



Agenda Bill

City Council Special & Regular Business Meetings - 07 Oct 2019

Department

Legal

Staff Contact

Lisa Marshall, City Attorney (206) 248-5535

Agenda Bill Title

Discussion an Potential Action Approving Ordinance No. 716, Adopting Rental Housing Policies.

Summary

See attached Memorandum

Options

- (1) Adopt Ordinance No. 716;
 - (2) Do not adopt Ordinance No. 716
-

Administrative Recommendation

Staff recommends adoption of Ordinance No. 716.

Attachments

- [October 7, 2019 Memo to Council](#)
 - [Ordinance No. 716 Rental Housing Policies](#)
 - [FINAL BMC 5.63](#)
-



City of Burien
400 SW 152nd Street
Suite 300
Burien, WA 98166-1911

P 206.241.4647
F 206.248.5539

burienwa.gov

MEMORANDUM

To: Mayor Matta and Councilmembers
From: Lisa Marshall, City Attorney
Date: October 7, 2019
Re: Proposed BMC 5.63 Rental Housing Policies

I. Background

In late 2018, the Council directed staff to recommend a suite of rental housing policies for possible adoption. In response to this direction, the City held four community meetings to gather information from renters and landlords regarding the types of policies desired. These meetings were held on February 28, 2019, March 5, 2019, March 7, 2019, and on June 20, 2019. From these meetings, the City received clear input that the following policies were the most important to the community: (1) inspection and certification of rental properties; (2) a just cause eviction ordinance; (3) an ombudsman to serve as a resource for renters and landlords; and (4) information packets for distribution to landlords and tenants.¹ On September 16, 2019, you adopted Ordinance No. 715 establishing a Rental Housing Inspection Program (BMC 5.62). Proposed Rental Housing Policies (BMC 5.63) are set forth in Ordinance No. 716 for your discussion and possible action.

II. Discussion: BMC 5.63, Rental Housing Policies.

A. Distribution of information: This policy requires the landlord to provide a prospective tenant with the landlord's rental criteria in writing. It also requires the City to maintain on its webpage code enforcement information and information for registering to vote. The City must also provide summaries of its Rental Policies, the Property Maintenance Code, the Residential Landlord Tenant Act, Forcible and Unlawful Detainer laws, and Fair Housing laws. The City provides the summaries to landlords who must distribute the materials to tenants.

¹ During the 2019 legislative session, the following three bills were adopted and therefore are not recommended herein: (1) ESSB 5600 requiring 14 days' written notice to pay or vacate (changed from 3 days' notice); (2) ESHB 1440 requiring 60 days' written notice of rent increases in any amount; and (3) HB 1462 requiring 120 days' written notice by landlord of plans to demolish, substantially rehabilitate, or change the use of the premises.

- B. Deposit requirements and installment payments permitted: Landlord must allow tenant to pay security deposit, non-refundable move-in fees, and last months' rent in three consecutive equal installments in cases of fixed-term tenancies of three months or longer, or two equal installments if month-to-month. Not available when last months' rent not required nor if the security deposit and non-refundable move-in fees do not exceed 25% of the first months' rent.
- C. Notice of sale of low-income housing: Requires properties with five or more rental units, any one of which rents for affordable to households at or below 80 % of median income to notify the City of owner's intent to sell. Notice must be mailed 60 days before property listed for sale.
- D. Just cause eviction (JCE): A landlord can't evict a tenant without a court order. See RCW 59.18.290, .380. The JCE policy requires that a landlord provide written notice to the tenant of the reason for the termination of tenancy, and the written notice must be comply with the timelines in the JCE policy (example, 90 days' notice to vacate due to intent to sell the property). If the termination notice does not comply with the JCE requirements, the tenant may use the landlord's failure to comply as a defense to the landlord's subsequent attempt to obtain a court order (to evict). In addition, if the landlord provides a termination notice with the stated reason that the landlord (1) needs the rental property for an immediate family member, (2) the landlord intends to sell the property, or (3) the landlord wishes to discontinue rental of a room in the landlord's premises or ADU, the tenant may file a complaint with the City that the tenant believes that the landlord does not intend to carry-out the landlord's stated reason for the termination. The landlord, upon notification by the City of the complaint, must file a certification of the owner's intent to carry out the stated reason for the termination. The failure of the landlord to complete and file the certification is a defense for the tenant in a later eviction.

