

## EXHIBIT D

### **Unfit dwellings, buildings, and structures**

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#### **9.60.010 Purpose – Findings**

Pursuant to chapter 35.80 of the Revised Code of Washington (RCW), the City Council finds that there are within the City of University Place, dwellings which are unfit for human habitation and buildings, structures, and premises or portions thereof which are unfit for other uses due to dilapidation, disrepair, structural defects, unpermitted and substandard construction or modification, filth and other conditions attracting insects or vermin or likely to spread disease, defects increasing the hazards of fire, accidents, or other calamities, or other similar conditions and violations of various building, health, and safety regulations, and/or which are vacant, unsecured, and abandoned or apparently abandoned. Such dwellings, buildings, structures, and premises are dangerous to occupants, threaten the public health, safety, and welfare, attract and harbor vagrants and criminals, offend public values, lower the value of neighboring properties, contribute to neighborhood or community deterioration, and hamper community and economic development. When the owners or other persons in possession or control of such properties are unwilling or unable to correct such conditions in a proper and timely manner, it is in the interest of the community for the City to intervene and correct, repair, or remove such buildings, structures, and conditions and to pursue all legal means to recover from such persons and/or properties the costs of doing so, including the costs of staff salaries and benefits, materials, contractors, and all other legally recoverable costs and expenses.

#### **9.60.020 Definitions**

Unless the context provides otherwise, the following words and phrases where used in this Chapter shall have the meaning and construction given in this section:

- A. “Abate” shall mean to put an end to, or otherwise diminish the intensity of, any condition causing a structure to be dangerous or unfit.
- B. “Abandoned” or “Apparently Abandoned” shall mean any structure or premises that is so neglected, or other characteristics exist, such that it appears to be vacant and not cared for by any owner, occupant, or other party.
- C. “Public Officer” shall mean and include the Building Official or designees.
- D. “Person” shall mean and include any individual, business, corporation, organization, or entity.
- E. “Owner” shall mean the owner or taxpayer shown in the records of the Pierce County Assessor-Treasurer, recorded with the Pierce County Auditor, or as otherwise known to the City of University Place, and shall include any manager or other representative of the owner, or other person with responsibility for or control over the structure or premises.

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F. "Structure" shall mean or include that which is built or constructed or a portion thereof.

### **9.60.030 Authority of Public Officer**

The Public Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter. These powers shall include the following in addition to others granted in this Chapter: (a)(i) To determine which dwellings 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 and to enter upon premises for the purpose of making examinations when the Public 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; PROVIDED FURTHER that the Public Officer may recognize and give appropriate effect to special and extenuating circumstances which, in order to do substantial justice, warrant the exercise of discretion to adjust the timeframes, standards and other provisions of this chapter. Examples of circumstances which may warrant such exercise of discretion include, without limitation, medical illness or disability affecting a property owner's ability to respond to orders or appear at hearings and bona fide insurance coverage disputes which create a definite risk that enforcement of this chapter would unfairly result in a substantial economic loss to the property owner.

### **9.60.040 Criteria for Unfit or Dangerous Structures**

The Public Officer may determine that a structure is dangerous or unfit for human habitation or other use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety, or welfare of the occupants of such structure, the occupants of neighboring structures, or other residents of the City. Such conditions may include the following, without limitations:

1. Any door, aisle, passageway, stairway, or other means of exit is too narrow or small, or other factors or conditions exist, so as to be unsafe or to hinder safe exit in case of panic, fire, or other emergency.
2. The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or other factors or conditions exist, so as to be unsafe or to not provide safe and adequate means of exit in case of panic, fire, or other emergency.
3. The stress in any materials, member, or portion thereof, due to dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code, chapter 15A.8 UPMC for new buildings of similar structure, purpose, or location.
4. Any portion has been damaged by fire, earthquake, wind, flood, deterioration, neglect, or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such damage or deterioration and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
5. Any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons, damage property, or render other portions of the structure or premises unsafe or unfit to occupy.
6. Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings.

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7. Any portion thereof is wracked, warped, buckled, settled, or other conditions exist, such that walls or other structural portions have materially less resistance to wind, earthquakes, snow, or other loads, than is required in the case of similar new construction.

8. The building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

9. For any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used or is designed and intended to be used.

10. The exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall within the middle one-third of the base.

11. The building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

12. Any structure or premises that is damaged by fire, wind, earthquake, flood, or any other cause, has become dilapidated, deteriorated, or neglected, or is abandoned or apparently abandoned and not thoroughly and adequately secured against unauthorized entry, so as to (i) be an attractive nuisance to children; (ii) attract and/or provide harborage for vagrants, criminals, or immoral persons; or (iii) enable persons to resort thereto and commit unlawful, immoral, or dangerous acts.

13. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, chapter 14.05 UPMC or of any other law of this State or ordinance of the City relating to the condition, location, or structure of buildings.

14. Any building or structure, which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50% or in any supporting part, member, or portion less than 66% of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law for newly-constructed buildings of like area, height, and occupancy in the same location.

15. Any structure or premises which, because of: neglect, dilapidation, decay, damage, or faulty construction; inadequate light, air, or sanitation facilities; infestation of rodents, roaches, wood-destroying organisms, or other vectors of disease; filth or accumulation of garbage; or for any other reason, is unsanitary, unfit for human habitation or occupancy, or in such a condition that is likely to cause sickness or disease.

16. A structure or premises, because of obsolescence, deterioration, damage, lack of sufficient or proper fire-resistive construction or fire-protection systems, faulty electric wiring or components, gas connections, or mechanical systems, or other cause, is determined by the City or local fire protection district to be a fire hazard.

