

Mind Your Business

Tia's Tips for Better Rental Management

By Tia Politi, ORHA President

Updated City Code Regulations for Eugene Landlords

Beginning August 13, 2022, the Ordinance enacted the following restrictions:

Security deposits and deposit accounting

- Prior to a new tenancy beginning, the owner/agent must provide the tenant with documentation of the condition of the rental home and receive written confirmation that the tenant has received and reviewed the documentation.
 - ✓ The documentation must include photos and a written report. The **Unit Condition Report** (formerly the **Check-In/Check-Out Report**) should satisfy the written report requirements.

(No word on what will happen if the tenant refuses to sign, so Eugene landlords are advised to document any refusals in writing.)
- At the time of deposit accounting the owner/agent must provide not only the written accounting of charges against the deposit, but also provide documentation on the condition of the rental home and a written statement describing the condition or damage the landlord believes justifies the charges. This documentation must include:
 - ✓ Photo documentation showing the condition of the rental home, including any appliances provided for use by the tenant.
 - ✓ A written statement describing the condition of the rental home, including appliances, and noting any damage.

Rental references

- Up to twice per calendar year and within five (5) business days of receiving a written request by the tenant, the owner/agent shall provide a rental reference utilizing a form approved by the city manager (in development).

Lease up

- At the time of lease-up, the owner/agent must provide to the tenant a **Tenant's Rights Notification**. This form will include information regarding the rights and obligations of landlords and tenants regarding tenancy termination as well as information about the requirements of the **Eugene Rental Housing Code** utilizing a form approved by the city manager which is in development. (We'll let you know when the forms are complete.)

Screening fees

- A landlord may not charge more than \$10 per applicant for tenant screening.
- Also remember, **ORS 90.295** iterates the requirements for assessing an applicant screening charge.
- A landlord may not require payment of an applicant screening charge unless prior to accepting the payment the landlord:

- (a) Adopts written screening or admission criteria;
- (b) Gives written notice to the applicant of:
 - (A) The amount of the applicant screening charge;
 - (B) The landlord's screening or admission criteria;
 - (C) The process that the landlord typically will follow in screening the applicant, including whether the landlord uses a tenant screening company, credit reports, public records or criminal records or contacts employers, landlords or other references;
 - (D) The applicant's rights to dispute the accuracy of any information provided to the landlord by a screening company or credit reporting agency;
 - (E) A right to appeal a negative determination, if any right to appeal exists;
 - (F) Any nondiscrimination policy as required by federal, state or local law plus any nondiscrimination policy of the landlord, including that a landlord may not discriminate against an applicant because of the race, color, religion, sex, sexual orientation, national origin, marital status, familial status or source of income of the applicant;
 - (G) The amount of rent the landlord will charge and the deposits the landlord will require, subject to change in the rent or deposits by agreement of the landlord and the tenant before entering into a rental agreement; and
 - (H) Whether the landlord requires tenants to obtain and maintain renter's liability insurance and, if so, the amount of insurance required; and
- (c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability at that time, of the approximate number of rental units of the type, and in the area, sought by the applicant that are, or within a reasonable future time will be, available to rent from that landlord. The estimate shall include the approximate number of applications previously accepted and remaining under consideration for those units. A good faith error by a landlord in making an estimate under this paragraph does not provide grounds for a claim under subsection (6)(b) of this section.
- Now that Eugene limits your charge, you may want to consider whether to continue charging a fee at all.

Ways to lower your costs for screening

There are some reports and screening tasks that can help reduce costs. For example, there is no prohibition against requiring an applicant to provide a copy of their credit report, which can be done for free at: <https://www.annualcreditreport.com>. There's also nothing that says you can't require an applicant to perform this task at your computer to address concerns of fraud. There are three credit reporting agencies:

1. Equifax
2. Experian
3. Transunion

They all provide similar information, but some people prefer one over another. If the report shows concerning levels of debt or collections that don't meet your objective screening criteria can allow you to deny on that basis. While I usually encourage fully screening applicants before deciding, this is allowable and can lower your costs.

Rental references are one of the most important parts of screening for me. Good references can overcome some deficiencies in other areas, but a poor rental reference is almost always a no for me, so

if the credit looks good, you can move on to rental references. Unless you are getting a reference from an apartment complex or property manager, you should always confirm that the person verifying the applicant's reference is the owner or lawful manager of the property. Remember that property ownership is public record. Take a few minutes to look up ownership online at the county assessor's office. If the website is too hard to navigate, you can call the county office in question to get the info. I've caught many an applicant in a lie when they tried to set me up with a false reference.

If the applicant has lived in Oregon their whole life, you can look up their criminal history online at: <https://webportal.courts.oregon.gov/portal/Home/Dashboard/29>. I imagine every state has some sort of similar site, but if not, you can always limit your costs by having your screening company only perform a nationwide criminal history check and you do the rest.

For income screening, the applicant can provide pay stubs (watch out for fraud), tax returns, social service award letters, financial aid award letters, child support or alimony award letters, bank statements, etc.

