



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., single parents, 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. Note that this is not a comprehensive inventory of similar policies, but rather a sample of relevant policies to provide a range of examples. 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.

In April 2024, the U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity released *Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing*. General guidance includes:

- Choose only relevant screening criteria to determine if the applicant will comply with their tenancy obligations
- Use only accurate records
- Follow the applicable screening policy
- Be transparent with applicants about screening policies and criteria
- Allow applicants to challenge negative information
- Design and test complex models for Fair Housing compliance (such as use of AI)

The HUD guidance also provides more specific recommendations for use of credit history, eviction history, and criminal history, which is included in relevant sections below. HUD warns that overly broad or restrictive screening policies may violate fair housing laws because they have a discriminatory effect on protected classes.

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 provides data that highlights these disparities, such as "in 2014, African Americans comprised approximately 36 percent of the total prison population in the United States, but only about 12 percent of the country's total population." HUD states that housing providers who have overly restrictive criminal history screening policies may be in violation of the Fair Housing Act.

According to HUD’s guidance, screening of criminal records should take into account factors such as the nature, severity, and when the offense occurred. Housing providers should also not implement overly broad criminal records screening which includes arrests that did not result in convictions or that do not provide applicants an opportunity to provide evidence of rehabilitation or other mitigating factors. When considering the criminal record of a person with a disability, a reasonable accommodation may be required. This can include making exceptions to admissions policies and disregarding certain criminal records.

Many other cities have defined how and when criminal history may be used to screen tenants, and most prohibit “blanket bans” on criminal history—directing landlords to conduct individualized assessments.

These policies may also prevent homelessness and recidivism. The 2018 report *‘Nowhere to Go: Homelessness among formerly incarcerated people’* indicates that formerly incarcerated people are almost 10 times more likely to be homeless than the general public. A 2018 study, *‘The Prison to Homelessness Pipeline: Criminal Record Checks, Race, and Disparate Impact’* estimates that people with unstable housing were up to seven times more likely to re-offend.

Refer to sample policies from Tacoma, Seattle, Minneapolis, New Jersey, Cook County, Ann Arbor, and Portland provided in this document.

Credit History

In the 2023 Assessment of Fair Housing, Thurston County advocates identified credit history as a barrier to housing access. Immigrants and refugees may have little to no established credit history and are frequently paid in cash. Survivors of domestic violence may have been subject to financial abuse (intentional damage to credit, were not able to have their own credit card, etc).

Credit scores do not reflect on-time rent payments and may not accurately reflect a tenant’s ability to make timely rental payments. HUD’s *Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing* notes: ‘HUD is unaware of any studies showing that credit reports and scores accurately predict a successful tenancy, and as mentioned above they were not designed for this purpose. Many households prioritize paying the rent over other debts during times of financial hardship, yet their choice to do so — which should indicate they will continue to prioritize paying rent — is generally not considered in their favor in the credit history analysis.’

Many studies indicate that credit scoring systems have disproportionate impacts on communities of color. According to a report by the Consumer Financial Protection Bureau, Black and Brown individuals are more likely to have inaccurate credit reports or have had experiences that led to low or no credit scores. According to the report ‘Explaining the Black-White Homeownership Gap’ by the Urban Institute, ‘more than 50 percent of white households have a FICO credit score above 700, compared with only 20.6 percent of black households. Thirty-three percent of black households with credit histories have insufficient credit and lack a credit score, while only 17.9 percent of white households have missing credit scores.’

HUD’s guidance advises: ‘Given these significant and recognized limitations of credit scores as a predictor of likelihood to pay rent and given the disparities noted above, overreliance on credit history poses a significant risk of having an unjustified discriminatory effect based on race or other protected characteristics.’ HUD also suggests that housing providers should consider the individual circumstances,

such as a tenant whose rent is guaranteed through a voucher or co-signer, whether their negative credit history is due to a disability, and absence of credit history versus having a negative 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. In Portland, landlords may either do an individualized assessment or utilize a prescribed list of factors related to credit history (such as: can't reject a tenant with a credit score over 500, can't reject for insufficient credit, can't reject for medical or education debt).

