

ORDINANCE
By Chavez, Chowdhury, Chughtai, and Osman

Amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to Housing: Maintenance Code.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 244.2030 of the above-entitled ordinance be amended to read as follows:

244.2030. – Applicant screening criteria for prospective tenants. (a) *Findings and purpose.* As a home rule charter city, Minneapolis has broad authority through its police powers to enact regulation to further the public health, safety, and general welfare:

(1) The city has adopted policies that identify support for renters and ending racial disparities as priorities, including Minneapolis 2040, the Unified Housing Policy, the Renter-First Policy, and the Strategic and Racial Equity Action Plan.

(2) The persistent low vacancy rate, increases in rent, and stagnant wages for renters have made it difficult for renters to access safe, affordable housing in Minneapolis.

(3) The vacancy rate in Minneapolis has remained below five (5) percent since 2015 and is even lower for apartment units under one thousand dollars (\$1,000.00) in monthly rent.

(4) Since 2000, housing costs for renters have increased by seventeen (17) percent, while renter income has increased by only four (4) percent.

(5) Renters comprise the majority of households in Minneapolis, growing by nearly fourteen thousand (14,000) households (a seventeen (17) percent increase) between 2000 and 2017.

(6) Renters are more likely to be low-income than homeowners and households of color are more likely to rent than white households.

(7) Of the more than eighty-nine thousand (89,000) renter households in Minneapolis, nearly fifty thousand (50,000) earned less than sixty (60) percent of area median income in 2016.

(8) Three (3) out of four (4) low income households (earning less than fifty (50) percent of area median income) in Minneapolis are housing cost-burdened, paying more than thirty (30) percent of their income for rent.

(9) As many as one-third (1/3) of adults in the United States have a criminal history.

(10) Access to housing is one (1) of the key factors to prevent recidivism.

(11) Across the country, African Americans and Hispanics are incarcerated at much higher rates than their share of the population.

(12) As of January 2019, African Americans make up thirty-four and one-half (34.5) percent of the Minnesota prison population, while comprising only six and one-half (6.5) percent of the state's population as a whole (as of 2017).

(13) American Indians make up nine (9) percent of the Minnesota prison population, while comprising only one and one-tenth (1.1) percent of the population as a whole (as of 2017).

(14) The United States Department of Housing and Urban Development issued guidance in April 2016 regarding the Fair Housing Act and the use of criminal history in tenant screening finding that criminal history based restrictions violate the Fair Housing Act if "without justification, their burden falls more often on renters or other housing market participants of one (1) race or national origin over another."

(15) The United States Department of Housing and Urban Development identified individualized assessments as the preferred mechanism for housing providers to fairly screen individuals with criminal history barriers.

(16) Sociological research does not support the idea that a criminal record provides accurate information about the potential for housing success.

(17) Studies demonstrate the risk of a new offense by someone who has committed an offense in the past declines over time.

(18) With an eviction on record, it becomes harder to secure safe, stable housing.

(19) Evictions disproportionately affect the city's lowest income residents in the most racially diverse communities.

(20) About sixty-four million (64,000,000) people in the United States have no credit history or lack sufficient credit history to generate a credit score with the major credit bureaus.

(21) A 2013 Federal Trade Commission Study found that one (1) in five (5) consumers had an error on at least one (1) of their three (3) credit reports.

(22) Numerous studies find that credit scoring systems have disparate impacts on communities of color.

(23) Credit scores by themselves typically are not based upon the applicant's history of rent payment and do not necessarily predict the likelihood of paying rent on a regular and timely basis.

(24) Increasing housing access and promoting housing stability directly furthers the health, safety, and welfare of the city's residents.

(25) The city will continue to monitor and improve this ordinance based on new information, including tenant and property owner experiences, research and market conditions, as it becomes available.

(b) *Screening criteria made available.* Before accepting applications for rental housing, a landlord must make readily available to all applicants the landlord's rental screening criteria in as much detail as is feasible.

