

Directive

Directive: 2021 Residential Rent Freeze

Issue Date:	October 27, 2020	Directive No.:	DIR2020-13
Revision Date:		Revision No.:	

Applicable Policy:

Type: Operational

The policies and procedures in this Directive are to be implemented by Housing Providers/Cooperatives funded by the Municipality under the following programs.

Provincial Non-Profit Housing Providers

- | | |
|---|--|
| <input checked="" type="checkbox"/> Gananoque Family Housing | <input checked="" type="checkbox"/> Gananoque Housing Inc. |
| <input checked="" type="checkbox"/> Legion Village 96 Seniors Residence | <input checked="" type="checkbox"/> Twp. of Bastard & South Burgess Housing Corp. |
| <input checked="" type="checkbox"/> Brockville Municipal Non-Profit Housing Corp. | <input checked="" type="checkbox"/> South Crosby Non-Profit Housing Corp. – Pineview |
-

Federal Non-Profit Housing Providers

- | | |
|--|--|
| <input checked="" type="checkbox"/> Athens & District Non-Profit Housing Providers | <input checked="" type="checkbox"/> Marguerita Residence Corp. |
| <input checked="" type="checkbox"/> Gananoque Housing Inc. | <input checked="" type="checkbox"/> South Crosby Non-Profit Housing Corp. – Rideau Lakes |
-

Federal/Provincial Cooperative Housing

- Shepherds Green Cooperative Homes Inc.
-

Housing Providers

- Leeds Grenville Housing Department
- Marguerita Residence Corp. (RGI Service Agreement)
- Athens & District Non-Profit Housing (RGI Service Agreement)
- Rent Supplement Program, including Providers with expired Federal Operating Agreement

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BACKGROUND

On August 28, 2020, the provincial government announced its intention to stabilize rent, by introducing legislation to ensure that the vast majority of Ontarians do not see a rent increase in 2021.

On October 1, 2020, the *Helping Tenants and Small Businesses Act, 2020* received Royal Assent. *The Act* amends the *Residential Tenancies Act, 2006 (RTA)*, to freeze residential rent increases in 2021 to give the vast majority of Ontario tenants some relief, and financial security, as we continue to recover from the pandemic.

The amendments set out the 2021 Rent Increase Guideline to zero per cent, and freeze annual rent increases starting January 1, 2021 and lasting until December 31, 2021. The rent freeze applies to the majority of rental units that are covered by the *RTA*, including:

- Newly built units occupied for the first time on or after November 15, 2018, which are typically exempt from the Rent Increase Guideline.
- Purpose-built rental apartments, condos, houses and basement apartments.
- Rented sites in mobile home parks and land lease communities.
- Care homes, including retirement homes.
- Affordable housing units created through various federally and/or provincially funded programs.
- Households living in community housing that receive rent-geared-to-income (RGI) assistance, or pay the low end of market rent, with the exception of non-profit housing co-op members who pay market rates.

PURPOSE

The purpose of this Directive is to advise housing providers of the 2021 rent freeze, and the implications for implementation.

ACTION TO BE TAKEN

1. Replace any previously communicated 2021 rent increase with a zero percent rent increase for the following Directives:
 - DIR2020-10 2021 Market Rent Index & Indices for Non-Profit Projects.
 - DIR2020-11 Cost Factors to be Used in 2021 Fiscal Year Budgets for Private and Municipal Non-Profit Housing Corporations.
 - DIR2020-12 2021 Minimum Market Rent for Municipal Non-Profits (Section 95).

