

# THE NEW RULES FOR RENTAL SCREENING & SECURITY DEPOSITS: OWNER'S GUIDE



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# Background



Renters and owners play an important role in creating vibrant and quality communities in Minneapolis. There are over 89,000 households renting their homes. Experts agree that the need for affordable rental housing will continue to grow.

Increasing access to housing can improve a community's health, safety and well-being. Yet many people struggle to find rental units for their households as housing costs rise faster than wages.

Finding a safe, stable place to call home can be especially hard for renters of color and people with low wage jobs. Many people are denied housing because of discrimination or things that happened a long time ago in their criminal history, rental history, or credit history.

Evictions also affect low-income and racially diverse neighborhoods more than others. With an eviction on record, it can be much harder for a family to find housing.

By working together, we can seek to help Minneapolis families overcome barriers to housing. Owners can do their part by making sure their rental screening criteria is fair. They also ensure that renters have a chance to give them information that can help demonstrate how they will be a successful renter. That way, their applications offer an accurate picture of who they are and what they will be like as renters. Read on to learn more about the City's new rules for rental screening and security deposits.



# THE NEW RULES FOR RENTAL SCREENING & SECURITY DEPOSITS

The City of Minneapolis has new rules that aim to increase access to housing in our community. The rental screening rules are known as the applicant screening criteria for prospective tenants ordinance.

## Rental Screening

Under the new rules, you have 2 options for screening rental applications. You can use the City's inclusive screening criteria or do individualized assessments.

You have to follow the new rules even if you do not charge an application fee. You are also required to share your rental screening criteria with renters in writing before they apply for a unit. You can put it with the unit listing, in an email, in the rental application, or on your website. Renters can ask you to use one screening option or the other, but the choice is up to you.

### More Info

### Start Dates

The new rental screening rules start on June 1, 2020 for owners that have 16 or more units\* and on December 1, 2020 for owners that have 15 units or less.

The new security deposit rules start on June 1, 2020 for all owners.

*\*The unit total includes individual units in houses, duplexes, triplexes, and apartment buildings.*

## IMPORTANT

**Get Legal Help.** If you have questions about how to follow the new rules, ask a lawyer or legal expert for help.

## Option 1:

# INCLUSIVE SCREENING CRITERIA

The inclusive screening criteria doesn't allow you to consider certain things in a renter's past when deciding if you will approve their application. These items fall into 3 categories: criminal history, rental history, and credit history.

## Criminal History

A criminal history is a record of a person's past convictions and sentences. Under the inclusive screening criteria, you can't deny someone's rental application because of:

- Any arrest that did not end in conviction. This does not include active cases.
- Being in or finishing a diversion or a deferral of judgment program. This includes stays of adjudication and continuances for dismissal or without prosecution (when a court doesn't place a conviction on someone's record or suspends prosecution if they meet certain conditions).
- Any conviction that was vacated or expunged (removed from someone's record), or if the applicant got a stay of sentencing and followed the terms of the stay.



### Examples

### Misdemeanors

Under the inclusive screening criteria, you can't deny a rental application because of certain misdemeanors in the applicant's past, including gross misdemeanors. Misdemeanors include crimes like:\*

- A first conviction for driving while intoxicated (DWI)
- Reckless driving that does not result in serious injuries
- Assault in the fifth degree
- Trespass
- Disorderly conduct
- Domestic assault
- Simple theft

You also can't deny an application because of citations or petty misdemeanors in an applicant's past, as these are not crimes under Minnesota law.

\*This is a sampling of common misdemeanors. It is not a comprehensive list.

- Any conviction for a crime that is no longer illegal in the state of Minnesota.
- Any conviction or other determination or adjudication (a formal decision) in the juvenile justice system.
- Any conviction for misdemeanor offenses (including gross misdemeanors) if the dates of sentencing are older than 3 years.
- Any criminal conviction for felony offenses if the dates of sentencing are older than 7 years.
- Any criminal conviction for the following felony offenses if the dates of sentencing are older than 10 years:
  - First-degree assault
  - First-degree arson
  - Aggravated robbery
  - First-degree murder
  - Second-degree murder
  - Third-degree murder
  - First-degree manslaughter
  - Kidnapping
  - First-degree criminal sexual conduct



## IMPORTANT

**Dates of Sentencing.** The dates of sentencing—not the dates any incidents occurred—are what matters as you determine which past misdemeanors or felonies you can consider when screening renters.

