



SEATTLE CITY COUNCIL

Sustainability and Renters' Rights Committee

Agenda

Thursday, January 23, 2020

6:00 PM

Special Meeting

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

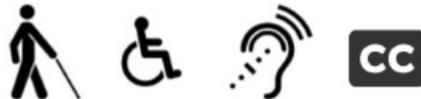
Kshama Sawant, Chair
Tammy J. Morales, Vice-Chair
Debora Juarez, Member
Andrew J. Lewis, Member
Alex Pedersen, Member
Teresa Mosqueda, Alternate

Chair Info: 206-684-8803; Kshama.Sawant@seattle.gov

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January 23, 2020 - 6:00 PM
Special Meeting

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<http://www.seattle.gov/council/committees/sustainability-and-renters-rights>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

(8 minutes)

D. Items of Business

1. [CB 119726](#) **AN ORDINANCE relating to termination of residential rental tenancies; prohibiting evictions in winter months; and amending Section 22.206.160 of the Seattle Municipal Code.**

Supporting Documents: [Summary and Fiscal Note](#)
[Central Staff Memo](#)

Briefing, Discussion, and Possible Vote (90 minutes)

Presenters: Jon Mannella, Tenants Union of Washington; Alycia Roberts, Former Tenant Evicted in Winter; Aly Pennucci, Council Central Staff

E. Adjournment



Legislation Text

File #: CB 119726, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to termination of residential rental tenancies; prohibiting evictions in winter months; and amending Section 22.206.160 of the Seattle Municipal Code.

WHEREAS, on November 2, 2015, the Mayor issued a Civil Emergency to address the homelessness crisis in the City of Seattle; and

WHEREAS, on November 3, 2015, the City Council adopted Resolution 31630, ratifying and confirming the Mayoral Proclamation of Civil Emergency; and

WHEREAS, in September 2018, the Seattle Women’s Commission and the King County Bar Association jointly published *Losing Home: The Human Cost of Eviction in Seattle*, finding that households who are evicted face material hardships that make it more difficult to secure safe and affordable housing and that the most disadvantaged groups face the highest likelihood of eviction; and

WHEREAS, the *Losing Home* report found that most evicted respondents became homeless, with 37.5 percent completely unsheltered, 25.0 percent living in a shelter or transitional housing, and 25.0 percent staying with family or friends. Only 12.5 percent of evicted respondents found another apartment or home to move into; and

WHEREAS, in 2018, the King County Medical Examiner’s Office (KCMEO) investigated the deaths of 194 individuals presumed to be homeless. This represents 25 more deaths than investigated in 2017; and

WHEREAS, people experiencing homelessness have a much higher risk than the general population of developing exposure-related conditions. The KCMEO 2018 investigation found that over half (n=107)

of presumed homeless deaths investigated occurred outside and that approximately 62 percent (n=121) of presumed homeless deaths investigate were attributed to non-natural causes (drug overdose, accidents (that includes hypothermia), suicide, homicide, and undetermined); and

WHEREAS, prohibiting evictions during winter months will protect the public health, safety, and welfare by reducing the number of individuals and families entering into homelessness during the wintertime, which means lowering the number of people at higher risk of developing exposure-related conditions; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 22.206.160.C of the Seattle Municipal Code, which section was last amended by Ordinance 125954, is amended as follows:

22.206.160 Duties of owners

* * *

C. Just cause eviction

1. Pursuant to provisions of the Washington State Residential Landlord-Tenant Act (RCW 59.18.290), an owner((s)) may not evict a residential tenant((s)) without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380). An o((Θ))wner((s)) of a housing unit((s)) shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless the owner can prove in court that just cause exists. Regardless of whether just cause for eviction may exist, an o((Θ))wner((s)) may not evict a residential tenant((s)) from a rental housing unit((s)) if: the unit((s-are)) is not registered with the Seattle Department of Construction and Inspections if required by Section 22.214.040; or the eviction occurs from November 1 through March 31 (~~(, regardless of whether just cause for eviction may exist)~~). An owner is in compliance with ~~((this))~~ the registration requirement if the rental housing unit is registered with the Seattle Department of Construction and Inspections before issuing a notice to terminate tenancy. The reasons for termination of

tenancy listed below, and no others, shall constitute just cause under this Section 22.206.160:

- a. The tenant fails to comply with a 14 day notice to pay rent or vacate pursuant to RCW 59.12.030(3); a ten day notice to comply or vacate pursuant to RCW 59.12.030(4); or a three day notice to vacate for waste, nuisance (including a drug-related activity nuisance pursuant to chapter 7.43 RCW), or maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5);
- b. The tenant habitually fails to pay rent when due which causes the owner to notify the tenant in writing of late rent four or more times in a 12 month period;
- c. The tenant fails to comply with a ten day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under chapter 59.18 RCW;
- d. The tenant habitually fails to comply with the material terms of the rental agreement which causes the owner to serve a ten day notice to comply or vacate three or more times in a 12 month period;
- e. The owner seeks possession so that the owner or a member of ~~((his or her))~~ the owner's immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building, and the owner has given the tenant at least 90 days' advance written notice of the date the tenant's possession is to end. The Director may reduce the time required to give notice to no less than 20 days if the Director determines that delaying occupancy will result in a personal hardship to the owner or to the owner's immediate family. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. For the purposes of this Section 22.206.160, "Immediate family" includes the owner's domestic partner registered pursuant to Section 1 of Ordinance 117244 or the owner's spouse, parents, grandparents, children, brothers and sisters of the owner, of the owner's spouse, or of the owner's domestic partner. There is a rebuttable presumption of a violation of this subsection 22.206.160.C.1.e if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least 60 consecutive days during the 90 days immediately after

the tenant vacated the unit pursuant to a notice of termination or eviction using this subparagraph as the cause for eviction;

f. The owner elects to sell a single-family dwelling unit and gives the tenant at least 90 days' written notice prior to the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month to month, with the last day of a monthly period. The Director may reduce the time required to give notice to no less than 60 days if the Director determines that providing 90 days' notice will result in a personal hardship to the owner. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. For the purposes of this Section 22.206.160, an owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within 30 days after the tenant has vacated, including, at a minimum, listing it for sale at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:

