

The City of Seattle

Ordinance _____

Council Bill _____

..title

An ordinance relating to unfair housing practices; adding new protections for

homeowners from unwanted solicitation of residential property by establishing a Do Not Solicit List; providing an enforcement process; prescribing penalties; amending Section 14.08.020 and 14.08.190 of the Seattle Municipal Code; and adding a new Section 14.08.042 to the Seattle Municipal Code.

..body

Recitals:

City homeowners indicate receiving excessive, unwanted solicitations to purchase their homes hinders the well-being, tranquility, and privacy of their homes.

Predatory home-buying practices target the most vulnerable in the community, and homeowners who sell in response to unsolicited offers may receive less for their home than if they had listed it on the open market.

Predatory home-buying practices can target communities of color, contributing to economic disparities, displacement, and erosion of generational wealth while also reinforcing historical patterns of racial segregation.

As the City implements changes to its Comprehensive Plan that will allow more “middle housing” types throughout the City and in formerly single-family zones, predatory

home-buying practices could increase and impact residents in all areas of the City.

In 1989, New York State adopted a “Cease and Desist Zones” law. In areas that are designated as Cease and Desist zones, real estate licensees and others are prohibited from soliciting the sale, lease or the listing for sale or lease of residential property from any owner who has filed a statement with the Secretary of State expressing the wish not to be solicited, and whose name appears on the state Cease-and-Desist list. The Cease-and-Desist designation of an area is in place for five years but can be renewed. Over the years, five Cease-and-Desist zones have been established. There is currently one active zone with over 400 individuals registered on the Cease-and-Desist list for that zone.

In 2020, the City of Philadelphia adopted a Do Not Solicit policy similar to New York due to reports by homeowners of excessive unwanted solicitations of residential property occurring in that City. Individuals who do not want to receive solicitations for the purchase of their homes can sign up for a public Do Not Solicit List. Unlike New York, the policy covers the entire city, not only specific neighborhoods or areas. There are currently almost 4,000 entries with a Philadelphia zip code on the Philadelphia Do Not Solicit List.

These jurisdictions have put into place Do Not Solicit policies to protect homeowners from these unwanted solicitations and the City wants to adopt a policy that could provide similar protections.

The City desires to establish a new unfair housing practice that prohibits the unwanted solicitation of property owners who have indicated they do not desire to receive

such solicitations, which impede their ability to enjoy the peaceful privacy of their homes. Therefore,

Be it ordained by The City of Seattle as follows:

Section 1. Section 14.08.020 of the Seattle Municipal Code, last amended by Ordinance 127376, is amended as follows:

14.08.020 Definitions

Definitions as used in this Chapter 14.08, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

* * *

“Real property” means dwellings, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and any interest therein.

“Residential property” means all property, excluding a multifamily property with more than four rental units, legally used or held out for individuals to live in, regardless of whether the property is occupied by its owners, rented, or vacant.

“Residential property owner” means the record owner of a residential property; a power of attorney acting on behalf of the record owner; or an executor, administrator, trustee, or guardian of the record owner’s estate .

"Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, or homosexuality, and includes a person's attitudes, preferences, beliefs, and practices pertaining thereto.

“Solicit” means attempting to sell, purchase, acquire any interest, or convey residential property, through any form of communication to a residential property owner

including but not limited to mail, oral communication, or electronic communication.

Solicit does not include solely providing an estimated sale value of a residential property.

“Solicit” includes to:

1. Advertise the accomplishments or abilities of a buyer or buyer’s representative to a residential property owner;

2. Request that a residential property owner list a residential property for sale, or inquire if the residential property owner is interested in listing a residential property for sale;

3. Offer or inquire of an interest to offer, whether on the solicitor’s own behalf or another’s behalf, to purchase or acquire any interest in a residential property owner’s residential property; or

Provide, or offer to provide, any type of service or assistance to help a residential property owner make a decision about selling a residential property.

* * *

Section 2. A new Section 14.08.042 is added to the Seattle Municipal Code as follows:

14.08.042 Unfair practices — Solicitation

A.

1. It is an unfair practice for any person, including but not limited to, any real estate broker or real estate agent, salesperson, or employee, to solicit at any time after such person has notice that any residential property owner does not desire to sell such residential property, or does not desire to be solicited.

2. The Director is authorized to create and maintain a public Do Not Solicit List of residential property owners who have expressed a desire not to be solicited. Any residential property owner who has been solicited and does not desire to be solicited may request to have their name and address put on the Do Not Solicit List. Any residential property owner who appears on the Do Not Solicit List may request in writing that the Director remove their name or be removed entirely from the Do Not Solicit List. The Director will then update the Do Not Solicit List with requested inclusions, name removal, and removals within 30 days of such a request.

