Council Meeting Date: February 5, 2007 **Agenda Item: 6(c)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Update on 2005-2006 Council Goal No. 6 Review and Consider Improvements in Code Enforcement Standards
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joseph W. Tovar, Director of Planning and Development Services Rachael Markle, Assistant Director of Planning and Development Services

PROBLEM/ISSUE STATEMENT:

In September of 2005, Council completed the review and consideration of many additions and revisions to the City's Code Enforcement standards. Additional information was needed in order for Council to determine if standards to regulate the maintenance of the interiors of structures was necessary and/or desirable. The purpose of this report is to provide Council with additional information as requested.

Joining us at the meeting will be our Code Enforcement Officer Kristie Anderson who can also respond to questions the Council members may have about these issues.

FINANCIAL IMPACT:

If the Council decides to either confirm the enforcement of currently adopted local, state and federal ordinances as they may relate to the maintenance of the interiors of properties or adopts the International Property Maintenance Code the financial impacts will be the same. Current records indicate that in an average year the City will receive (5-6) five -six calls related to interior issues that may result in a code enforcement action. This potential increase in case activity in and of itself would have a minimal impact on resources. However, any increases in case load will have an impact on responsiveness if the complaint is confirmed and not resolved voluntarily.

If the Council ultimately decides that the City will not be investigating or enforcing complaints related to the maintenance of the interiors of properties there will be no financial impact or impact on caseload responsiveness.

Options for Consideration Regarding Interior Property Maintenance Enforcement

1) Use the existing adopted codes for abatement of unfit premises to enforce critical maintenance of existing structures.

2) Instruct staff to prepare an Ordinance to adopt the standards for Interior Property Maintenance in whole or part found in the 2003 International Property Maintenance Code for abatement of unfit premises and to maintain minimum levels of habitable interior space.

RECOMMENDATION

Staff recommends that the City Council authorize the preparation of an ordinance adopting applicable sections of the interior standards of the International Property Maintenance Code.

Approved By: City Manager ___ City Attorney ___

INTRODUCTION

The City has a few buildings/properties that are substandard and deteriorating. These conditions are the result of, among other causes: dilapidation; failure to repair; lack of proper sanitary facilities; structural defects; electrical, mechanical and other defects increasing the hazards of fire and accidents. The maintenance of housing stock is a goal of the City of Shoreline comprehensive plan and is critical to the health, safety and welfare of the general public.

BACKGROUND

In September of 2005, the Council adopted several amendments to the Development Code and Shoreline Municipal Code in an effort to improve the City's Code Enforcement standards. In addition, the Council adopted the International Property Maintenance Code with amendments to establish minimum standards for the maintenance of the exterior of structures and premises. The Council did not adopt the International Property Maintenance Code sections related to establishing minimum standards for the interior of structures. The Council requested additional information in regards to interior property maintenance standards to answer the following questions:

- What is the volume of complaints received related to the interior of dwellings?;
- Landlord Tenant Act – What does it cover?
- What provisions already exist in the City's Codes to address interior conditions?
- What does the King County Health Department regulate and enforce?
- Have our neighboring jurisdictions adopted interior standards?

ALTERNATIVES ANALYSIS

Volume of Complaints

Type of Requests or Complaint	8/1995 to 9/15/2001	9/16/2001 to 9/30/2006	Total
Request for Inspection of Interior Violation (general)	3	9	**12**
Leaking water, Mold	10	10	**20**
Animal Infestation	5	7	**12**
Unsafe Roof	1	2	**3**
Inadequate or unsafe Water, Electrical, Heat	9	3	**12**
Total	**28**	**31**	**59**

The preceding chart contains the types of calls that have been received since incorporation that involved reporting issues related to interior living conditions. As indicated by the numbers above, we are receiving about 5-6 calls per year regarding interior complaints.

Landlord Tenant Act

Questions were raised regarding what the Landlord Tenant Act covers and does it adequately provide renters a mechanism to have rental properties at least minimally maintained.

The landlord tenant act appears to provide a mechanism for completing many of the common types of repairs needed if the cost of the repair(s) does not exceed two (2) months rent and assuming the tenant understands and adheres to the provisions of the Act.

The following outlines the basic rights of the tenant, duties of the landlord in regard to maintaining livable residential rental units and steps for the tenant to give the landlord notice of repair:

A. Duties of the landlord

1. Right to a livable dwelling
   a. Landlord must maintain the dwelling so that it does not violate local and state codes which endanger the tenant's health and safety.
   b. Maintain structural components (roof, floors, chimney, foundation, walls) in reasonably good repair.
   c. Maintain dwelling in reasonably weather-tight condition.
   d. Provide reasonably adequate locks and keys.
   e. Provide necessary facilities for heat, electricity and hot and cold water. Keep facilities in good repair and maintain appliances. Set water heaters at 120 degrees when new tenant moves in.
   f. Provide garbage cans and provide for removal, except in single family dwellings
   g. Control pests, except in single family dwellings or when cause by tenant.
   h. Make repairs so unit is in same condition as when tenant moved in.
   i. Provide smoke detectors. Tenant must maintain the detectors.

