

ORDINANCE

By Ellison and Bender

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 244.150 of the above-entitled ordinance be amended to read as follows:

244.150. - Notice of violations. Whenever the commissioner of health, the fire marshal or the director of regulatory services determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation, of any provision of this Code, notice of such violation or alleged violation shall be given to the person or persons responsible therefor. Such notice shall:

(~~a~~ 1) Be in writing;

(~~b~~ 2) Include a description of the real estate sufficient for identification;

(~~c~~ 3) Specify the violation which exists and remedial action required;

(~~d~~ 4) Allow a reasonable time for the performance of any act it requires;

(e 5) Be served upon the owner, or the operator, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner, or upon such operator, or upon such occupant if a copy thereof is served upon such owner, operator or occupant personally; or if a copy is left at such owner's, operator's or occupant's usual place of abode with a person of suitable age and discretion then resident therein; or by depositing in the United States Post Office, the notice addressed to such owner's, operator's or occupant's last-known address with postage prepaid thereon; or if service cannot be made by any one (1) of the above means then such notice shall be deemed served if a copy of such notice is posted and kept posted for twenty-four (24) hours in a conspicuous place on the premises affected by such notice.

Notwithstanding the other provisions of this section, a notice of violation shall not be required for violation of sections 227.90, 240.10, 240.20, 240.30, 240.40, 240.50, 240.60, 240.70, 240.80, 240.90, 240.100, 244.60, 244.240, 244.350, 244.410, 244.430, 244.460, 244.590, 244.610, 244.620, 244.640, 244.660, 244.690, 244.700, 244.760, 244.810, 244.820, 244.850, 244.910, 244.915, 244.930, 244.940, 244.945, 244.960, 244.1080, 244.1090, 244.1260, 244.1360, 244.1450, 244.1490, 244.1500, 244.1510, 244.1575, 244.1610, 244.1810, 244.1970, 244.2030, 244.2040, 244.2120, 244.2130, 244.2140, 385.240, 546.80, 547.80, 548.80 and 549.80.

Section 2. That Section 244.1910 of the above-entitled ordinance be amended to read as follows:

244.1910. - Licensing standards. (~~a~~) The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license, or for the imposition of reasonable conditions or restrictions upon such a license pursuant to section 259.165.

- (1) The licensee or applicant shall have paid the required license fee.
- (2) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the Zoning Code.
- (3) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the Zoning Code or the Housing Maintenance Code.
- (4) The rental dwelling shall not have been used or converted to rooming units in violation of the Zoning Code.
- (5) The owner shall not suffer or allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition under section 227.90 of this Code. If the city is required to abate such nuisance conditions under section 227.100 or collect, gather up or haul solid waste under section 225.690 more than three (3) times under either or both sections during a period of twenty-four (24) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.
- (6) The rental dwelling or any rental dwelling unit therein shall not be in substandard condition, as defined in section 244.1920.
- (7) The licensee or applicant shall have paid the required reinspection fees.
- (8) The licensee or his or her agent shall allow the director of regulatory services and his or her designated representative to perform a rental license review inspection as set forth in section 244.2000(c).
- (9) The licensee shall maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation of such unit within the building. The register shall be kept current at all times. The licensee shall designate the person who has possession of the register and shall inform the director of the location at which the register is kept. The register shall be available for review by the director or their authorized representatives at all times.
- (10) The licensee shall submit to the director of regulatory services or an authorized representative of the director, at the time of application for a rental dwelling license and for just cause as requested by the director, the following information: the number and kind of units within the dwelling (dwelling units, rooming units, or shared bath units), specifying for each unit, the floor number, and the unit number and/or letter and/or designation.
- (11) a. There shall be no delinquent property taxes or assessments on the rental dwelling, nor shall any licensee be delinquent on any financial obligations owing to the city under any action instituted pursuant to Chapter 2, Administrative Enforcement and Hearing Process.

b. The licensee or applicant shall have satisfied all judgments duly entered or docketed against the licensee or applicant by any court of competent jurisdiction arising out of the operation of a rental property business. This subsection shall not be found to have been violated if the licensee or applicant demonstrates that the underlying case or action leading to the entry of judgment is being properly and timely removed to district court or otherwise appealed, or when the judgment is being paid in compliance

with a payment plan accepted by either a court possessing jurisdiction over the judgment or the judgment creditor or during any period when the enforcement of the judgment has been duly stayed by such a court. This subsection shall become effective January 1, 2008.

