



Agenda Item # R -6

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR FIRST READING AND APPROVAL OF ORDINANCE NO. 1029, AMENDING CHAPTER 6. BUILDINGS AND BUILDING REGULATIONS. AT ARTICLE XI. STANDARD HOUSING CODE. TO ADD ENTIRELY NEW DIVISION 4. – LANDLORD TENANT NOTICE REQUIREMENTS. AND SECTIONS 6-200. - NOTICE OF TERMINATION OF MONTHLY RESIDENTIAL TENANCY WITHOUT SPECIFIC DURATION. AND 6-201 - WRITTEN NOTIFICATION REQUIREMENTS RELATED TO RENTAL PAYMENT INCREASES FOR ALL RESIDENTIAL TENANCIES., TO REQUIRE 60-DAYS’ WRITTEN NOTICE FOR TERMINATION OF TENANCIES AND INCREASES IN RENTAL RATES. BY VILLAGE ATTORNEY KEITH W. DAVIS, ESQ.

Issue:

The proposed Ordinance will add an entirely new Division and two (2) new sections to the Village’s Housing Code to require a 60-day written notice of an increase in rental rates that exceeds five percent (5%) and the termination of a monthly tenancy without a specific duration.

Over the past year, the Village Council has witnessed and heard of substantial and steady increases in rental rates within the Village. The Council seeks to identify ways to assist rental tenants in the Village knowing the likelihood of a rent control ordinance is difficult given the state’s preemption of such ordinances and the statutory requirement of a referendum each year such ordinance is to be adopted. In lieu of a rent control ordinance, Ordinance No. 1029 seeks to assist rental tenants in the Village in two (2) ways:

1. Due to significant increases in rental rates, this Code revision requires residential landlords in the Village to give sixty (60) days prior written notice to all residential tenants with a set lease term, or a monthly tenancy without a specific duration, of a proposed rental rate increase that exceeds five percent (5%). This ensures that tenants with a set lease term and monthly tenants without a set lease term or duration are given fair notice (60 days) of any potential rent increase before the rental increase commences. Currently, there is no law that requires such notice.

2. Due to concerns with availability of rentals and substantial increases in rental rates, this Code revision requires residential landlords in the Village to give sixty

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(60) days prior written notice of termination to all residential tenants without a specific duration in which the rent is payable on a monthly basis. The notice will need to be provided prior to the end of any monthly period. Currently, Section 83.57, Florida Statutes, only requires fifteen (15) days prior notice before a month-to-month tenancy without a set duration may be terminated.

Recommended Action:

Staff recommends Approval of Ordinance No. 1029 on First Reading.

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ORDINANCE NO. 1029

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 6. BUILDINGS AND BUILDING REGULATIONS. AT ARTICLE XI. STANDARD HOUSING CODE. TO ADD ENTIRELY NEW DIVISION 4. – LANDLORD TENANT NOTICE REQUIREMENTS. AND SECTIONS 6-200. - NOTICE OF TERMINATION OF MONTHLY RESIDENTIAL TENANCY WITHOUT SPECIFIC DURATION. AND 6-201 - WRITTEN NOTIFICATION REQUIREMENTS RELATED TO RENTAL PAYMENT INCREASES FOR ALL RESIDENTIAL TENANCIES., TO REQUIRE 60-DAYS’ WRITTEN NOTICE FOR TERMINATION OF TENANCIES AND INCREASES IN RENTAL RATES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 6. BUILDINGS AND BUILDING REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Royal Palm Beach (“Village”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, according to the University of Florida’s Shimberg Center for Housing Studies’ 2019 Rental Market Study, there are 2.6 million rental households in the state; and

WHEREAS, according to data from CoStar Group, a real estate information provider, rental rates in Palm Beach County in November 2021 increased 31% from the prior year; and

WHEREAS, according to Zillow, the average monthly rent in Miami-Dade, Broward and Palm Beach counties was \$2,564.00 as of December 2021; and

WHEREAS, the Sun Sentinel recently reported research from three Florida colleges indicating renters in South Florida are paying 18.98% more than they would under normal market increases where a five percent (5%) increase in rent is a normal annual increase; and

WHEREAS, since the State has preempted the area of rent control and the statutory process to adopt a rent control ordinance requires a referendum each year, the Village has very limited realistic options to assist renters with unreasonable increases in rent; and