B. Steps for Giving Notice for Repairs

1. Provide landlord with written notice of the problem.
2. Wait:
   a. 24 hours for no hot or cold water, heat or electricity, or to a condition which is imminently hazardous to life.
   b. 72 hours for repair of refrigerator, range and oven, or a major plumbing fixture supplied by landlord.
   c. 10 days for all other repairs.
3. If problem is not responded to, tenant has the following options:
   a. Move out.
   b. Litigate.

c. If tenant is current with rent and utilities, tenant can hire someone to make repairs, and deduct that amount from the rent. Tenant must wait out the waiting period and must hire the lowest bidder. No more than 2 months rent may be deduced in any 12 month period and no more than 1 month's rent for each repair.
d. Tenant can make repairs, if a licensed technician is not required, and deduct material and labor from rent.

Limitations of the Landlord-Tenant Act

Some of the limitations of the Landlord-Tenant Act are that it is a "self help" act. This Act is a State law with no resources available to enforce it, no office where citizens can go to for help. There are some agencies, including City of Shoreline that have handouts available.

Citizens with financial resources can decide to move if they find themselves living in a unit that is in disrepair and the landlord is not willing or capable of fixing the problem. The people who are in greatest need of the Landlord-Tenant Act are low income and very low income residents that do not have the resources necessary to move if the place they are living in is in a state of disrepair. Although the Landlord – Tenant Act allows residents to withhold rent to make repairs, how do you get money to make your own repair if you are very low income and the need for the repair arises the day after you paid your rent for the month?

The Landlord-Tenant Act is written in legalize. If you are not use to reading legalize, it can be very confusing. Landlord-Tenant cases are often dismissed by the court not because the tenant does not have a good case but because the tenant misses a filing deadline or other processing steps in the administration of the law.

Although the Landlord-Tenant Act contains provisions against retaliation such as eviction by the landlord should a tenant evoke their rights under the Act there is no agency enforcing the application of the Act. A tenant would have to take the landlord to court to seek remedy for an arbitrary eviction.

Finally, the Act allows that "If completion (repairs) is delayed due to circumstances beyond the landlord's control, including the unavailability of financing, the landlord shall remedy the defective condition as soon as possible."– There is no closure clause for the landlord to fix substandard conditions including lack of heat, water, electricity, plumbing, etc.

Existing Codes

Do the existing codes give us the authority to require property owners to maintain the interiors of structures?

Prior to July 1, 2004, the City used the Uniform Housing Code to establish minimum standards for the maintenance of the interiors and exteriors of existing buildings. In 2004 the City replaced the Uniform Codes as published by the International Council of Building Officials with the International Codes published by the successor organization

the International Code Council (ICC). The process used in Ordinance 353 was to repeal the Codes stated in SMC Title 15 and adopt the the ICC Codes. In this process the Uniform Housing Code was repealed and the corresponding International Code, the International Property Maintenance Code was not included. The International Existing Buildings Code was also not adopted. There were no specific discussions at the Council level regarding the repeal or replacement of the Uniform Housing Code.

On September 9, 2005, the City Council completed its review of the International Property Maintenance Code. The Council adopted those portions of the International Property Maintenance Code related to the maintenance of the exteriors of properties, and requested additional information on those sections of the code that relate to the interiors of properties.

Although the Council did not adopt specific standards on how to maintain the interiors of structures, Title 20 includes provisions for abating unfit buildings.

SMC 20.30.770 (J) Abatement of Unfit Premises (3) (b) states:

The Uniform Code for the Abatement of Dangerous Buildings (UCADB), 1997 Edition, as published by the International Conference of Building Officials, is adopted for abatement procedures under this section, subject to the following amendments:

UCADB Sec. 302 is amended to read as follows:

SECTION 302 UNFIT BUILDINGS AND PREMISES.

For the purpose of this Code, any building, structure or premises which has any or all of the conditions or defects hereinafter described shall be deemed to be an unfit building or premises, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

15. Whenever any building, structure or premises, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, accumulation of garbage or refuse, or otherwise, is determined by the Director to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease to the occupants, occupants of neighboring dwellings or other residents of the City. When a structure or premises is declared unfit under this subsection, repair as used in the UCADB shall include removal of the condition.

In addition, in SMC 20.20.014 a Code Violation is broadly defined as any act or omission contrary to any ordinance of the City, or State or Federal law that regulate or protect the public health or the use and development of land or water, whether or not such law or ordinance is codified. Code Violations are subject to enforcement including abatement under SMC 20.30.770. For example, since a Code Violation is defined as any act or omission contrary to an ordinance or State or Federal law that regulates or protects use of land, all the landlord duties under 59.18.060 which are not strictly contractual, would be enforceable as Code Violations (no smoke detector, adequate hot

water, heat etc). The lead sentence in this statute makes it clear these duties are intended to keep the premises fit for human habitation, terminology that mirrors our local amendment to the Uniform Code for the Abatement of Dangerous Buildings.