Above all, remember that you can (and probably should) deny an applicant if you are unable to verify the information they provide. Whether that's a limited rental reference that only discloses dates of tenancy and rent amount or an inability to prove income, an inability to verify the information provided by an applicant is a legal reason to deny an application. And, in the end, the costs you incur as an individual or a management company are tax deductible business costs – maybe that provides you with some consolation.

Tenant complaint process and qualifications

- The city is amending their Complaint process to allow a tenant to file a complaint for violations regarding these changes as well as maintenance issues. A person who files a complaint must be:
 - ✓ A party to the current rental agreement, or an agent of the party, and if the violation is related to payment of a screening charge higher than \$10, the tenant must have paid the screening charge, or their agent must have paid the charge.
 - ✓ To file a complaint, the tenant must first send a written notice of the alleged violation to the owner/agent and provide a copy of that written notice at the time the complaint is filed. (The description of 'written notice' does mention 'mailing' in 8.430(d)(2) but does not address whether this timeline will correspond to the timelines for service of notice in ORS 90.155, requiring the addition of 3 days to account for mailing time, or whether the tenant may post-and-mail if allowed by the written rental agreement.) The city manager is then authorized to investigate the complaint.
 - i. For complaints related to lack of essential services, the complaint may be filed no sooner than 48 hours after providing the written notice to the owner/agent.
 - ii. For complaints not related to the lack of essential services, the complaint may be filed no sooner than 10 days after providing the written notice to the landlord.

City process for substantiated complaints

- If the city manager determines that a complaint is valid, they will issue a notice to the owner/agent providing a timeline for compliance:

- ✓ For non-habitability-related maintenance issues, not including lack of essential services, 10 days to remedy the violation, including any needed repairs, unless the repairs cannot be completed with 10 days. If that is the case, the landlord must submit a compliance schedule acceptable to the city within 10 days.
- ✓ For habitability complaints regarding a lack of essential services, 48 hours, unless the repairs cannot be completed within 48 hours. If that is the case, the landlord must submit a compliance schedule acceptable to the city within 48 hours.

Complaint process outline requires that the city confirm the following

- 1) Confirm that the complainant has standing to file a complaint.
- 2) Confirm that the subject of the complaint could be a violation of the code.
- 3) Except for complaints related to screening overcharge or lack of essential services, confirm that the owner/agent has had 10 days since mailing of the written notice by the tenant to respond to the complaint.
- 4) For complaints regarding violations of the screening charge limit or lack of essential services, confirm that the owner/agent has had 48 hours from the time the tenant provided written notice to respond to the complaint, and
- 5) Provide notice to the owner/agent of the complaint per written procedures.

Landlord noncompliance with city order to correct

- If the city manager finds that a complaint was valid and the landlord did not respond timely as required, the manager may issue an administrative civil penalty, initiate a prosecution in municipal court, and initiate action to recover all city costs associated with the processing of the complaint, investigation, and resolution of the issue.
 - ✓ This information will be sent to the owner/agent along with deadline for repair and reinspection of the dwelling unit, and a statement that they may appeal the notice and order.

Funding to provide tenant support services

- To fund enforcement of these new requirements, as well as the new city allowance of *Tenant Support Services*, the city manager has been empowered by the Ordinance to increase the city's door tax to \$20 per door, per year.
 - ✓ *Tenant Support Services* includes but is not limited to supporting a tenant hotline, eviction diversion, support for ex-offenders and other individuals with similar challenges who are struggling to qualify for rental housing, and support for tenants seeking rental housing that is accessible to and usable by persons with disabilities.
 - ✓ Additionally, **Eugene Code 8.440(2)** is amended to allow the increased funding to pay for a Rental Housing Navigator position within city government and fund data collection about rental housing in Eugene.

This outlines the basic parameters of **Phase One**. Additional phases to follow. There are still rules to be developed by the city manager to render interpretations of the ordinance and address procedures more specifically for processing complaints.

Phase Two Recommendations include

- Limiting deposits (including security deposit, last month's rent deposit, or other designated deposits, but not pet deposits) to a maximum of twice the monthly rent.
- Require that applications be processed in the order received
- Landlord payment of relocation expenses for issuing no-cause or qualifying landlord reason termination notices.

Phase Three Recommendations include:

- Prohibit screening out applicants for credit defaults related to medical or education debt, and limit screening for minimum credit score.
- Loosen minimum monthly gross income screening standards to no greater than twice the monthly rent.
- Enact moratorium on no-cause terminations of tenancy unless landlord pays relocation fee.

The Takeaway

Laws and rules, taxes and fees for most businesses are usually a moving target based on government interference. Rental property management is no exception. As these ordinances take shape make sure you stay plugged in to the nuances and new limitations on how you are allowed to operate, and remember every business has its downsides. Keep your eye on the prize and focus on the positive: rental ownership is still a tried-and-true way to build generational wealth and financial stability over time, and if you have a good renter and a good property there's no easier job in the world 😊

This column offers general suggestions only and is no substitute for professional legal counsel. Please consult an attorney for advice related to your specific situation.

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