

ORDINANCE 10 – 2022 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 20, “CIVIL RIGHTS,” ARTICLE IV, “LANDLORD TENANT NOTICE REQUIREMENTS,” BY ADOPTING SECTION 20-22 “NOTICE OF TERMINATION OF MONTHLY NON-RESIDENTIAL TENANCY WITHOUT SPECIFIC DURATION” AND SECTION 20-23 “WRITTEN NOTIFICATION REQUIREMENTS RELATED TO RENTAL PAYMENT INCREASES FOR ALL NON-RESIDENTIAL TENANCIES,” TO REQUIRE 60-DAYS’ WRITTEN NOTICE FOR TERMINATION OF TENANCIES AND INCREASES IN RENTAL RATES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

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

WHEREAS, like other cities in South Florida, over the past year, the City has witnessed a significant and steady increase in non-residential (i.e., commercial) rental rates being paid by commercial tenants; and

WHEREAS, the Mayor and Commissioners have personally heard from members of the public regarding above-average increases in commercial rental rates within the City and Palm Beach County; and

WHEREAS, according to commercial real estate market year-end data for Palm Beach County for 2021 and the first quarter of 2022, vacancy rates continue to drop and the price per square foot continues to rise; and

WHEREAS, the City has very limited options to assist commercial renters with unreasonable increases in rent; and

WHEREAS, Part I of Chapter 83, Florida Statutes, applies to the rental of non-residential tenancies and sets forth the rights and duties of landlords and tenants; and

WHEREAS, Part I of Chapter 83, Florida Statutes, does not provide specific notification requirements for landlords seeking to increase rental rates; and

WHEREAS, although some lease agreements contain provisions regarding increase in rental rates, a landlord generally may not raise rent during the term of a lease; and

WHEREAS, normally, unless rate increases are addressed in the lease, a landlord will have to wait until the end of the term of the lease or tenancy to raise the

rental rate and, while not required, generally the notice of such increase is provided in accordance with the termination notice set forth in the lease or set forth by law; and

WHEREAS, with respect to notices of termination of tenancy, when there is no lease, section 83.03, Florida Statutes, provides that the landlord must provide at least a seven-day notice to a tenant renting week-to-week, a 15-day notice to a tenant renting month-to-month, a 45-day notice to a tenant renting quarter-to-quarter, and a 3 month notice to a tenant renting year-to-year; and

WHEREAS, this means tenants renting on a month-to-month basis without a lease could be evicted after receiving only 15 days written notice of a rental rate increase and/or termination of their non-residential tenancy; and

WHEREAS, according to the 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 notification period for month-to-month residential tenancies without a specific duration pursuant to section 83.57, Florida Statutes; and

WHEREAS, the Florida Attorney General concluded that such enlargement of the notification period by ordinance would be supplemental to section 83.57, Florida Statutes, and compliance with such ordinance is possible without violating section 83.57, Florida Statutes; and

WHEREAS, the same arguments set forth in this Florida Attorney General opinion are, arguably, applicable to month-to-month non-residential tenancies without a specific duration as set forth in section 83.03, Florida Statutes; and

WHEREAS, the City desires to assist commercial and other non-residential tenants faced with unreasonable rental rate increases, including those tenants who may only receive 15 days written notice prior to eviction for the same; and

WHEREAS, with the current lack of vacant non-residential rentals and increases in rents, 15 days written notice is insufficient time for such a tenant to find a new affordable location to move a business to or means to pay an increase in rent in excess of five percent (5%); 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 without a lease is a reasonable time period given the current market conditions; and

WHEREAS, the City, in response to the Florida Attorney General's opinion 94-41, desires to enact this Ordinance requiring 60 days written notification to be given by all City of Lake Worth Beach non-residential landlords to their tenants with a lease or a monthly tenancy without a specific duration prior to increasing the tenants' rental rates above five percent (5%) and prior to terminating a tenancy if the tenancy is monthly without a specific duration; and

WHEREAS, the City Commission has reviewed the recommended amendments to Chapter 20 and has determined that they serve a valid public purpose and are in the best interest of the public health, safety and general welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA that:

Section 1. Recitals. The foregoing recitals are hereby affirmed and ratified as true and correct and as the specific findings of the City of Lake Worth Beach City Commission.

Section 2. Amendment. Chapter 20, entitled "Civil Rights," is hereby amended at Article IV, "Landlord Tenant Notice Requirements," to read as follows:

Sec. 20-22. – Required fair written notice of termination of monthly non-residential tenancy without specific duration.

A non-residential tenancy without a specific duration (as defined in subsection 83.03(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 60 days written notice prior to the end of any monthly period.

Sec. 20-23. – Required fair written notice of rental payment increases for non-residential tenancies.

A non-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 subsection 83.03(2), Florida Statutes) in which the rent is payable on a month to month basis, must provide 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 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 premises.

Section 3. Except for the notice provisions set forth above in sections 20-22 and 20-23, all other provisions set forth in Chapter 83, Part I, Florida Statutes, as may be amended from time to time, shall govern non-residential tenancies.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of this Ordinance may be made a part of the City's Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 7. Effective Date. This Ordinance shall take effect immediately after its adoption.

The passage of this Ordinance was moved by _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Commissioner Christopher McVoy
Commissioner Sarah Malega
Commissioner Kim Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on first reading on the _____ of _____ 2022.

The passage of this ordinance on second reading was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Commissioner Christopher McVoy
Commissioner Sarah Malega
Commissioner Kim Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk