

Seattle Fire Prevention Division

220 3rd Avenue S. Seattle, WA 98104-2608

Phone: 206-386-1450 Fax: 206-386-1348



2019 Amendments to 2015 Seattle Fire Code

The City of Seattle has adopted amendments to the 2015 Seattle Fire Code. The amendments include the following changes: establishing citation authority for the Seattle Fire Department by amending Sections 108, 109, 202, 901, 902 and Appendix A.

The Seattle Fire Department is providing the following pages so that all users of the Seattle Fire Code may easily reference the changes to the published document that result from these amendments.

(Insert facing page 17)

[A] **108.1 Appeals.** Appeals from decisions or actions pertaining to the application and interpretation of this Code, except for enforcement actions pursuant to Sections 109.3, 109.4, and 111, shall first be addressed to the *fire code official*. If not resolved with the *fire code official*, the appellant may submit a written request to the *fire code official* for a review by the Fire Code Appeals Board in accordance with Appendix A, all applicable by-laws, rules, regulations, and ordinances. The result of this review is advisory only, in accordance with City of Seattle Ordinance 119799. Following receipt of the Fire Code Appeals Board recommendation the fire chief, who shall not have acted as the *fire code official* in the first appeal of the application or interpretation of the code, shall issue a final written decision.

* * *

[A] **109.2 Owner/occupant responsibility.** Correction and abatement of violations of this code shall be the responsibility of the *owner* or *owner's authorized agent*. If an occupant, operator, or other *person* creates, or allows to be created, hazardous conditions in violation of this code, the occupant, operator, or other *person* (~~shall~~) may be held responsible for the abatement of such hazardous conditions.

[A] **109.3 (~~Notice of violation~~) Order to comply.** When the *fire code official* finds a building, premises, vehicle, *vessel*, storage facility, or outdoor area that is in violation of this code, the *fire code official* is authorized to (~~prepare~~) issue a written (~~notice of violation~~) order to comply describing the (~~conditions deemed unsafe~~) violation and, when immediate compliance is not (~~immediate~~) required, specifying a time for (~~reinspection~~) achieving compliance. Nothing in this subsection 109.3 shall be deemed to limit or preclude any other enforcement action or proceeding, and nothing in this Section 109 shall be deemed to obligate or require the *fire code official* to issue a (~~notice of violation~~) order to comply prior to the imposition of civil or criminal penalties or remedies.

[A] **109.3.1 Service.** (~~A notice of violation~~) An order to comply issued pursuant to this code shall be served upon the *owner*, the *owner's authorized agent*, operator, occupant, or other *person(s)* responsible for the condition or violation, either by personal service (~~, mail or by delivering the same to, and leaving it with, some person of responsibility upon the premises~~) or by first-class mail. For unattended or abandoned locations, a copy of such (~~notice of violation shall~~) order to comply may be posted on the premises in a conspicuous place at or near the entrance to such premises and the (~~notice of violation shall~~) order to comply shall be mailed by (~~certified mail with return receipt requested or a certificate of mailing,~~) first-class mail to the last known address of the *owner*, (~~the~~) *owner's authorized agent*, occupant, or (~~both~~) any other *person(s)* responsible for the condition or violation. Service by mail shall be deemed served on the third day following the day upon which the order was placed in the

mail, unless the third day falls on a Saturday, Sunday, or legal holiday, in which event the order shall be deemed received on the next day which is not a Saturday, Sunday, or legal holiday.

109.3.1.1 Amending orders to comply. An order to comply may be amended at any time to correct clerical errors, correct other errors, or cite additional authority for a stated violation, provided such amendments do not prejudice substantial rights.

[A] **109.3.2 Compliance with orders (~~and notices~~) to comply.** (~~A notice of violation~~) An order to comply issued or served as provided by this code shall be complied with by the *owner*, (~~the~~) *owner's authorized agent*, operator, occupant, or other *person(s)* responsible for the condition or violation to which the (~~notice of violation~~) order to comply pertains.

[A] **109.3.3 Prosecution of violations.** If the (~~notice of violation~~) order to comply is not complied with (~~promptly or~~) by the time specified in the (~~notice~~) order, the *fire code official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct, or abate such violation, (~~or~~) to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order, or (~~notice~~) (~~direction made pursuant hereto~~), or to collect a penalty for violation.

