

## **ORDINANCE NO. 22-04**

### **AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 22 "HOUSING," OF THE VILLAGE CODE OF ORDINANCES AT ARTICLE I "IN GENERAL" TO CREATE SECTION 22-1 "REQUIRED WRITTEN FAIR NOTICE OF TERMINATION OF MONTHLY RESIDENTIAL TENANCY WITHOUT SPECIFIC DURATION AND WRITTEN NOTIFICATION REQUIREMENTS RELATED TO RENTAL PAYMENT INCREASES FOR ALL RESIDENTIAL TENANCIES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, it is the intention of Islamorada, Village of Island (the "Village") to ensure all Village residents receive a fair notice if their rents are to increase; and

**WHEREAS**, according to the University of Florida's Shimberg Center for Housing Studies' 2019 Rental Market Study, there are 2.6 million renter households in the State of Florida; and

**WHEREAS**, during the coronavirus-2019 (COVID-19) pandemic, there has been an influx of people moving to Florida from states with higher wages and cost of living which has caused an upsurge in rental rates in Florida; and

**WHEREAS**, Part II of Chapter 83, Florida Statutes, commonly known as the "Florida Residential Landlord and Tenant Act" (the "Act"), applies to the rental of residential dwelling units and sets forth the rights and duties of landlords and tenants; and

**WHEREAS**, the Act does not provide specific notification requirements for landlords seeking to increase rental rates; and

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

**WHEREAS**, therefore, a landlord will have to wait until the end of the lease term of the lease to raise the rent and it is expected that notice of such will be provided in

accordance with termination notices set forth by law or in accordance with the lease agreement; and

**WHEREAS**, with respect to notices of termination of tenancy, if there is a written lease, Section 83.575 of the Act provides that the notice required to terminate a tenancy is no more than 60 days' notice; and

**WHEREAS**, where there is no lease, on the other hand, Section 83.57 of the Act provides that the landlord should provide a seven-day notice to a tenant renting week-to-week, a 15-day notice to a tenant renting month-to-month, a 30-day notice to a tenant renting quarter-to-quarter, and a 60-day notice to a tenant renting year-to-year; and

**WHEREAS**, there is no explicit notice provision for increases in rent in the Act; and

**WHEREAS**, according to court opinions and Florida Attorney General Opinion No. 94-91, the Florida Legislature has not preempted local governments from enacting ordinances that enlarge the notification period for month-to-month tenancies without a specific duration pursuant to Section 83.57 of the Act; and

**WHEREAS**, the Attorney General concluded that such enlargement of the notification period would be supplemental to the state statute, and compliance with such ordinance is possible without violating Section 83.57; and

**WHEREAS**, in response to the Attorney General's opinion and to assist renters, the Miami-Dade County recently enacted an ordinance that requires 60 days written notification be given by County residential landlords to their tenants prior to increasing the tenants' rent beyond a specified percent; and

**WHEREAS**, additionally, states, including Alabama, Alaska, Arizona, California, Indiana, Iowa, Kansas, Massachusetts, Missouri, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, and Texas, have laws that require landlords to provide notice to their tenants prior to increasing their rents; and

**WHEREAS**, accordingly, the Village Council desires to require that residential landlords in the Village who propose to increase the rents of their tenants by five percent or more shall provide such tenants with advance written notice of such increase; and

**WHEREAS**, further, the Village Council also desires to provide for notification period requirements for month-to-month tenancies under Section 83.57 of the Act by enlarging such notification period from 30 days to 60 days; and

**WHEREAS**, the Village Council finds it to be in the best interest of the Village and its residents to adopt this Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Code Amendment.** Chapter 22 "Housing," Article I "In General," is hereby amended to create Section 22-1 "Required written fair notice of termination of monthly residential tenancy without specific duration and written notification requirements related to rental payment increases for all residential tenancies" to read as follows:<sup>1</sup>

**Chapter 22 – HOUSING**

**ARTICLE I. – IN GENERAL**

**Section 22-1. - Required written fair notice of termination of monthly residential tenancy without specific duration and written notification requirements related to rental payment increases for all residential tenancies**

**(a) Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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<sup>1</sup> Additions to existing City Code text are shown in underline. Deletions to existing text are shown in ~~strikethrough~~.

(1) "Dwelling unit" means:

- (i) 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.
- (ii) A mobile home rented by a tenant.
- (iii) 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.

(2) "Landlord" means the owner or lessor of a dwelling unit.

(3) "Tenant" means any person entitled to occupy a dwelling unit under a rental agreement.

(4) "Rent" means 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.

(5) "Rental agreement" means 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.

(6) "Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant for a dwelling unit.

(b) *Notice of Termination.* A residential tenancy without a specific duration in which the rent is payable on a monthly 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.

(c) *Notice of Rent Increase.* A landlord that proposes to increase the rent by more than five percent at the end of a rental agreement for a specific term, or during a residential tenancy without a specific duration in which the rent is payable on a

monthly basis, must provide a minimum of 60 days' written fair notice to the tenant before the tenant must either:

- (1) Accept the proposed rent increase;
- (2) Reach an acceptable compromise; or
- (3) Reject the proposed rent increase.

If the required 60 days' written fair notice has been provided and the tenant has not agreed to the proposed rent increase or an acceptable compromise, the landlord may impose the proposed rent increase or require the tenant(s) to vacate the dwelling unit.

(d) Except for the notice provisions set forth in subsection (b) and (c), all other provisions set forth in Part II of Chapter 83, Florida Statutes, as such may be amended, shall govern residential tenancies.

**Secs. 22-12—22-10. - Reserved.**

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Islamorada, Village of Islands, Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Repeal of Conflicting Provisions.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**(This space is intentionally left blank)**

The foregoing Ordinance was offered by Councilman Mark Gregg, who moved its adoption on first reading. This motion was seconded by Mayor Pete Bacheler, and upon being put to a vote, the vote was as follows:

Mayor Pete Bacheler	Yes
Vice Mayor Henry Rosenthal	Yes
Councilman Mark Gregg	Yes
Councilman Joseph B. Pinder III	Yes
Councilman David Webb	Yes

**PASSED** on first reading this 4th day of August, 2022.

The foregoing Ordinance was offered by Councilman Mark Gregg who moved its adoption on second reading. This motion was seconded by Councilman David Webb and upon being put to a vote, the vote was as follows:

Mayor Pete Bacheler	<u>Absent</u>
Vice Mayor Henry Rosenthal	<u>Yes</u>
Councilman Mark Gregg	<u>Yes</u>
Councilman Joseph B. Pinder III	<u>Yes</u>
Councilman David Webb	<u>Yes</u>

**PASSED AND ADOPTED** on the second reading this 25 day of August, 2022.

  
PETE BACHELER, MAYOR

ATTEST:

  
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MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR  
THE USE AND BENEFIT OF ISLAMORADA,  
VILLAGE OF ISLANDS ONLY

  
\_\_\_\_\_  
VILLAGE ATTORNEY