3. The inclusion on the Do Not Solicit List of any residential property owner shall be deemed a desire not to sell the residential property and a desire not to be solicited under this Section 14.08.042.

B. The violation or failure to comply with this Section 14.08.042 shall constitute a civil violation and shall be enforced under the citation and civil action provisions set forth in this Section 14.08.042 instead of Sections 14.08.095 through 14.08.187.

C. Citation

1. If after investigation the Director determines that the standards or requirements of provisions of this Section 14.08.042 have been violated, the Director may issue a citation to the person responsible for the violation. The citation shall include the following information: (1) the name and address of the person to whom the citation is issued; (2) a reasonable description of the location of the property on which the violation occurred; (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the person cited must respond to the citation within 15 days after service; (6) a space for entry of the applicable 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, email 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 person named in the citation and that the determination shall be final unless contested as provided in this Section 14.08.042; and (10) a certified statement of the Director's representative issuing the citation, authorized by RCW 5.50.050 setting forth facts supporting issuance of the citation.

2. 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 such person(s). Service shall be complete at the time of personal service, or if mailed, three days after the date of mailing.

D. A person must respond to a citation in one of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation;
or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing an address to which notice of such hearing may be sent.

4. A response to a citation must be received by the Office of the Hearing Examiner no later than 15 days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

E. If a person fails to respond to a citation within 15 days of service, an order shall be entered by the Hearing Examiner finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation.

F Mitigation hearings

1. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be sent to the address specified in the request for hearing not less than ten days before the date of the hearing.

2. The Hearing Examiner shall hold an informal hearing that shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses shall 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.

3. The Hearing Examiner shall determine whether the person's explanation justifies reduction of the monetary penalty. 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.

4. After hearing the explanation of the person cited and any other information presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and assessing a monetary penalty in an amount determined pursuant to subsection 14.08.042.I. The Hearing Examiner's decision is the final decision of the City on the matter.

G. Contested hearing

1. If a person requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

2. 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 Section 14.08.042. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

3. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of defects or imperfections, provided such lack of detail or such defects or imperfections do not prejudice substantial rights of the person cited.

4. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

5. The certified statement or declaration authorized by RCW 5.50.050 shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration authorized under RCW 5.50.050 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 5.50.050 shall also be admissible without further evidentiary foundation. The person cited may rebut the Department evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

6. The Hearing Examiner shall determine by a preponderance of the evidence whether the violation occurred. If the Hearing Examiner determines that the violation occurred, the citation shall be sustained and the Hearing Examiner shall enter an order finding that the person cited committed the violation and imposing the applicable penalty. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

7. The Hearing Examiner's decision is the final decision of the City.

H. Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty 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.

I. Penalties. The following penalties shall be assessed for violations of this Section 14.08.042:

1. \$1,000 for the first violation; and

2. \$2,000 for each subsequent violation within a 12-month period.

J. If the person cited fails to pay a penalty imposed pursuant to this Section 14.08.042, 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.

K. Each day a person violates or fails to comply with a provision referenced in this Section 14.08.042 may be considered a separate violation for which a citation may be issued.

L. Civil action. Any aggrieved person or class of aggrieved persons who suffer financial injury as a result of a violation of an unfair practice enforced under this Section 14.08.042 may commence a civil action in a court of competent jurisdiction against a person violating Section 14.08.042 not later than two years after the occurrence of the alleged unfair practice and, upon prevailing, may be awarded reasonable attorney's fees and costs and such legal or equitable relief as may be appropriate to remedy the violation, including but not limited to injunctive relief and actual damages, including damages for mental suffering.

Section 3. Section 14.08.190 of the Seattle Municipal Code, last amended by Ordinance 126767, is amended as follows:

14.08.190 Exclusions

Nothing in this Chapter 14.08 shall:

A. Apply to the renting, subrenting, leasing, or subleasing of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a

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Traci Ratzliff

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permanent residence, home, or abode, except as set forth in ((~~SMC 14.08.040(B),~~
~~14.08.040(C), SMC 14.08.045, SMC 14.08.060, SMC 14.08.070(A), and SMC~~
~~14.08.070(B);~~)) subsection 14.08.040.B, subsection 14.08.040.C, Section 14.08.042,
Section 14.08.045, Section 14.08.060, subsection 14.08.070.A, and subsection
14.08.070.B;

Section 4. This ordinance shall take effect on June 1, 2027.

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Passed by the City Council and signed in open session in authentication of its
passage on _____.

President _____ of the City Council

_____ on _____.

Katie B. Wilson, Mayor

Attested on _____.

Scheereen Dedman, City Clerk

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