



Tenant Screening Overview and Sample Policies

Background

Tenant screening policies can include consideration of an applicant's criminal history, credit history, eviction history, employment history, and income, among other factors. Olympia City Council is interested in exploring policies that make housing more accessible for people who are low-income, formerly incarcerated individuals, members of protected classes (such as people of color, people who were born outside the U.S., and people with disabilities), in accordance with [Olympia's Housing Action Plan](#) and Thurston County's [Assessment of Fair Housing](#).

Sample policies are included in this document from other cities in Washington State and nationwide. Many of the sample policies included do not completely prohibit a landlord from screening an applicant's criminal, credit, or eviction histories, but rather provide guidance as to what information may be included in tenant screening. Best practices include completing an individual assessment, rather than relying on blanket policies that exclude applicants. Many policies allow the applicant to provide alternative information to help demonstrate ability to pay rent, establish identity, etc.

Criminal History

Criminal history screening can create barriers for people of color who have higher rates of being arrested, convicted and incarcerated than white individuals due to disparities in the criminal justice system. [HUD issued guidance in 2016](#) that directs housing providers to avoid using blanket criminal history policies (such as 'no felonies') and to instead complete an individualized assessment of applicants. HUD states that housing providers who have overly restrictive criminal history screening policies may be in violation of the Fair Housing Act, which prohibits discrimination in housing based on protected classes such as race and national origin. Many other cities have defined how and when criminal history may be used to screen tenants.

Refer to sample policies from Tacoma, Seattle, Minneapolis, and New Jersey provided in this document.

Credit History

Credit scores do not reflect on-time rent payments and may not accurately reflect a tenant's ability to make timely rental payments. Many studies indicate that credit scoring systems have disproportionate impacts on communities of color. Immigrants and refugees may have little to no established credit history. Several other U.S. cities have addressed the use of credit history in tenant screening. In Minneapolis, landlords cannot screen tenants based on credit score, but can consider information in a credit report, if relevant to their ability to pay rent, and cannot screen out tenants if they have insufficient credit history. In Philadelphia, landlords cannot have a blanket exclusion policy based solely on the tenant's credit score or screening score.

Refer to sample policies from Minneapolis and Philadelphia provided in this document.

Use of Social Security Numbers

Requirements that applicants provide a Social Security Number can create barriers to immigrants and refugees. The Washington State Law Against Discrimination protects people from housing discrimination based on their citizenship or immigration status. Alternative forms of identification can be provided

instead of a Social Security Number. Fair housing organizations in Washington have provided [guidance](#) on this issue and [alternative forms of identification](#) that can be provided to establish identity. Tacoma prohibits landlord from requiring a Social Security Number as the only way to conduct screening and requires landlords to accept alternate proof to establish eligibility.

Refer to sample policy from Tacoma provided in this document

Income to Rent Ratios

Many landlords require an applicant to make three or more times the rent, and some require each household member to demonstrate they earn three or more times the rent (rather than the combined income of the household). Many low-income and fixed-income individuals, such as seniors and people with disabilities, struggle to meet these requirements. Tacoma prohibits landlords from requiring an applicant's income to be more than 2.5 times the rent (if the unit rent is above HUD Fair Market Rent) and 3 times the rent (if the unit rent is under HUD Fair Market Rent). In Minneapolis, if a landlord requires an income equal to 3 times the rent or higher, the landlord must allow an exception where the applicant can demonstrate a history of successful rent payment with an income less than 3 times the rent.

Refer to sample policies from Tacoma and Minneapolis provided in this document

Eviction History

Eviction history may not accurately represent what occurred in a tenant's history without further context. In Washington, once an eviction is filed it frequently shows up on a tenant screening report (even if it was filed in error, there was a resolution, etc). In Philadelphia and Minneapolis, landlords are prohibited from considering evictions prior to a certain timeframe, evictions that were dismissed or resolved, and several other specific circumstances. Minneapolis prohibits landlords from rejecting applicants based on insufficient rental history.

Refer to sample policies from Minneapolis and Philadelphia provided in this document

Related reports

Salt in the Wound: How Eviction Records and Back Rent Haunt Tenant Screening Reports and Credit Scores: https://www.nclc.org/wp-content/uploads/2022/09/IB_Salt_in_the_Wound.pdf

Past Imperfect: How Credit Scores "Bake In" and Perpetuate Past Discrimination: https://www.nclc.org/wp-content/uploads/2016/05/20240227_Issue-Brief_Past-Imperfect.pdf

Unequal Access to Credit: The Hidden Impact of Credit Constraints: <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/constraints-on-access-to-credit.pdf>

Background Checks and Social Effects: Contemporary Residential Background Checks and Social Effects: Contemporary Residential Tenant-Screening Problems in Washington State Tenant-Screening Problems in Washington State:

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1086&context=sjsi>

Sample Tenant Screening Policies

Sample policies from Tacoma, Seattle, New Jersey, Minneapolis, and Philadelphia have been included in this document for reference. This is not an inclusive or exhaustive list of other cities or states that have addressed tenant screening but provides a good sample of policies to address each topic.