Failure to follow the JCE requirements (1) provide the tenant with a defense to the landlord's subsequent attempt to evict the tenant; and (2) exposes the landlord to liability to the tenant for damages of up to \$2,000, costs of suit, and reasonable attorneys' fees.

- E. Housing ombudsman: The housing ombudsman investigates housing disputes, educates and advises tenants and landlords, and assists in resolving problems between landlords and tenants.
 - F. Compliance and enforcement: Enforcement of violations of BMC 5.63, unless otherwise stated, is through the administrative Notice and Order process set forth in BMC 5.63.080(B) and shall contain the civil penalties set forth in BMC 5.63.080(C).
- III. Implementation of Rental Housing Policies – Staffing. Council authorized one FTE to serve as the Rental Housing Inspection Coordinator; it is unclear, however, whether the RHIP Coordinator will have capacity to manage and enforce the Rental Housing Policies, and it is

likely that additional staff may be needed. There are, however, alternatives to hiring additional staff. For example, several cities may share an individual to serve as Ombudsman for Burien and other cities. Accordingly, Council direction to staff to explore alternatives such as this is requested.

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 716

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, ADOPTING A NEW CHAPTER 5.63, RENTAL HOUSING POLICIES; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council desires adopt rental housing policies for inclusion in the Burien Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adopting a New BMC Chapter 5.63, Rental Housing Policies. There is adopted a new Burien Municipal Code Chapter 5.63, Rental Housing Policies, to read as set forth attached hereto as Exhibit "A" incorporated by this reference as if fully set forth herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A REGULAR MEETING THEREOF THIS ____ DAY OF _____, 2019.

CITY OF BURIEN

Jimmy Matta, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Lisa Marshall, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 716
Date of Publication:

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

Sections:

- 5.63.010 Purpose and Intent.
- 5.63.020 Definitions.
- 5.63.030 Distribution of information required.
- 5.63.040 Deposit requirements and installment payments permitted.
- 5.63.050 Notice requirement generally—reasonable accommodation request.
- 5.63.060 Notice of proposed sale of low-income housing.
- 5.63.070 Just Cause Eviction
- 5.63.075 Housing Ombudsman
- 5.63.080 Compliance and enforcement.

5.63.010 Purpose and Intent. The purpose of this chapter is to establish regulations supporting the topic of increasing housing security, and to establish standards and enforcement mechanisms as they relate to rental housing within the City limits of Burien. It is the City’s intent to continue its long-term commitment to maintain vibrant and diverse neighborhoods within Burien. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City while creating a partnership to ensure safe, healthy, and thriving rental housing in Burien. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for Burien residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that it is equitably undertaken. This chapter strives to ensure housing security for current and future residents, and addresses potential retaliation against tenants who make complaints about housing conditions.

5.63.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- A. “*Assisted housing development*” means a multifamily rental housing development that both receives government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives other federal, state, or local government assistance and is subject to use restrictions.
- B. “*Days*” means calendar days unless otherwise provided.
- C. “*Director*” means the Director of the City of Burien Director of Planning and Community Development, or the Director’s designee.
- D. “*Dwelling unit*” means a structure or part of a structure used as a home, residence, or sleeping place by one, two, or more persons maintaining a common household, including, but not limited to, single-family residences and multiplexes, apartment buildings, and mobile homes

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

- E. *“Housing costs”* means the compensation or fees paid or charged, usually periodically, for the use of any property, land, buildings, or equipment for residential purposes. For purposes of this chapter, housing costs include the basic rent charge, but do not include utility charges that are based on usage and that the tenant has agreed in the rental agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the rental agreement.
- F. *“Immediate family member”* includes the spouse or domestic partner, dependent children, and other dependent relatives.
- G. *“Landlord”* means a landlord as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 (“RLTA”) in effect at the time the rental agreement is executed. As of the effective day of this ordinance, the RLTA defines “landlord” as “the owner, lessor, or sub-lessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sub-lessor including, but not limited to, an agent, a resident manager, or a designated property manager.”
- H. *“Non-refundable move-in fees”* means non-refundable payment paid by a tenant to a landlord to cover administrative, pet, or damage fees, or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does not include payment of a holding fee authorized by RCW 59.18.253(2).
- I. *“Owner”* means *“Owner”* means the owner of record as shown on the last King County tax assessment roll or such owner's authorized agent.
- J. *“Rent” or “rental amount”* means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys’ fees. PROVIDED, however, that if, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant’s obligations and the tenant defaults in payment, the landlord may treat the default payment as rent owing.
- K. *“Rental agreement”* means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.”
- L. *“Security deposit”* means a refundable payment or deposit of money, however designated, the primary function of which is to secure performance of a rental agreement or any part of a rental agreement. “Security deposit” does not include a fee.

