

BCC Mtg. Date: August 9, 2022

Effective Date: August 12, 2022; except
Section 2 which shall take effect only
if and when approved by a majority of
the voters voting in the referendum
called by the Board of County
Commissioners of Orange County,
Florida in Section 3 to be held on
November 8, 2022

ORDINANCE NO. 2022-29

AN ORDINANCE RELATED TO RENT STABILIZATION IN ORANGE COUNTY; ENACTING A NEW ARTICLE XIII, DIVISION 2 OF THE ORANGE COUNTY CODE OF ORDINANCES (“CODE”), SECTION 25-380 THROUGH SECTION 25-449; PROVIDING A SHORT TITLE AND LEGISLATIVE FINDINGS AND PURPOSE; LIMITING RENT INCREASES FOR CERTAIN RENTAL UNITS IN MULTIFAMILY STRUCTURES FOR A PERIOD OF ONE (1) YEAR; REQUIRING CERTAIN RESIDENTIAL LANDLORDS TO SUBMIT A RENTAL UNIT REGISTRATION STATEMENT; PROVIDING PENALTIES FOR VIOLATION; CALLING FOR A REFERENDUM; PROVIDING BALLOT LANGUAGE; REQUIRING PUBLIC NOTICE OF SUCH REFERENDUM; PROVIDING THAT THE RENT STABILIZATION ORDINANCE WILL TAKE EFFECT ONLY UPON APPROVAL BY THE ELECTORATE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there are approximately 584,000 total housing units in Orange County of which 230,000 are occupied by renters, and according to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and

WHEREAS, there is a shortage of dwelling houses and apartments in Orange County, Florida needed to house the current and growing population; and

WHEREAS, because of the current shortage of housing, the vacancy rate for housing is low; and

WHEREAS, tenants displaced as a result of their inability to pay increasing rents must relocate, but are unable to find decent, safe, and sanitary housing at affordable rent levels; and

WHEREAS, some tenants attempt to pay the requested rent increases, but as a consequence must expend less on other necessities of life; and

WHEREAS, this situation has had a detrimental effect on a substantial number of renters in Orange County creating hardships on senior citizens, persons on fixed incomes, and low and moderate-income households; and

WHEREAS, a housing emergency so grave as to constitute a serious menace to the general public exists in fact in Orange County; and

WHEREAS, it is necessary and proper to regulate rents to eliminate such grave housing emergency.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated into the body of this ordinance as if fully set forth herein.

Section 2. Enactment of New Chapter 25, Article XIII, Division 2. A new Rent Stabilization Ordinance, to be codified at Chapter 25, Article XIII, Division 2 of the Code, Section 25-380 through Section 25-449, is hereby enacted to read as follows:

**CHAPTER 25. LICENSES, TAXATION AND
MISCELLANEOUS BUSINESS REGULATIONS**

* * *

ARTICLE XIII. RESIDENTIAL TENANCIES

* * *

DIVISION 2. RENT STABILIZATION

Section 25-380. Short Title and Scope.

This division shall be known and may be cited to as the “Rent Stabilization Ordinance.” The Rent Stabilization Ordinance shall be effective in both the incorporated and unincorporated areas within Orange County, except that this ordinance will not be effective within those incorporated areas that have enacted a duly adopted ordinance exempting such incorporated area from this ordinance.

Section 25-381. Legislative Findings and Purpose.

(a) Section 125.0103, Florida Statutes (the “Statute”), provides that ordinances which would have the effect of imposing controls on rents may be adopted when it is found and determined that such controls are necessary and proper to eliminate an existing

housing emergency which is so grave as to constitute a serious menace to the general public; and