(c) *Inclusive screening criteria.* A landlord must either conduct the individualized assessment required by subdivision (d) below, or apply inclusive screening criteria that do not reject an applicant for any of the following reasons:

(1) *Criminal history.*

- a. Any arrest in an inactive case that did not result in conviction;
- b. Participation in or completion of a diversion or a deferral of judgment program, including stays of adjudication and continuances for dismissal or without prosecution;
- c. Any conviction that has been vacated or expunged, or for which the applicant received a stay of imposition of sentencing and complied with the terms of the stay;
- d. Any conviction for a crime that is no longer illegal in the state of Minnesota;
- e. Any conviction or any other determination or adjudication in the juvenile justice system;
- f. Any conviction for misdemeanor offenses for which the dates of sentencing are older than three (3) years;
- g. Any criminal conviction for felony offenses for which the dates of sentencing are older than seven (7) years; however, a landlord may deny an applicant who has been convicted of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) or for those same offenses that mandate denial of tenancy in federally assisted housing subject to federal regulations, 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; or
- h. Any criminal conviction for the following felony offenses for which the dates of sentencing are older than ten (10) years:
 1. First-degree assault (Minnesota Statutes Section 609.221)~~);~~
 2. First-degree arson (Minnesota Statutes Section 609.561)~~);~~
 3. Aggravated robbery (Minnesota Statutes Section 609.245)~~);~~
 4. First-degree murder (Minnesota Statutes Section 609.185)~~);~~
 5. Second-degree murder (Minnesota Statutes Section 609.19)~~);~~
 6. Third-degree murder (Minnesota Statutes Section 609.195)~~);~~
 7. First-degree manslaughter (Minnesota Statutes Section 609.20, subd. 1, 2, and 5)~~);~~
 8. Kidnapping (Minnesota Statutes Section 609.25, subd. 2(2))~~);~~ or
 9. First-degree criminal sexual conduct (Minnesota Statutes Section 609.342, subd. 1(b) and (g)).

(2) *Credit history.*

- a. Credit score by itself, although information within a credit report directly relevant to fitness as a tenant can be relied upon by a landlord; or
- b. Insufficient credit history, unless the applicant in bad faith withholds credit history information that might otherwise form a basis for denial.

(3) *Rental history.*

- a. An eviction action pursuant to Minnesota Statutes Chapter 504B if the action:

- 1. Was dismissed or resulted in a judgment for the applicant before the applicant submits the application;
- 2. Was settled with no judgment or writ of recovery issued that was entered one (1) or more years before the applicant submits the application;
- 3. Resulted in a judgment against the applicant that was entered three (3) or more years before the applicant submits the application; or

- b. Insufficient rental history, unless the applicant in bad faith withholds rental history information that might otherwise form a basis for denial.

- c. If a landlord uses a minimum income test requiring an income equal to three (3) times the rent or higher, the landlord must allow an exception to that test where the applicant can demonstrate a history of successful rent payment with an income less than three (3) times the rent.

(d) *Individualized assessment.* A landlord that applies screening criteria that are more prohibitive than the inclusive screening criteria set forth in subdivision (c) must conduct an individualized assessment for any basis upon which the landlord intends to deny an application. In evaluating an applicant using individualized assessment, a landlord must accept and consider all supplemental evidence provided with a completed application to explain, justify, or negate the relevance of potentially negative information revealed by screening. Supplemental evidence refers to any written information submitted by the applicant in addition to that provided on the landlord's form application that the applicant believes to be relevant to the applicant's predicted performance as a tenant. When evaluating the effect of supplemental evidence on a landlord's decision of acceptance or denial of an applicant, the landlord must also consider:

- (1) The nature and severity of the incidents that would lead to a denial;
- (2) The number and type of the 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.

(e) *Prohibition on immigration status inquiry.* An owner, operator, landlord, or their agent may not:

- (1) Make any inquiry regarding or based on the immigration or citizenship status of an applicant, tenant, occupant, or prospective occupant of a rental dwelling.