1) Within 30 days after the tenant has vacated, the owner does not list the single-family dwelling unit for sale at a reasonable price with a realty agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

2) Within 90 days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the market, rents the unit to someone other than the former tenant, or otherwise indicates that the owner does not intend to sell the unit;

g. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;

h. The owner seeks to do substantial rehabilitation in the building; provided that, the owner must obtain a tenant relocation license if required by Chapter 22.210 and at least one permit necessary for the rehabilitation, other than a Master Use Permit, before terminating the tenancy;

i. The owner (i) elects to demolish the building, convert it to a cooperative, or convert it

to a nonresidential use; provided that, the owner must obtain a tenant relocation license if required by Chapter 22.210 and a permit necessary to demolish or change the use before terminating any tenancy, or (ii) converts the building to a condominium provided the owner complies with the provisions of Sections 22.903.030 and 22.903.035;

j. The owner seeks to discontinue use of a housing unit unauthorized by Title 23 after receipt of a notice of violation. The owner is required to pay relocation assistance to the tenant(s) of each such unit at least two weeks prior to the date set for termination of the tenancy, at the rate of:

1) \$2,000 for a tenant household with an income during the past 12 months at or below 50 percent of the County median income, or

2) Two months' rent for a tenant household with an income during the past 12 months above 50 percent of the County median income;

k. The owner seeks to reduce the number of individuals residing in a dwelling unit to comply with the maximum limit of individuals allowed to occupy one dwelling unit, as required by Title 23, and:

1)

a) The number of such individuals was more than is lawful under the current version of Title 23 but was lawful under Title 23 or Title 24 on August 10, 1994;

b) That number has not increased with the knowledge or consent of the owner at any time after August 10, 1994; and

c) The owner is either unwilling or unable to obtain a permit to allow the unit with that number of residents.

2) The owner has served the tenants with a 30 day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit,

3) After expiration of the 30 day notice, the owner has served the tenants with and

the tenants have failed to comply with a ten day notice to comply with the limit on the number of occupants or vacate, and

4) If there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit;

1.

1) The owner seeks to reduce the number of individuals who reside in one dwelling unit to comply with the legal limit after receipt of a notice of violation of the Title 23 restriction on the number of individuals allowed to reside in a dwelling unit, and:

a) The owner has served the tenants with a 30 day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit; provided that, no 30 day notice is required if the number of tenants was increased above the legal limit without the knowledge or consent of the owner;

b) After expiration of the 30 day notice required by subsection 22.206.160.1.1.a above, or at any time after receipt of the notice of violation if no 30 day notice is required pursuant to subsection 22.206.160.1.1.a, the owner has served the tenants with and the tenants have failed to comply with a ten day notice to comply with the maximum legal limit on the number of occupants or vacate; and

c) If there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the option of the owner, terminate only those agreements involving the minimum number of occupants

necessary to comply with the legal limit.

2) For any violation of the maximum legal limit on the number of individuals allowed to reside in a unit that occurred with the knowledge or consent of the owner, the owner is required to pay relocation assistance to the tenant(s) of each such unit at least two weeks prior to the date set for termination of the tenancy, at the rate of:

a) \$2,000 for a tenant household with an income during the past 12 months at or below 50 percent of the county median income, or

b) Two months' rent for a tenant household with an income during the past 12 months above 50 percent of the county median income;

m. The owner seeks to discontinue use of an accessory dwelling unit for which a permit has been obtained pursuant to Sections 23.44.041 and 23.45.545 after receipt of a notice of violation of the development standards provided in those sections. The owner is required to pay relocation assistance to the tenant household residing in such a unit at least two weeks prior to the date set for termination of the tenancy, at the rate of:

1) \$2,000 for a tenant household with an income during the past 12 months at or below 50 percent of the county median income, or

2) Two months' rent for a tenant household with an income during the past 12 months above 50 percent of the county median income;

n. An emergency order requiring that the housing unit be vacated and closed has been issued pursuant to Section 22.206.260 and the emergency conditions identified in the order have not been corrected;

o. The owner seeks to discontinue sharing with a tenant of the owner's own housing unit, i.e., the unit in which the owner resides, seeks to terminate the tenancy of a tenant of an accessory dwelling unit authorized pursuant to Sections 23.44.041 and 23.45.545 that is accessory to the housing unit in which the

owner resides, or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on the same lot. This subsection 22.206.160.C.1.o does not apply if the owner has received a notice of violation of the development standards of Section 23.44.041. If the owner has received such a notice of violation, subsection 22.206.160.C.1.m applies;

p. A tenant, or with the consent of the tenant, the tenant's subtenant, sublessee, resident, or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises, and the owner has specified in the notice of termination the crime alleged to have been committed and the general facts supporting the allegation, and has assured that the Seattle Department of Construction and Inspections has recorded receipt of a copy of the notice of termination. For purposes of this subsection 22.206.160.C.1.p, a person has "engaged in criminal activity" if ~~((he or she))~~ the person:

- 1) Engages in drug-related activity that would constitute a violation of chapters 69.41, 69.50, or 69.52 RCW, or
- 2) Engages in activity that is a crime under the laws of this state, but only if the activity substantially affects the health or safety of other tenants or the owner.

2. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this subsection 22.206.160.C shall be deemed void and of no lawful force or effect.

3. With any termination notices required by law, owners terminating any tenancy protected by this Section 22.206.160 shall advise the affected tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons.

4. If a tenant who has received a notice of termination of tenancy claiming subsection 22.206.160.C.1.e, 22.206.160.C.1.f, or 22.206.160.C.1.m as the ground for termination believes that the owner does not intend to carry out the stated reason for eviction and makes a complaint to the Director, then the owner must, within ten days of being notified by the Director of the complaint, complete and file with the Director a certification stating the owner's intent to carry out the stated reason for the eviction. The failure of the owner to

complete and file such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction action based on this ground.

5. In any action commenced to evict or to otherwise terminate the tenancy of any tenant, it shall be a defense to the action that there was no just cause for such eviction or termination as provided in this Section 22.206.160.

6. It shall be a violation of this Section 22.206.160 for any owner to evict or attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant using a notice which references subsections 22.206.160.C.1.e, 22.206.160.C.1.f, 22.206.160.C.1.h, 22.206.160.C.1.k, 22.206.160.C.1.l, or 22.206.160.C.1.m as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy.

7. An owner who evicts or attempts to evict a tenant or who terminates or attempts to terminate the tenancy of a tenant using a notice which references subsections 22.206.160.C.1.e, 22.206.160.C.1.f or 22.206.160.C.1.h as the ground for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy shall be liable to such tenant in a private right for action for damages up to \$2,000, costs of suit, or arbitration and reasonable attorney's fees.

Section 2. 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.

Passed by the City Council the _____ day of _____, 2019, and signed by me in open session in authentication of its passage this _____ day of _____, 2019.

President _____ of the City Council

Approved by me this _____ day of _____, 2019.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2019.

Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
LEG	Aly Pennucci / 48148	n/a

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to termination of residential rental tenancies; prohibiting evictions in winter months; and amending Section 22.206.160 of the Seattle Municipal Code.

Summary and background of the Legislation: This legislation amends the Just Cause Eviction Ordinance (SMC 22.206.160) to prohibit evictions in winter months (November 1 through March 31). Because an eviction can lead to homelessness, and because of the public health hazards posed by sleeping outdoors in cold-weather, this will not allow tenants to be evicted in the winter months; a landlord could still pursue eviction action, but the eviction would be delayed until April 1st.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The legislation will require updating print materials, changing landlord training curriculum, changing web-based information, and may require some associated outreach. This work could potentially be part of existing work of the Renting in Seattle program and the Property Owner and Tenant Assistance group at a negligible cost. There may be increases in tenant complaints and caseload because of these provisions.

Is there financial cost or other impacts of *not* implementing the legislation?

No.

4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?**
Yes, the Seattle Department and Inspections is responsible for implementing the existing Just Cause Eviction Ordinance that this legislation amends.

b. Is a public hearing required for this legislation?

No

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

No

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

e. Does this legislation affect a piece of property?

No

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This legislation will prevent evictions in winter months. Households with low-incomes and households of color are disproportionately subject to eviction actions; this legislation will benefit those communities to prevent evictions during winter months.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

List attachments/exhibits below:

January 22, 2020

MEMORANDUM

To: Sustainability & Renters' Rights Committee
From: Aly Pennucci, Supervising Analyst
Subject: Council Bill 119726 – Limitation on Winter Evictions

On January 23, 2020 the Sustainability & Renters' Rights Committee will discuss and possibly vote on [Council Bill \(CB\) 119726](#), which would amend Seattle Municipal Code (SMC) 22.206.160. The proposed bill amends the "Just Cause Eviction Ordinance" (JCEO) (SMC 22.206.160) by providing a defense to an eviction¹ between November 1 and April 1. A landlord could still pursue an eviction order in court during this time, but the physical eviction would be delayed until April 1.

This memorandum: (1) outlines the policy intent of the proposal; (2) provides background information on related policies in other jurisdictions, (3) describes the City's existing JCEO and how proposed bill would modify the JCEO, and (4) describes two proposed amendments for the Committee's consideration.

Policy Intent

CB 119726 is intended to prevent physical evictions in winter months because eviction often leads to homelessness and sleeping outdoors increases the likelihood of developing exposure related conditions. In September 2018, the Seattle Women's Commission and the King County Bar Association jointly published [Losing Home: The Human Cost of Eviction in Seattle](#), finding that most of the evicted respondents in their study became homeless, with 37.5 percent completely unsheltered, 25 percent living in a shelter or transitional housing, and 25 percent staying with family or friends. In 2018, the King County Medical Examiner's Office (KCMEO) investigated the deaths of 194 individuals presumed to be homeless. KCMEO concluded that, of those deaths, over half (n=107) occurred outside and approximately 62 percent (n=121) were attributable to non-natural causes, such as drug overdoses, accidents (that includes hypothermia), suicide, homicide, and undetermined).²

As Chart 1 illustrates, average temperatures in the Seattle area are lowest between November and April, with the lowest average temperatures in December, January, and February. Similarly, Chart 2 indicates, the average monthly amount of precipitation and number of days of precipitation increases during the same period, with November, December, and January seeing comparatively higher amounts and greater frequency of precipitation.