The table below shows which policies are addressed by each jurisdiction.

Jurisdiction	Criminal History	Credit History	Social Security Numbers	Income to rent ratio	Eviction History
Tacoma	X		X	X	
Seattle	X				
New Jersey	X				
Minneapolis	X	X		X	X
Philadelphia		X			X

Tacoma Municipal Code Summary

Landlords cannot:

1. Exceed maximum income-to-rent ratios (of either 2.5 times the monthly rent or 3 times the monthly rent depending on whether the rent is above or below HUD Fair Market Rent.)
 - A landlord may require the financially responsible applicant to demonstrate a monthly gross income of up to three (3) times the amount of the monthly rent for the unit when the monthly rent amount is below Fair Market Rent.
 - A landlord may require a financially responsible applicant to demonstrate a monthly gross income of up to 2.5 times the amount of the rent for the dwelling unit when the monthly rent amount is at or above the Fair Market Rent.
2. Place blanket bans on prospective tenants with felony or drug convictions, and arrest records.
3. Require a Social Security Number as the only way to conduct screening. (*Note: Alternative proof to establish eligibility must be accepted.*)

[Tacoma Municipal Code, 1.95.035 Tenant Screening](#) (Effective July 23, 2023) – Full text included below

A. A landlord may screen potential tenants and additional occupants of the rental unit based upon their own screening practice. A landlord must comply with the requirements of RCW 59.18.257 and not have any discriminatory policies used in screening for tenancy. This section strives to prevent screening policies that can be deemed to be discriminatory or lead to homelessness.

B. Social Security Number Requirement.

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

2. Nothing in this section shall prohibit a landlord from either: (i) complying with any legal obligation under federal law, or (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 landlord 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. If a person is offering alternative means, the landlord must offer the same rental agreement terms to the applicant as if a social security number was provided.

3. Criminal History.

a. No landlord shall have a blanket ban on renting to anyone who has a previous felony conviction or arrest record. Instead, they must conduct an individual assessment of a tenant's criminal history such as the type and severity of the offense and how long ago the offense occurred.

b. Landlords can deny tenancy for criminal history based on a pending charge or conviction of any of the following:

- (1) Sex Offenses under RCW 9A.44 Tacoma Municipal Code
- (2) Violent offense under RCW 9.94A.030, against landlord, employees, or other tenants
- (3) Arson under RCW 9A.48
- (4) Manufacturing, sale, or distribution of controlled substance under RCW 69.50, or Use of Buildings for Unlawful Drugs under RCW 69.53.

c. Landlords cannot deny tenancy for criminal history solely based on:

- (1) An arrest that did not result in conviction, except as provided under subsection b above.
- (2) Participation in or completion of a diversion or deferral of judgment program.
- (3) A conviction that has been judicially dismissed, expunged, voided, or invalidated.
- (4) A conviction for a crime that is no longer illegal in the State of Washington.
- (5) A conviction or any other determination or adjudication issued through the juvenile justice system.
- (6) A criminal conviction for misdemeanor offenses for which the dates of sentencing are older than 3 years from the date of the application, excluding court-mandated prohibitions that are present at the property for which the applicant has applied; or
- (7) A criminal conviction for a felony offense for which the dates of sentencing are older than 7 years from the date of the application, excluding court-mandated prohibitions that are present at the property for which the applicant has applied.

C. Financial Responsibility of Applicant.

When there are multiple tenants who will reside in common within a dwelling unit, the tenants may choose which adults will be the applicants financially responsible for the dwelling unit and which will be tenants with no financial responsibility and considered just an occupant of the dwelling.

