CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the provision of tenant relocation assistance to displaced tenants; establishing requirements for residential tenancies; establishing regulations about penalties and the issuance of building permits for violators of the Tenant Relocation Assistance Ordinance; amending Sections 7.24.030, 7.24.050, 10.09.085, 22.210.030, 22.210.140, 22.210.150, and 22.210.180 of the Seattle Municipal Code and adding a new Section 22.210.136; amending Section 106.6.3 of the 2012 Seattle Building Code; and amending Section R105.6.3 of the 2012 Seattle Residential Code.

WHEREAS, RCW 59.18.440 authorizes any municipal corporation required to develop a comprehensive plan under RCW 36.70A.040(1) to enact a program providing reasonable relocation assistance to tenants earning 50 percent or less of Area Median Income (AMI), upon the demolition, substantial rehabilitation, or change of use of residential property, or upon the removal of use restrictions in an assisted-housing development; and

WHEREAS, in 1990, The City of Seattle (City) passed the Tenant Relocation Assistance Ordinance (TRAO) because of the difficulty for low-income persons who are displaced by demolition, change of use, substantial rehabilitation, or removal of use restrictions from assisted housing to locate affordable substitute rental housing, and who also do not have sufficient time to save money for relocation costs or to find comparable housing when they are evicted as a result of such displacement; and

WHEREAS, since 2004, under the TRAO 1,325 low-income households have been assisted with relocation funds and time to move; and

WHEREAS, RCW 59.18.140 allows for a change in the amount of rent to become effective with 30 days written notice to each affected tenant upon completion of the term of the rental agreement; and

WHEREAS, TRAO does not provide for assistance or additional notice when tenants are displaced from housing as a result of rent increases; and

WHEREAS, tenants sometimes find that TRAO eligible renovation, demolition, change of use, or removal of use restrictions is done after a rent increase has caused the tenant to move and that they have, as a result, been deprived the relocation assistance and additional time to move they would have otherwise received; and

WHEREAS, under Seattle Municipal Code Section 22.210.180 the Department of Planning and Development (DPD) has the authority to collect penalties under TRAO if a permit applicant is untruthful by declaring vacant an occupied rental or harasses or intimidates a tenant into moving out and then applies for a demolition, renovation, or change of use permit or removal of use restrictions; and

WHEREAS, DPD has had an increasing number of calls from tenants concerned about significant rent increases, but there are no regulatory limits on the amount of a rent increase, and enforcement of state and city regulations requiring proper notice for rent increases is a tenant responsibility; and

WHEREAS, the City finds it is in the public interest to protect and financially assist low-income tenants; and

WHEREAS, it is a hardship for low-income tenants to have to move without relocation assistance, and of the estimated 313,000 housing units in Seattle, only approximately 29 percent of them are affordable to people with incomes under 50 percent of AMI; and

WHEREAS, the City, tenants, and property owners have a shared interest in ensuring that the law is followed by all property owners who are required to provide relocation assistance to tenants;

WHEREAS, the Council finds that owners should pay relocation assistance to tenants who are displaced as a result of the owner's substantial rehabilitation of a dwelling unit regardless of whether permits are required from the City to accomplish the rehabilitation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 10.09.085.B of the Seattle Municipal Code, which section was last amended by

Ordinance 123188, is amended as follows:

10.09.085 Additional remedies

* * *

B. For purposes of this ((s))Section ((~~, SMC 10.909.085~~)) 10.09.085, the term "tenant" shall have the meaning ((~~as set forth~~)) provided in ((~~SMC~~)) Section 22.210.030((~~.M~~)).

Section 2. Section 22.210.030 of the Seattle Municipal Code, last amended by Ordinance 121276, is amended as follows:

22.210.030 Definitions ((~~.~~))

Unless the context clearly requires otherwise, the definitions in this section apply throughout this ((~~chapter~~)) Chapter 22.210:

A. "Assisted housing development" means a multifamily residential housing development that either receives or has received government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives or has received other federal, State, or local government assistance and is subject to use restrictions as defined in this ((~~section~~)) Section 22.210.030.

B. "Change of use" means the conversion of any dwelling unit from a residential use to a nonresidential use ((~~which~~)) that results in the displacement of existing tenants or conversion from residential use to another residential use ((~~which~~)) that requires the displacement of existing tenants, such as a conversion to a retirement home where payment for long-term care is a requirement of tenancy, or conversion to an emergency shelter or transient hotel. For purposes of this ((~~chapter~~)) Chapter 22.210, "change of use" shall not mean a conversion of a rental dwelling unit to a condominium.