17. Equipment or systems which are unsafe due to damage, deterioration, faulty or inadequate maintenance or construction, or any other reason.

18. Any portion of a structure remaining on a site after the demolition or destruction of the structure or any structure abandoned so as to constitute such structure or portion thereof an attractive nuisance or hazard to the public.

19. Any building or structure in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

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20. Any other condition the Building Official or other official or expert can articulate that renders the structure unsafe or unfit for habitation or occupancy.

### **9.60.050 Inspection and Complaint**

If, after a preliminary investigation of any dwelling, building, structure, or premises, the Public Officer finds that it is dangerous or unfit for human habitation or other use, he 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 Pierce County Auditor, 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 Public Officer in the exercise of reasonable diligence, and the Public 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 Pierce County Treasurer-Assessor or Auditor. Such complaint shall contain a notice that a hearing will be held before the Public 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 Public Officer. A copy of such complaint shall also be filed with the Pierce County Auditor and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

### **9.60.060 Findings and Order**

A. If, after the required hearing, the Public Officer determines that the dwelling is dangerous or unfit for human habitation, or building or structure or premises is unfit for other appropriate use, he/she shall state in writing his/her findings of fact in support of such determination, and shall issue and cause to be served upon the owners and parties in interest thereof, as provided in UPMC 9.60.050, and shall post in a conspicuous place on the property, an order that (i) requires the owners and parties 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 appropriate 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 UPMC 9.60.040; or (ii) requires the owners and parties 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 Pierce County Auditor.

B. In ordering the required course of action to be taken by the owner to abate the unfit or dangerous structure, the Public Officer may order the structure or a portion thereof demolished and not repaired under the following circumstances:

- i. The structure is patently illegal with regard to building, zoning, or other regulations;
- ii. The estimated cost to repair the structure or portion thereof is more than 50% of the value of the structure or portion thereof; or,
- iii. The estimated cost to repair the structure or portion thereof is less than 50% of the value and repairing and/or securing the structure from entry would, nevertheless, cause or allow the structure to remain a hazard or public nuisance.

The value of the structure shall be as determined by the Pierce County Assessor-Treasurer. In estimating the cost of repairing the structure, the Public Officer may rely upon such cost estimating publication or method the Public Official deems appropriate.

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### **9.60.070 Appeals**

A. Within thirty days from the date of service upon the owner and posting of the decision issued under UPMC 9.60.060, the owner or any party in interest may file an appeal with the City Clerk for a hearing before the Hearing Examiner. All matters under this Chapter shall be resolved by the Hearing Examiner within sixty days from the date of filing therewith and a transcript of the findings of fact of the Examiner shall be made available to the owner or other party in interest upon demand. The findings and orders of the Hearing Examiner shall be reported in the same manner and shall bear the same legal consequences as if issued by the Public Officer.

B. Absent an injunction issued by a court of competent jurisdiction, in accordance with RCW 35.80.030(2) as now or hereinafter amended, within thirty days after posting and service of the Hearing Examiner's Order, the decision of the Hearing Examiner shall be final.

### **9.60.080 Enforcement of Order**

If the owners or parties 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 Public Officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated and closed, removed, or demolished. In the enforcement of this section, the Public Officer is authorized to enter the structure and/or premises for inspection, testing, sampling, or other purposes preparatory to and in the conduct of the repairs, demolition, or other actions, to hire contractors as necessary to perform the work, and to spend public funds to complete the work.

### **9.60.090 Sale or Disposal of Materials and Contents**

Prior to removing or demolishing the dwelling, building, structure, or premises, the Public Officer shall, if reasonably possible, attempt to sell the materials and/or contents of the dwelling, building, structure, or premises, 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 Public Officer, after deducting the costs incident thereto.

### **9.60.100 Recovery of Expenses**

A. The amount of the cost of such repairs, alterations or improvements; or vacating and closing; or removal or demolition by the Public Officer; or litigation associated with an order issued under this chapter, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Pursuant to RCW 35.80.030(1)(h), the amount of such costs shall constitute a lien against the property of equal rank with state, county, and municipal taxes.

B. For purposes of this section, the cost of vacating and closing shall include (i) the amount of relocation assistance payments that a property owner has not repaid to the City of University Place or other local government entity that has advanced relocation assistance payments to tenants under RCW 59.18.085; (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; and (iii) all other reasonable expenses, including but not limited to, the costs of staff time, reasonable attorney fees, materials, incidentals, mailing, publishing, and recording notices. Upon certification to him, by the Public Officer, of the assessment amount being due and owing, the County Assessor/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 City.

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### **9.60.110 Demolition of Dangerous Building**

In enforcement of this section, the Public Officer may have the structure demolished, even if the order does not require demolition, if the estimated cost to repair the structure or portion thereof is less than 50% of the value and the structure is abandoned or the owner is unresponsive, and repairing and/or securing the structure from entry would, nevertheless, cause or allow the structure to remain a hazard or public nuisance, continue a non-conforming use, or otherwise be an unreasonable use of public funds.

### **9.60.120 Permits, Regulations and Workmanship**

All repairs, improvements, maintenance, or other work, performed in relation to any enforcement under this code shall be performed and completed in a workmanlike manner and in compliance with all permitting and other requirements of all applicable codes and regulations. The owner shall be responsible for identifying and complying with all applicable codes and regulations.

### **9.60.130 Remedies Not Exclusive**

A. This chapter does not 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; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

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

### **9.60.140 Public Nuisance**

Any structure or premises subject to complaint or order under this chapter is also a public nuisance.