

ORDINANCE NO. 345

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, PROVIDING FOR A NEW CHAPTER TO BE ADDED TO THE UNIVERSITY PLACE MUNICIPAL CODE TO IMPLEMENT THE PROCESS AND TO ACQUIRE THE POWERS AUTHORIZED BY CHAPTER 35.80 RCW TO ADDRESS CONDITIONS WHICH RENDER DWELLINGS, BUILDINGS, STRUCTURES, AND OTHER PREMISES UNFIT FOR HUMAN HABITATION AND OTHER USES

WHEREAS, there exist within the City of University Place dwellings that are unfit for human habitation, and buildings, structures, and premises or portions thereof, which are unfit for other uses, due to conditions of dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding or other conditions harmful to the health and welfare of the residents of University Place; and

WHEREAS, the City of University Place recognizes the detrimental effects on public health, safety, and welfare stemming from unfit dwellings, buildings, structures and premises at various locations throughout the City; and

WHEREAS, Chapter RCW 35.80 authorizes cities to adopt ordinances that enable such cities to address such conditions fairly, effectively, and with reasonable assurance that costs incurred by the City to abate such conditions will be recovered, NOW THEREFORE

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Purpose.

The purpose of this chapter is to provide for minimum standards to regulate and abate conditions of dwellings, buildings, structures, and premises which render them unfit for safe use, increase the hazard of fire or accident, are unsanitary, or otherwise adversely affect the public health, safety, and welfare, and degrade the value and character of the City.

Section 2. Definitions.

Unless specifically defined below or unless context clearly requires a different meaning, the terms used in this chapter shall have the meaning given them by the currently adopted edition of the Uniform Building code. Gender and number are interchangeable.

1. **"Building"** means any building, dwelling, structure, or mobile home, factory-built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.
2. **"City"** means the City of University Place.
3. **"Costs"** means the City's actual expenses incurred to correct illegal conditions pursuant to the provisions of this chapter.
4. **"Director"** means the Director of Community and Economic Development or his authorized designees.
5. **"Owner"** means any person having any interest in the real estate in questions as shown upon the records of the Office of the Pierce County Auditor, or who establishes his interest before the Director or Hearing Examiner. For the purpose of giving notice, the term "owner" also includes any person in physical possession.
6. **"Person"** means natural person, joint venture, partnership, association, club, company, corporation, organization, or other entity or their manager, lessee, agent, servant, officer, or employee.

Section 3. Duties of the Director.

The powers and duties of the Director shall include:

1. Investigate all dwellings, buildings, structures, and premises that he has reasonable grounds to believe may be unfit for human habitation or other use;
2. Determine whether dwellings, buildings, structures, or premises are unfit for human habitation or other use;
3. Issue complaints against owners of dwellings, buildings, structures, or premises believed to be in violation;
4. Conduct administrative hearings, including the administration of oaths and affirmations, examination of witnesses, receipt of evidence;
5. Issue orders for the repair, alteration, or improvement, of the dwelling, building, structure or premises or to vacate and remove or demolish a dwelling, building or structure;
6. Do all things necessary or convenient to carry out and enforce this chapter.

Section 4. Standards for unfitness and for demolition or repair.

A. The Director or Hearing Examiner may determine that a dwelling, building, structure, or premises is unfit for human habitation or other use if he finds that conditions exist which are dangerous or injurious to the health or safety of the occupants of such dwelling, building, structure, or premises, the occupants of neighboring dwellings or other residents of the City. Such conditions may include defects increasing the hazards of fire or accident, inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanness, overcrowding, or inadequate drainage.

The Director or Hearing Examiner shall consider the standards set forth in the Codes adopted by the City at Chapter 14.05 UPMC to determine whether conditions exist that make the dwelling, building, structure, or premises unfit for human habitation or other uses.

B. The Director or Hearing Examiner shall order the dwelling, building, or structure demolished and the land suitably filled and cleared and may order the property immediately vacated and secured as completely as possible pending demolition if the following conditions exist: (a) structural deterioration is of such degree that (i) vertical members list, lean, or buckle to the extent that the plumb line passing through the center of gravity falls outside the middle third of its base, or (ii) thirty-three percent (33%) of the supporting members shows damage or deterioration, or (b) the cost of restoration exceeds sixty percent (60%) of the value of the building. The value shall be determined by reference to the current edition of "Building Valuation Data" published by the International Conference of Building Officials, or if not published, as determined by the Director. Cost of restoration is the actual estimated cost, which may be determined in the same manner as value.