¹ An eviction (also known as a Writ of Restitution) involves a tenant being ordered by the court to leave a residence.

² <https://www.kingcounty.gov/depts/health/examiner/annual-report/~media/depts/health/medical-examiner/documents/2018-annual-summary-homeless-deaths.ashx>

Chart 1: Average Monthly Temperatures in the Seattle Area³

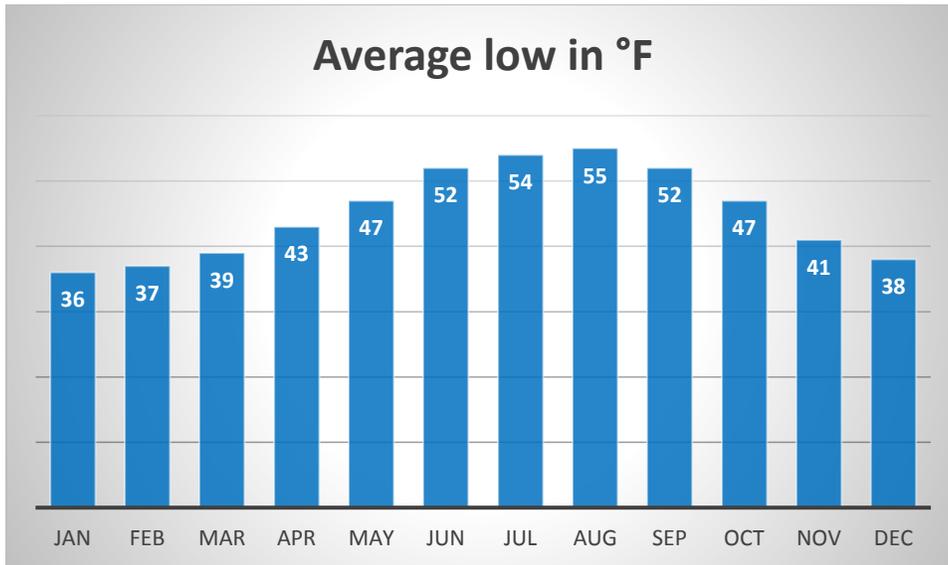
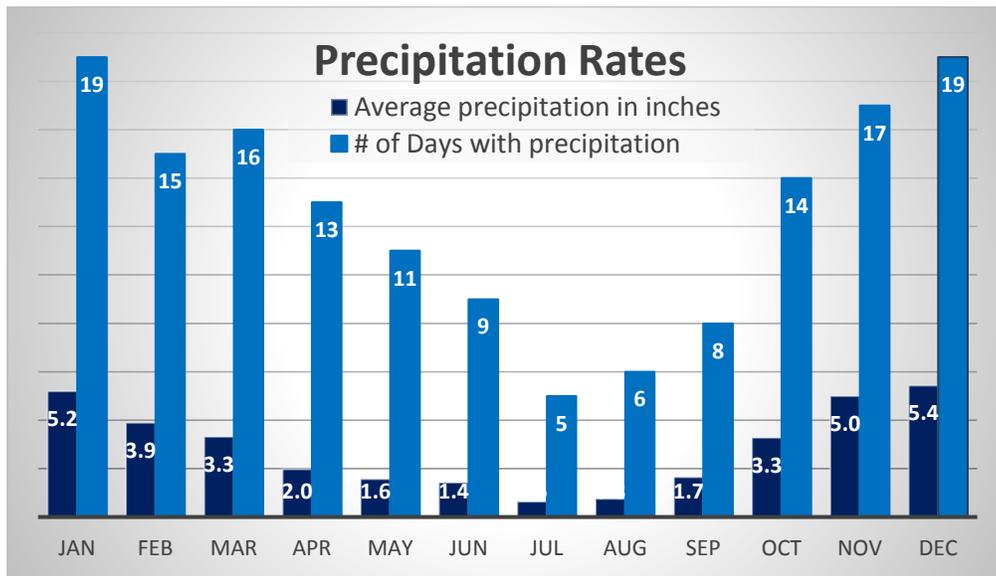


Chart 2: Average Monthly Precipitation Rates and Number of Days per Month with Precipitation in the Seattle Area



While temperatures in Seattle may not regularly drop as low as some parts of the country, exposure related conditions such as hypothermia are not solely temperature related. Rather wind and precipitation also cause the body to rapidly lose heat, with wet clothing significantly increasing heat loss. Prolonged exposure to conditions below that of body temperature can

³ Information collected on 1/20/2020 from the National Weather Service (<https://w2.weather.gov/climate/index.php?wfo=sew>) and from U.S. Climate Data (<https://www.usclimatedata.com/climate/seattle/washington/united-states/uswa0395>)

lead to hypothermia. Alcohol and drug use also increase the possibility of exposure related conditions.⁴

Background

Paris, France is the only known example of a city that bans evictions in winter months. Adopted in the mid-1950s Paris’s “trêve hivernale” (“winter break”) policy prohibits evictions between November 1 and April 1 in cases where permanent replacement housing is not available. However, exceptions exist, such as evictions to remove an abusive partner from a home.