(12) There is no active arrest warrant for a Minneapolis Housing Maintenance Code or Zoning Code violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.

(13) a. Any person(s) who has had an interest in two (2) or more licenses revoked pursuant to this article or canceled pursuant to section 244.1925 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five (5) years.

b. Any person(s) who has had an interest in a license revoked pursuant to this article or canceled pursuant to section 244.1925, shall be ineligible from obtaining any new rental dwelling licenses for a period of three (3) years.

(14) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 244.1940.

(15) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the director of regulatory services in accord with the provisions of section 244.1840.

(16) a. Before taking a rental application fee, a rental property owner must disclose to the applicant, in writing, the criteria on which the application will be judged.

b. Application forms must allow the applicant to choose a method for return of the application fee as either 1) mailing it to an applicant's chosen address as stated on the application form, 2) destroying it 3) holding for retrieval by the tenant upon one (1) business-day's notice.

c. If the applicant was charged an application fee and the rental property owner rejects the applicant, then the owner must, within fourteen (14) days, notify the tenant in writing of the reasons for rejection, including any criteria that the applicant failed to meet, and the name, address, and phone number of any tenant screening agency or other credit reporting agency used in considering the application.

d. The landlord must refund the application fee if a tenant is rejected for any reason not listed in the written criteria.

e. Nothing in this section shall prohibit a rental property owner from collecting and holding an application fee so long as the rental property owner provides a written receipt for the fee and the fee is not cashed, deposited, or negotiated in any way until all prior rental applicants either have been screened and rejected for the unit, or have been offered the unit and have declined to take it. If a prior rental applicant is offered the unit and accepts it, the rental property owner shall return all application fees in the manner selected by the applicant, pursuant to section (b).

f. Violation of this subsection, 244.1910(16), may result in an administrative citation, or may contribute to the denial or revocation of a rental license.

g. This subdivision shall become effective December 1, 2004.

(17) An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred.

(18) The owner, where the owner pays the water bill for a rental dwelling, shall not allow the water to be shut off for non-payment. If water to a rental dwelling has been turned off, for lack of payment by the owner it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license or provisional license.

(19) The provisions of this section are not exclusive. Adverse license action inclusive of, but not limited to, revocation, may be based upon good cause at any time upon proper notice and hearing. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

(20) A licensee or owner/landlord shall not be in violation of section 244.265 of this Code, which requires owner/landlords to notify tenants and prospective tenants of pending mortgage foreclosure or cancellation of contract for deed involving the licensed property.

(21) Any person(s), having an ownership or management interest in any property, upon a second violation of section 244.1810 by allowing to be occupied, letting or offering to let to another for occupancy, any dwelling unit without having first obtained a license or provisional license, shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of two (2) years.

(22) The owner or licensee shall not be in violation of section 225.780, which requires every owner of a building containing two (2) or more dwelling units to provide for recycling services.

(23) The licensee or applicant shall not have any unpaid fines or fees owing to the City of Minneapolis related to their rental property.

(24) An owner shall not have any violations of chapter 240 of this Code, adopting Minnesota State Statutes Chapter 144 and amendments thereto and Minnesota Rules, Chapter 4761 and amendments thereto, at any rental dwelling which they own or have an ownership interest. A violation of chapter 240 of this Code, of Minnesota State Statutes Chapter 144 and amendments thereto or of Minnesota Rules, Chapter 4761 and amendments thereto shall result in a director's determination of noncompliance notice being sent, pursuant to [section] 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of chapter 240 of this Code, of Minnesota State Statutes Chapter 144 and amendments thereto or of Minnesota Rules, Chapter 4761 and amendments thereto shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to [section] 244.1940 of the Code, for the rental dwelling where the second violation occurred.

