



Legislation Text

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to tenant protections; establishing rent control provisions; regulating residential rent increases; establishing a Rent Control Commission and District Rent Control Boards to authorize rent control exemptions; establishing enforcement provisions; adding a new Chapter 7.28 to the Seattle Municipal Code; and amending Sections 3.06.030 and 22.214.040 of the Seattle Municipal Code.

WHEREAS, Article 25 of the United Nations' Universal Declaration of Human Rights recognizes housing as a human right; and

WHEREAS, Seattle faces an affordable housing and homelessness crisis as rising rents have forced thousands of Seattle renters out of their homes, neighborhoods, and the City; and

WHEREAS, between 2010 and 2018 average rent in the Seattle area rose 69 percent while inflation for Urban Wage Earners (CPI-W) in the Seattle area rose only 20.3 percent; and

WHEREAS, rental housing industry analysis firm ApartmentList.com calculated that average Seattle rents increased 23 percent in 2021; and

WHEREAS, the “Seattle Housing Market Forecast for 2021” of real estate investment consulting firm Mashvisor notes that “Seattle real estate investors are continuing to enjoy a good return on investment on rental properties...Although affordability continues to be an issue for local residents, it does have a positive aspect for Seattle real estate investors. Owning a rental property in Seattle does mean high demand which translates into good occupancy rates and cash flow”; and

WHEREAS, a national study published in the Journal of Urban Affairs established the correlation between increasing rent and homelessness including that: (1) Washington is the tenth most expensive state for

renters; (2) the high cost of rental housing is driving increases in homelessness; and (3) an increase of \$100 in median rent for an area results in a 15 percent (metro areas) and a 39 percent (nearby suburbs and rural areas) increase in homelessness; and

WHEREAS, across the United States and around the world rent control policies have allowed millions of people to remain in their homes, neighborhoods and cities; and

WHEREAS, in September 2015, the Seattle City Council passed Resolution 31620 advocating for the “State Legislature to allow local governments to propose ordinances that significantly increase the supply of rent restricted units and that protect tenants from sudden and dramatic rent increases, without causing a negative impact on the quality or quantity of housing supply, by modifying or repealing RCW 35.21.830”; and

WHEREAS, there is a growing movement of renters for rent control, which in 2018 and 2019 won new rent control laws and expansions of existing rent control laws in California, Oregon, and New York; and

WHEREAS, over 12,000 Seattleites have signed petitions, urging The City of Seattle to enact rent control laws; and

WHEREAS, the Council intends to pursue amendments to the City Charter to allow election of Rent Control Commission members; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 7.28 is added to the Seattle Municipal Code as follows:

CHAPTER 7.28 RENT CONTROL

7.28.010 Short title

This Chapter 7.28 may be known as the Rent Control Ordinance.

7.28.020 Purposes

The purposes of this Chapter 7.28 are to prohibit large and unaffordable rent increases that cause housing displacement for tenants, to help renters build community by allowing them to remain in their neighborhoods,

to allow young people to remain in their neighborhood schools, to prevent the expansion of homelessness, to reduce the waste of fuel and time resulting from long commutes, and to promote the affordability of housing in Seattle.

7.28.030 Definitions

"Department" means the Seattle Department of Construction and Inspections or its successor.

"Director" means the Director of the Seattle Department of Construction and Inspections.

"Hearing Examiner" means the official appointed by the Council and designated as the Hearing Examiner.

"Landlord" means the owner, lessor, or sublessor of the rental housing unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

"Maximum annual rent increase" means the rate of inflation multiplied by the average monthly rent charged in the preceding 12 months.

"Person" means any individual, firm, corporation, association, governmental entity, or partnership and its agents or assigns.

"Rate of inflation" means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

"Rent" and "rental amount" mean "rent" as defined by chapter 59.18 RCW.

"Rental agreement" means a "rental agreement" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 in effect at the time the rental agreement is executed.

"Rental housing unit" means any housing unit for which rent is charged, other than those excepted in subsection 7.28.040.A.

"Renter" and "tenant" mean a "tenant" as defined in and within the scope of RCW 59.18.030 and RCW

59.18.040 in effect at the time the rental agreement is executed.

“Social housing” means housing intended to remain affordable, under public ownership, in perpetuity and to promote social cohesion, sustainability, and social equity through an intentional distribution of units to households with a broad mix of income ranges and household sizes whose incomes range between 0 to 120% AMI, with combined rent consisting of no more than 30% of a household’s income.

