



Commissioner Chloe Eudaly  
City of Portland

### **FAIR Policy Proposal: FAQ**

**1. Will this proposal force landlords to rent to “dangerous criminals” and make other tenants unsafe?**

**ANSWER:** NO.

State law does not allow us to limit what barriers landlords can screen or deny for. Instead, we are giving landlords 2 options to choose from:

- **Option 1:** Landlords can voluntarily choose to adopt the low-barrier set of criteria outlined in the code. This criteria is based on data that supports a more accurate and equitable assessment of what constitutes “risk” in an applicant’s history. It allows landlords to screen for all barriers, including criminal history, but puts research-based parameters around what the landlord would agree not to deny housing for, including misdemeanor offenses that occurred longer than 3 years ago and felony offenses that occurred more than 7 years ago. I encourage each of you to review the research we provided to support these criteria.
- **Option 2:** A landlord can set whatever criteria they want if they don’t agree with our low-barrier criteria, but they must adopt the individualized assessment model instead. What that means is that if they intend to deny an applicant for any of their criteria, landlords must allow the applicant to provide evidence that they have mitigated or improved any of the housing barriers (credit, criminal history, etc.) that they are being denied for. **The landlord will still be empowered to make the final decision about if the applicant is right for their property - they just have to provide information to the applicant about why they are being denied and what the specific business interest reason is that the landlord has determined as a basis for denial.** This process is already outlined in federal guidance, supports the Fair Housing Act, and should already be familiar to landlords.

**2. Why is the proposal so complex?**

**ANSWER:** The proposal is complex because these regulations do not exist anywhere else in the country and we need to make sure to balance clarity, accountability, and workability. We have streamlined the proposal as much as possible while also making sure that the requirements were clear, enforceable, and provided both landlords and tenants with enough information to make it work in real life. Because it is so new, we expect it will get adapted and made even more clear, and perhaps simpler, over time.

**3. Where did the criminal history look back periods come from and what do they mean?**

**ANSWER:** The look back periods (3 years for misdemeanors and 7 years for felonies) on the optional low-barrier model are based on recidivism research that shows that after 7 years, the chances someone who has committed a crime committing another crime will drop to the same chances of someone who has never offended. Also, new research demonstrates that people with criminal histories do not have more negative housing outcomes than non-offenders.

*Please see the attached list of research findings.*

**4. Are we setting people up for failure by lowering the income ratio to 2x the rent?**

**ANSWER:** NO.

Research shows that having a stable home is the biggest indicator for future success. We do not want people to have to allocate a high ration of their income to rent, but there are no other choices available right now. According to the Portland Housing Bureau (PHB) State of Housing report, there are currently no neighborhoods in the city deemed affordable for the majority of people of color. People have been pushed out of the city and their neighborhoods of choice because their wages are not keeping up with rent increases. This fact should not force someone to become homeless. Allowing someone the opportunity to keep a roof over their head while making their own choices about what they choose to do with their remaining income empowers people to succeed and decreases the extreme strain forced upon our very limited low-income housing stock.

5. **Can a landlord be held legally liable if a tenant with a criminal history commits a crime against another tenant?**

**ANSWER:** NO.

Landlords can only be held liable if the specific criminal act was foreseeable by the landlord because the result of the crime was within the immediate control of the landlord's duties. For example, if a landlord refuses to fix a broken lock and the home is burglarized. At this time, no court in the country has held **any** landlord liable for renting to a tenant with a criminal record.

6. **Why is there a preference policy for accessible units?**

**ANSWER:** Currently, there is no way for a person who experiences mobility disabilities to identify units that may be able to accommodate their needs. Asking a landlord for significant modifications is often expensive and can be burdensome to a landlord. When we match potential tenants with accessibility needs with units that are accessible, the modification requests can be less expensive and intrusive for both parties.

7. **Why expand identification requirements? What if funding for the units requires government-issued ID?**

**ANSWER:** Government issued ID can often present as a barrier to housing for a variety of Portlanders. When not required by funding or loan laws, there is no reason that many different forms of ID cannot be used to establish a person's identity. Local screening companies have told us that the only documents needed to do accurate criminal and eviction history screenings are those that show the person's face, and documents that establish their date of birth. The policy includes exemptions for regulated affordable housing providers who are mandated to follow other funding or loan requirements.

8. **Will screening fees increase?**

**ANSWER:** MAYBE, but the number of fees paid will decrease. The National Association of Professional Background Screeners has said they will likely have to increase their standard fees by approximately \$20 ONLY for landlords who adopt the individualized assessment model. The average Portland applicant pays for approximately 4 screening fees. Our policy is designed so that applicants will have to pay only 1 or 2 screening fees to get into housing. That means that even if the

applicant must pay \$20 more for a screening fee, they are cutting the number of fees by half and therefore saving money.

**9. How will these new rules be enforced?**

**ANSWER:** Currently, the only way to enforce these rules is in court. A tenant can sue a landlord if they believe violations of the law are happening. It is our goal to eventually change our system of enforcement by creating a “licensing” program that will empower the City the ability to monitor and assess violations. Eventually, in-house enforcement will make it easier and cheaper for both parties, while also making conflicts less likely to result in negative outcomes for landlords and tenants.

**10. What is the timeline for compliance if this new law passes council?**

**ANSWER:** We will be requesting a delayed implementation plan for the city to prepare outreach, trainings, and administrative rules. The proposed effective date for compliance is October 1, 2019.