While there are no known U.S. examples of limiting physical evictions during specific periods of the year, there are examples in other jurisdictions that limit evictions, as well as utility shut offs, seasonally or under specified weather conditions. Samples of these policies are described in Table 1. These examples offer strategies other jurisdictions have used to prevent cold weather-related exposure, and limit disruption to school-age children, as well as teachers, during the school year.

Table 1: Related Policies Found in Other Jurisdictions

Location	Description	Reference
Limits on Enforcing Evictions Due to Cold Weather⁵		
Cook County, IL	Cook County Sheriff’s Office enforces eviction orders entered by the Circuit Court of Cook County. During adverse weather conditions, such as when the temperature drops below 15 degrees Fahrenheit, the Circuit Court of Cook County may issue a general order to the Sheriff to cease execution of eviction orders for a set period of time. (See example here of an order issued in November 2019 that ceased enforcement of eviction orders until January 2, 2020.)	http://www.cookcountysheriff.org/courts/civil-services/eviction-procedure-plaintiffs-guide/
Washington DC	US Marshal Service (USMS) enforces eviction orders in Washington D.C. It does not execute eviction orders during precipitation or when the temperature is forecasted to fall below 32 degrees Fahrenheit. The eviction is instead completed on the next available date that the temperature and precipitation permit.	https://www.usmarshals.gov/district/dc-sc/general/evictions.htm

⁴ See <https://www.mayoclinic.org/diseases-conditions/hypothermia/symptoms-causes/syc-20352682> and http://www.nationalhomeless.org/publications/winter_weather/Winter_weather_report.pdf for more discussion on these topics.

⁵ Note that unlike CB 119726 (that would provide a defense in an eviction proceeding to avoid execution of an eviction between November 1 and April 1) the policies described in Table 1 place limits on when the responsible entity (typically a sheriff’s office) may enforce the physical eviction. The City of Seattle does not have jurisdiction over the Sheriff of King County who is responsible for enforcing evictions in Seattle.

Location	Description	Reference
Montgomery County, MD	Montgomery County Sherriff's Office enforces eviction orders in Montgomery County, MD, but delays enforcing evictions if it is raining or snowing at the scheduled time of the eviction, or if the predicted high from the national weather service is 32 degrees or lower. If an eviction is canceled as a result of bad weather, it will be rescheduled as soon as possible.	https://www.montgomerycountymd.gov/sheriff/sections/eviction-section.html
Limits on Utility Shut-offs Due to Cold Weather⁶		
Minnesota Cold Weather Rule (CWR)	Protects eligible customers from natural gas shut offs from October 15 to April 15. All electric and natural gas companies must offer CWR protection. Different types of payment plans are available, depending on household income.	https://mn.gov/puc/consumers/help/shut-off-protection/
Missouri Cold Weather Rule	Protects customers, under certain conditions, from being disconnected from November 1 to March 31. Qualifying customers are provided lenient payment terms. The rule applies to natural gas and electric utilities under the Missouri Public Service Commission jurisdiction that provide heat-related service.	https://psc.mo.gov/Forms/Cold%20Weather%20Rule
Kansas Cold Weather Rule	Prohibits utility disconnection when 48-hour temperature forecasts drop below 35 degrees Fahrenheit.	https://kcc.ks.gov/consumer-information/cold-weather-rule
Limits on Evictions during the School Year⁷		
San Francisco, CA	It is a defense to eviction if a child under the age of 18 or any educator resides in the unit; the child or educator is a tenant in the unit or has a custodial or family relationship with a tenant in the unit; the tenant has resided in the unit for 12 months or more; and the effective date of the notice of termination of tenancy falls during the school year.	https://sfrb.org/section-379-evictions
Santa Monica, CA	By ordinance, educators and students during the school year are provided extra protections in the case of no-fault evictions.	https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Information and FAQ/Eviction%20Fact%20Sheet.pdf

⁶ Additional examples of states or other jurisdictions that limit utility shut offs seasonally can be found here: <https://liheapch.acf.hhs.gov/Disconnect/SeasonalDisconnect.htm>

⁷ San Francisco and Santa Monica examples only apply to no-fault evictions, e.g. an eviction that is not caused by the actions of the tenant. Therefore, if the eviction is due to nonpayment of rent, the eviction can proceed; if the eviction is due to the landlord's intent to occupy the unit themselves or convert the unit, the eviction could not proceed during the school year.

Other Related Local Policies

Currently, the City invests in homelessness prevention programs that include services to qualifying tenants facing eviction. In 2020, the City appropriated \$3.3 million to support programs that provide emergency rental assistance to qualifying tenants who have received a 14-day pay or vacate notice. In addition, the City extended funding for the Seattle Rental Housing Assistance Pilot Program, that provides rental assistance and utility discounts to tenants on the Seattle Housing Authority's waitlist for Housing Choice Vouchers that provide longer-term rental assistance. The City also opens severe weather shelters and extends some regular overnight shelter hours during severe weather events.⁸

Current JCEO Regulations and CB 119726

The City's JCEO requires landlords or property managers to state one of the 18 approved reasons listed in the JCEO in order to proceed with an eviction. In addition to requiring that the eviction meets one of the 18 approved reasons, the JCEO provides a defense to eviction if the landlord or property manager has not registered the unit under the City's Rental Registration and Inspection Ordinance.