* * *

109.3.5 Review by the *fire code official*. Any *person* aggrieved by an order to comply issued by the *fire code official* pursuant to this Section 109.3 may obtain a review of the order by requesting such review in writing within ten days after service of the order. When the last day of the period so computed is a Saturday, Sunday, or legal holiday, the period shall run until 5 p.m. on the next business day. The request shall be in writing, and within 30 days of the request the aggrieved *person* shall submit any additional information to be considered for the review. Before the deadline for submission of information, any *person* aggrieved by or interested in the order to comply (including any *persons* served the order to comply and the complainant) may submit any additional information in the form of written material to the *fire code official* for consideration as part of the review.

109.3.5.1 Representative review. A review may be made by a representative of the *fire code official* who is familiar with the case and the applicable ordinances. The *fire code official's* representative will review all additional information received by the deadline for submission of information. The reviewer may also request clarification of information received and a site visit.

109.3.5.2 Decision. After review of the additional information, the *fire code official* may sustain the order to comply, withdraw the order to comply, continue the review to a date certain for receipt of additional infor-

mation, or modify the order to comply, which may include an extension of the compliance date.

109.3.5.3 Final order. The *fire code official* shall issue a final order containing the decision of the *fire code official* and shall cause the same to be mailed by first-class mail to the *person(s)* named on the order to comply. The *fire code official* may file the final order with the King County Recorder's Office.

109.3.5.4 Extension of compliance date. The *fire code official* may grant an extension of time for compliance with any order, whether pending or final, upon the *fire code official's* finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension. An extension of time may be revoked by the *fire code official* if it is shown that the conditions at the time the extension was granted have changed, the *fire code official* determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered the compliance date.

[A] **109.((4))3.6 ((Violation p)) Penalties.** Penalties shall be in accordance with this section.

109.((4.1))3.6.1 ((Alternative civil)) Civil penalties. ((*Persons*)) Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be ((guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment to exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.)) subject to a cumulative civil penalty in an amount not to exceed \$1,000 per day for each violation from the time the violation occurs or begins until compliance is achieved. The penalty shall be collected by civil action brought in the name of the City. The *fire code official* shall notify the City Attorney in writing of the name of any person, firm, or corporation subject to the penalty, and the City Attorney shall, with the assistance of the *fire code official*, take appropriate action to collect the penalty. 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.

109.((4.2))3.6.2 Alternative criminal penalty. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a gross misdemeanor subject to the provisions of *Seattle Municipal Code* 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 *fire code official* may

request the City Attorney prosecute such violations criminally as an alternative to the civil penalties provision. Each day that a violation continues shall be deemed a separate offense.

[A] **109.((4.1))((4.3))3.6.3 Abatement of violation.** In addition to the imposition of ((the)) civil and criminal penalties ((herein described)), the *fire code official* is authorized to institute appropriate action to prevent unlawful construction; ((to)) to restrain, correct, or abate a violation; ((to)) to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business, or occupancy of a structure on or about any premises.

109.4 Citations. Violations or failure to comply with any of the following provisions of this code may be enforced under the citation or criminal provisions set forth in this Section 109.4:

1. Overcrowding or admittance of any person beyond the approved capacity of a building, room, or space - Section 107.6
2. Reliability of the means of egress - Section 1031.2
3. Removal of or tampering with equipment - Section 901.8
4. Unsafe conditions that involve illegal or improper occupancy or inadequate maintenance, or that are otherwise dangerous to human life or public welfare - Section 110.1.1
5. Failure to comply with a stop use or work order - Section 111
6. Inspection, testing, and maintenance of fire protection systems and radio enhancement systems - Section 510.6, Section 901.6, and Administrative Rule 9.02
7. Failure to file reports of the test for the inspection, testing, and maintenance of fire protection systems and radio enhancement systems within the required timeframes - Section 510.6, Section 901.6, and Administrative Rule 9.02
8. Preventable fire alarms - Section 901.12

Any enforcement action or proceeding pursuant to this Section 109.4 shall not affect, limit, or preclude any previous pending, or subsequent enforcement action or proceeding taken pursuant to Section 109.3.