7.28.040 Applicability

A. This Chapter 7.28 applies to all rental housing units except:

1. Housing units lawfully used as short-term rentals as defined in Section 23.84A.024;
2. Housing units in hotels, motels, inns, bed and breakfasts, or similar accommodations that provide lodging for transient guests;
3. Emergency or temporary shelter or transitional housing accommodations;
4. Housing units that a government entity or housing authority owns, operates, or manages;
5. Housing units exempted from municipal housing regulation by federal, state, or local law; and
6. Housing units operated as social housing.

B. No rental agreement, whether oral or written, may waive or forgo rights or remedies provided to the tenant under this Chapter 7.28.

C. The restrictions on rent increases prescribed by this Chapter 7.28 apply to a rental housing unit, not to the identity or number of tenants or to an individual rental agreement. Therefore, when a rental housing unit is vacated any rent increase applied to new tenants must be consistent with the restrictions on rent increases prescribed by this Chapter 7.28 as if the previous tenant remained in occupancy.

7.28.050 Control on rent increases

A. Except as provided in this Section 7.28.050 and Sections 7.28.060 and 7.28.070, a landlord may increase rent charged for a rental housing unit by no more than the maximum annual rent increase. If a landlord increases the rent charged for a rental housing unit more than once in a 12-month period, the total increase

during that 12-month period may not be greater than the maximum annual rent increase for the applicable year.

B. Nothing in this Chapter 7.28 prevents a landlord from increasing rent charged for a rental housing unit by less than the maximum annual rent increase, choosing not to increase rent charged, or decreasing rent charged.

7.28.060 Maximum annual rent increase

A. The maximum annual rent increase is calculated by multiplying the rate of inflation by the average monthly rent charged in the preceding 12 months. The Director shall publish on the Department's website no later than January 1 of each year the rate of inflation applicable for that calendar year along with the applicable rate of inflation for at least each of the previous ten years.

B. The City Council must hold a minimum of two public hearings on any bill that would amend the calculation of the maximum annual rent increase before taking a final vote on the bill. The bill must contain reasons explaining why the Council believes the calculation of the maximum annual rent increase is in the public interest. Those reasons may include but are not limited to:

1. Any recommendations from the Rent Control Commission pursuant to Section 7.28.110;
2. The occurrence of a natural disaster such as an earthquake or other emergencies impacting large areas of Seattle; or
3. Large and unusual changes to the taxes or other legal obligations applied to renters and property owners.

The ordinance must be approved by no less than 2/3 of Councilmembers present to be adopted.

7.28.070 Utilities included in rent

A. If a landlord pays utility bills for a rental housing unit, the landlord may include the cost in the rent. If a landlord does not pay utility bills for a rental housing unit, the landlord must exclude those costs from the rent.

B. If utility charges were not included as a component of rent for a rental housing unit under its most

recent rental agreement and will be a component of rent under a new rental agreement, the cost of utilities is exempt from the limitation on rent increases specified in Section 7.28.050. If the cost of utilities is included in the rent pursuant to this subsection 7.28.070.B, the cost may not exceed the average cost of the same utilities for the rental housing unit during the 12 months prior to the date the rent increase takes effect. The cost of the utilities included in the rent may only include utility charges paid by the landlord to the utility for the use and delivery of service and may not include late fees charged to the landlord.

C. If utility charges were included as a component of rent for a rental housing unit under its most recent rental agreement but will not be a component of rent under a new rental agreement, the amount of the maximum annual rent increase under the new agreement shall be reduced by the average cost of the utilities paid during the 12 months prior to the date of the new rental agreement.

7.28.080 One-to-one replacement of controlled rents, and initial rents in new units and units not previously available for rent

A. For any rental housing unit newly offered for rent that is located on a site that previously contained one or more rental housing units at any time within ten years prior to when the rental housing unit will be newly offered, the landlord may not charge an initial rent for the newly offered rental housing unit that exceeds the rent most recently charged in the previous rental housing units plus an amount of increased rent allowed pursuant to Sections 7.28.050, 7.28.060, and 7.28.070, using the rent most recently charged in the previous rental housing units as the baseline for calculation of that increased amount, pursuant to the following provisions:

1. If the newly offered rental housing unit has square footage different than the previous rental housing unit, the amount of initial rent for the newly offered rental housing unit must be adjusted proportionately based upon the ratio of rent to square footage.

2. If the square footage of newly offered rental housing units increases the amount of rental housing available above the square footage previously present on the site for rental housing, the landlord may

set initial rent without limitation on the newly offered rental housing units comprised of the excess square footage pursuant to subsection 7.28.080.B. All other newly offered rental housing units not in excess of the square footage of the rental housing previously present on the site, rounded up to the nearest whole unit, are not considered additional rental housing units, and are not subject to this exception. If the newly offered rental housing units or the rental housing previously present on the site are not uniform, or vary in size, number of bedrooms, furnishings or any other characteristic impacting the value or desirability of the rental housing unit, a landlord must make a good faith effort to match corresponding newly offered rental housing units and the previously present rental housing when determining which rental housing units are considered additional.