It is the opinion of the City Attorney's Office that the City does have the authority to enforce and abate all code violations which include violations of any ordinance of the City, or State or Federal government that regulate or protect the public health or the use and development of land or water.

Benefits of Using Existing Codes

- The City would not need to adopt additional regulations; and
- The City has broad discretion on how to define violations and remediation.

Drawbacks of Using Existing Codes

- Use of existing codes does not directly provide standards that address maintaining livability standards: i.e heat and hot water.

Adopting the International Property Maintenance Code

The majority of property owners and tenants are responsible and conscientious, however some properties fall below the minimum health and safety standards. For these substandard properties (approximately 2 – 4% of the rental stock), the City needs the Property Maintenance Code's concise guide on how to maintain the interiors of structures to provide minimum health and safety standards for citizens. These tools include the following:

Benefits

Adopting the IPMC minimum standards for the maintenance of structural interiors would be beneficial for the following reasons:

- The IPMC would provide property owners with a manageable amount of information regarding what the rules are for maintaining properties in order to prevent enforcement action under 20.30.770;
- The IPMC would provide staff with a concise set of regulations to apply when investigating complaints regarding the maintenance of the interior of structures;
- The IPMC would provide staff with a concise set of regulations to consistently determine what repairs must made to correct conditions that are not meeting the minimum standards for maintenance of the interior of structures; and

- Since the IPMC is tailored to apply to existing structures in some cases the minimum standard is less stringent than that established for new construction – whereby accounting for some level of depreciation.

- Local law enforcement could also benefit from the adoption of the IPMC. There are a few properties in Shoreline that are associated with habitual criminal offenders and criminal activities. The Police Department would like to partner with Code Enforcement to more aggressively "clean up" these properties. Officers could be trained to use the IPMC more readily than the IBC, IRC and UCADB to identify issues that could later be transferred to Code Enforcement.

Drawbacks

- An additional Code would need to be adopted and Title 20 may need to be updated to reflect the change.

Other Agencies

When we last discussed these topics, questions were raised regarding the roles of other public agencies for ensuring a minimum standard of living on the interiors of structures. The following is a brief list of a few of the issues that may be addressed by other agencies:

King County Health Department

- Inadequate sewage disposal
- Mold – Advisory services over the phone only
- Rodents and other infestations

Labor and Industries

- Faulty wiring

Neighboring Jurisdictions

The following chart summarizes how neighboring jurisdictions are regulating the interior of structures. All of the jurisdictions polled have adopted interior standards. There was a concern previously raised regarding whether the interior standards if adopted should apply to rental and owner occupied units. The chart below indicates that most of our neighbors apply the interior standards to both owner and renter occupied units. Shoreline's Code Enforcement program is designed to be largely reactive --- we do not actively seek out code violations we respond to complaints when received. If the standards apply to both renters and owners, we do not anticipate that we would receive many (if any) calls regarding owner occupied units, which is the case now for interior complaints.

Jurisdiction	Interior Standards	Standards apply to:	Code adopted
Seattle	Yes	Rental units only	Wrote own code
King County	Yes	Rental & owner occupied units	2003 ICC International Property Maintenance Code
Edmonds	Yes	Rental & owner occupied units	1997 ICBO Uniform Housing Code
Lynnwood	Yes	Rental & owner occupied units	1997 ICBO Uniform Housing Code
Everett	Yes	Rental & owner occupied units	1997 ICBO Uniform Housing Code
Mountlake Terrace	Yes		Working on amending the 2003 ICC International Property Maintenance Code

Additional Changes Being Investigated

Staff is continually looking for ways to improve the Code Enforcement Program. We are thinking ahead to develop "tools for the toolbox" that we may not need today, but may need in the future.

Relocation Assistance to Renters Displaced as a result of a code enforcement action as authorized by RCW 59.18.085.

In 2005 the State of Washington adopted revisions to RCW 59.18.085, the Residential landlord tenant act. When landlords have failed to remedy code violations after repeated notice and IF a municipality declares rental units unfit for human habitation, the landlord is required to pay relocation assistance to the displaced tenants. This is a tool that we may not need at the moment, but would like Council to consider so that we may be better prepared should the need arise. This tool would allow the City to provide relocation assistance for low income tenants that are displaced by a code enforcement action taken by the City if the property owner does not provide such assistance within 7 days of notification that a dwelling unit is declared unfit. One of the purposes of this RCW provision was to provide enforcement mechanisms to cities, towns, counties, or municipal corporations including the ability to advance relocation funds to tenants who are displaced as a result of a landlord's failure to remedy code violations and later to collect the full amounts of these relocation funds, along with interest and penalties, from landlords.

Code Enforcement Priorities List

The Code Enforcement Priorities list was approved by Council in 2000. Staff would like to bring the priorities list back to Council this year with a few suggested updates and to confirm that these are still the Council's priorities.

RECOMMENDATION

Staff recommends that the City Council authorize the preparation of an ordinance adopting applicable sections of the interior standards of the International Property Maintenance Code.