### Exceptions

You can still deny an application if the renter’s criminal history includes:

- Conviction for the illegal manufacture or distribution of a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- Offenses that make them ineligible for federally assisted housing according to federal regulations, including but not limited to when any household member has to register as a sex offender for life in a state sex offender registration program.

## Rental History

A rental history is a record of a person's past experiences with housing. This includes properties they rented or bought. According to the City's new rules, you can't deny a rental application because of:

- Eviction actions that were dismissed or decided in the applicant's favor before they submitted their application.
- Eviction actions that were settled if they are older than 1 year.
- Any evictions older than 3 years.
- Limited rental history, unless the applicant withholds information on purpose.

## Income

You can still require renters to have a monthly income that is greater than or equal to 3 times the monthly rent to approve their application. But, if you are using the inclusive screening criteria, you have to allow an exception if an applicant can demonstrate a history of successful rent payment with an income that is less than 3 times the rent.

Renters will need to give you supplemental evidence so you can consider an exception. Supplemental evidence, explained below, is written information renters provide in an effort to show that they will be able to pay the rent.

For example, renters may give you a payment ledger of their most recent rental account that shows that they paid their rent on time while earning less than 3 times the monthly rent.

While it is up to you to decide the specific criteria that shows a good rental history, you may want to look for:

- Past monthly rent payments that are similar to what you charge.
- Rent or mortgage payments that are recent, paid on-time and paid in full.
- Whether they shared rental costs, and if so, whether it was with the same people they are applying with for your unit.



## Credit History

A credit history is a record of how a person has repaid some past debts that were based on credit. Under the inclusive screening criteria, you can use information in an applicant's credit history that is relevant to their ability to pay rent to decide whether they will be a successful renter. But, you can't deny rental applications because of:

- Credit score alone
- Limited or lack of credit history





## Option 2:

# INDIVIDUALIZED ASSESSMENT

Any other criteria that you decide to use to screen rental applications instead of the inclusive screening criteria is considered an individualized assessment. You don't have to follow the rules of the inclusive screening criteria if you do an individualized assessment. However, you must consider any supplemental evidence that an applicant shares with their application.

Use best practices to determine your criteria. Talk with lawyers and other industry professionals to get helpful tips and make sure that you aren't violating fair housing laws. Ensure your approach aligns with the intent of the new rules, which aim to create more transparent rental screening processes that reduce barriers to housing for local families. Consider these things as you decide on your criteria:

- **Specific Incidents.** What specific incidents in a renter's past would make you deny their application? What types of incidents, how serious would they have to be, and how many is too many?
- **Time Elapsed.** How long ago did these things happen?
- **Applicant Age.** How old was the applicant when these things happened?
- **Unplanned Events.** Has the applicant had significant life events that they could not have planned for? This could include things like job loss, illness, car accident, death, divorce, or domestic violence.

## IMPORTANT

**Share Your Screening Criteria.** Renters can ask you to use the inclusive screening criteria or do an individualized assessment. You don't have to use the option that they ask for, but you have to share your rental screening criteria with them in writing before they apply.

# SUPPLEMENTAL EVIDENCE

Supplemental evidence is any written information that applicants give you to show that they will be successful renters. It may help strengthen their applications by explaining incidents from their criminal history, rental history, and credit history. It may also highlight their evidence to show that they can follow the lease terms even if there are challenges in their background. Supplemental evidence may give a more accurate picture of the renter than what you might find out with a typical screening.

Renters can give you supplemental evidence with their applications no matter what screening criteria you decide to use. But, it is required and especially important for individualized assessments. This is because if you deny an application, you must clearly explain in writing why the supplemental evidence that the renter gave you wasn't good enough.

## Examples

## Supplemental Evidence

Supplemental evidence may include things like:

- Proof of all sources of income.
- References from employers, rental property owners, and parole or probation officers.
- Papers showing participation in a job training course, renter certification program, or Department of Corrections community re-entry program.
- Evidence of an unplanned life event that may have led to missed payments, such as a serious illness or death.
- A rental resume that outlines personal information, household members, job, previous addresses and housing needs.
- Any other materials, such as letters, emails or certificates, that describe strengths and achievements.

# SECURITY DEPOSITS

High payments at the start of a lease can make it hard for some renters to afford housing. The new rules limit how much you can ask a renter to pay as a security deposit in an effort to address this problem.