3. The landlord is responsible for determining rent most recently charged in the previous rental housing units as accurately as possible using available data sources.

B. Nothing in this Chapter 7.28 is intended to regulate the initial rent that a landlord may charge for a rental housing unit if any of the following conditions are met:

1. The rental housing unit is not on a site that previously contained one or more rental housing units at any time within ten years prior to the when a rental housing unit will be newly offered;

2. The previous unit was not rented as rental housing at any time within the previous ten years;

or

3. The previous rental housing units had less square footage than the newly offered rental housing units, and all the conditions of subsection 7.28.080.A have been met by other rental housing units in the new construction.

After the initial rent for a rental housing unit is established, all future rent increases are subject to compliance with Sections 7.28.050, 7.28.060, and 7.28.070.

C. For the purposes of this Chapter 7.28, it is intended for subdivisions and other changes to parcel boundaries to have no impact on the control of rents.

D. For rental housing units that will be newly offered after the effective date of Section 1 of this

ordinance, the applicant must also file and the Director must approve a plan to comply with this Section 7.28.080.

7.28.090 Notice of rent increases

Any notice of rent increase must be expressed as a dollar amount and as a percentage of current rent. If requested, the department shall assist any landlord or tenant in calculating the dollar amount and percentage of any rent increases.

7.28.100 Registration

When rental housing units are registered, renewed, reinstated, or updated with the Department pursuant to Section 22.214.040, the landlord shall include the following information in the landlord's submittal documents: the current rental amount and the amount of rent that has been charged over the previous ten years. Violation of this Section 7.28.100 is subject to enforcement under Chapter 22.214.

7.28.110 Rent Control Commission and District Rent Control Boards established

A. Rent Control Commission

1. There is established a citywide Rent Control Commission that shall make recommendations to the City Council and Mayor regarding rent control policies.

2. To accomplish these purposes the Rent Control Commission shall:

a. Solicit citizen and community comment, identify priorities, and make recommendations to the City Council and the Mayor regarding rent control policies and regulations.

b. Review, and if necessary, recommend changes to the City Council and the Mayor about the calculation of the maximum annual rent increase amount pursuant to Section 7.28.060.

c. Ensure fair and consistent application of rent control regulations.

d. Adopt administrative rules to govern its operation and to govern the District Rent Control Board emergency rent control exemption hearing process pursuant to Section 7.28.120.

3. Rent Control Commission membership criteria

a. Members should possess a familiarity with rent control policies.

b. Consistent with Section 4.16.070, no member of the Rent Control Commission shall participate in or have any involvement in an emergency rent control exemption petition under review by a District Rent Control Board, or any other Rent Control Commission matter, if such member has a financial or other private interest, direct or indirect, personally or through a person in the member's immediate family, except when recommending to the City Council changes to the calculation or amount of the maximum annual rent increases.

4. Rent Control Commission composition and selection process

a. The Rent Control Commission shall be composed of 35 renters and seven landlords serving two-year terms. Each of the seven City Councilmembers who represents a district shall appoint five renters who live in the Councilmember's district, as well as a landlord who owns or manages rental housing in the Councilmember's district. The renter and landlord members of the Rent Control Commission shall be appointed by the City Council.

b. A member shall hold office until the member's successor has qualified.

c. Any member may request an excused absence from any Rent Control Commission meeting. The Rent Control Commission may recommend, by a majority vote of all members of the Rent Control Commission, that the City Council remove any member who is absent without excuse from three or more consecutive Commission meetings. Any member may resign from the Rent Control Commission at any time by notifying the City Council in writing, which may be by electronic communication. Upon receipt of a written resignation, or the recommendation from the Rent Control Commission to remove a member, the City Council may remove that member. The City Council may remove any member for cause.

4. Meetings of the Rent Control Commission

a. The Rent Control Commission shall hold quarterly meetings, in accordance with the Open Public Meetings Act, to conduct a quarterly review of rental housing costs in Seattle, to take public

comment, and to make recommendations to City Council and the Mayor. The Director shall make public in a timely manner a schedule and the time, date, and location of the Rent Control Commission meetings.

b. Meeting notifications, agendas, minutes of proceedings, findings, and recommendations, and any other materials shall be available to the public and posted on the Department's website.

c. The Rent Control Commission may not take official action at its meetings unless a quorum of Rent Control Commission members is present.

B. District Rent Control Boards

1. There are established seven District Rent Control Boards, one for each of the seven City Council districts, whose members are comprised from the Rent Control Commission, that shall review emergency rent control exemption petitions, pursuant to this Chapter 7.28.