CB 119726 would amend the JCEO by adding a defense to eviction if it would result in vacating the housing unit at any time between November 1 and April 1. As noted previously, this does not prevent a landlord or property manager from moving forward with eviction proceedings, but instead provides a defense to the tenant if enforcement of any eviction order issued by King County Superior Court occurs between November 1 and April 1. In most cases, this would simply delay, rather than prohibit, physical eviction, providing time for the tenant to remedy the conditions leading to the pursuit of eviction and, if the landlord is willing, negotiate continued tenancy. When this defense requires that a landlord delay evicting tenant(s), the tenant(s) would still be responsible for paying rent during the delay.

⁸ See <https://homelessness.seattle.gov/severe-winter-shelter-availability/> for a recent example of the City expanding shelter capacity during severe weather events.

Proposed Amendments to CB 119726

1. Substitute Bill (*Sponsor: Councilmember Sawant*)

The proposed substitution included in Attachment A to this memo would:

- a. Make structural changes to the bill for better code drafting and modify the language to clarify that this provides a defense if the eviction would cause displacement from the unit between November 1 and April 1; and
- b. Specify that limits on evictions in winter months apply to only a subset of the 18 causes listed in the JCEO. Causes under which this bill would not provide a defense to an eviction and would allow the physical eviction to occur at any time of year include:
 - Evicting a tenant residing in the same housing unit with the owner or the owner's agent; or the owner desires to stop sharing his or her house with a tenant living in an approved accessory dwelling unit (ADU) in an owner-occupied house;
 - The owner, or the owner's immediate family, wishes to occupy the premises personally, and no substantially equivalent unit is vacant and available in the same building, and gives the tenant the minimum 90-day written notice prior to the end of a rental period;
 - Selling a single-family residence (does not include condominium units) after giving the tenant the requisite 90-day written notice prior to the end of a rental period;
 - Discontinuing use of a unit not authorized under the Land Use Code, after receiving a Notice of Violation. The owner must pay relocation assistance to tenants forced to move for the owner to correct the violation. Relocation assistance for low-income tenants is \$2,000; for other tenants it is an amount equal to two months' rent;
 - Needing to reduce the number of tenants sharing a dwelling unit to comply with Land Use Code restrictions (i.e., no more than eight people per dwelling unit if any are unrelated);
 - Terminating a tenancy in a house containing an approved ADU in order to comply with the development standards for ADUs, after receiving a Notice of Violation of the Land Use Code. The owner must pay relocation assistance to displaced tenants in the amount of \$2,000 for low-income tenants, or two months' rent in other cases;
 - An Emergency Order to Vacate and close the property has been issued by SDCI and the tenants have failed to vacate by the deadline given in the Order; and
 - The tenant engages in criminal activity or operates an illegal business in the building or on the premises, or in an area immediately adjacent to the building or premises.

2. Limit the prohibition on evictions in winter months to units with City support (*Sponsor: Councilmember Pedersen*)

This amendment limits the prohibition on evictions in winter months to only (1) housing developments that does or have received financial assistance from the City of Seattle, or (2) are Multifamily Tax Exempt (MFTE) units⁹, or (3) are units located on City owned land (see Attachment C for the specific amendment language). While this would be a narrower application of the proposed limit on wintertime evictions, this amendment provides protections for lower income tenants living in units where the city maintains some regulatory control.

Next Steps

The Committee will discuss the bill and potential amendments, with a possible vote at the January 23 meeting. If a vote occurs, the Committee's recommendation will be considered at a Full Council meeting on or after February 3, 2020.

Attachments:

- A. Amendment 1 (*Sponsor: CM Sawant*)
- B. Amendment 2 (*Sponsor: CM Pedersen*)

cc: Kirstan Arestad, Executive Director

⁹ An MFTE unit is a dwelling unit, small efficiency dwelling unit, or congregate residence sleeping room in multifamily housing that is rented at an affordable rent to an eligible household according to SMC subsection 5.73.040.B, or sold at an affordable price to an eligible household according to SMC subsection 5.73.040.C.

Attachment A
CB 119726
January 21, 2020

Amendment 1: Substitute Bill
Sponsor: Councilmember Sawant

The proposed substitution included in Attachment A to this memo would:

- a. Make structural changes to the bill for better code drafting and modify the language to clarify that this provides a defense if the eviction would cause displacement from the unit between November 1 and April 1; and
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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to termination of residential rental tenancies; prohibiting evictions in winter months; and amending Section 22.206.160 of the Seattle Municipal Code.

..body

WHEREAS, on November 2, 2015, the Mayor issued a Civil Emergency to address the homelessness crisis in the City of Seattle; and

WHEREAS, on November 3, 2015, the City Council adopted Resolution 31630, ratifying and confirming the Mayoral Proclamation of Civil Emergency; and

WHEREAS, in September 2018, the Seattle Women’s Commission and the King County Bar Association jointly published *Losing Home: The Human Cost of Eviction in Seattle*, finding that households who are evicted face material hardships that make it more difficult to secure safe and affordable housing and that the most disadvantaged groups face the highest likelihood of eviction; and

WHEREAS, the *Losing Home* report found that most evicted respondents became homeless, with 37.5 percent completely unsheltered, 25.0 percent living in a shelter or transitional

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1 housing, and 25.0 percent staying with family or friends. Only 12.5 percent of evicted
2 respondents found another apartment or home to move into; and

3 WHEREAS, in 2018, the King County Medical Examiner’s Office (KCMEO) investigated the
4 deaths of 194 individuals presumed to be homeless. This represents 25 more deaths than
5 investigated in 2017; and

