Sec. 193A.06. Reasonable return on investment.

(a) The city shall establish a process by which landlords can request exceptions to the limitation on rent increases based on the right to a reasonable return on investment. Rationale for deviations from the limitation on rent increases must take into account the following factors:

(1) Increases or decreases in property taxes;

(2) Unavoidable increases or any decreases in maintenance and operating expenses, including fluctuations in the Consumer Price Index (CPI);

a. *Utilities.* The rental agreement shall establish whether the landlord or tenant is responsible for paying each utility.

1. *Single metered multiunit residential buildings.* For single metered mulitunit residential buildings, a landlord seeking to impose utility payments as a pass through expense under this chapter must follow all conditions established in Minn. Stats. § 504B.215, subdivision 2a.

A. If the landlord previously paid the tenant's utilities and the landlord changes the rental agreement to require the tenant to pay utilities as a pass through expense, the landlord must decrease the rent to account for the reduction of the utility operating expense.

2. *Sub metered residential buildings.* For sub metered residential buildings, the lease agreement may require the tenant to contract with the utility service provider directly. If the tenant pays the utility provider directly, the payment to the utility provider shall not be considered rent.

A. A landlord in a sub metered residential building who pays a utility provider directly may impose utility payments as a pass through expense to tenants when the utility costs are directly attributable to the tenant.

B. If the landlord previously paid the tenant's utilities and the landlord changes the rental agreement to require the tenant to pay utilities directly to a provider, the landlord must decrease the rent to account for the reduction of the utility operating expense.

(3) The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) including, but not limited to, capital improvements necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement;

(4) Increases or decreases in the number of tenants occupying the rental unit;

(5) Increases or decreases in living space, furniture, furnishings, equipment;

(6) Increases or decreases in other housing services provided, or occupancy rules;

(7) Substantial deterioration of the rental unit other than as a result of normal wear and tear;

(8) Failure on the part of the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health, and safety codes, or the rental agreement; and

(9) The pattern of recent rent increases or decreases;

a. For purposes of determining recent patterns of increases or decreases in rent in other circumstances, the city shall utilize the Consumer Price Index as the basis for determining a pattern of rent increase.

(b) It is the intent of this chapter that exception to limitation on rent increases be made only when the landlord demonstrates that such adjustments are necessary to provide the landlord with a fair return on investment.

(c) The city will not grant an exception to the limitation on rent increases for any unit where the landlord has failed to bring the rental unit into compliance with the implied warranty of habitability in accordance with Minn. Stats. § 504B.161.

(Ord of 11-2-2021; Ord 22-16, § 7, 4-6-22; Ord 22-37, § 7, 9-21-22)

Editor's note(s)—See editor's note, § 193A-03.