If you ask renters for a security deposit and 1 month's rent at the start of a lease, you can't require a security deposit payment that is more than 1 month's rent (see Example 1 below).

If you ask renters for a security deposit and more than 1 month's rent at the start of a lease, you can't require a security deposit payment that is more than half (50%) of 1 month's rent. You also have to give renters the option of paying the security deposit over 3 months (see Example 2 below).

More info:

Start Dates

The new security deposit rules start on June 1, 2020 for all owners.

## Example 1

- **YOUR COSTS AT START OF LEASE:**  
Security deposit + first month's rent
- **NEW RULE:**  
Security deposit has to be less than or equal to 1 month's rent
- **EXAMPLE:**
  - Rent: \$1,000 per month
  - Security deposit: \$1,000
  - Your total costs at start of lease: \$2,000

## Example 2

- **YOUR COSTS AT START OF LEASE:**  
Security deposit + first month's rent + another month's rent
- **NEW RULE:**  
Security deposit has to be less than or equal to half (50%) of 1 month's rent
- **EXAMPLE:**
  - Rent: \$1,000 per month
  - Security deposit: \$500\*
  - First month's rent: \$1,000
  - Last month's rent: \$1,000
  - Renter's total costs at start of lease: \$2,500

*\*Renters can pay the security deposit over 3 months*



## Enforcement

You are responsible for following these rules. If you don't, renters may call 311 to make a formal complaint to the City. If a complaint is filed, someone from the City will contact you and the renter for more information. It is important to keep good records so that if you are contacted, you have the information needed to answer any questions.

The City does not order any corrective action until it finds clear evidence of a violation. But, if they determine that you broke the rules, they may issue a violation order and an administrative citation. They may also file an action against your license.

If they believe you have violated the ordinance, renters may also look for help from renter advocacy organizations.

### IMPORTANT

**Keep Your Records.** You have to keep records of all rental application screenings for 2 years. This includes your written communications with any renters telling them why you denied their applications.

## GETTING READY TO SCREEN APPLICANTS

- **Know your rights and obligations.** Visit the City's website and reach out to trade organizations like Minnesota Multi-Housing Association for more information.
- **Make sure your vendors are following the rules.** If you use rental screening vendors, ask them if they know the new rules. Find out how they've changed their process to follow them.
- **Share your screening criteria.** Let renters know in writing what your criteria are before accepting applications.
- **Explain application denials.** You must tell the applicant the basis for your denial in writing within 14 days. If they gave you supplemental information, you must explain why it wasn't good enough to approve their application.
- **Keep good records.** Hold onto records of application denials for 2 years.
- **Ask for help.** Talk with lawyers and other professionals in the industry to get helpful tips and make sure that you are not violating fair housing laws.



## Flow Chart: Two Options For Screening Renters

RECEIVE APPLICATION

Use Inclusive Screening Criteria

Conduct Individualized Assessment

Use inclusive criteria that doesn't consider certain past misdemeanors or felonies as outlined in the ordinance

**CRIMINAL HISTORY**

Use other criteria related to criminal history and consider any relevant supplemental evidence

Use inclusive criteria that doesn't consider certain past evictions or a limited rental history as outlined in the ordinance

**RENTAL HISTORY**

Use other criteria related to rental history and consider any relevant supplemental evidence

Use inclusive criteria that doesn't consider credit score alone or a limited rental history as outlined in the ordinance

**CREDIT HISTORY**

Use other related to credit history and consider any relevant supplemental evidence

**INCOME**

If you require renters to earn at least 3 times the monthly rent, consider making an exception if asked. Allow the exception if the applicant can show that they have successfully paid past rent.

FINALIZE SCREENING AND RESPOND TO APPLICANT

## A Note for Owners:

This is an instructional booklet created to give high-level guidance to owners. It is not legal advice.



### QUESTIONS?

Call 311 Call 311 or visit us online to learn more:  
[www.minneapolismn.gov/renterprotections](http://www.minneapolismn.gov/renterprotections)

Our website has many resources, including Frequently Asked Questions about the new rules for rental screening and security deposits.

For reasonable accommodations or alternative formats please contact 311 at 612-673-3000. People who are deaf or hard of hearing can use a relay service to call 311 at 612-673-3000. TTY users call 612-263-6850. Para asistencia, llame al 311. Rau kev pab 311. Hadii aad Caawimaad u baahantahay 311.