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

Rental 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). According to the 2021 study *Inaccuracies in Eviction Records: Implications for Renters and Researchers*, 22% of the eviction records evaluated in a large study contained ambiguous information on how the case was resolved or falsely represented a tenant's eviction history. The 2023 report '*A comprehensive demographic profile of the US evicted population*' indicates that even though fewer than one in five renters are Black, over half of all eviction cases are filed against Black renters and that evictions are filed against adults living with children at more than twice the rate than for adults living without children.

According to HUD's guidance, 'housing providers and tenant screening companies should not deny or recommend the denial of housing to applicants based on eviction proceedings where the tenant prevailed, a settlement was reached, or the matter was dropped. Likewise, most jurisdictions allow for "no fault" evictions, for example, where the housing provider removes their property from the rental market. Models that use eviction records, irrespective of complexity, should be programmed to distinguish between different types of evictions and varied outcomes. An eviction that occurred long ago or under circumstances that are no longer relevant does not bear upon the applicant's future performance as a tenant.' Housing providers should take into account individual circumstances, such as eviction for nonpayment prior to a tenant receiving a housing voucher, or eviction due to an underlying experience of domestic violence.

In Minneapolis, Philadelphia, and Portland, 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. In Minneapolis and Portland, landlords may either do an individualized assessment or utilize a prescribed list of factors related to rental history (such as: insufficient rental history, eviction actions that were dismissed, eviction actions resulting in judgments that are over three years old).

Refer to sample policies from Minneapolis, Philadelphia and Portland 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 and Portland prohibit landlords from requiring a Social Security Number as the only way to conduct screening and require landlords to accept alternate proof to establish eligibility.

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

Refer to guidance from Washington Fair Housing agencies:

[Rental 100 Qs](#)

[Immigration and Citizenship Status](#)

[Refugees-Immigrants-and-Fair-Housing-Related-Issues](#)

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.

City of Olympia is considering an ordinance that prohibits landlords from requiring tenant income to be more than 2.5 times the monthly rent. The ordinance also allows applicants to select a financially responsible tenant or tenants whose income will be screened for the unit. Landlords must consider combined household income of the financially responsible tenants.

Policies from Tacoma, Portland, Colorado and Minneapolis were considered in development of Olympia's proposed ordinance

Related Policy

Seattle, Portland and Eugene have adopted policies to require landlords to choose the first qualified applicant, in the order applications are received. These policies help eliminate bias. Additionally, tenants likely pay fewer application fees, as landlords have less incentive to screen a large pool of applicants to select the most desirable applicant.

Sample Tenant Screening Policies

Sample policies from Tacoma, Seattle, New Jersey, Minneapolis, Philadelphia, Colorado, Cook County, Ann Arbor, and Portland 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 | Rental History |
|------------------|------------------|----------------|-------------------------|----------------------|----------------|
| Tacoma | X | | X | X | |
| Seattle | X | | | | |
| New Jersey | X | | | | |
| Minneapolis, MN | X | X | | X | X |
| Philadelphia, PA | | X | | | X |
| Colorado | X | X | | X | X |
| Cook County, IL | X | | | | |
| Ann Arbor, MI | X | | | | |
| Portland, OR | X | X | X | 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 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

(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

Prohibits landlords from taking adverse action against applicants based on their criminal history. Landlords may screen for the sex offender registry but must have a legitimate business reason to do so and to take adverse action. Single-family dwellings where the owner occupies part of the dwelling, ADUs and DADUs are exempt from this ordinance. Federally assisted housing must comply with parts of the ordinance, but some exceptions apply in compliance with federal law. 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](#)

Enforced by the Seattle Office of Civil Rights

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
- e. 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. Landlords must conduct an individualized assessment of applicants and provide an opportunity for tenants to dispute information or seek reconsideration.