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ACTION TO BE TAKEN

2. The residential rent freeze period is from January 1, 2021 to December 31, 2021. Any notices that have been issued with a rent increase during this period must be revised with a zero percent rent increase.
3. The 2021 rent freeze includes increases to rent-geared-to-income assistance, even if the tenant's income has increased.
4. Tenants who pay rent based on the Ontario Works or ODSP rent scale will remain on the scale for 2021. This is regardless of a change in circumstances that would normally have removed the household from the scale (e.g. by an increase in employment income, turning age 65).
5. Tenants must continue to report changes to their income and household composition.
6. Any adult household members that join an RGI household must still have their eligibility for RGI assessed, per usual processes, even though the rent will not increase in 2021 as a result of adding an income earning household member.
7. Annual and in-year reviews must continue to be completed per the Annual and In-Year Review Directive 2020-03.
8. After the rent freeze period has ended, starting January 1, 2022, geared-to-income rent could increase to reflect household income calculated in the most recent annual or in-year review, subject to *HSA* Regulations on effective dates of rent increases.
9. Decreases in rent are not affected by the 2021 residential rent freeze, and will be implemented during 2021 per usual processes.
10. Rent also will not be increased for households that are determined ineligible for rent-geared-to-income assistance during 2021. Rents for households determined ineligible will increase to market rent effective January 1, 2022.
11. The Ministry of Municipal Affairs and Housing (MMAH) has indicated that it intends to pursue amendments to the Regulations to freeze rent for tenants paying geared-to-income rents in non-profit housing co-operatives. Co-operative housing rent increases for RGI tenants should also be frozen during 2021 at zero percent to remain consistent with the policy direction from the MMAH. It is strongly encouraged that rents for market rent tenants residing in a nonprofit housing co-operative be kept at zero percent or remain minimal in 2021.
12. See the enclosed Q&A's for MMAH's Municipal Service Offices and Service Managers on Residential Rent Freeze for 2021 for further details.

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REFERENCE

Q&A's for MMAH's Municipal Service Offices and Service Managers on Residential Rent Freeze for 2021

Helping Tenants and Small Businesses Act, 2020, S.O. 2020, c. 23 – Bill 204

If you have any questions, please contact the following:

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**C. Morrison, Manager
Housing Department**

October 27, 2020

Date

**Q&As for MMAH’s Municipal Services Offices and Service Managers on
RESIDENTIAL RENT FREEZE FOR 2021**

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Disclaimer:

This document is intended for general information only and is not intended as a substitute for legal advice. The accuracy and completeness of this document is not guaranteed. If you have questions about the application or interpretation of Bill 204, the *Helping Tenants and Small Businesses Act, 2020*, the *Residential Tenancies Act, 2006*, or the *Housing Services Act, 2011*, you are encouraged to seek legal advice.

Q&As for MMAH's Municipal Services Offices and Service Managers on RESIDENTIAL RENT FREEZE FOR 2021

Context

- On August 28, 2020, the Minister of Municipal Affairs and Housing announced the government's intention to bring forward legislation this fall to freeze rents at 2020 levels so that the vast majority of tenants will not face an increase in 2021.
- On September 17, 2020, the government introduced Bill 204, the *Helping Tenants and Small Businesses Act, 2020*, to freeze rent in 2021 for nearly all rent-controlled and non-rent-controlled residential units.
- On October 1, 2020, the Act received Royal Assent.
- The 2021 rent increase guideline, as determined through legislation, was previously set at 1.5 per cent for increases in rent-controlled units between January 1 and December 31, 2021. This was published in the Ontario Gazette on August 29, 2020.
- Bill 204 revises the 2021 rent increase guideline to make it zero percent, despite the formula set out in the Residential Tenancies Act, 2006, and the figure already published in *The Ontario Gazette*. Rent increases, with some limited exceptions, will be prohibited during a set rent freeze 'period' starting January 1, 2021 and ending on December 31, 2021.

For more information, please see:

- [*Helping Tenants and Small Businesses Act, 2020*](#)
- News Release: [Ontario Introduces Legislation to Freeze Residential Rent in 2021](#)
- Backgrounder: [Ontario Supporting Renters and Small Businesses in COVID-19 Recovery](#)
- [MMAH webpage on the rent increase guideline](#)

Q&As for MMAH's Municipal Services Offices and Service Managers on RESIDENTIAL RENT FREEZE FOR 2021

General Questions about the Rent Freeze:

1. What changes have been made? How do they apply?

The government passed Bill 204, which amends the *Residential Tenancies Act, 2006* (RTA) to freeze rent in 2021 for rent-controlled and non-rent-controlled units, and give the vast majority of Ontario tenants some relief during these unprecedented times.

This includes apartments, townhomes, detached homes, semis, care homes, and rented sites in mobile home parks and land lease communities.