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

- M. "*Substantial rehabilitation*" means extensive structural repair or extensive remodeling and requires a building, electrical, plumbing, or mechanical permit for the tenant's dwelling unit at issue. Any "substantial rehabilitation" as provided herein requires displacement of a tenant.
- N. "*Tenant*" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

5.63.030 Distribution of information required.

A. Distribution of resources by landlord.

1. At the time a prospective tenant applies to reside in a dwelling unit, the landlord shall provide the prospective tenant with the landlord's written rental criteria and, once created by the City, with a City of Burien informational website address designated by the City for the purpose of providing information about the property and its landlord, which may include, but is not limited to, local code enforcement information relating to properties within City limits, and a website address for the Washington Secretary of State for the purpose of providing information on how to register to vote or change their address, if the individual is already registered to vote.
2. In the event a prospective tenant cannot reasonably access the internet and at their request, a landlord shall provide the prospective tenant a paper copy of the property and landlord information that can be found on the website identified above.

B. Distribution of information packets by landlord.

1. The Director shall prepare and update as necessary, summaries of this chapter, the Burien Building and Property Maintenance Code (BMC 15.40), state RLTA (RCW 59.18), Forcible Entry and Forcible and Unlawful Detainer (RCW 59.12), and Fair Housing laws, describing the respective rights, obligations, and remedies of landlords and tenants, including information about legal resources available to tenants.
2. A landlord shall provide a copy of the summaries prepared by the Director to any tenant or prospective tenant when a rental agreement is offered, whether or not the agreement is for a new or renewal agreement.
3. Where there is an oral rental agreement, the landlord shall give the tenant copies of the summaries described herein, either before entering into the oral rental agreement or as soon as reasonably possible after entering into the oral rental agreement.

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

4. For existing tenants, landlords shall, within 30 days after the summaries are made available by the City, distribute current copies of the summaries to existing tenants.
 5. The initial distribution of information to tenants must be in written form and landlords shall obtain the tenant's signature documenting tenant's receipt of such information. If a tenant refuses to provide a signature documenting the tenant's receipt of the information, the landlord may draft a declaration stating when and where the landlord provided tenant with the required information. After the initial distribution of the summaries to tenants, a landlord shall provide existing tenants with updated summaries by the City, and may do so in electronic form unless a tenant otherwise requests written summaries.
 6. The packet prepared by the Director includes informational documents only, and nothing in the summaries therein shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor is the Director liable for any misstatement or misinterpretation of the applicable laws.
- C. Notice of resources. A landlord is required to provide a copy of a resource summary, prepared by the City, to any tenant when the landlord provides a notice to a tenant under RCW 59.12.030.

5.63.040 Deposit requirements and installment payments permitted.

- A. Installment payments, generally. Upon a tenant's written request, tenants may pay security deposits, non-refundable move-in fees, and/or last month's rent in installments as provided herein; except that the tenant cannot elect to pay the security deposit and non-refundable move-in fees in installments if (1) the total amount of the security deposit and nonrefundable move-in fees does not exceed 25 percent of the first full month's rent for the tenant's dwelling unit; and (2) payment of last month's rent is not required at the inception of the tenancy. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay in installments. Installment payments are due at the same time as rent is due. All installment schedules must be in writing, signed by both parties.
- B. Fixed-term tenancies for three months or longer. For any rental agreement term that establishes a tenancy for three months or longer, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in three consecutive, equal monthly installments that begin at the inception of the tenancy.
- C. Month-to-month or two-month tenancy. For any rental agreement term that establishes a tenancy from month-to-month or two months, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

of obtaining a tenant screening report, in two equal installments. The first payment is due at the inception of the tenancy, and the second payment is due on the first day of the second month or period of the tenancy.

- D. A tenant's failure to pay a security deposit, non-refundable move-in fees, and last month's rent according to an agreed payment schedule is a breach of the rental agreement and subjects the tenant to a ten-day notice pursuant to RCW 59.12.030(4), and shall mean that the entire amount of any outstanding payments shall become due when the next rent payment is due, unless otherwise agreed to in writing by the landlord and tenant.
- E. Paying in installments does not apply to a landlord obtaining a tenant screening report, which report cost paid by the tenant shall be limited to the standard and actual cost of the tenant screening report.
- F. No security deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the beginning of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.
- G. A landlord must place any required security deposit in a trust account and provide a written receipt and notice of the name, address, and location of the depository and any subsequent change thereof to the tenant, in compliance with the requirements of RCW 59.18.270.
- H. Nothing in this Chapter 5.63 prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.

