</u> <u>WHEREAS, the City must balance public health, safety, and welfare considerations with the need to preserve the City’s housing stock;</u></p>
<p>2. Amend Section 2 to limit summary demolition authority to just those structures or portions of structures that do not contain a dwelling unit.</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 limit the proposed additional authority to buildings, or portions of buildings, that do not contain a dwelling unit.</p> <p>Proposed language creates an exception for caretaker’s quarters, which are residential uses accessory to a non-residential, principal use in industrial zones. A small</p>	<p>Section 2. Section 22.208.020 of the Seattle Municipal Code, last amended by Ordinance 117861, is amended as follows: 22.208.020 Standards for demolition, repair, or vacation and closure ((-)) A. Whenever the Director determines, ((pursuant)) <u>according</u> 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 ((thereof)) of the building or premises</u> be: 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 ((exceeds)) <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 ((do not exceed)) <u>is ((fifty percent (50%))) 50 percent or less than ((of))</u> such replacement value, to be repaired, or demolished and removed, if the degree of structural deterioration is as described in <u>subsection 22.208.010.A, 22.208.010.D or 22.208.010.E</u>, and the owner has failed three ((3)) <u>or more</u> times in the last five ((5)) <u>years</u> to correct the conditions by compliance dates as ordered by the Director; 2. <u>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 building has also been subject to two or more</u></p>

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	apartment for an onsite manager of a mini-warehouse is an example of a care-taker's quarters.	<p>unauthorized entries in the preceding 12 months, and the Director has received written notice from the Seattle Fire Department or the Seattle Police Department that the building presents a danger to the general public or to City staff who might be required to enter the building; <u>except for buildings or premises, or portions of buildings or premises, containing residential uses meeting the definition of caretaker's quarters in Section 23.84A.036, demolition authorized by this subsection 22.208.020.A.2 does not apply to buildings and/or premises, or portions of buildings or premises, that contain a dwelling unit;</u></p> <p>((2-)) <u>3.</u> Repaired, and/or vacated and closed ((pursuant to)) according to the minimum standards for vacant buildings in Section 22.206.200 of this Code, if the estimated cost of repairing the conditions causing the building or structure to be unsafe or unfit for human habitation or other use ((does not exceed fifty percent (50%) of)) <u>is 50 percent or less than the replacement value of a building or structure of similar size, design, type, and quality; or</u></p> <p>((3-)) <u>4.</u> Corrected or improved as specified in the Order of the Director as to the conditions that caused the premises other than buildings and structures to be unfit.</p> <p>Nothing in this section shall limit the authority of the City to condemn and resell property pursuant to ((RCW)) <u>chapter 35.80A RCW.</u></p> <p style="text-align: center;">* * *</p>
3. Amend Section 3 to modify exceptions to the housing demolition limitations to reflect median MUP permitting times by project type.	<p>The Land Use Code requires that structures with a dwelling unit may only be demolished if:</p> <ul style="list-style-type: none"> ▪ The structure is in a single-family zone and has not been occupied as a rental housing for the prior 12 months; ▪ A Master Use Permit (MUP) decision has been issued; ▪ A building permit has been issued; ▪ The structure is proposed to be relocated; ▪ The SDCI Director has ordered demolition because the structure is unsafe; or ▪ The structure is part of the Yesler Terrance redevelopment. 	<p>23.40.006 Demolition of housing</p> <p>((No)) <u>A demolition permit for a structure containing a dwelling unit ((shall)) <u>may only be issued ((unless)) if one of the following conditions is ((satisfied)) met, ((and)) provided that no permit for demolition of a structure containing a dwelling unit may be issued if the new use is for non-required parking:</u></u></p> <p style="padding-left: 40px;">A. The structure ((is a residential use in a single family zone and was not)) <u>has not been occupied as rental housing during the prior ((12)) <u>4-8</u> months, ((unless such)) and the demolition ((aids)) <u>does not aid expansion of an adjacent non-residential use in a single-family or lowrise zone, except as required for extension of light rail transit lines; ((or))</u></u></p> <p style="padding-left: 40px;">B. 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; ((or))</p>

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	<p>Most of these limitations were established by Ordinance 115058 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...”¹</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 vacant from 12 to 4 months.</p> <p>Councilmembers Herbold and Johnson propose to amend CB 118971 to allow the expansion of the exception to residential structures in all zones, but to increase the vacancy period from 4 months to 8 months.</p>	<p>C. A permit or approval has been issued by the Director to relocate the structure containing a dwelling unit to another lot, whether within the City limits or outside the City limits, to be used, on the new lot, as a dwelling unit; ((or))</p> <p>D. 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>E. 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>F. The structure is in the MPC-YT zone.</p>
<p>4. Add a new non-codified section requesting that SDCI propose policy options for implementing an enhanced or new vacant building monitoring program and establish parameters for development of the program.</p>	<p>Councilmembers Herbold and Johnson propose to add a new section to the bill requesting that SDCI prepare policy options and a cost estimate for a vacant building monitoring program that would expand upon, or be in addition to, the program authorized by SMC Section 22.206.200. Under that authority, 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><u>Section 5. The Council requests that the Director of the Seattle Department of Construction and Inspections submit a report with policy options no later than March 31, 2018, to enhance the Vacant Building Monitoring Program. At a minimum, the options should cover: (1) triggering events for enrollment or registration in the program; (2) minimum maintenance standards for vacant buildings, which may include use of higher grade materials, such as polycarbonate sheets or security panels, or other strategies to preserve the appearance and condition of the structure; (3) authority for the SDCI Director to create a standardized/uniform/streamlined building assessment or valuation process for chapter 22.208 of the HBMC; (4) a revised penalty structure for failure to comply with the maintenance standards; (5) a tiered fee structure to allow for cost recovery while minimizing costs for participants whose buildings are well maintained and not subject to unauthorized entry; and (6) authority to the SDCI Director to establish a complementary program whereby owners of vacant buildings</u></p>

¹ Second recital to Ordinance 115058.

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		<p><u>may elect to have those buildings occupied by temporary caretakers who are unsheltered or face barriers to housing and are identified as potential caretakers by a human services provider or similar organization. The Council further requests that SDCI provide a preliminary estimate of start-up costs needed for the enhanced Vacant Building Monitoring Program by September 25, 2017, to allow Council consideration of potential appropriations during deliberations on the proposed 2018 budget. The Council intends to consider appropriations and provide guidance for establishment of a strengthened Vacant Building Monitoring Program during deliberations on the proposed 2018 budget.</u></p>

cc: Kirstan Arestad, Central Staff Director