This also includes units in community housing where tenants pay market rent and geared-to-income rent, as well as affordable rental housing units created through various federally and/or provincially funded housing programs.¹

2. Who or what is not covered by this freeze? Why not?

The freeze will not apply to a very limited number of residential settings that aren't traditional rental units, such as long-term care homes, due to the unique needs of their operations and residents. The government will continue to monitor and review housing costs in other settings to determine if further measures are appropriate. In those settings, it will be important to balance the benefits of the rent freeze against the impacts to and abilities of certain housing providers to maintain high level and specialized services for people living in these settings to ensure their health and safety.

3. Why are non-profit housing co-operative (co-op) members paying market rates exempt from the rent freeze?

All co-ops in Ontario are governed by the *Co-operative Corporations*. Community housing tenants living in non-profit housing co-ops who pay market rates are not subject to the rent increase guideline under the *Residential Tenancies Act, 2006* (RTA).

These households are exempt from the rent freeze as housing charges (rent) for non-profit housing co-ops are set by a resolution of the members (residents). This feature of self-governance enables the members and their boards to collectively determine whether a housing charge increase is in the best interest of their communities. They work together to keep their housing well-managed and affordable, resulting in market rates that are often lower than the average market rent in the private rental market.

The government encourages non-profit housing co-op boards and members to continue to work collaboratively to ensure that market rate units remain affordable for their members as the province recovers from the COVID-19 outbreak.

¹ * Programs include the Affordable Housing Program (AHP) and successor programs including the Investment in Affordable Housing Program (IAH/IAH-E), Social Infrastructure Fund (SIF), Ontario Priorities Housing Initiative (OPHI), Home for Good (HFG), and Indigenous Supportive Housing Program (ISHP).

Q&As for MMAH's Municipal Services Offices and Service Managers on RESIDENTIAL RENT FREEZE FOR 2021

4. Can care homes, such as retirement homes, and long-term care homes still raise rent?

The rent freeze applies to most residential tenancies covered by the RTA, including care homes (such as retirement homes).

Operators of these homes would still be able to increase fees that apply to services related to care as per the existing rules under the RTA. Some examples include meals, nursing care, bathing assistance, incontinence care, assistance with personal hygiene, and personal emergency response services.

Long-term care homes are not covered by the RTA and are therefore exempt from the rent increase freeze.

5. How does the rent freeze impact supportive housing?

The 2021 rent freeze applies to most residential tenancies covered by the RTA, including supportive housing covered by the RTA. Some supportive housing facilities may be "care homes" as defined in the RTA – the rent freeze would not apply to charges for care services in care homes which are not considered rent and are not regulated by the RTA. This provides care home operators with the flexibility to adjust their care fees as needed in order to provide a high standard of care for their residents and ensure their health and safety.

There are certain types of accommodation that provide "care services" but are not covered by the RTA or the rent freeze, such as accommodation occupied for up to one year for rehabilitative or therapeutic purposes or certain types of homes for persons with a developmental disability.

Supportive housing providers should consult with their legal counsel to determine whether the rent freeze would be applicable to their accommodation.

6. When does the rent freeze end?

Bill 204 freezes increases that would have happened in the 2021 calendar year.

The rent freeze would end on December 31, 2021, however landlords could give proper 90 days' notice of rent increase prior to the end of the freeze for an increase to take effect starting in 2022.

7. What else has the government done to help tenants?

The government has announced a range of measures that will help Ontarians get through these unprecedented times.

The 2021 rent freeze builds on the government's response to date to the pandemic, including the temporary pause on residential evictions earlier this year, encouraging repayment agreements between tenants and landlords, and providing \$510 million in

Q&As for MMAH's Municipal Services Offices and Service Managers on RESIDENTIAL RENT FREEZE FOR 2021

Social Services Relief Fund money to local Service Managers and Indigenous Program Administrators.

This funding is being used to help people stay in their homes by providing funding for rent banks and utility banks, as well as providing emergency loans for those in need.

The province has also passed Bill 184, the *Protecting Tenants and Strengthening Community Housing Act, 2020* this past summer, which introduced new and increased tenant protections and other changes to make renting fairer and easier.

8. What about support for landlords?

The provincial government appreciates the landlords who have supported tenants and asks all landlords to be as flexible as possible when it comes to collecting rent at a time when many people are struggling, and it is critical that they are able to stay in their homes.