5.63.050 Notice requirement generally – reasonable accommodation request. A landlord shall review and comply with all reasonable accommodation requests received from a tenant related to the service of any notice required by this chapter.

5.63.060 Notice of proposed sale of low-income housing. Owners of a multifamily rental housing building having five or more housing units, any one of which rents for an amount that is affordable to households at or below 80 percent of area median income, as median income was most recently determined by the United States Department of Housing and Urban Development for the Seattle metropolitan statistical area, as adjusted for household size, shall notify the Director of the owner's intent to sell the building. The notice shall be in writing and include the owner's name, phone number, and the address of the rental housing building that will be listed for sale. The notice shall be mailed no later than 60 days prior to the building being listed with

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

any real estate service or advertised for sale either in a printed newspaper or website. For the purposes of this subsection, a building is “listed” when an owner has signed a listing agreement with a real estate agent. Owners of multifamily buildings having five or more housing units who are otherwise required by law or agreement to notify the Director of the owner’s intent to sell or transfer the building and who have provided such notice are exempt from the notice requirement of this subsection.

5.63.070 Just Cause Eviction

A. Pursuant to provisions of the Washington State Residential Landlord-Tenant Act (RCW 59.18.290), owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380). Owners of housing units shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant unless the owner can prove in court that just cause exists. Owners may not evict residential tenants from rental housing units if the units are not licensed with the City of Burien as required by BMC Chapter 5.62, regardless of whether just cause for eviction may exist. An owner is in compliance with licensing requirement if the rental housing unit is licensed with the City of Burien pursuant to BMC Chapter 5.62 before entry of a court order authorizing eviction or before a writ of restitution is granted. A court may grant a continuance in an eviction action in order to give the owner time to license the rental housing unit. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this Section BMC 5.63.070:

1. The tenant fails to comply with a fourteen-day notice to pay rent or vacate pursuant to RCW 59.12.030(3); a ten day notice to comply or vacate pursuant to RCW 59.12.030(4); or a three day notice to vacate for waste, nuisance (including a drug-related activity nuisance pursuant to chapter RCW 7.43), or maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5);
2. The tenant habitually fails to pay rent when due which causes the owner to notify the tenant in writing of late rent four or more times in a 12 month period;
3. The tenant fails to comply with a ten day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under chapter 59.18.130 RCW;
4. The tenant habitually fails to comply with the material terms of the rental agreement which causes the owner to serve a ten day notice to comply or vacate three or more times in a 12 month period;
5. The owner seeks possession so that the owner or a member of his or her immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building, and the owner has given

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

the tenant at least 90 days' advance written notice of the date the tenant's possession is to end. The Director may reduce the time required to give notice to no less than 60 days if the Director determines that delaying occupancy will result in a personal hardship to the owner or to the owner's immediate family. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. There is a rebuttable presumption of a violation of this subsection 5.63.070(A)(5) if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least 60 consecutive days during the 90 days immediately after the tenant vacated the unit pursuant to a notice of termination or eviction using this subparagraph as the cause for eviction;

6. The owner elects to sell a dwelling unit subject to the provisions of this Chapter and gives the tenant at least 90 days' written notice prior to the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month to month, with the last day of a monthly period. The Director may reduce the time required to give notice to no less than 60 days if the Director determines that providing 90 days' notice will result in a personal hardship to the owner. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. For the purposes of this subsection, an owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within 30 days after the tenant has vacated, including, at a minimum, listing it for sale at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:
 - (a). Within 30 days after the tenant has vacated, the owner does not list the single-family dwelling unit for sale at a reasonable price with a realty agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or
 - (b) Within 90 days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the market, rents the unit to someone other than the former tenant, or otherwise indicates that the owner does not intend to sell the unit;
7. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;
8. The owner seeks to do substantial rehabilitation in the building and gives the tenant at least 120 days' written notice prior to the date set for vacating. To utilize this basis as the rationale for termination, the owner must obtain at least one permit necessary for the rehabilitation before terminating the tenancy;
9. The owner elects to demolish the building, convert it to a cooperative, or convert it to a nonresidential use and gives the tenant at least 120 days' written notice prior to the date set for vacating. To utilize this basis as the rationale for termination, the owner must

