

Comparison of National North Star Fair Chance Housing Laws

As part of a national reckoning with the profound injustice and senselessness of US mass incarceration policies, criminal justice reforms have occurred at the federal, state, and local levels. However, when people who have “done their time”, including those for wrongful convictions, return home they are met with extreme and discriminatory barriers that prevent them from accessing basic support needed to successfully reintegrate back into society.

A growing number of jurisdictions across the nation have been addressing these injustices including through the passage of Fair Chance Housing laws that seek to remove barriers to housing for people with a criminal record. However, there are only a few policies that we consider north star policies. Only the cities of Seattle, Berkeley, and Oakland have passed policies that completely do away with relying on criminal background checks, at all stages of the rental process, on all forms of housing. Why use a tool of the criminal background check that has no proven correlation between one’s criminal history and success as a future tenant, especially when it has been proven to be extremely unreliable and discriminatory? The commonsense and racially just response would be what these three cities have enacted. In addition, we consider the Portland policy to be a north star policy because when faced with State preemption issues that prevented them from enacting a similar policy, instead of giving up, Portland government and formerly incarcerated leaders worked together to craft a problem-solving policy. Here’s a comparison of the main policy terms.

Comparison of National North Star Fair Chance Housing Laws

Policy Term	Seattle	Portland	Berkeley	Oakland
Links	Link to Ordinance Link to FAQ	Link to Ordinance Link to FAQ	Link to Ordinance	Link to Ordinance Link to FAQ for Formerly Incarcerated People Link to FAQ for Housing Providers
What the Ordinance Does	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.	Criminal background checks are still allowed, but the Ordinance prohibits discrimination on the basis of criminal history	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.
Public Policy Rationale	Focus on racial justice and addressing racial inequities in the criminal justice system, as well as the direct link between stable housing and successful reintegration.	Focus on racial justice, and eliminating screening barriers that prevent people's right to housing.	Focused on homeless prevention. There's a California State pre-emption on local anti-discrimination policies.	Focused on homeless prevention. There's a California State pre-emption on local anti-discrimination policies.
Housing Type Explicitly Covered	All Housing Units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)	All housing units- Including Private and Section 8 housing units.	All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)	All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)
Housing Type Explicitly Exempted	<ul style="list-style-type: none"> Single family home where owner occupies part of the home Accessory Dwelling Units where the owner resides on the same lot 	<ul style="list-style-type: none"> Units shared with a Landlord, roommate, or a sub-lessor using the unit as a primary residence Accessory Dwelling Units where the owner resides on the same lot Duplexes where the owner occupies the second unit as a principal residence Non-profit housing Units not rented to, or advertised for rental to the general public 	<ul style="list-style-type: none"> Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence Tenants who seek to add a co-tenant or a roommate 	<ul style="list-style-type: none"> Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence Tenants who seek to add a co-tenant or a roommate
Advertisement, Housing Application & Review process	Removes any requirement to disclose any Conviction History unless it's for a "legitimate business reason"	Option 1: Low-barrier (lookback period) <ul style="list-style-type: none"> Denial only for misdemeanor offences that occurred within the past 3 years 	Prohibits advertisement, applications, and review process that would require disclosure of criminal history	Prohibits advertisement, applications, and review process that would require disclosure of criminal history

Comparison of National North Star Fair Chance Housing Laws

		<p>and felony offenses that occurred within the past 7 years</p> <p>Option 2: Individualized assessment model</p> <ul style="list-style-type: none"> Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandate automatic exclusion, and allow applicants opportunity to provide mitigating evidence <p>Landlords are not able to deny applicants on the basis of arrests that did not result in conviction; participation/completion of a deferral of judgement program; convictions that have been judicially dismissed, expunged, voided or invalidated; conviction for a crime that is no longer illegal in the state of Oregon; or convictions issues through the juvenile justice system.</p>		
<p>When would the Background Check be Allowed/What kind of Background Check is Allowed</p>	<p>Landlord can check to see if applicant's on the Sex Offenders Registry per county, statewide, or national sex offender registry</p> <p>HUD funded housing subject to HUD regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production on federally assisted housing</p>	<p>Under the low-barrier option, background checks may be conducted for Misdemeanor offenses that occurred within the past 3 years and felony offenses that occurred within the past 7 years</p> <p>Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandated automatic exclusion, and allow applicants opportunity to provide mitigating evidence</p>	<p>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information</p> <p>If required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</p>	<p>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information</p> <p>If required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</p>

