

## POLICY NOTE

# Citizens' Guide to Initiative 1, to impose rent control limits and financial penalties in the City of Bellingham

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### Key Findings

1. The title of Initiative 1 presents it as a “rental relocation assistance” measure, but the text indicates it would actually impose a series of rent control penalties.
2. The restrictions include a 90-day freeze on certain rent increases, a rent-control limit of 8% over any 12-month period, and potential legal penalties of about \$7,800 per rental unit.
3. In July the Bellingham City Council rejected the measure and forwarded it to voters on the November ballot.
4. Council members expressed concern about the legality of Initiative 1 and the risk it would create for the city.
5. Studies show rent control measures distort the market, discourage the supply of new rental units and reduce access to affordable housing opportunities.
6. Rent control measures promote injustice by denying people just compensation and using government action to arbitrarily deprive them of income.
7. Bellingham’s regressive taxation policies directly increase the cost of housing, particularly through sales and property taxes that fall hardest on low-income households.
8. Bellingham officials further increase the cost of housing by charging up to \$25,000 to add a single house and charge more for building a new apartment building.

### Introduction

Supporters of Initiative 1 seek to impose a series of rent control limits and financial penalties on the provision of rental housing in the City of Bellingham.

In July 2021, proponents met the minimum requirement of collecting 6,188 signatures to have the measure considered by the Bellingham City Council. On July 12th, the City Council voted against enacting Initiative 1.<sup>1</sup> The Council instead placed the measure on the ballot for the general election on November 2nd.<sup>2</sup>

Having been rejected at the city council level, voters will now decide whether Initiative 1’s rent restrictions and financial penalties should be enacted into law. The Seattle city council recently enacted a similar measure, indicating the issue could soon affect communities across the state.

This Citizens’ Guide provides an overview of the text of Initiative 1, analyzes the effects of local rent control measures on housing affordability, notes official concerns about whether the Initiative is legal, and reviews regressive taxation and other policies that contribute to the rising cost of housing in Bellingham.

### Text of Initiative

The measure’s ballot title misleadingly describes it as “renter relocation assistance” and “renter protections,” while the text of the Initiative itself shows the measure would enact punitive rent control measures into law.

As described in the Initiative text, relocation assistance for renters would not be part of a government housing-assistance program, but instead would be a financial penalty levied on landlords based on changes in monthly rent above an existing price level. Since the “assistance” would not be tax-funded but would be levied against private citizens,

1 “These four Bellingham ballot measures qualify for the November election,” by Robert Mittendorf, *The Bellingham Herald*, July 19, 2021, at <https://www.bellinghamherald.com/news/politics-government/election/local-election/article252650688.html>.

2 “Discussion of an initiative on renter relocation assistance,” Agenda Item 8, City Council Regular Meeting Action Summary, City of Bellingham, July 12, 2021, at [https://meetings.cob.org/Documents/ViewDocument/City\\_Council\\_Regular\\_Meeting\\_2436\\_Summary\\_7\\_12\\_2021\\_7\\_00\\_00\\_PM.pdf?meetingId=2436&documentType=Summary&itemId=undefined&publishId=undefined&isSection=false](https://meetings.cob.org/Documents/ViewDocument/City_Council_Regular_Meeting_2436_Summary_7_12_2021_7_00_00_PM.pdf?meetingId=2436&documentType=Summary&itemId=undefined&publishId=undefined&isSection=false).

it constitutes a civil punishment imposed to control prices in the private rental housing market.

The official ballot title is:

**“Initiative 2021-01 - Expanding Tenants Rights to Include Rental Relocation Assistance**

“City of Bellingham Initiative No. 2021-01 expands tenant rights to include rental relocation assistance. This measure would require landlords to provide written notice 90 days before terminating a rental agreement without cause or increasing rent by more than 5% in a rolling 12-month period; require landlords to pay rental relocation assistance equal to three months of the current fair market rent in the Bellingham area when terminating a rental agreement without cause or increasing rent more than 8%, if requested by tenant, with limited exceptions; and authorize private party civil enforcement actions. Should this measure be enacted into law?”<sup>3</sup>

If passed, Proposition 1 would enact the following rent control measures.<sup>4</sup>

- Impose a rent-control freeze of 90 days before any change in rent greater than 5% could take effect.
- Impose a rent-control limit of 8% in any 12-month period. The penalty for exceeding the rent control amount would be a re-location payment equal to three times the average monthly rent for the Bellingham area. The average monthly rent in Bellingham is about \$1,300, so the financial penalty imposed by Initiative 1 would be around \$3,900 per rental unit.<sup>5</sup>
- Impose new financial liabilities and legal exposure for people who provide private rental housing. Legal financial penalties include double the amount of the initial re-location penalty, or about \$7,800, plus any legal fees, attorney payments and other costs added by a court.

The Initiative text provides a number of exemptions. The rent control provisions would not apply to week-to-week rentals, tenants who live with the property owner, either in the same unit or in the second unit of a duplex occupied by the owner, tenants who live in an accessory rental unit at the owner’s home, a tenant who rents the owner’s principal home for less than three years, or a tenant who rents an owner’s home who is away on active duty military service.

The Initiative’s restrictions would also not apply to a rental unit that will be converted to another purpose within six months, provided the tenant has received advance notice before moving in.

3 Ballot title, Initiative 2021-01, Auditor’s Office, Whatcom County, at <https://www.whatcomcounty.us/DocumentCenter/View/59546/110221-Sample-Ballot>.

4 “An ordinance of the City of Bellingham, Washington regarding the adoption of a renter relocation assistance mandate in landlord-tenant relations,” City of Bellingham Initiative No. 2021-01, July 2021.