C. "Demolition" means the destruction of any dwelling unit or the relocation of an existing dwelling unit or units to another site.

D. "Director" means the Director of the Department of Planning and Development, or the Director's designee.

E. "Displacement" means, in the case of demolition, substantial rehabilitation, or change of use, that existing tenants must vacate the dwelling unit because of the demolition, substantial rehabilitation, or change of use; in the case of removal of use restrictions from an assisted housing development, it means that the nonrestricted rent of a dwelling unit after the removal of use restrictions will exceed by ((~~twenty~~)) 20 percent ((~~(20%)~~)) or more, exclusive of increases due to operating expenses, the restricted rent of the dwelling unit before the removal of use restrictions. For purposes of this ((~~chapter~~)) Chapter 22.210, "displacement" shall not include the permanent relocation of a tenant from one dwelling unit to another dwelling unit in the same building with the tenant's consent or the temporary relocation of a tenant for less than ((~~seventy-two (~~))72((~~)~~)) hours.

F. "Dwelling unit" means a structure or that part of a structure ((~~which is~~)) used as a home, residence, or sleeping place by one (((~~1~~))) person or by two (((~~2~~))) or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

G. "Low income" means total combined income per dwelling unit is at or below ((~~fifty~~)) 50 percent ((~~(50%)~~)) of the median income, adjusted for family size, in King County, Washington.

H. "Major educational institution" means an educational institution which is designated as a "major institution" in Section 23.48.025 of the Seattle Municipal Code, or any amendments thereto.

I. "Master use permit" means the document issued by the Department of Planning and Development which records all land use decisions which are made by the Department of Planning and Development.

J. "Owner" means one (((~~1~~))) or more persons, jointly or severally, in whom is vested:

1. All or any part of the legal title to property; or

2. All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

K. "Rent" means the basic charge for a tenant’s use of the dwelling unit and any periodic or monthly

fees for other services paid to a landlord by a tenant, but do not include utility charges that are based on usage and that a tenant has agreed in the rental agreement to pay.

((~~K.~~)) L. "Rental agreement" means all oral or written agreements ((~~which~~)) that establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit. For purposes of this ((~~chapter~~)) Chapter 22.210, "rental agreement" shall not include any agreement relating to the purchase, sale, or transfer of ownership of a dwelling unit.

((~~L.~~)) M. "Substantial rehabilitation" means extensive structural repair or extensive remodeling that requires displacement of a tenant and either ((~~which~~)) requires a building, electrical, plumbing, or mechanical permit, ((~~and which cannot be done with the tenant in occupancy~~)) or is valued at $6,000 or more for any tenant's dwelling unit.

((~~M.~~)) N. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement and includes those persons who are considered to be tenants under the State Residential Landlord-Tenant Act ((~~under~~)) , chapter 59.18 RCW ((~~Chapter 59.18~~)) and those tenants whose living arrangements are exempted from the State Residential Landlord-Tenant Act under RCW 59.18.040(3) if their living arrangement is considered to be a rental or lease pursuant to RCW 67.28.180(1). For purposes of this ((~~chapter~~)) Chapter 22.210, "tenant" shall not include the owner of a dwelling unit or members of the owner's immediate family.

((~~N.~~)) O. "Use restriction" means any Federal, State, or local statute, regulation, ordinance, or contract ((~~which~~)) that, as a condition of receipt of any housing assistance, including an operating subsidy, rental subsidy, mortgage subsidy, mortgage insurance, tax-exempt financing, or low-income housing tax credits by an assisted housing development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within an assisted housing development; imposes any restrictions on the maximum rents that may be charged for any of the units within the assisted housing development; or requires that rents for the units within an assisted housing development be reviewed by any governmental body or agency before the rents

are implemented or changed.

Section 3. A new Section 22.210.136 is added to the Seattle Municipal Code as follows:

22.210.136 Rent increase to avoid application of Chapter 22.210

A. No owner may increase rent for the purpose of avoiding the application of this Chapter 22.210.

B. If a tenant has received notice of a rent increase of ten percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding 12 months that the tenant believes is for the purpose of avoiding the application of this Chapter 22.210, and the tenant makes a complaint to the Director within one year of receiving the notice of the rent increase, the owner shall, within ten days of being notified by the Director of the complaint, complete and file a certification with the Director stating that the rent increase is not for the purpose of avoiding the application of this Chapter 22.210. The failure of the owner to complete and timely file the certification is a defense for the tenant in an eviction action based upon the tenant's failure to pay the increased rent.

