

Changes in the Bellingham housing market have resulted in unusually low vacancy rates and a significant increase in rental costs. The current vacancy rate is approximately 1.79%. Incomes have not kept pace with rent increases.

To address these concerns, the City of Bellingham enacted a new ordinance designed to provide some protection for vulnerable renters. The ordinance took effect on March 12, 2018 and applies to properties located in the City of Bellingham.

## 60-day Notice of Rent Increase

BMC 6.12 was enacted to increase protection for renters by providing for a 60-day notice of a substantial rent increase.

Landlords who wish to raise a tenant's rent by ten percent or more must give a 60-day written notice of rent increase.

This applies to any increase of ten percent or more than the rent charged during the past 12 months of the tenancy.

Any rent increase that does not comply with this ordinance is unenforceable. Landlords should include this provision in each rental agreement and lease.

Landlords must provide the notice of rent increase 60 days before the end of the rental term unless mutually agreed upon that it may be effective sooner. The ordinance has specific requirements for such mutual agreements, including that the tenant must be represented by an attorney.



## 60-day Notice to Vacate

BMC 6.13 was enacted to increase protection for residential month-to-month renters whose tenancies are terminated without cause by providing an affirmative defense to tenants who are not provided a 60-day notice to vacate.

Landlords must give tenants written notice to terminate tenancies. BMC 6.13 creates a 60-day notice "Affirmative Defense", which residential month-to-month tenants can assert in an eviction action against a landlord who failed to provide them with a 60-day no-cause notice to terminate tenancy.



In the case of eviction, the 60-day notice Affirmative Defense may be asserted by a residential month-to-month tenant who receives a no-cause termination notice regardless of what the rental agreement states. All notices contained in the Residential Landlord Tenant Act remain available to landlords.

## Source of Income Protection

BMC 6.11 was enacted to increase protection for renters by prohibiting landlords from denying an application for rent based on a renter's source of income or participation in a rental assistance program.

**A landlord may not refuse to rent to a tenant based on a tenant's source of income, which includes:**

- Federal and state public benefits, such as (but not limited to) Social Security and veteran's benefits.
- Rent subsidies from federal, state or local housing programs, such as (but not limited to) the Section 8 voucher program.



A landlord may still use screening criteria to determine whether or not to rent to a prospective tenant but may not use source of income or other protected factors (such as race, religion, disability, and other protected classes) as a basis for choosing a renter.

If a landlord reviews the amount of income as part of the screening process, the landlord may count only the portion of rent the tenant is responsible for paying in determining whether a tenant's income is enough.

### **EXAMPLE**

**Example:** A tenant applies to rent a unit that costs \$1000 per month. The tenant has a Section 8 Voucher that will cover up to \$600 of the rent. The landlord requires all tenants to have a monthly income that is two times the rent amount. Before the new ordinance, the tenant's income would have to be \$2000 to qualify for the apartment. Now, the landlord must subtract the voucher amount (\$600) from the total rent (\$1000) before calculating whether the tenant's income is enough. So, after subtracting the voucher amount, the tenant's portion of the rent is \$400, and  $2 \times$  the tenant's portion of rent = \$800. In this example, the tenant's monthly income now only needs to be \$800 to qualify.

Landlords may not publish or print any statement or other advertisement that suggests any preference based on source of income.

**Please note** that House Bill 2578, passed by the Washington State legislature in March 2018, also prohibits landlords from engaging in source of income discrimination. House Bill 2578, which takes effect September 30, 2018, has some provisions which differ from Bellingham's ordinance. Additional information will be available once the Washington State Department of Commerce issues guidance regarding this new law.



## Applicability



These laws do not apply to renting a portion of a dwelling unit when the owner maintains permanent residence in the unit or to the subletting of a portion of the unit by a primary tenant to subtenant when the primary tenant maintains a permanent residence in the unit.



These laws apply to all other residential rental agreements entered after **March 12 2018** and **to all existing residential rental agreements that are renewed after March 12, 2018**. Landlords should include these provisions in each rental agreement.

With respect to the source of income discrimination provisions, for voucher programs that require an inspection, a landlord is not required to wait more than 10 business days after the unit is ready for inspection. This assumes that the landlord has provided notice to the subsidy provider that the unit is ready for inspection. Additionally, the prohibition does not apply to the use of a Section 8 voucher if the unit does not qualify for the program based on public housing guidelines.



The 60-day notice provision does not prevent landlords from issuing other notices to terminate a tenancy for cause. For example:

- 3-day notice to pay rent or vacate
- 3-day notice to vacate for waste or nuisance
- 10-day notice to comply with a rental agreement or vacate

## Disputes

Tenants who wish to seek legal assistance to find out whether the property owner has followed these ordinances may call the **Northwest Justice Project** (CLEAR) at 1-888-201-1014 or visit the Law Advocates Tenant Clinic. Look online at [www.lawadvocates.org/tenant-clinic](http://www.lawadvocates.org/tenant-clinic) for the time and location of the Tenant Clinic.



## Resources

### Bellingham Housing Authority

360-527-4618

(for landlords interested in becoming a Housing Choice landlord)

[www.bellinghamhousing.org](http://www.bellinghamhousing.org)

[BellinghamHousing.info@bwcha.org](mailto:BellinghamHousing.info@bwcha.org)

### Whatcom Dispute Resolution Center

360-676-0122

[www.whatcomdrc.org](http://www.whatcomdrc.org)

[wdrc@whatcomdrc.org](mailto:wdrc@whatcomdrc.org)

### Planning & Community Development Department

360-778-8300

[www.cob.org/rentals](http://www.cob.org/rentals)