Comparison of National North Star Fair Chance Housing Laws

		HUD funded housing subject to HUD regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production on federally assisted housing	on HUD funded housing. However, these housing providers must seek written consent from the applicant, provide the applicant with a copy of the background check, and provide the applicant a chance to submit rebutting or mitigating information.	on HUD funded housing. However, these housing providers must seek written consent from the applicant, provide the applicant with a copy of the background check, and provide the applicant a chance to submit rebutting or mitigating information.
Does the City have a First in Time rental requirement policy?	Yes	Yes	No	No
Allowable Disqualification of Applicant	<p>If on Sex Offenders registry for adult conviction and there's a "legitimate business interest" where there must be "reliable evidence" of a nexus between resident or property safety in light of:</p> <ul style="list-style-type: none"> Nature & severity of conviction Number & types of conviction Time lapsed from conviction date Age at time of conviction Evidence of good tenant history before and/or after conviction Any supplemental info re rehabilitation, good conduct, and additional info from applicant 	<ul style="list-style-type: none"> Misdemeanor and felony offenses that occurred within the lookback periods. Applicants denied for criminal history have an automatic right to appeal and provide supplemental evidence. 	<ul style="list-style-type: none"> Applicant is on the State's Lifetime Sex Offender Registry For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing 	<ul style="list-style-type: none"> Applicant is on the State's Lifetime Sex Offender Registry For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing
Administrative Complaint Process	<p>File complaint with Director of Seattle Office for Civil Rights. Applicant can appeal Director's decision to the Seattle Human Rights Commission</p> <p>Civil Penalties are no more than:</p> <ul style="list-style-type: none"> \$11,000 if the respondent has not been determined to have committed any prior violation \$27,500 if the respondent has been determined to have 	N/A	<p>File a complaint with the City of Berkeley. Close family members may file a complaint on behalf of their formerly incarcerated family member(s), even if they do not reside in the unit that their family member lives in or is seeking to move into. Close family members include a spouse, domestic partners, parents, children, siblings, grandparents, grandchildren.</p>	<p>File a complaint with the City of Oakland.</p> <p>Housing providers can be fined for up to \$1,000 per violation.</p>

Comparison of National North Star Fair Chance Housing Laws

	<p>committed one other violation during the five-year period ending on the date of the filing of this charge</p> <ul style="list-style-type: none"> \$55,000 if the respondent has been determined to have committed two or more violations during the 7 year period ending on the date of the filing of this charge 		<p>Housing providers can be fined at least \$1,000 and up to \$10,000 for each violation</p> <p>Additional civil penalties of up to \$5,000 per violation committed against a person who is disabled within the meaning of California Government Code section 12926 et seq., or is aged sixty-five (65) or over.</p>	
Right of Individuals to Sue to Enforce	No	Yes	Yes	Yes
Landlord Retaliation Protection	Explicitly covered		Explicitly covered	Explicitly covered
Limits to Financial Screening Criteria	No	<p>Yes- Limits the income to rent ratio to 2.5 times the rent for units with a monthly rent amount below 80% of Median Family Income (MFI), and to 2 times the rent amount for units with a monthly rent above 80% MFI</p> <p>Applicants with multiple adults in the household can choose who is legally responsible for the rent and only those they choose can be screened for income.</p> <p>Under the low-barrier screening criteria, landlords agree not to reject applicants for insufficient credit history, or having a credit score of 500 or higher.</p>	No	No