The provincial government continues to work with other levels of government and our partners in the rental market sector to explore additional supports during this unprecedented time and will continue to ask the federal government to step up its support for Ontarians.

Where landlords have incurred costs for capital expenditures such as repairs to their properties or improvements to security for tenants, they will still be able to request approval for an above guideline rent increase to recoup these costs, however these increases would be subject to approval by the Landlord and Tenant Board.

9. What is the rent increase guideline?

A landlord can only increase rent in accordance with the RTA. The guideline is the maximum a landlord can increase most tenants' rent during a year without the approval of the Landlord and Tenant Board.

In most cases, a landlord can increase rent by the annual rent increase guideline, and only if proper notice has been given at least 90 days' in advance and 12 months has passed since the last increase (or since the tenancy started).

The rent increase guideline for 2020 was 2.2 per cent. Bill 204 revises the guideline for 2021, which was previously set at 1.5 per cent, to make the 2021 guideline 0 per cent.

10. What is an Above Guideline Increase (AGI)?

Special increases or AGIs may be approved by the Landlord and Tenant Board in certain circumstances. These include when a landlord has incurred:

- An extraordinary increase in municipal taxes and charges;
- Eligible capital expenditures; or

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- Operating costs related to security services provided to a residential complex.

Above guideline rent increases allow landlords to invest in repairs and upgrades to their aging rental buildings and ensure that tenants can continue to have access to well-maintained rental housing.

Except in cases where approval has already been granted by the Landlord and Tenant Board, AGIs for extraordinary increases in municipal taxes and charges will not be granted in 2021, due to the rent freeze.

11. Will landlords still be able to apply for Above Guideline Increases (AGIs) to rent?

Yes, with some exceptions.

AGIs approved by the Landlord and Tenant Board for eligible costs related to capital repairs/upgrades and security services before or during the rent freeze could be applied to rents in 2021.

This will ensure that the health and safety of tenants is not put at risk and landlords are not discouraged from making necessary capital repairs to their properties or operating security services.

AGIs related to extraordinary increases in municipal taxes and charges could not take effect during the freeze period unless they had already been approved by the Landlord and Tenant Board before the legislation passed.

**Q&As for MMAH's Municipal Services Offices and Service Managers on
RESIDENTIAL RENT FREEZE FOR 2021**

Community Housing Questions:

12. What households living in community housing would be subject to the rent freeze?

The rent freeze applies to households paying geared-to-income rent and low-end of market rent in community housing, as well as households living in affordable rental housing units created through various federally and/or provincially funded housing programs.

Non-profit housing co-operative members who pay market rates are exempt from the rent freeze.

13. Why are households receiving rent-geared-to-income (RGI) assistance included in the rent freeze?

The freeze on rent increases applies to households paying geared-to-income rent, as well as other tenants in community housing and units in care and retirement homes, in order to ensure that Ontario's most vulnerable residents have the protections and stability they need during this time, including low-income Ontarians and seniors.

14. What does the rent freeze mean for households that receive RGI assistance? Could geared-to-income rent increase in 2021, following an increase in household income?

No, under Bill 204, the rent freeze (or "cap") means that geared-to-income rent would not increase in 2021 as household income increases. However, if these households experience a decrease in income, their rent may still decrease as required under provincial regulations.

MMAH intends to pursue amendments to the regulations under the *Housing Services Act, 2011* (HSA) to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze. Further details will be communicated to the sector pending approval of any regulatory amendments.

15. What does the rent freeze mean for RGI households who pay rent scales?

For RGI households who pay rent scales, rent would not increase in 2021 and would be capped at the rent scale amount payable as of December 31, 2020. As a result, households who earn additional income and would otherwise transition off rent scales and onto the RGI calculation would remain temporarily at the rent scale rate.

Q&As for MMAH's Municipal Services Offices and Service Managers on RESIDENTIAL RENT FREEZE FOR 2021

16. Would there be exemptions to the rent cap for RGI households? For instance, could geared-to-income rent increase if an additional income earner joins the household? Could rent increase if a household is no longer eligible for an RGI subsidy?