C. Regardless of whether a certification is timely filed, the Director may investigate the complaint and decide whether the rent increase was made for the purpose of avoiding the application of this Chapter 22.210. A decision by the Director that the rent increase was made for the purpose of avoiding the application of this Chapter 22.210 constitutes a finding that the owner violated subsection 22.210.136.A.

D. There is a rebuttable presumption the rent increase was made for the purpose of avoiding the application of this Chapter 22.210 and the owner violated subsection 22.210.136.A if:

1. Within 90 days of the effective date of a rent increase of 20 percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding 12 months, that tenant vacates a dwelling unit and, within 180 days of the effective date of the rent increase, the owner:

a. Engages in substantial rehabilitation; or

b. Applies for a permit for a substantial rehabilitation, demolition,

change of use, or removal of use restrictions; and

2. The owner failed to complete and timely file a certification after being notified by the Director of a complaint as provided in subsection 22.210.136.B, or failed to follow the provisions of this Chapter 22.210 after completing and timely filing the certification.

E. The Director shall mail a copy of the Director's decision to the owner and to the tenant who made the complaint.

Section 4. Subsection 22.210.140.A of the Seattle Municipal Code, which section was last amended by Ordinance 118839, is amended as follows:

22.210.140 Eviction protection ((.))

A. After the earlier of (1) the owner's application for a tenant relocation license; (2) the owner's application for a Master Use Permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit; or (3) the owner's application for a building permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit, the owner shall not evict any tenant except for good cause as defined in ((~~Section 22.206.160 <https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT22BUCOCO_SUBTITLE_IIHOCO_CH22.206HABU_SUBCHAPTER_VIDUOWTE_22.206.160DUOW> C, subsections 1a, 1b, 1c, 1g, 1h, li, ln, and 1p, of the Seattle Municipal Code~~)) subsections 22.206.160.C.1.a, 22.206.160.C.1.b, 22.206.160.C.1.c, 22.206.160.C.1.g, 22.206.160.C.1.h, 22.206.160.C.1.i, 22.206.160.C.1.n, and 22.206.160.C.1.p, and shall not, for the purpose of avoiding or diminishing the application of this ((~~e~~))Chapter 22.210, reduce the services to any tenant ((~~,~~)) or materially increase or change the obligations (((~~apart from the obligation to pay rent~~))) of any tenant.

Section 5. Section 22.210.150 of the Seattle Municipal Code, last amended by Ordinance 123899, is amended as follows:

22.210.150 Administrative appeals

A. Either an owner or a tenant may request a hearing before the Hearing Examiner to appeal a determination concerning a tenant's eligibility for a relocation assistance payment ((~~.~~)) , ((~~Either an owner or a tenant may request a hearing before the Hearing Examiner~~)) to resolve a dispute concerning the authority to institute unlawful detainer actions before issuance of the tenant relocation license required by Section 22.210.050, ((~~during the 90 day period after service of the notice required by Section 22.210.120.~~)) or to review a decision of the Director pursuant to subsection 22.210.136.C.

B. An ((~~A~~))appeal((~~s~~)) regarding eligibility for relocation assistance shall be filed within ten days after receipt of the Director's notice of tenant eligibility for relocation assistance.

C. A request for a hearing relating to authority to pursue unlawful detainer actions during the relocation period shall be filed prior to issuance of the tenant relocation license.

D. An appeal to review a decision of the Director pursuant to subsection 22.210.136.C shall be filed within ten days after receipt of the Director's decision.

E((~~D~~)). When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

F((~~E~~)). All requests for a hearing ((~~and~~)) or appeal((~~s~~)) shall be in writing and shall clearly state specific objections and the relief sought. The appellant is ((~~shall~~)) not ((~~be~~))required to pay the Hearing Examiner filing fee set forth in Section 3.02.125.

G((~~F~~)). Notice of the hearing shall be provided by the Hearing Examiner at least ten days prior to the scheduled hearing date to the tenant, the owner, the Director, and any other interested parties who have requested notice.

H((~~G~~)). A record shall be established at the hearing before the Hearing Examiner. Appeals shall be considered de novo. The Director is ((~~shall~~)) not ((~~be~~)) a necessary party to any Hearing Examiner proceedings pursuant to this Section 22.210.150.

I((~~H~~)). On the day it is issued, the Hearing Examiner shall provide the decision on the appeal to the tenant, the property owner, the Director, and all those requesting notice.

