



PROPERTY OWNER FREQUENTLY ASKED QUESTIONS ABOUT RENT CONTROL IN MINNEAPOLIS AND SAINT PAUL

November 8, 2021

This FAQ is to address questions common to many property owners regarding rent control ballot measures that passed in both Minneapolis and Saint Paul during the November 2, 2021 municipal elections.

This FAQ is an overview of available information and is current of the date above. The answers to these questions may change with future developments. The information contained in this FAQ is provided as general information but is not legal advice; every situation requires a review of the specific factual circumstances. If you would like advice on situations specific to your company or organization, please do not hesitate to **contact Emeric Dwyer of Chestnut Cambronne PA at 612-336-2914 or William Torhorst of Chestnut Cambronne PA at 612-336-1281** to discuss.

Does Minneapolis Have Rent Control?

Presently, no. The ballot measure that passed in Minneapolis was authorization for the Minneapolis City Council to adopt a rent control ordinance. The City Council may now adopt a rent control ordinance but has not done so at this time. If Minneapolis does adopt a rent control ordinance, we will review and issue a new FAQ on the subject.

Does St. Paul Have Rent Control?

Yes. St. Paul Ordinance Chapter 193A now provides that no landlord may charge, demand, or accept rent from a tenant that exceeds a 3% increase from the existing monthly rent, unless one of a few ordinance-listed exceptions applies.

Is This Allowed Under State Law?

Yes. Minnesota municipalities may adopt rent control provisions, provided that those provisions are approved in a general election. Minn. Stat. § 471.9996 Subd. 2.

Why Was the St. Paul Ordinance Passed?

The ordinance was passed by a grass-roots coalition in St. Paul, who claim the ordinance is necessary to provide housing stability to low-income and fixed income tenants. The ordinance was opposed by members of the St. Paul City Council and trade groups, who believe the strict measures will hinder development in the City. Supporters of the ordinance placed the question on the ballot without City Council support.

When Does the St. Paul Ordinance Take Effect?

It is uncertain. The St. Paul Charter states that items passed in a referendum become effective immediately. City Charter § 8.04. However, the ordinance itself provides an effective date of May 1, 2022.

City leaders have not provided a definitive answer on this split, even taking down a city-made FAQ website answering questions the ordinance just hours after it was originally posted.

If you are looking at modifying rent obligations for tenants prior to May 1, 2022, please consult with Chestnut Cambronne PA about whether the limits on such modifications and potential issues that may arise.

Are All Rental Units in St. Paul Covered Under the Ordinance?

Yes, the 3% cap applies to all residential units, including those under new construction or for persons who are not “commercial landlords.”

How Will the Ordinance be Enforced?

It is presently unclear how this ordinance will be enforced by the City. The ordinance states that violation of its terms may result in criminal prosecution as well as administrative fines. The City of St. Paul has not issued any plans for enforcement.

More importantly, the ordinance provides a private right of action to seek equitable relief for tenants aggrieved by a violation. This means tenants can sue landlords directly for relief if they believe the landlord has violated the ordinance. This right cannot be waived by any lease provision.

How Does St. Paul's Ordinance Compare with Similar Rent Control Ordinances?

St. Paul's ordinance is one of the strictest in the nation. While most similar ordinances allow for higher percentage increases due to inflation, St. Paul makes no such exception; leaving narrow permissible grounds for landlords to exceed the 3% cap. Additionally, exceptions can only be sought for capital improvements that are necessary for bringing a unit up to code.

Are Rent Increases Influenced by Whether a Unit is Vacant or Occupied?

No. The ordinance provides that the annual rent limitations are applicable regardless of changes in a unit's occupancy status.

Are There Any Exceptions to the Rent Increase Limitations?

There are two separate exception provisions in the rent control ordinance: a reasonable return on investment exception and a government reimbursement/income-based payment exception.

Reasonable Return on Investment

A landlord who can demonstrate that they need to increase rent by more than 3% to recover a reasonable return on their investment in the unit may be granted an exception. The ordinance lists the factors the City must consider when determining whether a landlord's specific circumstances allow the 3% increase cap to be exceeded, including:

- Increases or decreases in property taxes
- Unavoidable increases or decreases in maintenance
- Cost of planned capital improvements if improvements required to bring unit up to code
- Increases or decreases in number of occupants, furnishings, or living space
- Substantial deterioration of unit outside of normal wear and tear
- Failure of landlord to provide adequate housing or comply with local laws and codes
- Pattern of recent rent increases or decreases

Government Reimbursement and Income Based Payments

The ordinance states that the rent increase limitations do not apply to the amount a housing service provider can be reimbursed by a government entity under the Housing

Support Act. For instance, the Minnesota Department of Human Services will often subsidize rent paid by certain low-income tenants to allow them to live independently. A property owner will negotiate in part with the Department of Human Services to receive payment to subsidize tenant's share of rent (usually well below market rates). The ordinance does not prevent a property owner from receiving an increase greater than 3% from the Department of Human Services.

St. Paul Just Increased My Property Taxes Significantly – Can I Raise Rent?

Outside of requesting an exemption from the city, no. Landlords cannot automatically increase rent because of an increase in property taxes – even if that was their prior practice. The 3% limitation on rental increases is applicable regardless of increases in property taxes, inflation, or any other factor.

In 2021, levy increases meant that average property owners in St. Paul are paying 11% higher property taxes; future increases of similar amounts will not permit rental rate increases, but may be a factor in allowing an exemption.

What Can I Do To Ensure I Don't Lose Money Renting My Property?

At this time, many property owners are looking at options to avoid losses due to limits on annual rent increases. This may include changing the model for billing tenants for services and utilities, changing the ways leases are held, and seeking to invest in rental properties outside of rent control cities. As St. Paul issues guidance on enforcement, additional options may become available. We will continue to monitor developments so as to provide property owners the best options for addressing rental issues.

The consequences of St. Paul adopting its strict rent control ordinances are still being determined. Chestnut Cambronne PA remains ready, willing, and able to assist property owners with their needs. **If you want to discuss these or any other real estate matters, please contact Emeric Dwyer at 612-336-2914 or William Torhorst at 612-336-1281.**

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