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](#)

Enforced by the Philadelphia Commission on Human Relations or the Fair Housing Commission.

Colorado Rental Application Fairness Act

Colorado has limitations on screening of prospective tenants' income, credit history, rental history, and criminal history.

Income to Rent Ratios

- A landlord cannot require a prospective tenant to earn more than two times the rent.
- If the applicant is renting with a housing voucher, the landlord can only require that the tenant's income is two times more than the portion of rent for which the tenant is responsible.

Credit and Rental History

- Landlords cannot consider rental and credit history from more than 7 years prior to the date of the application.
- If an applicant is renting with a housing voucher, the landlord may not consider or inquire about the tenant's credit score, adverse credit event or lack of credit score, unless required by federal law to consider credit score or lack of credit score.

Criminal History

- Landlords cannot consider arrest records as a part of criminal history screening
- Landlords cannot consider any convictions of a prospective tenant that occurred more than five years before the date of the application, except for:
 - Manufacture, distribution, sale or possession of materials to make methamphetamine and amphetamine
 - Any offense that requires the prospective tenant to register as a sex offender
 - Any offense related to homicide or stalking

Full text link: Colorado Revised Statute Section [38-12-904](#) (Effective August 7, 2023)

Cook County, IL: House Amendment to the Human Rights Ordinance

The Just Housing Amendment:

- 1) prohibits landlords from denying a housing application based on juvenile or adult arrest records; and
- 2) requires landlords considering an individual's covered criminal history to perform an individualized assessment prior to denying any application for housing.

Process:

- 1) Housing providers can not include a question on housing applications that asks whether an applicant has a criminal background and may not perform a background check before prequalifying the applicant based on all other application criteria (such as income, rental history, credit score, pets, etc).
 - a. Disclosures: Before accepting an application fee, the housing provider must disclose the following:
 - i. Tenant Selection Criteria, which describes how an applicant will be evaluated.

- ii. Notice of the applicant's right to dispute inaccuracies relevant to criminal history and to provide evidence of rehabilitation or other mitigating factors related to their criminal background.
 - iii. A copy of Part 700 of CCCHR's Procedural Rules or a link to the CCCHR website, with the address, email address, and phone number of CCCHR.
 - 2) If applicant is prequalified, a background check may be completed.
 - 3) Copy of background check must go to applicant within five business days of obtaining the background check if one was provided.
 - a. Any convictions older than three years may not be used to deny a housing application.
 - b. Applicants may be denied if applicant is a current sex offender required to register under the Sex Offender Registration Act (or similar law in another jurisdiction) or a current child sex offender under residency restriction.
 - 4) The applicant shall have five business days to produce evidence that disputes the accuracy or relevance of information related to any criminal conviction from the last three years.
 - a. Following applicant opportunity to dispute, the landlord shall conduct an individualized assessment to determine whether a criminal conviction within the last three years causes a demonstrable risk to the personal safety or property of others.
 - 5) A landlord must either approve or deny an individual's application within three business days of receipt of information disputing information in the criminal background check.
 - a. Denials must be in writing, provide an explanation as to why and contain a statement informing the applicant of their right to file a complaint with the Commission on Human Rights.

Factors that may be considered in performing the Individualized Assessment include, but are not limited to:

- 1) The nature and severity of the criminal offense and how recently it occurred;
- 2) The nature of the sentencing;
- 3) The number of the applicant's criminal convictions;
- 4) The length of time that has passed since the applicant's most recent conviction;
- 5) The age of the individual at the time the criminal offense occurred;
- 6) Evidence of rehabilitation;
- 7) The individual's history as a tenant before and/or after the conviction;
- 8) Whether the criminal conviction(s) was related to or a product of the applicant's disability; and
- 9) If the applicant is a person with a disability, whether any reasonable accommodation could be provided to ameliorate any purported demonstrable risk.