- (b) The Statute authorizes a county to duly adopt an ordinance which would have the effect of imposing controls on rents when the governing body makes and recites in such ordinance its findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency; and
- (c) There is a shortage, scarcity, and insufficient supply of dwelling houses and apartments in Orange County, Florida. Relative to population, national production of housing units has declined from approximately 0.82 homes per person in the 1970s to approximately 0.45 homes per person in 2019. In Orange County, there is a shortage of as many as 26,500 housing units relative to the County's need; and
- (d) According to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- (e) There are approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters; and
- (f) The shortage of housing is further evidenced by the low vacancy rate for rental properties in Orange County which reached 5.2% in 2021—the lowest on record since at least the year 2000; and
- (g) Inflation, housing prices, and rental rates in Orange County are increasing, accelerating, and spiraling. The Consumer Price Index for All Urban Consumers in the South was 9.2% from May 2021 to May 2022. The median existing home sales price in Orange County was \$275,000 in May 2020 and \$392,500 in May 2022, which represents a 43% increase. Asking rent per unit in the County was \$1,357 in 2020 and \$1,697 in 2021 which represents a 25% year-over-year increase—the highest increase since 2006 when it was 6.7%; and
- (h) The housing conditions have resulted in widespread distress among Orange County residents. It is estimated that 80.3% of households earning at or below the Average Median Income (AMI) in Orange County are considered “cost burdened” which

the U.S. Department of Housing and Urban Development defines to include households who pay more than thirty-percent (30%) of their income for housing and may have difficulty affording necessities such as food, clothing, transportation, and medical care; and

- (i) The widespread distress in housing conditions is further evidenced as Orange County residents were awarded more funds from the State of Florida's Emergency Rental Assistance Program 1 ("Emergency Program") than any other county in the state. The Emergency Program has since ended while the County's housing conditions continue to worsen; and
- (j) Orange County was in a housing crisis prior to the COVID-19 pandemic. In May 2018, Central Florida's interjurisdictional Regional Affordable Housing Initiative said, "National and regional home prices and rents are pushing well above historic limits when compared to income and affordability. The situation has passed the point of concern and is now a crisis." The housing crisis has worsened since the COVID-19 pandemic; and
- (k) Tenancies are being terminated and eviction rates are increasing. For the first half of 2022, there have been 6,970 eviction case filings, which is a 70.1% increase over the same period in 2021; and
- (l) The findings made and recited in this ordinance establish the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public; and
- (m) The Orange County Board of County Commissioners finds that this grave housing emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market. In jurisdictions in Florida comparable to Orange County that do not have rent stabilization measures in place, rent increases continue to spiral. For example, in Hillsborough County, Duval County, and Broward County, the year-over-year asking rent has increased by over 20%; and
- (n) Jurisdictions with rent stabilization measures in effect and otherwise comparable to Orange County have been successful in protecting tenants by establishing limits on rent increases while still providing landlords with a fair and reasonable return on their investment. For example, in California, Alameda County and Sacramento County contain rent control measures

and have limited their year-over-year asking rent increases to approximately 5%-10% despite low vacancy rates; and

- (o) The Board finds that a rent stabilization measure is necessary and proper to eliminate the County's housing emergency which is so grave as to constitute a serious menace to the general public.

The purpose of this Rent Stabilization Ordinance is to provide stability and certainty for tenants in the rental market, as necessary and proper to eliminate the grave housing emergency, while also providing landlords with the opportunity to receive a fair and reasonable return on their investment.

Section 25-382. Authority.

Pursuant to Section 125.0103, Florida Statutes, the Orange County Board of County Commissioners is authorized to adopt this necessary and proper Rent Stabilization Ordinance to eliminate the existing housing emergency which is so grave as to constitute a serious menace to the general public.

Section 25-383. Definitions.

For the purposes of this Rent Stabilization Ordinance, the following definitions shall apply:

- (a) *Board* or *BCC* shall mean the Board of County Commissioners of Orange County, Florida.
- (b) *Change of occupancy* shall mean a change in the occupation of the rental unit from one tenant to another tenant.
- (c) *Consumer Price Index* or *CPI* shall mean the most recent 12-month average percentage change in the Consumer Price Index for All Urban Consumers, South Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, which, by way of example, was 9.8% from June 2021 to June 2022.
- (d) *County* shall mean Orange County, Florida.
- (e) *Department* shall mean Orange County's Planning, Environmental and Development Services Department (or such successor division or department designated by the County).