J((~~I~~)). The Hearing Examiner's decision is ((~~shall be~~)) final and conclusive unless, within ten calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful

procedure, or in violation of constitutional provisions.

Section 6. Section 22.210.180 of the Seattle Municipal Code, last amended by Ordinance 117094, is amended as follows:

22.210.180 Violations and penalties ((.))

A. In addition to any other sanction or remedial procedure ((~~which~~)) that may be available, any person violating any provision of this ((~~e~~))Chapter 22.210 shall be subject to a cumulative civil penalty in the amount of ((~~One Thousand Dollars (~~))$1,000((~~)~~)) per day for each day from the date the violation began until the requirements of this ((~~e~~))Chapter 22.210 are satisfied, and if:

1. The violation resulted in a tenant who would have been eligible for relocation assistance not receiving it, the penalty shall be increased by the amount of the violator's share of the relocation assistance that should have been paid; or

2. The violation is for receipt of relocation assistance by an ineligible tenant or for failure to vacate pursuant to Section 22.210.160, the penalty shall be increased by the amount of relocation assistance received by the tenant.

B. The penalty imposed by this ((~~section~~)) Section 22.210.180 shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

C. Any tenant or person aggrieved by a violation of this ((~~e~~))Chapter 22.210 may institute a private action to enforce the obligations contained in this ((~~e~~))Chapter 22.210, provided, that this subsection 22.210.180.C does not create any right of action against the City or any City officer or employee ((~~thereof,~~)) for the failure either to require any owner to pay relocation assistance or to pay tenants the amount of the owner's share with City funds. This section shall be retroactive to June 22, 1993.

Section 7. Section 106.6.3 of the 2012 Seattle Building Code is amended to read as follows:

106.6.3 Issuance of permit.

A. Subject to paragraph B, ((Ŧ))the *building official* shall issue a permit to the applicant, if the *building official* finds that the work as described in the *construction documents* satisfies the following:

1. It conforms to the requirements of this code and other pertinent laws, ordinances, and regulations and with all conditions imposed under any of them,

2. The fees specified in the *Fee Subtitle* have been paid, and

3. The applicant has complied with all requirements to be performed prior to issuance of a permit for the work under other pertinent laws, ordinances or regulations or included in a master use permit, or otherwise imposed by the *building official*.

When the permit is issued, the applicant or the applicant's authorized agent becomes the permit holder.

B. The *building official* shall not issue a permit if the owner of property that is the subject of the permit application is in violation of subsection 22.210.136.A of the Seattle Municipal Code (as found by a decision of the Director pursuant to subsection 22.210.136.C of the Seattle Municipal Code or through an appeal of that decision pursuant to Section 22.210.150 of the Seattle Municipal Code) and the owner has not obtained any required tenant relocation license.

Section 8. Section R105.6.3 of the 2012 Seattle Residential Code is amended to read as follows:

R105.6.3 Issuance of permit.

A. Subject to paragraph B, ((Ŧ))the *building official* shall issue a permit to the applicant if the *building official* finds that the work as described in the *construction documents* satisfies the following:

1. It conforms to the requirements of this code and other pertinent laws, ordinances and regulations and with all conditions imposed under any of them,

2. The fees specified in the Fee Subtitle have been paid, and

3. The applicant has complied with all requirements to be performed prior to issuance of a

permit for the work under other pertinent laws, ordinances or regulations or included in a master use permit, or otherwise imposed by the *building official*.

When the permit is issued, the applicant or the applicant's authorized agent becomes the permit holder.

B. The *building* official shall not issue a permit if the owner of property that is the subject of the permit application is in violation of subsection 22.210.136.A of the Seattle Municipal Code (as found by a decision of the Director pursuant to subsection 22.210.136.C of the Seattle Municipal Code or through an appeal of that decision pursuant to Section 22.210.150 of the Seattle Municipal Code) and the owner has not obtained any required tenant relocation license.

Section 9. Severability. 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, do not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. If any section or subsection of the Seattle Municipal Code affected by this ordinance is amended by another ordinance without reference to amendments made by this ordinance, each ordinance shall be given effect to the extent that the amendments do not conflict in purpose, and the code reviser may publish the section or subsection in the official code with all amendments incorporated therein.

Section 11. 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 _____, 2015, and signed by me in open session in authentication of its passage this

_____ day of _____, 2015.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2015.

_____

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

_____

Monica Martinez Simmons, City Clerk

(Seal)