109.4.1 Documentation. If after investigation the *fire code official* determines that the standards or requirements of provisions referenced in Section 109.4 have been violated, the *fire code official* may issue a citation to the owner and/or other *person(s)* 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, and phone number of the Office 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(s)* named in the citation and that the determination shall be final unless contested as provided in this Section 109.4; and (10) a certified statement of the *fire code official's* representative issuing the citation, authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

109.4.2 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 such *person(s)*. Service shall be complete at the time of personal service, or if mailed, three days following the date of mailing. If a citation sent by first-class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property.

109.4.3 Response to citations. 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 or is responsible for the violation; or
2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and to request a reduction of the penalty, and providing an address to which notice of such hearing may be sent. A mitigation hearing cannot occur unless the violation is cured and compliance has been confirmed by the *fire code official* prior to the hearing; 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.

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. Parties may withdraw an appeal if they no longer wish to request a mitigation hearing or a contested hearing, in which case parties must pay the amount of the monetary penalty specified in the citation and the record shall show a finding that the *person* committed the violation. The *fire code official* may withdraw the citation, in which case it is dismissed and no penalty is due.

109.4.4 Failure to respond. 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* committed the violation.

109.4.5 Mitigation hearings. Mitigation hearings shall comply with Sections 109.4.51 through 109.4.5.5.

109.4.5.1 Date and notice. 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.

109.4.5.2 Violations cured before the hearing. Prior to a mitigation hearing, all violations noted in the citation shall be corrected and compliance with provisions of this code shall be verified by the *fire code official*.

109.4.5.3 Procedure at hearing. The Hearing Examiner shall hold an information that shall not be governed by the Rules of Evidence. The Hearing Examiner shall review the citation and supporting report and documents if those documents are filed by the Fire Department. The *person* cited may present witnesses, but witnesses shall not be compelled to attend. A representative from the Seattle Fire Department may also be present and may present additional information, but attendance by a representative from the Seattle Fire Department is not required.

109.4.5.4 Disposition. The Hearing Examiner shall determine whether the *person's* explanation justifies reduction of the monetary penalty. Factors that may be considered include (1) conditions caused by third parties - the violation was caused by the act, neglect, or abuse of a third party who is not the owner, responsible party, or part of a tenant/landlord agreement with respect to the building address in the violation; (2) mitigating circumstances outside of the responsible party's control - the responsible party has initiated a good faith effort to resolve the violation timely, however, due to circumstances outside of the responsible party's control, the violation has not been corrected on the compliance time established by the *fire code official*; and (3) for penalties in subsection 109.4.8.3, no penalty shall be assessed if any individual who was on or near the premises, or who had viewed a video communication from the premises, called for the dispatch and confirmed a need for Fire Department response.

109.4.5.5 Entry of order. 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 Section 109.4.8. The Hearing Examiner's decision is the final decision of the City on the matter.

109.4.6 Contested hearings. Contested hearings shall comply with Sections 109.4.6.1 through 109.4.6.7.

109.4.6.1 Date and notice. If a *person* requests a contested hearing, the hearing shall be held within 60 days after receipt of the hearing request.

109.4.6.2 Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Seattle Municipal Code Section

3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this section. 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.

109.4.6.3 Sufficiency. 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.

109.4.6.4 Amendment of citation. 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.

109.4.6.5 Evidence at hearing. The certified statement or declaration authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that the *person* cited is responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The *person* cited may rebut the Seattle Fire Department's evidence and establish that the cited violation(s) did not occur or that the *person* contesting the citation is not responsible for the violation.

109.4.6.6 Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the *person* cited committed the violation and impose the applicable penalty. The Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in Section 109.4.5. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

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

109.4.7 Failure to appear for hearing. 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.

109.4.8 Penalties. Penalties shall be in accordance with Section 109.4.8.1 through 109.4.8.3.

109.4.8.1 The first time that a *person(s)* is found to have violated one of the provisions referenced in Section 109.4, except subsection 109.4(8), the *person(s)* shall be subject to a penalty of \$373.

109.4.8.2 The second time, and any subsequent times, that a *person(s)* is found to have violated one of the provisions referenced in Section 109.4, except subsection 109.4(8), within a 12 month period, the *person(s)* shall be subject to a penalty of \$746 for each such violation.