5 “What is the average rent in Bellingham, WA?” Apartments available, Bellingham, Washington, Apartments.com, accessed September 16, 2021, at <https://www.apartments.com/bellingham-wa/?bb=zlgm46x04Qmth5vyM>.

## **Policy Analysis – the harmful impact of rent control penalties**

Supporters of rent control penalties, like those proposed in Initiative 1, say they are concerned about and want to expand “tenant rights.” The true impact is to distort the housing market and make opportunities for affordable housing less available in Bellingham.

Rent control measures create “apartment lock” – people are reluctant to move, fearing they will lose the perceived benefit the law provides. That means normal market turn-over is blocked, and young apartment-seekers have fewer choices, and have to move farther out or pay higher rents. Cities with rent control have experienced low turnover, reducing options for people who need housing.

Rent-control reduces access to new affordable housing. When government imposes penalties and controls, the supply of new housing is restricted. Studies show that in New York City, developers shifted from constructing apartments to building hotels, and even converted existing apartments to vacation rentals or condos, as they sought a market that was not subject to rent controls.<sup>6</sup>

Many rental operations are small, often only a single house, a duplex, or a building with a few units. In these cases, small property owners may find they cannot profitably provide rental units at all, and instead sell the property for development or other commercial purposes. The result is that increased penalties and government controls further reduce the supply of housing available in the community.

### **Concerns that Initiative 1 promotes injustice and is illegal**

In considering the provisions of Initiative 1, some city officials raised questions about their legality. News reports of council deliberations indicate, “City Council members and the city’s legal staff think that the measures won’t survive a court challenge if voters approve them,” and that it is “doomed to fail in court, even if they succeed at the ballot box.”<sup>7</sup>

Two council members expressed specific doubts about the legality of the ballot measure and the cost to the city of defending it in court.<sup>8</sup> Property owners would certainly have a cause of action based on whether the government has the authority to violate people’s basic right to provide a lawful service to the public and set a price for it.

There is also the legal principle that people have a right to receive just compensation for their work, particularly in the vital area of providing essential housing to the community. In this sense, Initiative 1 promotes injustice by using government action to arbitrarily deprive them of income.

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6 “Rent control’s self-defeating effects, New York’s expanded version of the policy is already depressing the city’s housing market,” by Steve Malanga, *City Journal*, November 5, 2019, at <https://www.city-journal.org/self-defeating-effects-of-ny-rent-regulation>.

7 “These four Bellingham ballot measures qualify for the November election,” by Robert Mittendorf, *The Bellingham Herald*, July 19, 2021, at <https://www.bellinghamherald.com/news/politics-government/election/local-election/article252650688.html>.

8 Ibid.

## City policies that drive up the cost of housing in Bellingham

Backers of Initiative 1 say their goal is to control the cost of housing, yet one of the main drivers of rising housing costs in Bellingham is the increase in regressive taxation imposed each year by city officials.

Over the last several years the amount of revenue taken by the City through property taxes has steadily increased, rising over ten years from \$16 million to over \$23 million.<sup>9</sup> The revenue taken by the City in local sale tax has also increased over the same period.

The increase in regressive taxation falls hardest on those least able to pay and directly reduces the amount of household income available to meet essential daily expenses, including housing. City taxes also directly contribute to the rise in housing costs, because the financial burden of these taxes must be included in monthly rent and in the cost of creating new housing.

Low-income households bear the brunt of the City's regressive property and sales tax system. Cutting the city sales tax would reduce the cost of living for all residents, while low-income families, the elderly living on fixed incomes and working families would benefit the most. Lowering the property tax burden would directly reduce the cost of housing in Bellingham, without incurring the legal problems that come with imposing rent control penalties.

Another way officials can directly lower the cost of housing is to streamline the building and re-modeling permit process. Currently, city officials charge up to \$25,000 for a building permit to add a new house, and much higher amounts to add multi-family housing.<sup>10</sup> By reducing the permit fees they charge, Bellingham officials would directly lower the cost of housing throughout the community.

## Conclusion

While supporters of Initiative 1 describe it as “rental relocation assistance” and “expanding tenant rights,” review of the text indicates the measure would impose rent-control penalties and would hurt tenants by reducing the supply of rental housing in the community.

In addition, some Bellingham elected officials have raised doubts about the legal risk the measure would create for the city.

Bellingham's regressive tax policies contribute to the rising cost of housing, particularly the sales tax, which falls hardest on low-income households, and the property tax, which directly increases the cost of rent. City officials impose property taxes and permitting fees that directly increase the cost of housing. Initiative 1 would do nothing to reduce these direct government costs.

<sup>9</sup> Property tax levy total – 10 year history,” Adopted Annual Budget, 2021-22, City of Bellingham, at <https://cob.org/wp-content/uploads/2021-2022-Adopted-Biennial-Budget.pdf>.

<sup>10</sup> “Review Timelines for Building Permits, Triplex, Multi-Family, Mixed Use,” Permit Center, City of Bellingham, accessed September 16, 2021, at <https://cob.org/wp-content/uploads/179-review-timelines.pdf>. “Building Permit Fees,” Permit Center, City of Bellingham, accessed September 16, 2021, at <https://cob.org/wp-content/uploads/064-permit-fee-worksheet.pdf?ver=1>.



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The experience of other cities indicates rent control policies, like those proposed in Initiative 1, lead to fewer choices for renters, less housing supply and unjust restrictions on earning fair compensation. Studies show the cost of rent control does not fall primarily on property owners, but on young workers and families in the community who need more housing choices.

*WPC Doug and Janet True Research Intern Divya Dhami contributed to the research reported in this study.*

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