2. The District Rent Control Boards shall:

a. Hold hearings on emergency rent control exemption petitions.

b. Determine whether a petition for an emergency rent control exemption meets the criteria for granting emergency exemptions pursuant to Section 7.28.120 and notify the Director of the Board's decision to approve, condition, or deny an emergency rent control exemption petition.

3. Membership

a. The seven District Rent Control Boards shall be comprised of the five renter members and one landlord member on the Rent Control Commission from each City Council district. Four members of a District Rent Control Board constitute a quorum.

b. Substitutions

1) If a District Rent Control Board receives more emergency rent control exemption petitions as provided for in Section 7.28.120 than it can review in a timely manner, the Director may assign such petitions to another District Rent Control Board.

2) If an individual District Rent Control Board member is unable to serve, the Director may appoint an individual from another District Rent Control Board to serve in the member's absence.

4. Meetings of the District Rent Control Boards

a. District Rent Control Boards shall meet in accordance with the Open Public Meetings Act for the purpose of reviewing emergency rent control exemption petitions regarding rental housing units located within the Board's District. The Director shall make public in a timely manner a schedule and the time, date, and locations of District Rent Control Board meetings. The District Rent Control Board shall determine whether a petition for an emergency rent control exemption meets the criteria for granting exemptions pursuant to subsection 7.28.120.C. The Board's written decision to approve or deny the petition shall be provided to the applicant and shall include the reasons for the decision.

b. All meetings of the District Rent Control Boards shall be held in the evening within the district and in a location that is accessible and conveniently located to district residents. District Rent Control Board meetings are open to the general public.

C. The Department shall provide staff for the Rent Control Commission and the District Rent Control Boards as needed to ensure their ability to function pursuant to this Section 7.28.120.

7.28.120 Emergency rent control exemptions

A. Landlords may petition their District Rent Control Board for an emergency exemption from the limitation on rent increases set forth in this Chapter 7.28, pursuant to the procedures and criteria contained in this Section 7.28.120. The petitioning landlord is referred to in this Section 7.28.120 as the "applicant." Applicants may apply for an exemption if they have incurred, or will incur, costs of repairing major damage to their property due to unforeseeable events, including but not limited to earthquakes, flood, water or fire, that prevents the applicant from completing repairs or paying for completed repairs without financial hardship to the Applicant. Applicants must provide complete copies of the petition to all tenants residing in any rental housing unit for which the petition is submitted. Petitions should be submitted to the Department and must include all of

the following to be complete:

1. The name, address, and contact information of the applicant;
2. The address of each rental housing unit for which the exemption is requested;
3. The rent currently charged for each rental housing unit for which the exemption is requested;
4. The amount of rent increase requested;
5. The name, address, and contact information for every adult tenant currently residing in each rental housing unit for which the exemption is requested;
6. A description of the costs, the unforeseeable events that caused those costs, and information demonstrating that, without the exemption, financial hardship will prevent the applicant from completing repairs or paying for completed repairs;
7. A signed statement attesting that, on penalty of perjury, the contents of the petition are true to the best knowledge of the applicant;
8. Payment of the administrative fee pursuant to subsection 7.28.120.D; and
9. Proof that the petition has been provided to all tenants residing in any rental housing unit for which the petition is submitted.

The Department shall return incomplete petitions to the applicant along with a description of the information that must be provided to make a complete petition. The Director shall assign complete petitions for a hearing to a District Rent Control Board pursuant to Section 7.28.110.

B. The Director shall notify the tenants identified in subsection 7.28.120.A.5 via certified mail, return receipt requested, and regular mail that a petition for an emergency rent control exemption has been submitted to the Department. The Director may provide the notice in English and in a language that is the same as that spoken by tenants. The notification shall include:

1. A description of the tenant's right to respond to the petition and provide testimony to the District Rent Control Board at the hearing regarding the petition; and

2. The date, time, and location of the District Rent Control Board meeting when the petition hearing will be considered. The hearing may be scheduled no sooner than 15 calendar days, and no later than 30 calendar days, after the date the Director mails the notice.

C. In considering whether to approve, conditionally approve, or deny petitions for exemptions from limitations on rent increases, the District Rent Control Board shall consider the following:

1. Financial hardship to the landlord caused by the unforeseeable event;
2. Financial hardship to tenants if the exemption is granted; and
3. Whether the exemption can be reasonably expected to result in one or more tenants in the rental housing unit being unable to remain housed in Seattle. Generally, the exemption should not be granted if that reasonable expectation is met.

The District Rent Control Board may not consider costs resulting from foreseeable major repairs or arising from routine wear and tear.