109.4.8.3 The *person(s)* found to have violated provisions referenced in subsection 109.4(8) shall be subject to the following penalties:

1. No penalty for the first violation within a quarter of a calendar year.
2. \$373 if at least two but fewer than six violations have occurred in the same quarter of a calendar year.
3. \$746 if at least six but fewer than nine violations have occurred in the same quarter of a calendar year.
4. \$900 if at least nine violations have occurred in the same quarter of a calendar year.

109.4.8.4 Alternative criminal penalty. Any *person* who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a gross misdemeanor subject to the provisions of *Seattle Municipal Code* 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 fire code official may request the City Attorney prosecute such violations criminally as an alternative to the civil penalties provision. Each day that a violation continues shall be deemed a separate offense.

109.4.8.5 Abatement of violation. In addition to the imposition of civil and criminal penalties, the fire code official is authorized to institute appropriate action to prevent unlawful construction; to restrain, correct, or abate a violation; to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business, or occupancy of a structure on or about any premises.

109.4.9 Collection of penalties. If the *person* or entity cited fails to pay a penalty imposed pursuant to Section 109.4, 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 manner allowed by law.

109.4.10 Each day a separate violation. Each day a *person* or entity violates or fails to comply with a provision referenced in Section 109.4 may be considered a separate violation for which a citation may be issued.

109.4.11 Additional relief. The fire code official may seek legal or equitable relief at any time to enjoin any acts

SCOPE AND ADMINISTRATION

or practices that violate provisions referenced in Section 109.4 or abate any condition that constitutes a nuisance, and those costs may be added to the penalty.

(Insert facing page 22)

I **ALARM, PREVENTABLE FIRE.** See “Preventable fire
I alarm.”

DEFINITIONS

(Insert facing page 47)

PREVENTABLE FIRE ALARM. Any activation of a fire alarm system that results in notification to the Seattle Fire Department of an event of fire that leads to a response by Seattle Fire Department personnel when no such danger exists. Preventable fire alarm includes all activations when there is no fire, when such activations are caused by mechanical failure to malfunction due to insufficient or improper testing and maintenance, accidental activation, malicious activation, or misuse, by any *person*, including *persons* who sell, install, maintain, test, or monitor fire alarm systems. “Preventable fire alarm” does not include activations caused by weather conditions, telephone line problems, water surges, water hammers, or natural disasters.

(Insert facing page 113)

| **901.12 Preventable fire alarms.** It shall be unlawful for any
| person to give, signal, or transmit or for any person to cause
| or permit to be given, signaled, or transmitted in any manner
| any preventable fire alarm.

(Insert facing page 114)

PREVENTABLE FIRE ALARM.

(Insert facing page 519)

A101.1 Scope. A board of appeals shall be established as needed within the jurisdiction for appeals of Fire Department decisions or actions pertaining to the application and interpretation of the fire code. ~~((the purpose of hearing applications for modification of the requirements of the *International Fire Code* pursuant to the provisions of Section 108 of the *International Fire Code*.)~~) The board shall be established and operated in accordance with this section, and shall be authorized to hear evidence from appellants and the *fire code official* pertaining to the application and intent of this code. ~~((for the purpose of issuing orders pursuant to these provisions.))~~

The board of appeals' recommendations are advisory only, and are not binding on the Seattle Fire Department. If the Fire Chief declines the board of appeals' recommendations, the Fire Chief will state the reasons why in writing. A copy of this statement shall be provided to the applicant, the members of the Fire Code Advisory Board, the Mayor's Office, and the City Council member who chairs the City Council's Public Safety Committee.

The board of appeals is only established for specific issues and is dissolved once the appeal process is complete for each such issue.

(Insert facing page 521)

6. The board of appeals' recommendations are advisory only, and are not binding on the Seattle Fire Department. If the Fire Chief declines the board of appeals' recommendations, the Fire Chief will state the reasons why in writing. A copy of this statement shall be provided to the applicant, the members of the FCAB, the Mayor's Office and the City Council member who chairs the City Council's Public Safety Committee. In every case, the ((Fire Chief and)) Fire Marshal shall ((make themselves)) be available to meet with the applicant after the conclusion of the board of appeals review.

