

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 804

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING RENTAL HOUSING POLICY REGULATIONS IN BURIEN MUNICIPAL CODE CHAPTER 5.63, RELATED PROVISIONS IN 5.62, AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted Ordinance 716 in October 2019 adding rental housing regulations, including just cause eviction requirements, to the Burien Municipal Code;

WHEREAS, in the face of an affordable housing crisis, several other cities, such as Auburn, Federal Way, Kenmore, Kent, Seattle, Tukwila and King County have adopted tenant protections;

WHEREAS, the City Council has reviewed information relating to tenant protections;

WHEREAS, the City Council now wishes to add additional tenant protections in the Burien Municipal Code;

WHEREAS, on October 17, 2022, the City Council considered adopting additional tenant protections including 1) increased notice of rent increases; 2) cap on late fees; 3) cap on move in fees and deposits; 3) right to payment plans; 4) prohibit the requirement that social security numbers be given as screening information; 5) authorization to alter rent due dates due to tenant's fixed income 6) no rent increases for unhabitable units; 7) relocation assistance for tenants forced to move due to rent increases of 10%; and 8) just cause eviction requirement extended to non-renewals and end of lease terms ("Additional Tenant Protections");

WHEREAS, the City Council finds and declares that this ordinance is necessary to stabilize rental housing within Burien and reduce homelessness by building upon and supplementing the state's and Burien's just cause protections;

WHEREAS, the City Council desires to amend BMC Chapter 5.63 and related provisions in BMC Chapter 5.62 to adopt the proposed additional tenant protections, and finds that adoption of the proposed regulations is in the best interests of Burien's residents and necessary to protect their public health, safety and welfare; and

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

Section One. Section 5.63.010, entitled **Purpose and intent**, of the Burien Municipal Code is amended as follows with the remaining portions of the section unchanged.

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]~~ Burien'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]~~ Burien while creating a partnership to ensure safe, healthy, and thriving rental housing in Burien. ~~[The city]~~ Burien 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. All of these code provisions should be read in harmony with state law, and if there is any question or conflict between Burien and state law, state law will apply.

Section Two. Section 5.63.040, entitled **Deposit requirements and installment payments permitted**, of the Burien Municipal Code is amended as follows with the remaining portions of the section unchanged.

(1) Installment Payments, Generally. Upon a tenant's written request, tenants may pay security deposits, nonrefundable 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 nonrefundable move-in fees in installments if (a) 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 (b) 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. The sum of any security deposits, nonrefundable move-in fees, and/or last month's rent may not exceed one month's rent, except in subsidized housing where the amount of rent is set based on the tenants' income. The exception for subsidized housing shall not include tenancies regulated under Section 8 of the Housing Act of 1937, 42 U.S.C. Section 1437f, commonly known as the "choice voucher program."

(2) Fixed-Term Tenancies for ~~[Three]~~ Six Months or Longer. For any rental agreement term that establishes a tenancy for ~~[three]~~ six months or longer, the tenant may elect to pay the security deposit, nonrefundable 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]~~six consecutive, equal monthly installments that begin at the inception of the tenancy.

(3) Month-to-Month or ~~[Two-Month]~~ Tenancy Lasting Fewer Than Six Months. For any rental agreement term that establishes a tenancy from month to month or ~~[two]~~ fewer than six

months, the tenant may elect to pay the security deposit, nonrefundable 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 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.

Section Three. Section 5.63.070(1), entitled **Just cause eviction**, of the Burien Municipal Code is amended as follows with the remaining portions of the section unchanged.

(1) 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, or refuse to renew or continue the rental agreement after the expiration of the rental agreement 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 or if the required Rental Housing Inspection is not completed by the deadline as required by Chapter 5.62 BMC, 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 Chapter 5.62 BMC 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:

Section Four. Section 5.63.075, entitled **Housing ombudsman**, of the Burien Municipal Code is redesignated as and creates Section 5.63.130.

Section Five. Section 5.63.080, entitled **Compliance and enforcement**, of the Burien Municipal Code is redesignated as and creates Section 5.63.140.

Section Six. Section 5.63.090, entitled **Late fees**, of the Burien Municipal Code is created as follows.

(1) Any fees for late payment of rent shall not exceed \$10.00 per month. No other fees may be charged for late payment of rent, including for the service of any notice required under state law, or any legal costs, including court costs and attorneys' fees. Any rental agreement provision providing for such fees shall be deemed void with respect to any provision prohibited by this subsection. This section shall not apply to or limit decisions, orders, and rulings of courts of competent jurisdiction.

(2) Any notice to pay or vacate served under RCW 59.12.030(3) shall include within the notice in at least 16 point bold font the following information: "You have 14 days to pay the

rent required by this notice. After 14 days, you may pay the rent but will have to include a late fee totaling at most \$10.00 per month for each month of rent owed. If the landlord has started a court case to evict you and the case is filed in court, you will need to pay court costs as well before the hearing date to avoid eviction.”

Section Seven. Section 5.63.100, entitled **Rent increases**, of the Burien Municipal Code is created as follows.

A landlord may not increase the rent or charge any non-rent charges except in accordance with this section:

(A) A landlord may not increase the rent of a tenant unless the landlord has provided the tenant with 120 days’ prior notice of a rent increase over 3% and 180 days’ prior notice of a rent increase over 10% and any increase in the amount of rent may not become effective prior to the completion of the term of the rental agreement. Tenants shall receive prior notice of increases of 3% or less pursuant to RCW 59.18.140, *Reasonable obligations or restrictions—Tenant’s duty to conform—Landlord’s duty to provide written notice in increase of rent*, as it exists or may be amended. If the rental agreement governs a subsidized tenancy where the amount of rent is based on the income of the tenant or circumstances specific to the subsidized household, the landlord shall provide a minimum of 30 days’ prior written notice of an increase in the amount of rent to each affected tenant.