Section 5. Investigation and Complaint.

A. The Director may investigate any dwelling, building, structure, or premises that the Director believes to be unfit for human habitation or other use. If the investigation reveals conditions that make the dwelling, building, structure, or premises unfit for human habitation or other use, the Director shall issue a complaint which states as follows:

1. A description of the conditions on the subject property which render such dwelling, building, structure, or premises unfit for human habitation or other use;
2. A description of what must be done to correct such illegal condition and the deadline for the correction of such conditions;
3. The costs or administrative fees which may be charged to the owner as a consequence of such conditions;
4. The time and place of a hearing to be held before the Director, not less than 10 days nor more than 45 days after service of the complaint; and
5. A statement that all persons having any interest therein shall have the right to file an answer to the complaint, and to appear in person or by representative and to give testimony at the time and place fixed in the complaint.

B. The Director shall serve the complaint by personal service, registered mail, or certified mail with return receipt requested, upon all persons having any interest therein, as shown upon the records of the Pierce County Auditor's Office. The Director shall also post the complaint in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way. If the address of the persons identified above as having an interest in the property cannot be ascertained by the Director after a reasonable search, then the Director shall make an affidavit to that effect, and the complaint shall be served either by personal service or by mailing a copy of the complaint by certified mail, postage prepaid, return receipt requested, to the address of each such person in the records of the Pierce County Assessor's Office or the Pierce County Auditor's Office. A copy of the complaint shall also be mailed to each person whose address cannot be ascertained, to the address of the building or premises involved in the proceedings. In addition to serving and posting the complaint, the Director shall mail or cause to be delivered to all housing and commercial rental units in the building or on the premises a copy of the complaint.

C. No complaint shall be issued if a permit has been issued for all repairs, alterations, and improvements required to make and the repair work, in the Director's opinion, is progressing at a satisfactory rate.

D. A copy of the complaint shall be filed with the Pierce County Auditor's Office

E. Director may execute a voluntary correction agreement with the owner of a dwelling, building structure or premises in accordance with Chapter 1.20.030 UPMC.

Section 6. Hearing.

A. Unless, prior to the time fixed for hearing in the complaint issued by the Director, arrangements satisfactory to the Director for the repair, improvement, demolition, vacation, or re-occupancy of the building or premises are made, including the proper application for permits, or abatement of the illegal conditions, the Director shall hold a hearing for the purpose of determining the immediate disposition of the dwelling, building, structure, or premises.

B. The hearing will be canceled if the Director approves the completed corrective action at least 48 hours before the scheduled hearing.

C. The Director shall have the authority to administer oaths and affirmations, examine witnesses and receive evidence. The rules of evidence shall not apply in hearings before the Director. The City, property owners, and other parties entitled to be served with the Director's complaint or notice and order may participate as parties in the hearing and each party may call witnesses. Any complainant or person affected by the illegal conditions may appear and present evidence.

D. If the owner fails to appear at the scheduled hearing, the Director will enter an order finding that the dwelling, building, structure or premises is unfit for human habitation or another use.

Section 7. Order.

A. If, after the hearing provided for in Section 6, the Director determines that a building or premises is unfit for human habitation or other use, the Director shall issue a written order which shall contain the following:

1. Statement the Director's findings of fact and conclusions in support of the order;
2. Requirement that the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or premises to render it fit for human habitation or other use, or to vacate and close the dwelling, building, structure, or premises, if such course of action is deemed proper on the basis of the standards set forth in Section 4;

3. Requirement that the owner or party in interest, within the time specified in the order, remove or demolish such dwelling, building, structure, or premises if this course of action is deemed proper on the bases of the standards set forth in Section 4;
4. Statement of the City's costs and administrative fees which have been incurred as a consequence of the illegal conditions, and that such costs shall be charged to the owner and assessed against the real property if they are not paid in a timely manner;
5. Statement that if the owner or party in interest, following exhaustion of his or her rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, structure, or premises, the City may direct or cause such dwelling, building structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished, and that the costs of such abatement by the City shall be charged to the owner and assessed against the real property where the abatement occurs;
6. Statement that the owner or party in interest has the right to appeal to the City's Hearing Examiner within 30 days, and if the owner or party in interest fails to file an appeal and thereafter fails to comply with the unappealed order the City shall have the power, without further notice or proceedings, to vacate and secure the dwelling, building, structure, or premises and to do any act required of the owner in the order of the Director and to charge any expenses incurred thereby to the owner and assess them against the property.