D. The applicant shall pay the Director an administrative fee at the time a petition is submitted for each rental housing unit included in a petition. The fee shall be set by the Department.

E. The District Rent Control Board shall conduct hearing(s) that are listed on the meeting agenda to review emergency rent control exemption petition(s). The District Rent Control Board shall hear and consider public comments, and hear and consider both oral and written testimony from the applicant, the tenants, or their designees. After receiving all public comment and testimony, the District Rent Control Board shall consider and decide whether to approve, conditionally approve, or deny the petition. The Board's decision requires a majority vote of District Rent Control Board members voting. Tie votes constitute denial of the petition. Conditional approvals may grant an emergency rent control exemption for a rent increase amount that is different than the rent increase amount requested in the petition. The District Rent Control Board shall notify the Director in writing of the decision within 15 calendar days from the hearing, and the Director, within seven calendar days of receiving notification from the District Rent Control Board, shall then notify the applicant and

tenants of the District Rent Control Board's decision via certified mail, return receipt requested, and regular mail. For approved and conditionally approved decisions, the Director shall include in the transmittal the rent increase allowed by the Emergency Rent Control Exemption.

7.28.130 Appeals

The applicant or any tenant residing in the rental housing unit that is party to the emergency rent control exemption petition hearing and was injured by the decision of the District Rent Control may appeal the decision within 14 calendar days from the issuance of the decision to the Hearing Examiner on the basis of any of the following:

A. The decision of the District Rent Control Board is not supported by evidence that is substantial when viewed in light of the whole record;

B. Notice of the petition was not provided to the tenant as required by subsection 7.28.120.B;

C. Substantial new evidence, not presented to the District Rent Control Board, has become available, and the evidence could not reasonably have been available at the time of the District Rent Control Board meeting, and that the evidence could have affected the decision of the District Rent Control Board; or

D. The decision of the District Rent Control Board's analysis of the financial hardship of the applicant or tenants was in clear error.

7.28.140 Retaliation prohibited

A. It is a violation of Chapter 7.28 for any person to retaliate against a tenant or prospective tenant because the tenant or prospective tenant exercised or attempted to exercise rights conferred by Chapter 7.28.

Retaliation means any of the following actions:

1. Refusing to provide, accept, or approve a rental application or a rental agreement except as otherwise allowed by law.

2. Applying more onerous terms, conditions, or privileges, including increased rent, to a tenant or prospective tenant who exercises rights under this Chapter 7.28 than to a tenant or prospective tenant who

does not assert those rights.

3. Misrepresenting any material fact when providing a rental reference about a tenant.

4. Threatening to allege to a government agency that a tenant or prospective tenant, or a family member of a tenant or prospective tenant, is not lawfully in the United States.

B. If a person takes any of the actions identified in subsection 7.28.140.A within 90 days of the date a tenant or prospective tenant exercises rights conferred by this Chapter 7.28, it is presumed that the action was taken in retaliation for the exercise of those rights. The person accused of taking the actions may rebut the presumption by producing substantial evidence that disputes that the actions took place or that the actions were retaliatory.

7.28.150 Administration and enforcement

A. The Director shall administer and enforce the provisions of this Chapter 7.28 and is authorized to adopt rules and regulations to implement this Chapter 7.28.

B. The Department shall provide technical assistance to landlords and tenants to achieve compliance with Chapter 7.28.

C. The first and second violations of this Chapter 7.28 shall be enforced as citations pursuant to Section 7.28.160. Subsequent violations may be enforced, at the Director's discretion, pursuant to the notice of violation provisions prescribed in Section 7.28.170 or pursuant to criminal provisions prescribed in Section 7.28.180.

7.28.160 Citation

A. Citation. If after investigation the Director determines that the standards or requirements of this Chapter 7.28 have been violated, the Director may issue a citation to the landlord. The citation shall include the following information:

1. The name and address of the landlord to whom the citation is issued;
2. The address of the rental housing unit(s) impacted by the landlord's actions;
3. A separate statement of each standard or requirement violated by the landlord;

4. The date of the violation;
5. A statement that the landlord must respond to the citation within 15 days after service of the notice of violation;
6. A space for entry of the applicable remedy and penalty;
7. A statement that a response must be sent to the Hearing Examiner and received not later than 5 p.m. on the day the response is due;
8. The name, address, and phone number of the Hearing Examiner where the citation is to be filed;
9. A statement that the citation represents a determination that a violation has been committed by the landlord named in the citation and that the determination shall be final unless contested as provided in subsection 7.28.160.C; and

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of the landlord. Service shall be complete at the time of personal service, or if mailed, three business days after the date of mailing.