There would be no exemptions to the rent cap for RGI households. Rent for RGI households would be capped at the amount payable as at December 31, 2020, until the freeze period has ended

17. Would Service Managers still need to do annual or in-year reviews in 2021?

Yes, Service Managers and housing providers continue to be obligated to comply with the RGI rules as set out in Ontario Regulation 316/19 under the HSA. This includes rules for annual reviews and in-year recalculations of rent, which would continue to be completed in 2021.

During the rent freeze period, any calculated rent increase resulting from an annual or in-year review would not take effect in 2021. However, if a household experiences a decrease in income, their rent may decrease as required under provincial regulations.

18. What happens at the end of the rent freeze period?

Bill 204 would freeze rent increases that would have occurred in the 2021 calendar year.

After the rent freeze period has ended, starting January 1, 2022, geared-to-income rent could increase to reflect household income calculated in the most recent annual or in-year review, subject to the HSA regulations on effective dates of rent increases.

For example, an RGI household paying \$300 per month in rent reports an income increase through their scheduled annual review in 2021. While their rent would be recalculated, the household would continue to pay \$300 month for the remainder of the 2021 calendar year. The rent increase would come into effect January 1, 2022.

19. If an RGI household fails to submit the required paperwork for an annual review, could the household be moved to market rent until the required forms are submitted?

Rent for RGI households could not increase in 2021, as households paying geared-to-income rents are captured in the rent freeze.

If a household fails to submit the required paperwork for an annual review and is found to be ineligible for RGI assistance, that household may be deemed ineligible for assistance, but rent could not increase from the December 2020 amount. After the rent freeze period has ended, rent could increase to the market rate.

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20. Does the rent freeze apply to the market rent/maximum rent for RGI units?

Yes, both geared-to-income rents and market rents are included in the rent freeze. Under Bill 204, an increase in the notional "market rents" for RGI units (the rent payable if an RGI household were found ineligible for assistance and transitioned to market rent) would be irrelevant, as the rent charged to a tenant cannot increase in 2021.

21. How do the amendments to the *Residential Tenancies Act, 2006* (RTA) freeze rent for RGI households? Do changes need to be made to the *Housing Services Act, 2011* (HSA)?

Bill 204 (which can be found [here](#)) gives the new rent freeze provisions made under the RTA precedence over regulations made under section 50 of the HSA.

However, MMAH would still need to pursue amendments to the regulations under the HSA to allow for the rent freeze to apply to tenants paying geared-to-income rents in non-profit housing co-operatives (as housing co-operatives are not covered by the RTA).

As part of this work, MMAH also intends to pursue amendments to the regulations under the HSA to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze.

22. Can Affordable Housing units created under federal and/or provincial programs be excluded from the rent freeze?

The rent freeze applies to households living in affordable rental housing units created through various federally and/or provincially funded housing programs. This will help protect the province's vast majority of tenants, including the province's more vulnerable tenants, and would be consistent with the treatment of market rent tenants living in the private rental market and community housing.

23. What is the 2021 Market Rent Index? Will the ministry release an updated Market Rent Index for 2021 and notify the sector?

Yes, MMAH will provide an update on any changes to the market rent index.

24. What about the impact to Service Managers and community housing providers of freezing rents increases for 2021?

The provincial government recognizes that the rent freeze will have a financial impact on the community housing sector. MMAH plans to engage with Service Managers and community housing providers to understand the scope and scale of the financial impacts.

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25. How is the province helping Service Managers impacted by COVID-19?

The Social Services Relief Fund (SSRF) is now providing \$510 million in 2020-21, including additional funding under the Safe Restart Agreement (\$212 million), to municipal Service Managers and Indigenous Program Administrators to improve housing and homeless shelter solutions, and support vulnerable people.

Service Managers are the local housing and homelessness system managers and will be able to use the funding to provide housing and social supports to organizations serving vulnerable populations, including funding to homeless shelters and food banks, and providing emergency rental assistance to those in rental arrears. The capital component will also allow for longer-term housing solutions (e.g., acquisition of units/facilities and renovation of existing shelters, community and supportive housing) to meet public health requirements and prepare the homelessness sector for subsequent waves.

This funding will help a diverse range of vulnerable people, create longer-term housing solutions for those in need, and provide the support the sector needs to safely and successfully transition to recovery.