1. A landlord may require the financially responsible applicant to demonstrate a monthly gross income of up to three (3) times the amount of the monthly rent for the dwelling unit when the monthly rent amount is below Fair Market Rents as published by the U.S. Department of Housing and Urban Development (“HUD”).
2. A landlord may require a financially responsible applicant to demonstrate a monthly gross income of up to 2.5 times the amount of the rent for the dwelling unit when the monthly rent amount is at or above the Fair Market Rents as published annually by HUD.
3. For the purpose of this subsection, a landlord’s evaluation of an applicant’s income to rent ratio must:
 - a. Include all income sources of a financially responsible applicant, including, but not limited to, wages, rent assistance (non-governmental only), and monetary public benefits. The landlord may also choose to consider verifiable friend or family assistance.
 - b. Calculate the income to rent ratio based on a rental amount that is reduced by the amount of any local, state, or federal government rent voucher or housing subsidy available to the applicant;
 - c. Be based on the cumulative financial resources of all financially responsible applicants for the dwelling unit.
 - d. If an applicant does not meet the minimum income ratios as described herein, a landlord may require additional and documented security from a guarantor, or an additional security deposit. The landlord shall communicate this conditional approval to the applicant in writing and indicate the amount of the additional security. Applicant will have no less than 48 hours after the communication of conditional approval to accept or decline this opportunity.
 - e. If a landlord chooses to require additional documented security from a guarantor, the landlord may require the guarantor to demonstrate financial capacity. If the guarantor is a friend or family member, the landlord cannot require the guarantor to have income greater than 3 times the rent amount. The landlord may not require an applicant’s guarantor agreement to exceed the term of the tenant’s rental agreement.
4. Evaluating adult tenants who are not financially responsible. A landlord may screen an adult tenant who will reside with an applicant in a dwelling unit but who is not responsible for paying the rent, only for factors related to maintaining the property, and for conduct consistent with the health, safety or peaceful enjoyment of the premises by other residents or the landlord and to evaluate prospective occupants’ ability to comply with the landlord’s rules of residency. A landlord may not screen an occupant for financial responsibility.

Seattle Municipal Code Summary

Applicants cannot be denied housing based on criminal history unless the landlord has a legitimate business reason to do so. It also bans the use of advertising such as "no felons" that automatically excludes people with arrest records, conviction records, or criminal history.

A "legitimate business reason" exists when the policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and resident safety and/or protecting property, in light of the following factors:

- A. The nature and severity of the conviction;
- B. The number and types of convictions;
- C. The time that has elapsed since the date of conviction;
- D. Age of the individual at the time of conviction;
- E. Evidence of good tenant history before and/or after the conviction occurred; and
- F. Any supplemental information related to the individual's rehabilitation, good conduct, and additional facts or explanations provided by the individual, if the individual chooses to do so. For the purposes of this definition, review of conviction information is limited to those convictions included in registry information.

Seattle Municipal Code 14.09 (Effective February 19, 2018)

Full Text link:

https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_CH14.09USSCREH
[O](#)

New Jersey Fair Chance in Housing Act Summary

Under the FCHA, it is always unlawful for a housing provider to consider any of the following records:

1. Arrests or charges that did not result in a criminal conviction
2. Expunged convictions
3. Convictions erased through executive pardon
4. Vacated and otherwise legally nullified convictions
5. Juvenile adjudications of delinquency
6. Sealed records

Advertising/Initial Application/Conditional Offer: If a housing provider chooses to consider criminal history, it must make a conditional offer of housing before doing so.

That means a housing provider cannot ask an applicant if they have a criminal history on their initial application materials, in an interview, or in any other way before making a conditional offer, and cannot advertise that it will refuse to consider applicants with criminal histories, with two limited exceptions:

1. a conviction for the manufacture or production of methamphetamine on the premises of federally assisted housing, or
2. a conviction that requires the applicant to register as a sex offender for life

In addition, if a housing provider chooses to consider an applicant's criminal history, it must then provide the applicant with a Notice of Disclosure stating that criminal history will be considered and that the applicant has a right to provide evidence of mitigating factors, including inaccuracies in their criminal record and evidence of rehabilitation.

After a conditional offer, a housing provider may only consider:

1. Any conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault, or endangering the welfare of a child in violation of N.J.S.2C:24-4(b)(3);
2. Any conviction that requires lifetime state sex offender registration;
3. Any conviction for a 1st degree indictable offense, or release from prison for that offense, within the past 6 years;
4. Any conviction for a 2nd or 3rd degree indictable offense, or release from prison for that offense, within the past 4 years;
5. Any conviction for a 4th degree indictable offense, or release from prison for that offense, within the past 1 year.

Individualized Assessment. After a housing provider reviews the above permissible convictions, it must conduct an individualized assessment of the:

1. Nature and severity of the offense(s);
2. Applicant's age at the time of the offense(s);
3. How recently the offense(s) occurred;
4. Any information the applicant provided in their favor since the offense(s);
5. If the offense(s) happened again in the future, whether that would impact the safety of other tenants or property; and
6. Whether the offense(s) happened on, or was connected to, property that the applicant had rented or leased

Optional Withdrawal of Conditional Offer. If a housing provider decides to withdraw a conditional offer, it must provide an applicant with a Notice of Withdrawal that explains the specific reasons for the withdrawal, and notifies the applicant of their right to appeal the decision.