- (f) *Dwelling unit* shall mean:
- (1) A structure or part of a structure that is rented for use as a home, residence, or sleeping place by one person or by two or more persons who maintain a common household.
 - (2) A mobile home rented by a tenant.
 - (3) A structure or part of a structure that is furnished, with or without rent, as an incident of employment for use as a home, residence, or sleeping place by one or more persons.
- (g) *Grave housing emergency* shall mean the housing emergency so grave as to constitute a serious menace to the general public as found to exist in the County by the Board as recited in this Rent Stabilization Ordinance in accordance with Section 125.0103, Florida Statutes.
- (h) *Housing services* shall include, but are not limited to, maintaining roofs, windows, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads, and maintaining the plumbing in reasonable working condition, and ensuring that screens are installed in a reasonable condition, and any other benefit, privilege, or facility connected with the use or occupancy of any rental unit pursuant to applicable state and local law, building, housing, and health codes, and rental agreements, and, by way of example, mail, vehicle parking spaces, storage, and use of common areas and/or recreational facilities and all other amenities held out for use by tenants.
- (i) *Landlord* shall mean the owner or lessor of a residential rental unit.
- (j) *Ordinance* shall mean the Rent Stabilization Ordinance.
- (k) *Rent* shall mean the periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written rental agreement. Rent shall include fees required by the landlord for a tenant's access to and use of mandatory housing services. Rent does not include user fees for housing services that may be utilized at the option of the tenant or utility charges for those rental units that are billed separately.

- (l) *Rental Agreement* shall mean any written agreement, including amendments or addenda, or oral agreement for a duration of less than 1 year, providing for use and occupancy of premises.
- (m) *Residential rental unit* or *rental unit* shall mean any dwelling unit, or portion of a dwelling unit, that is located in a multifamily structure containing a total of four (4) or more dwelling units that are rented or otherwise made available for rent for residential use or occupancy, together with all housing services connected with the use or occupancy of such property.
- (n) *State* shall mean the State of Florida.
- (o) *Tenancy* shall mean the right of entitlement of a tenant to use or occupy a residential rental unit under the terms of a rental agreement.
- (p) *Tenant* shall mean any person entitled to occupy a residential rental unit under a rental agreement.

Section 25-384. Limitations on rent increases.

- (a) No landlord shall demand, charge, or accept from a tenant a rent increase for a residential rental unit more than once in a 12-month period.
- (b) No landlord shall demand, charge, or accept from a tenant a rent increase that is in excess of the existing rent multiplied by the Consumer Price Index for any residential rental unit except as otherwise allowed under section 25-388 of this ordinance.

Section 25-385. Minimum housing services.

No landlord shall refuse to provide any housing services that were agreed upon by the landlord and tenant as of this ordinance's effective date.

Section 25-386. Vacancy.

This ordinance's limitations on rent increases shall apply regardless of change of occupancy in a residential rental unit except as otherwise allowed under section 25-388 of this ordinance.

Section 25-387. Rental unit registration statement.

- (a) At the Department's request, a landlord shall submit a registration statement to the Department with information related to the landlord's residential rental units to ensure compliance with this ordinance. The landlord shall submit the registration statement within a timeframe specified by the Department and on forms approved by the Department.
- (b) The Department may require a landlord to submit the following information as part of the registration statement required by this section:
 - (1) Current and previous rental amounts charged for one or more residential rental units, and the date of the last rent increase for said rental unit(s);
 - (2) The name, address, and telephone number of the landlord for each applicable residential rental unit(s);
 - (3) The name and mailing address of applicable tenants or rental units including any building or unit identification number or other description, as applicable;
 - (4) A description of the housing services provided by the landlord to each applicable tenant or for each applicable rental unit;
 - (5) Move-in and vacancy dates for each applicable tenant or applicable rental unit; and
 - (6) Any other relevant information requested by the Department which may include, but is not limited to, rental agreements and other supporting documentation evidencing the accuracy of the information contained in the landlord's registration statement.
- (c) Landlords shall retain copies of all rental agreements and other supporting documentation necessary to comply with this section for a minimum period of two (2) years.
- (d) Landlords shall submit corrections to a registration statement to the Department within ten (10) days of discovering any errors in the information contained in the registration statement.