6 WHEREAS, people experiencing homelessness have a much higher risk than the general
7 population of developing exposure-related conditions. The KCMEO 2018 investigation
8 found that over half (n=107) of presumed homeless deaths investigated occurred outside
9 and that approximately 62 percent (n=121) of presumed homeless deaths investigate were
10 attributed to non-natural causes (drug overdose, accidents (that includes hypothermia),
11 suicide, homicide, and undetermined); and

12 WHEREAS, prohibiting evictions during winter months will protect the public health, safety,
13 and welfare by reducing the number of individuals and families entering into
14 homelessness during the wintertime, which means lowering the number of people at
15 higher risk of developing exposure-related conditions; NOW, THEREFORE,

16 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Attachment A
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1 Section 1. Subsection 22.206.160.C of the Seattle Municipal Code, which section was
2 last amended by Ordinance 125954, is amended as follows:

3 **22.206.160 Duties of owners**

4 * * *

5 C. Just cause eviction

6 1. Pursuant to provisions of the Washington State Residential Landlord-Tenant
7 Act (RCW 59.18.290), an owner((s)) may not evict a residential tenant((s)) without a court order,
8 which can be issued by a court only after the tenant has an opportunity in a show cause hearing
9 to contest the eviction (RCW 59.18.380). An o((Θ))wner((s)) of a housing unit((s)) shall not
10 evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of
11 any tenant, unless the owner can prove in court that just cause exists. Regardless of whether just
12 cause for eviction may exist, an o((Θ))wner((s)) may not evict a residential tenant((s)) from a
13 rental housing unit((s)) if: the unit((s-are)) is not registered with the Seattle Department of
14 Construction and Inspections if required by Section 22.214.040; or ~~the eviction occurs from~~
15 ~~November 1 through March 31~~ if subsection 22.206.160.C.8 provides the tenant a defense to the
16 eviction ((, ~~regardless of whether just cause for eviction may exist~~)).

Attachment A
CB 119726
January 21, 2020

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1 An owner is in compliance with (~~this~~) the registration requirement if the rental
2 housing unit is registered with the Seattle Department of Construction and Inspections before
3 issuing a notice to terminate tenancy. The reasons for termination of tenancy listed below, and no
4 others, shall constitute just cause under this Section 22.206.160:

5 a. The tenant fails to comply with a 14 day notice to pay rent or vacate
6 pursuant to RCW 59.12.030(3); a ten day notice to comply or vacate pursuant to RCW
7 59.12.030(4); or a three day notice to vacate for waste, nuisance (including a drug-related
8 activity nuisance pursuant to chapter 7.43 RCW), or maintenance of an unlawful business or
9 conduct pursuant to RCW 59.12.030(5);

10 b. The tenant habitually fails to pay rent when due which causes the owner
11 to notify the tenant in writing of late rent four or more times in a 12 month period;

12 c. The tenant fails to comply with a ten day notice to comply or vacate that
13 requires compliance with a material term of the rental agreement or that requires compliance
14 with a material obligation under chapter 59.18 RCW;

15 d. The tenant habitually fails to comply with the material terms of the
16 rental agreement which causes the owner to serve a ten day notice to comply or vacate three or
17 more times in a 12 month period;

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1 market, rents the unit to someone other than the former tenant, or otherwise indicates that the
2 owner does not intend to sell the unit;

3 g. The tenant's occupancy is conditioned upon employment on the
4 property and the employment relationship is terminated;

5 h. The owner seeks to do substantial rehabilitation in the building;
6 provided that, the owner must obtain a tenant relocation license if required by Chapter 22.210
7 and at least one permit necessary for the rehabilitation, other than a Master Use Permit, before
8 terminating the tenancy;

9 i. The owner (i) elects to demolish the building, convert it to a cooperative,
10 or convert it to a nonresidential use; provided that, the owner must obtain a tenant relocation
11 license if required by Chapter 22.210 and a permit necessary to demolish or change the use
12 before terminating any tenancy, or (ii) converts the building to a condominium provided the
13 owner complies with the provisions of Sections 22.903.030 and 22.903.035;

14 j. The owner seeks to discontinue use of a housing unit unauthorized by
15 Title 23 after receipt of a notice of violation. The owner is required to pay relocation assistance
16 to the tenant(s) of each such unit at least two weeks prior to the date set for termination of the
17 tenancy, at the rate of:

Attachment A
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1 the legal limit; provided that ~~((7))~~ no 30 day notice is required if the number of tenants was
2 increased above the legal limit without the knowledge or consent of the owner;

3 b) After expiration of the 30 day notice required by
4 subsection 22.206.160.1.1.a ~~((above))~~, or at any time after receipt of the notice of violation if no
5 30 day notice is required pursuant to subsection 22.206.160.1.1.a, the owner has served the
6 tenants with and the tenants have failed to comply with a ten day notice to comply with the
7 maximum legal limit on the number of occupants or vacate; and

8 c) If there is more than one rental agreement for the unit,
9 the owner may choose which agreements to terminate; provided that ~~((7))~~ the owner may either
10 terminate no more than the minimum number of rental agreements necessary to comply with the
11 legal limit on the number of occupants, or, at the option of the owner, terminate only those
12 agreements involving the minimum number of occupants necessary to comply with the legal
13 limit.