C. Response to citations

1. A landlord must respond to a citation in one of the following ways:
 - a. Payment to the Department of the monetary penalty as specified in the citation, in which case the record shall show a finding that the landlord committed the violation; or
 - b. A written request to the Office of the Hearing Examiner, as specified on the citation, for a mitigation hearing to explain the circumstances surrounding the commission of the violation in order to seek a reduction of the monetary penalty, and providing an address to which notice of such hearing may be sent; or
 - c. A written request to the Office of the Hearing Examiner, as specified on the citation, for a contested hearing specifying the reason(s) why the cited violation is being contested, and why the landlord

should not be required to pay the monetary penalty and providing an address to which notice of such hearing may be sent.

2. A landlord must respond to a citation. The landlord's response must be received by the Office of the Hearing Examiner no later than 15 days after the date the citation is served.

D. Failure to respond. If the Office of the Hearing Examiner does not receive a response within 15 days of service of the citation, the Hearing Examiner shall enter an order finding that the landlord committed the violation stated in the citation and assessing the penalty specified in the citation.

E. Hearings

1. Mitigation hearings

a. Date and notice. If a mitigation hearing is requested, the mitigation hearing shall be held within 30 days after the Office of the Hearing Examiner receives the written response to the citation requesting such hearing, or as soon as practical to accommodate the requestor's or Hearing Examiner's schedule. Notice of the time, date, and location of the hearing shall be sent to the address specified in the request for hearing not less than ten days prior to the date of the hearing.

b. Procedure at hearing. The Hearing Examiner shall hold an informal hearing that is governed by the Hearing Examiner rules and procedures. The landlord may present witnesses or written witness testimony, but witnesses may not be compelled to attend. A representative from the Department may also be present and may present additional information, but attendance by a representative from the Department is not required.

c. Disposition. The Hearing Examiner shall determine whether to reduce the monetary penalty; however, the monetary penalty may not be reduced unless the Department affirms that the violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another; or whether correction of the violation was commenced promptly prior to citation but that full compliance was prevented by a

condition or circumstance beyond the control of the person cited.

d. Entry of order. After hearing the explanation of the landlord and any other information presented at the hearing, the Hearing Examiner may enter an order finding that the landlord committed the violation and determine a reduced monetary penalty amount pursuant to subsection 7.28.160.F. The Hearing Examiner's decision shall be the City's final decision.

2. Contested hearing

a. Date and notice. If a landlord requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

b. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this subsection 7.28.160.E.2. The issues heard at the hearing shall be limited to those within the jurisdiction of the Hearing Examiner. The Office of the Hearing Examiner, either on its own or at the request of a contesting landlord, may issue subpoenas for the attendance of witnesses and the production of documents.

c. Sufficiency. A citation shall be deemed sufficient if it contains a statement of the facts that support the Department's determination that the landlord violated this Chapter 7.28.

d. Evidence at hearing. A citation issued by the Department shall be prima facie evidence that a violation by a landlord has occurred. The signed citation and any other evidence accompanying the report shall be admissible without further evidentiary foundation. The landlord may rebut the Department's evidence and establish that the cited violation(s) did not occur or that the landlord contesting the citation is not responsible for the violation.

e. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the landlord committed the violation. If the violation remains uncorrected, the Hearing Examiner shall impose the applicable penalty. If the violation has been corrected, the Hearing Examiner may

reduce the monetary penalty in the same manner as authorized in subsection 7.28.160.E.1. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

f. Appeal. The Hearing Examiner's decision is final and conclusive unless the decision is appealed as allowed by applicable law.

3. Citation may be withdrawn or amended. A citation may be withdrawn prior to the conclusion of the hearing if the Department decides that the statement of facts supporting the citation are either incorrect or that additional facts change the Department's decision as to whether this Chapter 7.28 was violated. A citation may be amended to conform to the evidence prior to the conclusion of the hearing if additional facts are discovered that provide additional support for the citation, but only if substantial rights of the person cited are not thereby prejudiced.

4. Failure to appear for hearing. Failure to appear for a requested hearing will result in an order being entered finding that the landlord committed the violation as stated in the facts provided in the citation and an assessed penalty up to the maximum amount specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

F. Citation remedies and penalties

1. The following penalties shall be assessed for violations of any provision of this Chapter 7.28:

- a. \$500 for the first violation; and
- b. \$1000 for each subsequent violation within a five-year period.

2. Violation warning. The Director may, in an exercise of discretion, issue a warning to the person responsible for the violation if that person has not been previously warned or cited for violating this Chapter 7.28.