(i) In the event of such an increase, the tenant may terminate the tenancy immediately upon surrendering the dwelling unit prior to the increase taking effect. The tenant shall only owe *pro rata* rent through the date upon which the premises are surrendered. Any notice increasing the current rent shall inform the tenant that they may terminate the tenancy at any time and owe *pro rata* rent through the date the tenant surrenders the dwelling unit.

(ii) Any notice of a rent increase shall be served in accordance with RCW 59.12.040, *Service of notice—Proof of service*, as it exists or may be amended.

(B) A landlord shall not increase the rent to be charged to a tenant by any amount if the dwelling unit has defective conditions making the dwelling unit uninhabitable, if a request for repairs to make the dwelling unit habitable has not been completed, or is otherwise in violation of RCW 59.18.060, *Landlord duties*, as it exists or may be amended. If the tenant believes the dwelling unit has defective conditions making the unit uninhabitable or violates RCW 59.18.060, the tenant shall notify the landlord in writing as required by RCW 59.18.070, specifying the premises involved; the owner’s name, if known; and the defective condition before the effective date listed in the notice of rent increase.

Section Eight. Section 5.63.110, entitled **Due date adjustments**, of the Burien Municipal Code is created as follows.

All rental agreements executed after the adoption of this ordinance shall include a provision allowing tenants to adjust the due date of rent payments if the tenant has a regular primary source of income, monthly source of governmental assistance, or fixed income source (e.g Social Security) that the tenant receives on a date of the month that is incongruent with paying rent on the date otherwise specified in the rental agreement. A landlord shall not refuse to rent to a prospective tenant or terminate a lease based on a request for a due date adjustment.

Section Nine. Section 5.63.120, entitled **Social Security numbers**, of the Burien Municipal Code is created as follows.

(1) No landlord shall require that any tenant, prospective tenant, occupant, or prospective occupant of rental property provide a social security number. Alternative proof of financial eligibility such as portable screening reports, or other proof of income must also be accepted, where available, if offered by the tenant.

(2) Nothing in this section shall prohibit a rental housing owner or non-owner manager from either:

(i) Complying with any legal obligation under federal law.

(ii) Requesting information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to determine or verify the identity of a prospective tenant or prospective occupant. However, if the rental housing owner or non-owner manager requests a social security number for verifying financial qualifications, other documentation sufficient to verify financial qualifications must also be accepted, such as portable screening reports, Individual Taxpayer Identification Number (ITIN) or other proof of income, and if a person is offering alternative means, the rental housing owner or non-owner manager must offer the same terms to the applicant as if a social security number was provided.

(3) A rental owner or non-owner manager shall inform any prospective resident or applicant seeking a rental unit of their right to provide alternative proof of financial qualifications on a form to be prescribed by Burien within 60 calendar days of enactment of this ordinance. Such form shall be signed by the prospective applicant.

Section Ten. Section 5.63.130, entitled **Date of Applicability**, of the Burien Municipal Code is created as follows.

BMC 5.63.090 and BMC 5.63.120, as they exist or amended, apply to all residential tenant leases and agreements executed after the initial effective date of the provisions listed in this section.

Section Eleven. Section 5.62.070, entitled **Certificates of inspection**, subsection 8, of the Burien Municipal Code is created as follows with the remaining portions of the section unchanged.

Penalty for Not Obtaining a Certificate of Inspection. In addition to the enforcement and penalty provisions of BMC Chapter 1.15, after the mailing of *Notice of No Certificate of Inspection*, there shall be assessed a penalty of \$100.00 per day for each day that a residential housing unit operates without a certificate of inspection for the first 10 days of noncompliance with BMC Chapter 5.62, and \$250.00 per day for each day in excess of 10 days of noncompliance with BMC Chapter 5.62.

After 30 days of noncompliance, the property shall be deemed to be uninhabitable. If there is a valid business license, that license shall be deemed revoked as of the 31st day of noncompliance. Based on the revoked business license and the uninhabitable property, the property owner shall be financially responsible for assisting in the relocation of each tenant as provided in RCW 59.18.090, *Rental of condemned or unlawful dwelling – Tenant’s remedies – Relocation assistance – Penalties*, as it exists or may be amended. The property owner shall continue to be liable for the \$250.00 per day penalty until each tenant has been successfully relocated.

Nothing in this section shall preclude criminal prosecution under BMC 1.15.080, Violations, or any other applicable law, for the intentional or wilful failure to comply with BMC Chapter 5.62.

For purposes of this section, “days” shall mean calendar days.

Section Twelve. Severability. Should a court of competent jurisdiction find any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, 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 Thirteen. Edits. For purposes of this ordinance, additions are underlined and deletions are stricken with brackets around the deleted language.


Section Fourteen. Corrections. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any

references thereto.

Section Fifteen. Effective Date. Consistent with RCW 35A.13.190, this ordinance was adopted by at least a majority plus one of the entire council for the purpose of protecting the public health, safety, and peace, and shall take effect immediately upon adoption as the possibility of tenants being evicted poses a public health, safety, and peace emergency to the community.


ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT THE STUDY SESSION THEREOF THIS 24th DAY OF OCTOBER, 2022.

CITY OF BURIEN




Sofia Aragon, Mayor

ATTEST/AUTHENTICATED:



Heather Dumlao, City Clerk

Approved as to form:



Garmon Newsom II, City Attorney

Filed with the City Clerk: October 21, 2022
Passed by the City Council: October 24, 2022
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