Full text link: [Board of Commissioners of Cook County - File #: 19-2394](#) (Effective January 1, 2020)

FAQ: [Just Housing Amendment to the Human Rights Ordinance | Cook County](#)

Enforced by the Cook County Commission on Human Rights

The City of Ann Arbor: Fair Chance Access to Housing (Ordinance No. Ord-21-06)

Prevents most housing providers from using an applicant's criminal history in housing decisions.

Housing providers may not:

- Inquire about an applicant's criminal history
- Require an applicant to disclose their criminal history
- Require an applicant to authorize the release of their criminal history

Exemptions:

- Single-family dwellings where the owner or subleasing tenant occupies the dwelling as their principal residence;
- An accessory rental unit or detached accessory rental unit wherein the owner or Individual entitled to possession thereof maintains a permanent residence on the same lot;
- A dwelling unit in a residential property that is divided into a maximum of 3 units, one of which is occupied by the owner as their principal residence;
- Units where the owner has previously occupied the rental unit as their principal residence and has the right to recover possession for their occupancy as a principal residence under a written rental agreement with the current tenants; and
- Tenant-occupied units where an occupying tenant seeks to replace an existing co-tenant, add an additional co-tenant, or sublet the unit, provided that the occupying tenant remains in occupancy.
- Housing providers who are required to conduct criminal background checks by federal or state law.
 - The denial of housing by a housing provider because of a past criminal conviction may be based only on state and federal requirements.
 - An applicant who has qualified to receive federally subsidized housing vouchers has met federal requirements. A subsequent criminal background check on that applicant by a housing provider should therefore not cause the housing provider to deny housing to the applicant.
- Public Housing Authorities.
- Permanent Supportive Housing providers.

Process:

If required by federal or state law to conduct a criminal background check, the housing provider must first:

- Give the applicant a conditional offer to rent,
- Provide advance written notice to the applicant describing the specific federal and/or state requirements the applicant must meet, and

- Request written consent from the applicant or allow the applicant to withdraw the rental application.

If the housing provider withdraws the offer of housing because the applicant's criminal history does not meet federal or state requirements, the housing provider must provide the applicant a written notice that includes:

- The reason(s) for the withdrawal,
- The criminal history report or other information that served as the basis for the withdrawal,
- An opportunity for the applicant to respond, and
- Instructions on how to file a complaint.

Full text link: [21-06](#) (Effective April 18, 2021)

Enforced by the Ann Arbor Human Rights Commission

Portland Municipal Code

72-Hour Notice of Unit Availability:

When advertising to the public, a landlord is required to give 72 hours' notice of unit availability before beginning to accept applications. The notice must specify:

- a) when applications will begin to be accepted (no sooner than 72 hours);
- b) whether or not the unit is accessible; and
- c) the screening fee (if charging a fee), and a description of the screening criteria.

Process applications in order received:

The Open Application Period begins at least 72 hours after the notice of availability is posted. At the start of the Open Application Period, a landlord is required to record the date and time that each completed application is received. A landlord may simultaneously process multiple applications but is required to accept, conditionally accept, or deny in the order received.

Priority for People with Mobility Disabilities for accessible units*:

When, during first 8 hours of the Open Application Period, a landlord receives an application with a household member who self-identifies as Mobility Disabled, the landlord must give priority to such applications, and accept, conditionally accept, or deny these applicants prior to considering other applications. If there are multiple applications with a household member who is Mobility Disabled, this must happen in the order received, but prior to processing completed applications for households without Mobility Disabled members.

*An Accessible Dwelling Units qualifies as a “Type A Unit” pursuant to the Oregon Structural Building Code and ICC A117.1. In general, Type A Units are designed and constructed to provide accessibility for wheelchair users throughout unit.

Social Security Numbers:

A landlord may not reject an application as incomplete because an applicant (or member of the applicant’s household) does not produce a social security number or prove lawful presence in the U.S.

In addition, a landlord may not inquire about the immigration status of the applicant, or any member of an applicant’s household, or require proof of their lawful presence in the U.S.

