

RCW 35.80.030 Permissible ordinances—Appeal. (1) Whenever the local governing body of a municipality finds that one or more conditions of the character described in RCW 35.80.010 exist within its territorial limits, that governing body may adopt ordinances relating to such dwellings, buildings, structures, or premises. Such ordinances may provide for the following:

(a) That an "improvement board" or officer be designated or appointed to exercise the powers assigned to such board or officer by the ordinance as specified in this section. The board or officer may be an existing municipal board or officer in the municipality, or may be a separate board or officer appointed solely for the purpose of exercising the powers assigned by the ordinance.

If a board is created, the ordinance shall specify the terms, method of appointment, and type of membership of the board, which may be limited, if the local governing body chooses, to public officers under this section.

(b) That if a board is created, a public officer, other than a member of the improvement board, may be designated to work with the board and carry out the duties and exercise the powers assigned to the public officer by the ordinance.

(c) That if, after a preliminary investigation of any dwelling, building, structure, or premises, the board or officer finds that it is unfit for human habitation or other use, he or she shall cause to be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the auditor's office of the county in which such property is located, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, structure, or premises is unfit for human habitation or other use. If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the board or officer in the exercise of reasonable diligence, and the board or officer makes an affidavit to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the complaint and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the building involved in the proceedings, and mailing a copy of the complaint and order by first-class mail to any address of each such person in the records of the county assessor or the county auditor for the county where the property is located. Such complaint shall contain a notice that a hearing will be held before the board or officer, at a place therein fixed, not less than ten days nor more than thirty days after the serving of the complaint; and that all parties in interest shall be given the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board or officer. A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, structure, or premises is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(d) That the board or officer may determine that a dwelling, building, structure, or premises is unfit for human habitation or other use if it finds that conditions exist in such dwelling, building, structure, or premises 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 such municipality. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire or accident; inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanliness, overcrowding, or inadequate drainage. The ordinance shall state reasonable and minimum standards covering such conditions, including those contained in ordinances adopted in accordance with subsection (7)(a) of this section, to guide the board or the public officer and the agents and employees of either, in determining the fitness of a dwelling for human habitation, or building, structure, or premises for other use.

(e) That the determination of whether a dwelling, building, structure, or premises should be repaired or demolished, shall be based on specific stated standards on (i) the degree of structural deterioration of the dwelling, building, structure, or premises, or (ii) the relationship that the estimated cost of repair bears to the value of the dwelling, building, structure, or premises, with the method of determining this value to be specified in the ordinance.

(f) That if, after the required hearing, the board or officer determines that the dwelling is unfit for human habitation, or building or structure or premises is unfit for other use, it shall state in writing its findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as is provided in (c) of this subsection, and shall post in a conspicuous place on the property, an order that (i) requires 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 for 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 as required in (e) of this subsection; or (ii) requires the owner or party in interest, within the time specified in the order, to remove or demolish such dwelling, building, structure, or premises, if this course of action is deemed proper on the basis of those standards. If no appeal is filed, a copy of such order shall be filed with the auditor of the county in which the dwelling, building, structure, or premises is located.

(g) That the owner or any party in interest, within thirty days from the date of service upon the owner and posting of an order issued by the board under (c) of this subsection, may file an appeal with the appeals commission.

The local governing body of the municipality shall designate or establish a municipal agency to serve as the appeals commission. The local governing body shall also establish rules of procedure adequate to assure a prompt and thorough review of matters submitted to the appeals commission, and such rules of procedure shall include the following, without being limited thereto: (i) All matters submitted to the appeals commission must be resolved by the commission within sixty days from the date of filing therewith and (ii) a transcript of the findings of fact of the appeals commission shall be made available to the owner or other party in interest upon demand.

The findings and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the board, and shall be subject to review only in the manner and to the extent provided in subsection (2) of this section.

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 board or officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(h) That the amount of the cost of such repairs, alterations or improvements; or vacating and closing; or removal or demolition by the board or officer, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. For purposes of this subsection, the cost of vacating and closing shall include (i) the amount of relocation assistance payments that a property owner has not repaid to a municipality or other local government entity that has advanced relocation assistance payments to tenants under RCW 59.18.085 and (ii) all penalties and interest that accrue as a result of the failure of the property owner to timely repay the amount of these relocation assistance payments under RCW 59.18.085. Upon certification to him or her by the treasurer of the municipality in cases arising out of the city or town or by the county improvement board or officer, in cases arising out of the county, of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a 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 provided for in RCW 84.56.020 for delinquent taxes, and when collected to be deposited to the credit of the general fund of the municipality. If the dwelling, building, structure, or premises is removed or demolished by the board or officer, the board or officer shall, if possible, sell the materials of such dwelling, building, structure, or premises in accordance with procedures set forth in the ordinance, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the board or officer, after deducting the costs incident thereto.

The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes.

(2) Any person affected by an order issued by the appeals commission pursuant to subsection (1)(g) of this section may, within thirty days after the posting and service of the order, petition to the superior court for an injunction restraining the public officer or members of the board from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo.

(3) An ordinance adopted by the local governing body of the municipality may authorize the board or officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section. These powers shall include the following in addition to others granted in this section: (a) (i) To determine which dwellings within the municipality are unfit for human habitation; (ii) to determine which buildings, structures, or premises are unfit for other use; (b) to administer oaths and affirmations, examine witnesses, and receive evidence; and (c) to investigate the dwelling and other property conditions in the municipality or county and to enter upon premises for the purpose of making examinations when the board or officer has reasonable ground for believing they are unfit for human habitation, or for other use:

PROVIDED, That such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted.

(4) The local governing body of any municipality adopting an ordinance pursuant to this chapter may appropriate the necessary funds to administer such ordinance.

(5) This section does not abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(6) This section does not impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(7) Any municipality may by ordinance adopted by its governing body (a) prescribe minimum standards for the use and occupancy of dwellings throughout the municipality or county, (b) prescribe minimum standards for the use or occupancy of any building, structure, or premises used for any other purpose, (c) prevent the use or occupancy of any dwelling, building, structure, or premises, that is injurious to the public health, safety, morals, or welfare, and (d) prescribe punishment for the violation of any provision of such ordinance.

[2005 c 364 § 3; 1989 c 133 § 3; 1984 c 213 § 1; 1973 1st ex.s. c 144 § 1; 1969 ex.s. c 127 § 3; 1967 c 111 § 3; 1965 c 7 § 35.80.030. Prior: 1959 c 82 § 3.]

Purpose—Construction—2005 c 364: See notes following RCW 59.18.085.