After receiving the above, the applicant has 30 days to request all of the information a housing provider relied upon. The housing provider must provide the requested information for free within 10 days of the request.

The applicant can appeal the withdrawal by submitting evidence of inaccuracies in their criminal record or evidence of rehabilitation. A housing provider must consider the information and provide a new determination within 30 days.

New Jersey Fair Chance in Housing Act (Effective January 3, 2022)

Full text link: <https://www.njoag.gov/wp-content/uploads/2022/02/Fair-Chance-in-Housing-Act-Regulations.pdf>

Minneapolis City Charter Summary

There are two options for screening renters. Owners can use the inclusive screening criteria in the ordinance or do an individual assessment. Even if a rental property owner doesn't charge an application fee, they have to use one of these options.

Inclusive screening criteria

Under this option, standards can't be stricter than the standards in the ordinance, but they may be less restrictive. The inclusive guidelines cover criminal, rental, and credit history.

- Criminal history
 - Cannot consider misdemeanors with dates of sentencing older than three years
 - Cannot consider felonies with dates of sentencing older than seven years
 - Cannot consider convictions for certain felonies with dates of sentencing older than 10 years, including: first-degree murder, second-degree murder, third-degree murder, first-degree manslaughter, kidnapping, first-degree criminal sexual conduct, first degree assault, first degree arson and first degree aggravated robbery
- Rental history
 - Cannot consider evictions where judgment was entered three or more years from date of application
 - Cannot consider settlements entered one or more years before applicant submits application
 - Cannot consider dismissed evictions or evictions resulting in judgment for the applicant
 - Cannot screen out for insufficient rental history
 - If a landlord requires an income equal to three times the rent or higher, the landlord must allow an exception where the applicant can demonstrate a history of successful rent payment with an income less than three times the rent
- Credit history
 - Cannot screen based on credit score, but can consider information in a credit report if relevant to ability to pay rent
 - Cannot screen out for insufficient credit history

Individual assessment option

If a property owner wants to use criteria stricter than those in the ordinance, they must evaluate applicants using an individual assessment. The property owner must consider all additional evidence provided by the applicant to explain, justify, or negate the relevance of information revealed by screening.

In an individual assessment, a property owner must consider:

- The nature and severity of the incidents that would lead to a denial
- The number and type of the incidents
- The time that has passed since the incidents occurred
- The age of the individual at the time the incidents occurred

Exceptions

A property owner may screen out any applicant in these situations:

- Applicants convicted of drug offenses as defined in [Section 102 of the federal Controlled Substances Act](#)
- Applicants convicted of offenses that would exclude them from federally assisted housing, including but not limited to when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program

Minneapolis City Charter 244.2030 (Effective June 1, 2020)

Full Text link:

https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodemd=COOR_TIT12HO_CH_244MACO_ARTXVIREDWLI_244.2030APSCCRPRTE

Philadelphia Renters Access Act Summary

Landlords cannot have a blanket exclusion policy against people with eviction records and cannot have a blanket exclusion policy based solely on a credit score or tenant screening score.

Tenants can be screened for:

- Rental history
 - Rental references
 - Evictions occurring within last 4 years
- Relevant credit history
- Other screening criteria
 - Income
 - Relevant criminal history
 - ID verifications
 - Other non-prohibited criteria selected by the landlord

Tenants cannot be screened for:

- Rental history
 - Evictions occurring four or more years prior
 - Eviction records that:
 - Did not end in judgment for the landlord
 - Have been sealed
 - Have been withdrawn or marked satisfied or settled, discontinued and ended
 - Were filed during the COVID-19 emergency period
 - Have a judgement by agreement in place or have been resolved

Process:

1. Before accepting an application or application fee for rental housing, landlords must provide the applicant with the written or electronic uniform screening criteria.
2. The Uniform Screening Criteria should not include any of the prohibited screening criteria established in Section 9-810.
3. If a landlord rejects an application, within three business days of the rejection, they must provide a written or electronic statement of reasons for the rejection and include copies of any third-party reports the landlord relied on.
4. After receiving notice of rejection, a rejected tenant has 48 hours to notify the landlord of their intent to dispute or request reconsideration of the denial, and seven business days to provide evidence of:
 - (1) incorrect, inaccurately attributed, or prohibited information, or
 - (2) mitigating circumstances related to the grounds for denial.
5. If a rejected applicant disputes information or seeks reconsideration, and provides information that demonstrates their ability to satisfy the requirements of tenancy, the landlord must offer to the rejected applicant the landlord's next available dwelling unit of comparable size and rental price if the landlord owns five or more rental units in the City of Philadelphia.

Philadelphia Renters Access Act (Effective October 13, 2021)

Full Text links: [Sections 9-1108](#) and [Section 9-810](#)