To verify the name, date of birth, and photo of an applicant, a landlord is required to accept any of the following (or combination thereof):

- Evidence of a Social Security Number (SSN Card)
- Valid Permanent Resident Alien Registration Receipt Card;
- Immigrant Visa;
- Individual Tax Payer Identification Number (ITIN);
- Non-immigrant Visa;
- Any government-issued identification regardless of expiration date; or
- Any non-governmental identification or combination of identifications that would permit a reasonable verification of identity

Criminal, Credit and Rental History:

Landlords may select one of two pathways to screen tenants for their criminal, credit and rental histories: a low barrier option or their choice of screening criteria.

Low-Barrier Screening Criteria

When applying Low-Barrier screening criteria, a landlord agrees not to reject an applicant for the following aspects of their criminal, credit, or rental histories:

Criminal History

A landlord agrees not to reject an applicant for the following aspects of their criminal history:

1. An arrest that did not result in conviction, unless pending on the date of application
2. Participation in, or completion of, a diversion or a 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 Oregon
5. A conviction or any other determination issued through the juvenile justice system

6. A conviction for misdemeanor offenses for which dates of sentencing are older than 3 years from the date of application*

7. A conviction for a felony offense for which dates of sentencing are older than 7 years from the date of application*

If an applicant is being denied for reasons related to their criminal history, a landlord is required to consider any Supplemental Evidence provided by an applicant with their completed application.

Credit History

A landlord agrees not to reject an applicant for the following aspects of their credit history:

1. A credit score of at least 500 or higher
2. Insufficient credit history, unless an applicant in bad faith withholds credit history information that might otherwise form the basis for a denial
3. Negative information provided by a consumer credit reporting agency indicating past-due unpaid obligations in amounts less than \$1,000
4. A balance owed for prior rental property damage in an amount less than \$500
5. A bankruptcy, filed by the applicant, that has been discharged
6. A Chapter 13 Bankruptcy filed by the applicant, and under active repayment
7. Medical or education/vocational training debt

Rental History

A landlord agrees not to reject an applicant for the following aspects of their rental history:

1. An action to recover possession, if action:
 - a) was dismissed or resulted in a general judgment for the applicant before the application was submitted;
 - b) resulted in a general judgment against the applicant, that was entered 3 or more years before date of the application; or
 - c) resulted in a general judgment against the applicant, that was entered fewer than 3 years before the date of application if
 - 1) termination of tenancy [upon which action was based] was without cause, or
 - 2) if judgment against applicant was a default judgment due to failure to appear, and applicant can present credible evidence that they had already vacated the unit at the time the notice was served
 - d) a judgment or court record that was subsequently set aside or sealed pursuant to procedures in state law

2. Any information that a landlord obtains from a verbal or written rental reference check, with the exception of:

- a) defaults in rent;
- b) three or more material violations of a rental agreement within one year prior to the date of application, and that resulted in notices issued to the tenant;
- c) an outstanding balance due to a landlord; or
- d) lease violations that resulted in termination with cause

3. Insufficient rental history, unless applicant in bad faith withholds rental history information

When denying an applicant using Low Barrier screening criteria, a landlord is required to provide a written Notice of Denial, with a statement of the reasons for denial. Within 2 weeks of evaluation, a landlord is required to provide written communication of the determination—acceptance, conditional acceptance, or denial. In the case of conditional acceptance or denial, the basis for the decision must be described.

Landlord Choice Screening Criteria

When a landlord intends to deny an application by using their own choice of screening criteria, the landlord must conduct an individualized assessment to consider the context around negative application components. It is also an opportunity for an applicant to explain why they should be accepted in spite of a disqualifying component of their application. A landlord is required to accept and consider all Supplemental Evidence that an applicant provides (with their completed application) to explain, justify, or negate the relevance of potentially negative information revealed through screening.

When conducting an Individual Assessment, a landlord must consider Supplemental Evidence and:

- 1) The nature and severity of the incidents that would lead to denial;
- 2) The number and type of incidents;
- 3) The time that has elapsed since the date the incidents occurred; and
- 4) The age of the individual at the time the incidents occurred.