WHEREAS, Part II of Chapter 83, Florida Statutes, the “Florida Residential Landlord and Tenant Act” (“Act”), applies to the rental of residential dwelling units and sets forth landlord tenant rights and duties but does not provide specific notice requirements for rent increases; and

WHEREAS, while some leases contain rent increase provisions, landlord generally may not raise rent during the term of a lease and instead wait until the end of the lease or tenancy term to raise the rent; and

WHEREAS, with a written lease, Section 83.575 of the Act provides that notice to terminate is no more than sixty (60) days; however, when there is no lease, the landlord must provide at least 7-days' notice for week-to-week, 15-days' notice for month-to-month, 30-days' notice for quarter-to-quarter, and 60-day' notice for year-to-year rentals; and

WHEREAS, this means month-to-month tenants without a lease could be evicted after receiving only fifteen (15) days' notice of a rate increase and/or termination of their tenancy, which given the current lack of vacant rentals and rising rents, is insufficient time for such tenant to find a new affordable location or means to pay a rent increase over five percent (5%); and

WHEREAS, according to Florida Attorney General Opinion No. 94-41 (May 5, 1994) and the case law cited therein, the Florida Legislature has not preempted local governments from enacting ordinances that enlarge the notice period for month-to-month tenancies without a specific duration pursuant to Section 83.57 of the Act; and

WHEREAS, Florida's Attorney General concluded that such enlargement of the notice period by ordinance would be supplemental to the Act and compliance with such ordinance is possible without violating the Act; and

WHEREAS, requiring landlords to provide 60-days written notice before the rent can be increased more than five percent (5%) and before a tenant can be forced to leave in a month-to-month tenancy is a reasonable time period given current market conditions; and

WHEREAS, the Village, in response to Florida Attorney General's Opinion No. 94-41, desires to enact this ordinance requiring sixty (60) days written notification to be given by all residential landlords to their tenants with a lease or a monthly tenancy without a specific duration prior to increasing the tenants' rent more than five percent (5%) and prior to terminating a tenancy if the tenancy is monthly without a specific duration; and

WHEREAS, the Village has determined that this Ordinance promotes the safety, health, convenience, and general welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, THAT:

Section 1: The facts and recitations contained in the preamble of this Ordinance are

adopted and incorporated by reference as if set forth in this section.

Section 2: Chapter 6. Buildings and Building Regulations. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article XI. Standard Housing Code. to add an entirely new Division 4. Landlord Tenant Notice Requirements. and Sections 6-200. - Notice of Termination of Monthly Residential Tenancy Without Specific Duration. and 6-201 - Written Notification Requirements Related to Rental Payment Increases for All Residential Tenancies., to require 60-days' written notice for termination of tenancies and increases in rental rates; providing that the aforesaid definition at Division 4 shall hereafter read as follows:

DIVISION 4. – LANDLORD TENANT NOTICE REQUIREMENTS.

Sec. 6-200. – Required fair written notice of termination of monthly residential tenancy without specific duration.

A residential tenancy without a specific duration (as defined in section 83.46(2), Florida Statutes) in which the rent is payable on a month to month basis may be terminated by either the landlord or tenant by giving not less than sixty (60) days written notice prior to the end of any monthly period.

Sec. 6-201. – Required fair written notice for rental payment increases for residential tenancies.

A residential landlord that proposes to increase the current rental rate by more than five percent (5%) at the end of a lease for a specific duration, or during a tenancy without a specific duration (as defined in section 83.46(2), Florida Statutes) in which the rent is payable on a month to month basis, must provide sixty (60) days' written notice to the tenant before the tenant must either:

- (1) Accept the proposed amendment;
- (2) Reach an acceptable compromise; or,
- (3) Reject the proposed amendment to their tenancy.

If the required sixty (60) days' written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the residence.

Section 3: Each and every other Section and Sub-section of Chapter 6. Buildings and Building Regulations. shall remain in full force and effect as previously enacted.

Section 4: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 5: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 6: Specific authority is hereby granted to codify this Ordinance.

FIRST READING this 19th day of May, 2022.

SECOND AND FINAL READING this 16th day of June, 2022.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

(Seal)

ATTEST:

DIANE DISANTO, VILLAGE CLERK