- (e) Failure to submit a complete, timely, and accurate registration statement, or corrections to a registration statement, in accordance with this section shall be considered a violation of this ordinance and subject to the penalties contained in section 25-390 of this ordinance.

Section 25-388. *Fair and reasonable return on investment.*

- (a) The Board shall adopt a resolution with rules establishing a process by which landlords can request exceptions to the limitations on rent increases based on the opportunity to receive a fair and reasonable return on investment. Rationale for deviations from the limitation on rent increases must consider the following factors:
 - (1) Increases or decreases in property taxes;
 - (2) Unavoidable increases or any decreases in maintenance and operating expenses;
 - (3) The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable building, housing, or health codes, 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, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
 - (5) Substantial deterioration of the rental unit other than as a result of normal wear and tear;
 - (6) Inability of the landlord to provide adequate housing services, or to comply substantially with applicable state and local laws, building, housing, or health codes, or the rental agreement; and
 - (7) The pattern of recent rent increases or decreases.

- (b) It is the intent of this ordinance that exceptions to the limitations on rent increases be made only when the landlord demonstrates that such adjustments are necessary to provide the landlord with a fair and reasonable return on investment.
- (c) The County will not grant an exception to the limitations on rent increases for any residential rental unit where the landlord has failed to bring the rental unit into compliance with applicable state and local laws and building, housing, and health codes.

Section 25-389. Exemptions.

This Rent Stabilization Ordinance shall not apply to any residential rental units expressly exempt pursuant to any provision of state or federal law, and such units shall be exempt from the provisions of this ordinance. The following units are also specifically exempt from this ordinance:

- (a) Rental units used or offered for residential purposes as a seasonal or tourist unit pursuant to Section 125.0103(4), Florida Statutes, which include units located in a hotel, motel, or other similar establishment where units are rented primarily to transient guests;
- (b) Units used or offered for residential purposes as a second housing unit pursuant to Section 125.0103(4), Florida Statutes, which include accessory dwelling units;
- (c) Rentals units located in a luxury apartment building pursuant to Section 125.0103(4), Florida Statutes, which, for the purposes of this section, shall mean one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds \$250;
- (d) Dwelling units located in a single-family home, townhome, condominium, or mobile home, and mobile home lot rents as preempted by Chapter 723, Florida Statutes;
- (e) Rental units that a governmental agency or authority owns, operates, or otherwise manages;
- (f) Dwelling units located in a cooperative apartment occupied by a holder of a proprietary lease;

- (g) Dwelling units located in a disability facility, hospital, nursing home, assisted care community, or other health care facility licensed under Chapter 393, 395, 400, or 429, Florida Statutes;
- (h) Rental units for which the landlord receives federal, state, or local housing subsidies including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f);
- (i) Rental units that are currently under rent control by virtue of local, state or federal housing subsidy; and
- (j) New rental units that have received a Certificate of Occupancy on or after the effective date of this ordinance.

Section 25-390. Enforcement, penalties, and prohibitions.

(a) *Enforcement.* This ordinance may be enforced by code enforcement officers, including county and municipal code enforcement officers, and any law enforcement agency having jurisdiction of the area within which the rental unit at issue is located pursuant to Section 125.69 and Chapter 162, Florida Statutes, or any applicable municipal code enforcement provision.

(b) *Penalties for violation.*

(1) Violations of this ordinance may be prosecuted in the same manner as misdemeanors and result in a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding sixty (60) days, or by both such fine and imprisonment, in accordance with Section 125.69, Florida Statutes, and Section 1-9 of the Orange County Code.

(2) Notwithstanding any other provision of this ordinance, the county may impose civil fines through its code enforcement board or special magistrate or issue civil citations through its code enforcement citation program for violations of this ordinance. Such fines or citations shall be enforced in amounts as provided for and authorized by Chapter 162, Florida Statutes, and Chapter 11, Orange County Code.

i. Fines imposed by the code enforcement board or special magistrate may be for amounts not to exceed one

thousand dollars (\$1,000) per day for a first violation and five thousand dollars (\$5,000) per day for a repeat violation. However, if the code enforcement board or special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed fifteen thousand dollars (\$15,000) per violation.

- ii. Citations issued pursuant to the county's code enforcement citation program for violations of this ordinance shall be classified as a Class III violation and subject to a fine as provided in Section 11-67 of the Orange County Code.

(c) *Private right of action.*

- (1) Any tenant aggrieved by a landlord's noncompliance with this ordinance may seek relief in a court of competent jurisdiction provided that such action is filed within two (2) years of the alleged violation.
- (2) In a private civil action filed under this ordinance, the court may issue an order prohibiting the unlawful practice and providing affirmative relief from the effects of the practice, including equitable relief, temporary restraining order, actual and punitive damages, reasonable attorney's fees, interest, costs, or other relief, upon a finding that a violation of this ordinance has occurred or is about to occur.

- (d) *Prohibition of waiver.* Any lease provision which waives or purports to waive any right, benefit, or entitlement created in this ordinance shall be deemed void and of no lawful force or effect.

Sections 25-391 – 25-449. Reserved.

Section 3. Referendum Called. A referendum election is hereby called and ordered to be held in Orange County at the time of the next general election to be held on November 8, 2022, to determine whether the Rent Stabilization Ordinance is approved by the voters.

Section 4. Notice of Referendum. Pursuant to Section 100.342, Florida Statutes, a Notice of Referendum shall be published twice in the *Orlando Sentinel*, a newspaper of general

circulation in the County. The publications shall occur once in the fifth week and once in the third week prior to the week which includes November 8, 2022.

Section 5. Official Ballot. Ballots to be used in the referendum shall contain a statement of the description of the proposed issue in substantially the following form:

Rent Stabilization Ordinance to
Limit Rent Increase for Certain
Residential Rental Units

Shall the Orange County Rent Stabilization Ordinance, which limits rent increases for certain residential rental units in multifamily structures to the average annual increase in the Consumer Price Index, and requires the County to create a process for landlords to request an exception to the limitation on the rent increase based on an opportunity to receive a fair and reasonable return on investment, be approved for a period of one year?

Section 6. Spanish Translation. The above ballot question shall additionally appear on the ballot in Spanish and the County Attorney and Supervisor of Elections are requested to authorize, and directed to prepare, an accurate Spanish translation to be included on the ballot.

Section 7. Payment of Referendum Expenses. The Board authorizes the payment of lawful expenses associated with conducting the referendum, as well as the cost of providing information as permitted by Section 106.113, Florida Statutes. The Orange County Comptroller is hereby authorized and directed to disburse the funds necessary to pay such expenses.

Section 8. Repeal of Laws in Conflict. All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Section 9. Severability. If any section, subsection, sentence, clause, or provision of this ordinance or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect any other provision or application of this ordinance, and to this end the provisions of this ordinance are declared severable.

Section 10. Effective Date. This ordinance shall take effect pursuant to general law. However, Section 2 of this ordinance, Rent Stabilization Ordinance, shall take effect only if and when approved by a majority of the voters voting in the referendum called by the Board of County Commissioners of Orange County, Florida in Section 3 of this ordinance. In accordance with Section 125.0103(3), Florida Statutes, the Rent Stabilization Ordinance approved pursuant to this ordinance shall terminate and expire one (1) year after this ordinance's effective date and shall not be extended or renewed except by the adoption of a new ordinance meeting all the requirements of Florida Statutes.

ADOPTED THIS 9th DAY OF August, 2022.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