(2) Require that any tenant, prospective tenant, occupant, or prospective occupant of the rental dwelling disclose or make any statement, representation, or certification concerning his or her immigration or citizenship status.

(3) Disclose to any person or entity information regarding or relating to the immigration or citizenship status of any applicant, tenant, occupant, or prospective occupant of the rental dwelling unit.

(4) Deny a rental application solely because the applicant provides an individual taxpayer identification number.

(f) Exceptions. This section does not prohibit a person from doing any of the following:

(1) Complying with any legal obligation related to determining immigration status under state or federal law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant, or a subpoena, warrant, or other order issued by a court.

(2) 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.

(g) Retaliation prohibited. An owner, operator, landlord or their agent, may not increase rent, decrease services, alter an existing rental agreement, file a legal action against a tenant or applicant, contact federal or state law enforcement related to a tenant's or applicant's immigration status, or seek to recover possession or threaten any such action in whole or in part in retaliation after a tenant or applicant has:

(1) Reported a code violation, including a violation of this section, to a government agency, elected official, or other government official responsible for the enforcement of a building, housing, health, safety or other code;

(2) Reported a building, housing, health, or safety code violation, or a violation of this chapter, to a community organization or the news media;

(3) Sought the assistance of a community organization or others, including but not limited to a media or news organization, for assistance with a code violation or a violation of this chapter;

(4) Made a request that the owner, operator, landlord, or their agent of a residential building make repairs to the premises as required by this chapter, or remedy a building or health code, other regulation, or uphold portions of the residential rental agreement;

(5) Joined or attempted to join a tenant association or similar organization; or

(6) Testified in any court or administrative proceeding concerning the condition of the premises or exercised any right or remedy provided by law.

(e h) Denials.

(1) Inclusive screening criteria. If a denial is based on the inclusive screening criteria of subdivision (c), a landlord shall notify the applicant in writing within fourteen (14) days of rejecting a rental application and

identify the specific criteria the applicant failed to meet. Before denying an applicant for criminal history, a landlord must consider supplemental evidence provided by the applicant if provided at the time of application submittal.

(2) *Individualized assessment.* After performing an individualized assessment pursuant to subdivision (d), a landlord may deny an applicant if the denial is non-discriminatory in accordance with the Fair Housing Act. A landlord shall notify the applicant within fourteen (14) days of rejecting a rental application and such notification shall include the following:

a. The basis for denial; and

b. The supplemental evidence, if any, that the landlord considered and 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.

The notification shall be in writing and retained by the landlord for a period of two (2) years. A landlord shall provide a copy to the department of regulatory services upon request of the director of regulatory services or the director's designee.

(f) *Exception.* Whenever local, state, or federal funding or loan requirements for tenant screening conflict with any portion of this section 244.2030, the funding or loan requirements will take precedence over only those portions in conflict.

(g) *Enforcement.* In addition to any other remedy available at equity or law, failure to comply with the provisions of this section 244.2030 may result in criminal prosecution, adverse rental license action, and/or administrative fines, restrictions, or penalties as provided in chapter 2 of this Code. A notice of violation, as described in section 244.150, shall not be required in order to establish or enforce a violation of this section. Any tenant aggrieved by a landlord's noncompliance with this section may seek redress in any court of competent jurisdiction to the extent permitted by law.

(h) *Severability.* If any of the parts or provisions of this section or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this section, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable.

~~(i) *Effective date.* This section shall become effective June 1, 2020; except for property owners with fifteen (15) dwelling units or less, for which the effective date shall be December 1, 2020. Prior to the effective date, the city will convene a cross-sector implementation committee to create and execute an implementation plan. The committee will include representatives from legal and tenant advocacy organizations, the multi-housing industry, and city departments. The committee will determine best practices and policies for ordinance implementation, including the creation of relevant screening templates for legal screening options including individualized assessment, and create an outreach and engagement plan.~~