3. Collection of penalties. If the person cited fails to pay a penalty imposed pursuant to this

Section 7.28.160 within 60 days of issuance of the order, the penalty may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

7.28.170 Notice of violation

A. Investigation and notice of violation issuance

1. If after investigation the Director determines that a violation of Chapter 7.28 has occurred, and the landlord has had two or more citations issued within the past three years for violating this Chapter 7.28 and the violations were found to have been committed, the Director may issue a notice of violation to the landlord. The notice of violation shall state separately each violation and the facts relied upon to support the determination, shall state what corrective action, if any, is necessary to correct the violation, and shall set a reasonable time for compliance.

2. The notice shall be served upon the landlord by personal service in the manner set forth in RCW 4.28.080 for service of a summons, or by first class mail to the landlord's last known address. Service shall be complete at the time of personal service, or if mailed, three business days after the date of mailing. If a notice of violation is directed to a landlord who is not the owner, a copy of the notice shall also be sent by first class mail to the owner of the property.

3. If the landlord fails to correct the violation, the Director may request that the City Attorney take appropriate enforcement action including obtaining a judgment. If a judgment is obtained, a copy of the judgment may be filed with the King County Recorder's Office.

B. Review of the notice of violation by the Director

1. Any person issued a notice of violation pursuant to subsection 7.28.170.A may make a written request for a Director's review within ten days after service of the notice of violation. Upon receipt of the request, the Director shall notify the requesting party of the deadline for submitting additional information for

the review. Additional information shall be submitted to the Director no later than 15 days after the notice of a request for a review is mailed, unless otherwise agreed by all persons served with the notice of violation.

Before the deadline for submission of additional information, any person served the notice of violation may submit any additional information in the form of written material or exhibits to the Director for consideration as part of the review.

2. The review will be made by the Director. The Director will review all additional information received by the deadline for submission of additional information. The reviewer may also request clarification of information received, request more information, and request a site visit. After review of the additional information is complete, the Director may:

- a. Sustain the notice of violation;
- b. Withdraw the notice of violation;
- c. Continue the review to a date certain for receipt of additional information; or
- d. Modify the notice of violation, which may include an extension of the compliance

date.

3. Where review by the Director has been conducted pursuant to this subsection 7.28.170.B, the Director shall issue an order of the Director containing the decision within 15 days of the date that the review is completed and shall cause the same to be mailed by regular first class mail to the person or persons named on the notice of violation. If no request for review was made timely to the Director pursuant to this subsection 7.28.170.B, the notice of violation shall become the order of the Director.

C. Civil enforcement proceedings and penalties for a notice of violation

1. In addition to any other remedy authorized by law or equity, any landlord violating or failing to comply with any of the provisions of this Chapter 7.28 shall be subject to a cumulative penalty of up to \$500 per day for each violation until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on

the date compliance is required by the notice of violation. The City shall also be entitled to recovery of its enforcement costs, including but not limited to staff time, administrative expenses and fees, and attorneys' fees.

2. The penalty imposed by subsection 7.28.170.C.1 shall be collected by civil action brought in Seattle Municipal Court or as otherwise required by law. The Director shall request in writing that the City Attorney take enforcement action and the City Attorney shall, with the assistance of the Director, take appropriate action to enforce this Chapter 7.28. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

D. Final decisions of the Seattle Municipal Court on enforcement actions authorized by this Section 7.28.170 may be appealed pursuant to applicable state or federal laws.

7.28.180 Alternative criminal penalty

Any landlord who violates or fails to comply with any of the provisions in this Chapter 7.28 and who had at least two or more citations issued pursuant to Chapter 7.28 where the violation was found committed, and also one notice of violation issued against them where a trier of fact found a violation of this Chapter 7.28, all within the past three years from the date the criminal charge is filed, shall upon conviction be guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney prosecute such violations criminally as an alternative to the citation and notice of violation procedures outlined in this Chapter 7.28.

7.28.190 Private right of action

If a landlord increases rent in violation of this Chapter 7.28, the tenant may bring a civil action against the landlord in a court of competent jurisdiction to recover: 1) any actual damages incurred by the tenant as a result of the increase, including but not limited to a refund of rent paid in excess of that allowed by Chapter 7.28; 2) a penalty of up to two months' rent; and 3) reasonable attorneys' fees and costs.

7.28.200 Achieving compliance

A landlord who charges rent in excess of the amount allowed by Sections 7.28.050, 7.28.060, or 7.28.070 is in violation of this Chapter 7.28 and is subject to the penalties and remedies provided by this Chapter 7.28. A landlord can achieve compliance with this Chapter 7.28 by:

A. Reducing the rent to an amount that does not exceed the provisions of this Chapter 7.28, and notifies the tenants of the reduced rent;

B. Refunding to the tenant any rent that was paid by the tenant that exceeded the amount allowed by this Chapter 7.28; and

C. Paying the tenant for any costs incurred by the tenant resulting from the landlord's attempts to collect rent in excess of that allowed by this Chapter 7.28, including but not limited to the costs of eviction proceedings, payment of late fees, correcting reports to collection and credit agencies, and correcting negative tenant references.