14 2) For any violation of the maximum legal limit on the number of
15 individuals allowed to reside in a unit that occurred with the knowledge or consent of the owner,
16 the owner is required to pay relocation assistance to the tenant(s) of each such unit at least two
17 weeks prior to the date set for termination of the tenancy, at the rate of:

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1 a) \$2,000 for a tenant household with an income during the
2 past 12 months at or below 50 percent of the county median income, or

3 b) Two months' rent for a tenant household with an income
4 during the past 12 months above 50 percent of the county median income;

5 m. The owner seeks to discontinue use of an accessory dwelling unit for
6 which a permit has been obtained pursuant to Sections 23.44.041 and 23.45.545 after receipt of a
7 notice of violation of the development standards provided in those sections. The owner is
8 required to pay relocation assistance to the tenant household residing in such a unit at least two
9 weeks prior to the date set for termination of the tenancy, at the rate of:

10 1) \$2,000 for a tenant household with an income during the past 12
11 months at or below 50 percent of the county median income, or

12 2) Two months' rent for a tenant household with an income during
13 the past 12 months above 50 percent of the county median income;

14 n. An emergency order requiring that the housing unit be vacated and
15 closed has been issued pursuant to Section 22.206.260 and the emergency conditions identified
16 in the order have not been corrected;

Attachment A
CB 119726
January 21, 2020

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1 5. In any action commenced to evict or to otherwise terminate the tenancy of any
2 tenant, it shall be a defense to the action that there was no just cause for such eviction or
3 termination as provided in this Section 22.206.160.

4 6. It shall be a violation of this Section 22.206.160 for any owner to evict or
5 attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any
6 tenant using a notice ~~((which))~~ that references subsections 22.206.160.C.1.e, 22.206.160.C.1.f,
7 22.206.160.C.1.h, 22.206.160.C.1.k, 22.206.160.C.1.l, or 22.206.160.C.1.m as grounds for
8 eviction or termination of tenancy without fulfilling or carrying out the stated reason for or
9 condition justifying the termination of such tenancy.

10 7. An owner who evicts or attempts to evict a tenant or who terminates or
11 attempts to terminate the tenancy of a tenant using a notice which references subsections
12 22.206.160.C.1.e, 22.206.160.C.1.f or 22.206.160.C.1.h as the ground for eviction or termination
13 of tenancy without fulfilling or carrying out the stated reason for or condition justifying the
14 termination of such tenancy shall be liable to such tenant in a private right for action for damages
15 up to \$2,000, costs of suit, or arbitration and reasonable attorney's fees.

Attachment A
CB 119726
January 21, 2020

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- b. Specify that limits on evictions in winter months apply to only a subset of the 18 causes listed in the JCEO.

1 8. Except as provided in subsection 22.206.160.C.8.a, an owner may not evict a
2 residential tenant from a rental housing unit if the eviction would result in the tenant having to
3 vacate the housing unit at any time between November 1 and April 1.

4 a. If the reason for termination is due to conditions described in
5 subsections 22.206.160.C.1.e, 22.206.160.C.1.f provided that the tenant was provided at least 90
6 days' written notice prior to the date set for vacating the unit, 22.206.160.C.1.j, 22.206.160.C.1.k,
7 22.206.160.C.1.m, 22.206.160.C.1.n, 22.206.160.C.1.o, or 22.206.160.C.1.p, or; if the reason for
8 termination is due to the tenant's failure to comply with a three day notice to vacate for a drug-
9 related activity nuisance pursuant to chapter 7.43 RCW or maintenance of an unlawful business
10 or conduct pursuant to RCW 59.12.030(5), the eviction may occur as otherwise allowed by law.
11
12
13

Attachment A
CB 119726
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1

Monica Martinez Simmons, City Clerk

2

3

(Seal)

Amendment 2: Limit the prohibition on evictions in winter months to units that receive City support or are MFTE Units.

Limit the prohibition on evictions in winter months to only (1) units in an affordable housing development that do or have received City of Seattle subsidies, or (2) units under the City's Multifamily Property Tax Exemption (MFTE) program, or (3) units located on land owned by the City.

Sponsor: Councilmember Pedersen

Description:

[Council Bill 119726](#) would amend the Just Cause Eviction Ordinance (SMC 22.206.160) to prohibit evictions between November 1 through March 31. This amendment would limit the prohibition on evictions in winter months to only (1) housing developments that do or have received financial assistance from the City of Seattle, or (2) are MFTE units, or (3) units located on land owned by the City.

An MFTE unit is a dwelling unit, small efficiency dwelling unit, or congregate residence sleeping room in multifamily housing that is rented at an affordable rent to an eligible household according to subsection 5.73.040.B, or sold at an affordable price to an eligible household according to subsection 5.73.040.C.

Notes:

- Double underlines indicate new language to be added.
- ~~Double strikethroughs~~ indicate language proposed to be removed.

Amendment*

Amend Section 1 of Council Bill 119726 as follows:

8. An owner may not evict a residential tenant from a rental housing unit if the eviction would result in the tenant having to vacate the housing unit at any time between November 1 and April 1 ~~and the housing unit is: (1) located within a housing development that receives or has received financial assistance from the City of Seattle and that is subject to restrictions on tenant incomes or rent as a condition of that assistance; or (2) is an MFTE unit as defined by Section 5.73.020; or (3) is located on land owned by The City of Seattle.~~

*All amendments adopted by the Committee will be reconciled in a final version of the Council Bill to reflect the combination of changes approved. If Amendment 1 is adopted, the language in this amendment would be modified as follows: 8. ~~As~~ Except as provided in subsection 22.206.160.C.8.a, an owner may not evict a...".