B. The Director shall serve the order upon all parties served with a copy of the complaint, within 20 days of the hearing in the manner provided in Section 5. The Director shall post the order in a conspicuous place on the property.

C. If no appeal is filed, a copy of such order shall be filed with the Pierce County Auditor's Office.

Section 8. Appeal.

A. Any party affected by any order of the Director under this chapter shall have the right to appeal the order of the Director to the Hearing Examiner in accordance with Chapter 1.20.050 UPMC. Notice of the right to appeal shall be posted in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way.

B. The appeal shall be filed with the City Clerk's office no more than 30 days after service of the Director's order.

C. The appeal shall be in writing and clearly and concisely (1) state the specific objections to the Director's order; (2) state the ownership or other interest that each appellant has in the building, premises, or portion thereof involved in the order of the Director; (3) state briefly the remedy sought; and (4) include the signatures of all appellants and their mailing addresses.

D. The Hearing Examiner shall set a date for the hearing and provide no less than 10 days' written notice of the hearing to the parties. The hearing shall not be less than 10 or more than 45 days from the date the appeal is received by the Clerk's office. Any appeal submitted to the City must be resolved by the Hearing Examiner within sixty days from the date of filing of the appeal. The notice of the appeal and hearing shall be posted in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way.

E. The hearing shall be conducted pursuant to Chapter 1.20.050 UPMC and shall be de novo. The City shall have the burden of proof to demonstrate by a preponderance of the evidence that the violation has occurred and that the required action will correct the violation.

F. The Hearing Examiner shall have the authority to affirm, modify, or reverse the order of the Director, or remand the case to the Director for further proceedings.

G. Within 10 days after the hearing the Hearing Examiner shall issue a written decision containing findings of fact and conclusions and shall mail copies of the decision to the parties of record. The decision of the Hearing Examiner shall be the final decision of the City.

H. Any person affected by an order issued by the Hearing Examiner pursuant to this chapter may, within thirty days of the posting and service of the order, petition to the superior court for an injunction restraining the Director from carrying out the provisions of the order.

Section 9. Enforcement.

A. The order of the Director or the Hearing Examiner may prescribe times within which repairs, alterations, and improvements, or vacation and demolition of the dwelling, building, structure, or premises shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the Director may cause the dwelling, building, structure or premises to be repaired, altered, improved, or demolished as provided by Section 4.

B. The costs of abatement, repair, alteration, improvement, vacation, closing, and demolition incurred by the City, shall be assessed against the real property upon which such costs were incurred unless paid. The Director shall forward such costs to the City Treasurer, who shall certify them to the County Treasurer for entry of the amount of such assessment upon the tax rolls against the property for the current year and the same shall become part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected, to be deposited to the credit of the general fund of the City. The assessment shall constitute a lien against the property, which shall be of equal rank with state, county, and municipal taxes.

Section 10. Permit Required.

Any work, including construction, repairs, or alterations under this chapter to rehabilitate any building or structure may require a permit in accord with the provisions of this Code.

Section 11. Other Powers Reserved.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

Section 12. Emergencies.

The provisions of this chapter shall not prevent the Director or any other officer of the City of University Place or any other governmental unit from taking any action, summary or otherwise, necessary to eliminate or minimize imminent danger to the health or safety of any person or property.

Section 13. Severability.

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 14. Publication and Effective Date.

A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be effective five (5) days after its publication.

PASSED BY THE CITY COUNCIL ON JULY 8, 2002.

Kenn J. Massi
Jean Brooks, Mayor (MPT)

ATTEST:

Catrina Craig
Catrina Craig, City Clerk

APPROVED AS TO FORM:

Timothy X. Sullivan
Timothy X. Sullivan, City Attorney

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