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

- obtain a permit necessary to demolish or change the use before terminating any tenancy or converts the building to a condominium;
10. The owner seeks to discontinue use of a housing unit unauthorized by BMC 19 after receipt of a notice of violation;
11. The owner seeks to reduce the number of individuals residing in a dwelling unit to comply with the maximum limit of individuals allowed to occupy one dwelling unit as required by BMC Title 15 and
- (a) (1) The number of such individuals was more than is lawful under the current version of BMC Title 15; and
 - (2) That number has not increased with the knowledge or consent of the owner; and
 - (3) The owner is either unwilling or unable to obtain a permit to allow the unit with that number of residents and
 - (b) The owner has served the tenants with a 30 day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit; and
 - (c) After expiration of the 30 day notice, the owner has served the tenants with and the tenants have failed to comply with a ten day notice to comply with the limit on the number of occupants or vacate, and
 - (d) If there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; provided that, the owner may either terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit;
12. An emergency order requiring that the housing unit be vacated and closed has been issued pursuant to BMC 15 and the emergency conditions identified in the order have not been corrected;
13. The owner seeks to discontinue sharing with a tenant of the owner's own housing unit, i.e., the unit in which the owner resides, seeks to terminate the tenancy of a tenant of an accessory dwelling unit that is accessory to the housing unit in which the owner resides, or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on the same lot. This subsection does not apply if the owner has received a notice of violation of the development standards of BMC Title 19;

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

14. A tenant, or with the consent of the tenant, the tenant's subtenant, sublessee, resident, or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises, and the owner has specified in the notice of termination the crime alleged to have been committed and the general facts supporting the allegation, and has assured that the Department has recorded receipt of a copy of the notice of termination. For purposes of this subsection a person has "engaged in criminal activity" if he or she:
 - a. Engages in drug-related activity that would constitute a violation of chapters 69.41, 69.50, or 69.52 RCW, or
 - b. Engages in activity that is a crime under the laws of this state, but only if the activity substantially affects the health or safety of other tenants or the owner.
- B. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this Subsection 5.63.070 shall be deemed void and of no lawful force or effect.
- C. With any termination notices required by law, owners terminating any tenancy protected by this section shall advise the affected tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons;
- D. If a tenant who has received a notice of termination of tenancy claiming subsection 5.63.070(A)(5), 5.63.070(A)(6) or 5.63.070(A)(13) as the ground for termination believes that the owner does not intend to carry out the stated reason for eviction and makes a complaint to the Director, then the owner must, within ten days of being notified by the Director of the complaint, complete and file with the Director a certification stating the owner's intent to carry out the stated reason for the eviction. The failure of the owner to complete and file such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction action based on this ground.
- E. In any action commenced to evict or to otherwise terminate the tenancy of any tenant, it shall be a defense to the action that there was no just cause for such eviction or termination as provided in this section.
- F. It shall be a violation of this section for any owner to evict or attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant using a notice which references subsections 5.63.070(A)(5), 5.63.070(A)(6), 5.63.070(A)(8), 5.63.070(A)(11), 5.63.070(A)(12) or 5.63.070(A)(13) as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy.
- G. An owner who evicts or attempts to evict a tenant or who terminates or attempts to terminate the tenancy of a tenant using a notice which references subsections 5.63.070(A)(5), 5.63.070(A)(6) 5.63.070 (A)(8) as the ground for eviction or termination

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy shall be liable to such tenant in a private right for action for damages up to \$2,000, costs of suit, or arbitration and reasonable attorney's fees.

5.63.075 Housing Ombudsman.

- A. It is the intent of the City of Burien to establish, in addition to other remedies or rights of appeal of any person under local, state or federal law, an independent, impartial local office readily available to the public and empowered to investigate housing disputes; to direct tenants, landlords and persons to the right avenue of recourse and/or the proper venue for recourse for conflicts; to assist in resolving problems and grievances between a landlord and a tenant; to document and identify issues and problems with residential rental housing and landlord-tenant relationships; and to recommend needed changes to laws to the City of Burien City Council.
- B. The Office of Housing Ombudsman is hereby established in the City of Burien for the health, safety and welfare of citizens seeking or who have obtained residential housing, or who offer or provide residential housing in the City of Burien.
- C. The Housing Ombudsmen shall report to the City Manager. This arrangement helps to guarantee the independence of the Housing Ombudsmen, who is not only providing a direct service to citizens but is performing a role in legislative oversight of the City of Burien Housing Ombudsman program by reporting to the City Manager.
- D. The Housing Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of law, administration and public policy.
- E. No person while serving as Ombudsman:
 - i. Shall engage in any other occupation, business, or profession likely to detract from the full-time performance of his or her duties as Ombudsman; or,
 - ii. Shall engage in any other occupation, business or profession likely to result in a conflict of interest or an appearance of impropriety or partiality.
- F. The Housing Ombudsman shall follow the policies, rules and procedures as adopted by the City of Burien for the Office of Housing Ombudsman.

