

Article 1 - GENERAL PROVISIONS

CHAPTER 1. - GENERAL

Sec. 1.1.1. - Title and citation.

This Code shall be known as the Land Development Regulations and may also be cited and referred to herein as this Code or the LDR.

Sec. 1.1.2. - Authority.

Council has the authority to adopt this Code pursuant to Article VIII, Sec. 2(b), Fla. Const., Chapter 163, Part II, Fla. Stat., Chapter 166, Fla. Stat. and such other authorities and/or provisions that are established in the statutory or common law in the State of Florida.

Sec. 1.1.3. - Findings.

Council hereby makes the following findings:

- A. Wellington, pursuant to Sec. 163.3161, et. seq., Fla. Stat., the Community Planning Act (hereinafter the Act) is required to prepare and adopt a Comprehensive Plan which has already occurred.
- B. Sec. 163.3202(1), Fla. Stat. mandates the Village implement the adopted Comprehensive Plan with land development regulations which are consistent with the adopted Comprehensive Plan.
- C. Sec. 163.3194(1)(a), Fla. Stat., mandates after a Comprehensive Plan has been adopted in conformity with the Act, all development undertaken by and all actions taken in regard to development orders by governmental agencies shall be consistent with the Comprehensive Plan.
- D. This Code is adopted to implement and be consistent with the Comprehensive Plan because the land uses, densities, intensities, capacity, timing and other aspects of development further the goals, objectives and policies in the Comprehensive Plan.
- E. This Code is also adopted to preserve and enhance the present advantages which exist in Wellington to encourage the most appropriate use of land, water and natural resources to be consistent with the public interest to overcome present handicaps and deal effectively with future problems which may result from the use and development of land. to prevent the overcrowding of land and avoid undue concentration of population, to facilitate the adequate and efficient provision of transportation, water, sewage, drainage, solid waste, parks, schools, fire and police facilities; to conserve, develop, utilize and protect natural resources; to protect human, environmental, social and economic resources; and to maintain through orderly growth and development along with the community character and stability of both present and future land uses and development in Wellington.

Sec. 1.1.4. - Purpose and intent.

- A. It is the intent of the Council that the purpose of this Code be to implement and ensure all development orders approved in Wellington are consistent with the Comprehensive Plan.
- B. It is also the intent of the Council that the purpose of this Code establish comprehensive and consistent standards along with procedures for the review and approval of all proposed development of land in Wellington.
- C. It is the further intent of Council that development review, approval and permitting processes under this Code be efficient in terms of time and expense, effective in terms of addressing the natural

resource and public facility implications of proposed development and equitable in terms of consistency with established regulations and procedures while also respecting the rights of property owners and the citizens of Wellington.

CHAPTER 2. - RELATIONSHIP TO COMPREHENSIVE PLAN

The adoption of this Code is consistent, compatible, furthers the goals, objectives, policies, land uses, densities and/or intensities in the Comprehensive Plan.

CHAPTER 3. - APPLICABILITY

This Code shall apply to the development of all land in Wellington, except as provided otherwise in this Code. No development shall be undertaken without prior authorization pursuant to this Code.

CHAPTER 4. - MINIMUM REQUIREMENTS

The provisions of this Code are the minimum requirements necessary to accomplish the purposes of this Code and to implement and ensure consistency with the Comprehensive Plan.

CHAPTER 5. -PREVIOUSLY APPROVED AND IN-PROCESS DEVELOPMENT ORDERS

Sec. 1.5.1 Previously Approved Development Orders.

- A. Projects with approved Master Plans and amendments, Subdivision Plans, Land Development Permits, Site Plans and amendments, Conditional Uses and Special Permits which were in force prior to the effective date of this Code shall be permitted to apply for subsequent development orders and building permits subject to the regulations in effect prior to the effective date of this ordinance, the requirements of prior approvals and associated conditions of approval. However, such previously approved development orders are subject to the time limitations of development orders in effect prior to the effective date of this Code.
- B. Projects may apply for amendments to development orders in effect prior to the effective date of this Code utilizing the prior approvals and regulations then in effect only to the extent the amendments could have been administratively approved by the Planning and Zoning Director or DRC under the prior regulations. Otherwise, all proposed amendments shall be required to comply with this Code.

Sec. 1.5.2 Development Orders In-Process on the Effective Date of this Code.