Section 2. Subsection 22.214.040.G of the Seattle Municipal Code, which section was last amended by Ordinance 126157, is amended as follows:

22.214.040 Rental housing registration, compliance declaration, and renewals

* * *

G. An application for a rental housing registration shall be made to the Department on forms provided by the Director. The application shall include, but is not limited to:

1. The address of the property;
2. The name, address, and telephone number of the property owners;
3. The name, address, and telephone number of the registration applicant if different from the property owners;
4. The name, address, and telephone number of the person or entity the tenant is to contact when requesting repairs be made to their rental housing unit, and the contact person's business relationship to the

owner;

5. A list of all rental housing units on the property, identified by a means unique to each rental housing unit, that are or may be available for rent at any time, along with the current rent for each rental housing unit and the amount of rent that was charged for each rental housing unit for the previous ten years;

6. A declaration of compliance from the owner or owner's agent, declaring that all rental housing units that are or may be available for rent are listed in the registration application and meet or will meet the standards in this Chapter 22.214 before the rental housing units are rented; and

7. A statement identifying whether the conditions of the rental housing units available for rent and listed on the application were established by declaration of the owner or owner's agent, or by physical inspection by a qualified rental housing inspector.

* * *

Section 3. Section 3.06.030 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

3.06.030 Director-Powers and duties

The Director of the Seattle Department of Construction and Inspections, under direction of the Mayor, shall manage the Seattle Department of Construction and Inspections, appoint, assign, and dismiss all employees in conformance with the City's personnel ordinances and rules, and perform the following functions:

A. Enforcing development-related ordinances and rules of the City, including but not limited to the Building Code; the Residential Code; the Electrical Code; the Mechanical Code; the Housing and Building Maintenance Code; the Land Use Code; the Pioneer Square Minimum Maintenance Ordinance; the Condominium Conversion Ordinance; the Energy Code; the Stormwater Code; the Grading Code; the Rental Registration and Inspection Ordinance; the Tenant Relocation Assistance Ordinance; the Noise Control Code; the Shoreline Master Program; and the Regulations for Environmentally Critical Areas;

B. Processing applications for permits for construction and land use approvals, grading and site work,

boilers, conveyance devices, mechanical equipment and systems, side sewers, billboards and signs, zoning exceptions, subdivisions and other land use approvals, including those related to shoreline management but excluding those related to historic preservation;

C. Conducting reviews of the effects of proposed projects on the physical environment, as prescribed by the State Environmental Policy Act and City ordinances;

D. Addressing complaints regarding a variety of community safety and quality of life issues, including but not limited to conditions in tenant housing, construction without permits, unauthorized uses, junk storage, and unsecured vacant buildings;

E. Administering the rental housing and tenant protection programs including but not limited to rental housing registration and inspection, rent control, tenant relocation assistance, and just cause eviction protections;

F. Maintaining appropriate records regarding property, permits, and structures; and

G. Discharging such other responsibilities as may be directed by ordinance.

The Director shall consult on all matters of structural strength and design with an assistant who is a licensed structural engineer or architect with at least five years' experience in the practice of the profession, unless the Director possesses such qualifications. Moreover, the Director shall consult on all matters concerning compliance with design guidelines with a qualified architect or urban designer with at least five years of experience in the practice of the profession, unless the Director possesses such qualifications.

Section 4. The Seattle Department of Construction and Inspections shall track the number of inquiries received related to rent control or this ordinance.

Section 5. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or

circumstances.

Section 6. If the preemption of rent control in RCW 35.21.830 is repealed without enacting any additional rent control laws that apply in Seattle, landlords are prohibited from increasing the rate of rent or the amount of any deposit charged for any rental housing unit until Sections 1, 2, and 3 of this ordinance shall take effect. If the preemption of rent control in RCW 35.21.830 is repealed at the same time as the enactment of rent control laws that preempt application of Sections 1, 2, or 3 in Seattle, then Section 6 of this ordinance shall not take effect.

Section 7. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 18 months after the date that preemption of rent control in RCW 35.21.830 is repealed without enacting any additional rent control laws that apply in Seattle. If the preemption of rent control in RCW 35.21.830 is repealed at the same time as the enactment of rent control laws that preempt application of Sections 1, 2, or 3 in Seattle, then Sections 1, 2, and 3 of this ordinance shall not take effect.

Section 8. 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 _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)