5.63.080 Compliance and enforcement.

- A. Powers and duties of the Director.

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

1. The Director is authorized to enforce this chapter and may promulgate rules and regulations consistent with this chapter, provided that the Director shall hold one or more public hearings prior to adoption of final rules and regulations.
2. The Director shall attempt to settle by agreement any alleged violation or failures to comply with the provisions of this chapter; provided that nothing herein shall create a right or entitlement of a landlord to settlement by agreement.
3. The Director is authorized to request records from landlord and the landlord shall allow the Director access to such records, as well as a complete roster of tenants' names and contact information, when requested, with at least five business days' notice and at a mutually agreeable time, to investigate potential violations of the requirements of this chapter.

B. Notice of Violation.

1. If a violation of this chapter occurs, the Director shall issue a Notice of Violation. A Notice of Violation shall include:
 - a. The street address or a description of the building, structure, premises, or land in terms reasonably sufficient to identify its location where the violation occurred;
 - b. A description of the violation and a reference to the provisions of this chapter which have been violated;
 - c. A description of the action required to comply with the provisions of this chapter;
 - d. A statement that the landlord to whom a Notice of Violation is directed may request a hearing. Such request for hearing must be submitted in writing and must be received by the City Clerk no later than ten days after the Notice of Violation has been issued;
 - e. A statement that penalties will accrue as provided in this chapter;
 - f. An Advisory Letter to provide the Landlord with a timeline of the process and an invitation to conciliate.
2. The Notice of Violation shall be delivered, in writing, to the person to whom the Notice of Violation is issued by personal delivery or first-class mail.

C. Civil Penalties.

1. Any person violating a provision of this chapter shall be subject to the penalties as outlined below.

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

- a. For a violation of Distribution of information required (BMC 5.63.030), Deposit requirements and installment payments (BMC 5.63.040), Notice requirement generally (BMC 5.63.050), a landlord shall be subject to the following penalties:
 - (1) For the first violation for each affected dwelling unit, \$500; and
 - (2) For each affected dwelling unit for each subsequent violation within a three year period, \$1,000.
 - b. Unless otherwise stated in BMC 5.63.070(G), for a violation of Just Cause Eviction (BMC 5.63.070) a landlord shall be subject to the following penalties:
 - (1) For each violation from the date the violation begins for the first ten days of noncompliance, \$250 per day, per dwelling unit;
 - (2) For each violation for each day beyond ten days of noncompliance until compliance is achieved, \$500 per day, per dwelling unit.
 2. The Director may waive or reduce the penalty if the landlord comes into compliance within ten days of the Notice of Violation or shows that its failure to comply was due to reasonable cause and not willful neglect. If the Director finds a willful violation of this chapter, which resulted in a Notice of Violation outlined above, the Director may issue a Penalty that shall be \$1,000.
 3. Any civil penalties paid by the landlord shall be kept by the City.
- D. Administrative Review by the Director
1. General. A person to whom a Notice of Violation or penalty is assessed may request an administrative review of the Notice of Violation or penalty.
 2. How to request administrative review. A person may request an administrative review of the Notice of Violation or penalty by filing a written request with the Director within ten days from the date the Notice of Violation or penalty was issued. The request shall state, in writing, the reasons the Director should review the Notice of Violation or penalty. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the Director shall review the information provided. The City has the burden to prove a violation exists by a preponderance of the evidence.
 3. Decision of Director. After considering all of the information provided, the Director shall determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation or penalty. The Director's decision shall be delivered, in writing, to the person to whom the notice of violation was issued by personal delivery or first class mail.

Exhibit A to Ordinance No. 716
BMC Chapter 5.63
Rental Housing Policy

- E. Appeals to the Hearing Examiner of Director's Decision. Appeal of the Director's decision shall be made within ten days from the date of the Director's decision by filing a written notice of appeal, clearly stating the grounds that the appeal is based upon, with the Hearing Examiner, which appeal shall be governed by BMC 2.15.