(25) An owner shall not have any violations of section 244.2030 of this Code. A violation of section 244.2030 shall result in a director's determination of noncompliance notice being sent, pursuant to section 244.1930 of this Code, to the owner regarding the rental dwelling where the violation occurred. A second violation of section 244.2030, at any rental dwelling in which the owner has an ownership interest, may result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to section 244.1940 of this Code, for the rental dwelling where the second violation occurred.

(26) An owner shall not have any violations of section 244.2040 of this Code. A violation of section 244.2040 shall result in a director's determination of noncompliance notice being sent, pursuant to section 244.1930 of this Code, to the owner regarding the rental dwelling where the violation occurred. A second violation of section 244.2040, at any rental dwelling in which the owner has an ownership interest, may result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to section 244.1940 of this Code, for the rental dwelling where the second violation occurred.

Section 3. That Chapter 244 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 244.2030 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 percent (5%) since 2015 and is even lower for apartment units under one thousand dollars (\$1,000) in monthly rent.

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

(5) Renters comprise the majority of households in Minneapolis, growing by nearly fourteen thousand (14,000) households (a seventeen percent (17%) 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 percent (60%) of Area Median Income in 2016.

(8) Three out of four low income households (earning less than fifty percent (50%) of Area Median Income) in Minneapolis are housing cost-burdened, paying more than thirty percent (30%) 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 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 percent (34.5%) of the Minnesota prison population, while comprising only six and one-half percent (6.5%) of the state's population as a whole (as of 2017).

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

(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: first-degree assault (Minnesota Statutes section 609.221), first-degree arson (Minnesota Statutes section 609.561), or aggravated robbery (Minnesota Statutes section 609.245).

(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) 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.

Section 4. That Chapter 244 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 244.2040 to read as follows:

244.2040. - Security deposits. (a) Definitions. As used in this section, the following words shall mean:

Referral. Written documentation maintained by the landlord that the tenancy of the dwelling unit was coordinated with a non-profit service provider or government agency.

Security deposit. Security deposit has the meaning stated in Minnesota Statutes, Section 504B.178.

Single month rent. For a lease in which rent is paid once each month in the same amount, single month rent means that amount. For a lease in which rent is paid once each period in the same amount but the period is not one (1) month, single month rent means that amount divided by the number of days in the period and then multiplied by thirty (30). For other leases, single month rent means the total amount of

rent due under the anticipated length of the lease divided by the number of days in the anticipated length of the lease and then multiplied by thirty (30).

(b) *Limit on security deposit amount.* No landlord shall demand, charge, accept, or retain from a tenant more than a single month rent as a security deposit. Provided, however, if the lease or other agreement requires the tenant to pay before the tenancy starts or any time prior to the end of the first month of tenancy more than the first installment of rent plus the deposit, then the landlord shall not demand, charge, accept, or retain more than one-half (1/2) of a single month rent as a security deposit. In this situation, no landlord shall deny a tenant's request to pay the security deposit in installments over a period of up to three (3) months in installment amounts reasonably requested by the tenant. For dwelling units subject to a referral between the landlord and non-profit service provider or government agency, the maximum security deposit amount is limited to one and a half (1 1/2) of a single month rent. Any security deposit furnished herein shall be governed by the provisions of Minnesota Statutes, Section 504B.178, together with this section.

(c) *Notice of rights.* Contemporaneously with a landlord's obligation to return the deposit, transfer the deposit, or provide a written statement pursuant to Minnesota Statutes, Section 504B.178, a landlord must also deliver to the tenant a written notice of rights under state law and local ordinance regarding security deposits in a form and manner approved by the city.

(d) *Enforcement.* In addition to any other remedy available at equity or law, failure to comply with the provisions of this section 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.

(e) *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.

(f) *Effective date.* This section shall become effective June 1, 2020.