When denying an applicant based on the Landlord Choice Screening Criteria, the landlord provides written Notice of Denial to the applicant within two weeks of denial, and includes an explanation of the basis for denial, as well as an explanation of the reasons that the Supplemental Evidence did not adequately compensate for the factors that informed the landlord's decision to reject the application.

Income to rent ratios

When multiple persons will reside in a unit, the applicants may choose which adults will be financially responsible, and which will be tenants with no financial responsibility. An applicant assumes financial responsibility, and can be screened for financial responsibility. A non-applicant tenant assumes no financial responsibility, and cannot be screened for financial responsibility. A non-applicant tenant can be screened for factors related to maintenance and conduct. A landlord may screen adult non-applicant tenants solely for factors related to maintaining property, and for conduct consistent with the health,

safety or peaceful enjoyment of premises by other residents or the landlord, and to evaluate prospective tenants' ability to comply with the landlord's Rules of Residency. While a landlord may not screen non-applicant tenants for financial responsibility, they may require all adult tenants to sign Rules of Residency.

When the monthly rent amount is less than what is considered affordable for households at 80% of the median family income (MFI), a landlord may require a monthly gross income of up to—but not greater than—2.5 times the rent amount.

When the monthly rent amount is more than what is considered affordable for households at 80% of the median family income (MFI), a landlord may require a monthly gross income of up to—but not greater than—2 times the rent amount.

When evaluating an applicant's income-to-rent ratio, a landlord is required to:

- Include all sources of an applicant's income, including—but not limited to—wages, rent assistance (non-governmental only), and monetary public benefits. A landlord may also choose to consider verifiable assistance from friends or family.
- Base calculations on:
 - a) 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; and
 - b) the cumulative financial resources of all applicants (does not include non-applicant tenants).

Full text: [30.01.086 Evaluation of Applicants for Dwelling Units. | Portland.gov](#) (Effective March 1, 2020)

Brochure: [phb-rso-brochure-screening-v8-spreads.pdf](#)

Other Resources

National Consumer Law Center (2020), 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

National Consumer Law Center (2024), 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

National Consumer Law Center (2022), Mission Creep: A Primer on Use of Credit Reports & Scores for Non-Credit Purposes

[Mission Creep: a Primer on Use of Credit Reports & Scores for Non-Credit Purposes](#)

Federal Reserve Bank of New York (2019), 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>

Dunn, Eric and Grabchuk, Marina (2010) "Background Checks and Social Effects: Contemporary Residential Tenant-Screening Problems in Washington State," Seattle Journal for Social Justice: Vol. 9: Iss. 1, Article 13.

<https://digitalcommons.law.seattleu.edu/sjsj/vol9/iss1/13>

Nowhere to Go: Homelessness among formerly incarcerated people:

<https://www.prisonpolicy.org/reports/housing.html>

Who is Evicted in America?

<https://evictionlab.org/who-is-evicted-in-america/>

Nick Graetz, Carl Gershenson, Peter Hepburn, Sonya R. Porter, Danielle H. Sandler, and Matthew Desmond (2023) A comprehensive demographic profile of the US evicted population, PNAS 2023, Vol. 120, No. 41, e2305860120

<https://doi.org/10.1073/pnas.2305860120>

Adam Porton, Ashley Gromis & Matthew Desmond (2021) Inaccuracies in Eviction Records: Implications for Renters and Researchers, Housing Policy Debate, 31:3-5, 377-394, DOI: 10.1080/10511482.2020.1748084

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Valerie Schneider (2018) "The Prison to Homelessness Pipeline: Criminal Record Checks, Race, and Disparate Impact," Indiana Law Journal: Vol. 93: Iss. 2, Article 4.

<https://www.repository.law.indiana.edu/ilj/vol93/iss2/4>

Jung Hyun Choi, Alanna McCargo, Caitlin Young, Michael Neal & Laurie Goodman (2019) "Explaining the Black-White Homeownership Gap"

https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_2.pdf