- A. Applications filed before the effective date of this Code shall continue to be processed to completion provided the application was deemed sufficient at an application intake meeting prior to the effective date.
 - a. Such projects may proceed with applications for subsequent development orders subject to the regulations in effect when the prior approved development order was deemed sufficient. The prior development order and conditions of approval must clearly show uses, standards, tabulations, designs and details with the previously approved development order.
 - b. Amendments to approved development orders in process prior to the effective date of this Code may utilize the approvals and the regulations previously in effect to the extent amendments are deemed minor or which qualify for amendments which could have been administratively approved under the prior regulations.
- B. If the pending application is no longer required after the effective date of this Code it shall be administratively withdrawn.

- C. If an applicant desires a pending application to otherwise be subject to this Code the pending application shall be withdrawn and a new application submitted including new submittal fees.

Sec. 1.5.3. - Existing uses.

All uses existing on the effective date of this Code which are not otherwise permitted shall be considered nonconforming. Uses not legally permitted by this Code or which did not preexist under a previous approval shall be considered illegal.

Sec. 1.5.4. - Invalid approvals.

Development orders and permits which have become invalid shall be subject to this Code. Invalid development orders and permits are projects which have been revoked expired or have been found by any Board empowered to enforce this Code to not be in compliance with any conditions of their development approval or time certain requirements pursuant to this Code.

CHAPTER 6. - NONCONFORMITIES

Sec. 1.6.1. - Purpose and intent.

Existing uses of land, structures and lots which were lawfully established before this Code was adopted or amended but do not conform to this Code shall be considered nonconforming. The purpose and intent of this section is to regulate and limit the continued existence of those uses, structures and lots and where possible bring them into conformance with this Code.

Sec. 1.6.2. - General.

It is the intent of this section to permit these legal nonconformities to continue but not to allow nonconformities to be enlarged or expanded except under the limited circumstances established in this article. The provisions of this article are designed to preserve the integrity of this Code and the Comprehensive Plan. In determining whether a legal-nonconforming use is protected by this article the following standards shall apply:

- A. Nonconforming use status shall not be provided for any use which was illegally commenced, unlawfully continued or commenced after use restrictions became effective.
- B. Nonconforming use status shall only be provided where a use has lawfully commenced, been in continuous operation and was not an occasional or irregular use of the property.
- C. An accessory nonconforming use shall not become the principal use of the property or structure.
- D. Affidavits alone are insufficient evidence to establish or verify legal-nonconforming status.

Sec. 1.6.3 - Nonconforming Uses.

A nonconforming use in the zoning district in which it is located may be continued in accordance with this section.

- A. A nonconforming use shall not be moved in whole or in part to another location on the lot unless it conforms to the standards and requirements of the zoning district or will decrease the nonconformity.
- B. A nonconforming use shall not be enlarged or expanded in area.
- C. A nonconforming use shall not be changed to another use unless the use conforms to this Code. A nonconforming use superseded by a permitted use shall not be reestablished.

D. If a nonconforming use is discontinued or abandoned for a period of more than six (6) consecutive months or for fifteen (15) months during any three (3) consecutive years then such use may not be re-established and any subsequent use shall conform to this Code. When government action can be documented as a reason for discontinuance or abandonment the time of the governmental delay shall not be counted.

Sec. 1.6.4 - Nonconforming Structures.

A nonconforming structure in the zoning district in which it is located may be continued in accordance with this section.

- A. A nonconforming structure shall not be moved in whole or in part to another location on the lot unless it conforms to the standards and requirements of this Code or will decrease the nonconformity.
- B. A nonconforming structure may be enlarged or expanded if it meets the requirements of this Code as long as the enlargement or expansion does not increase the nonconformity or add structures or uses prohibited in the zoning district. No additional structures shall be constructed unless they conform to the standards and requirements of this Code.
- C. Normal maintenance, repair or renovation of structures inclusive of replacing wiring, plumbing, nonbearing walls and fixtures may be performed during a twelve (12) consecutive month period to an extent not exceeding twenty (30) percent of the current improvement value of the structure.
- D. Reconstruction due to natural disaster damage to an extent of more than thirty (30) percent of a structure's improvement value at the time of reconstruction shall not occur except in conformity with this Code. The Planning, Zoning, and Adjustment Board may hear requests to increase the extent of reconstruction to as much as fifty (50) percent upon making determinations about safety and nonconformity pursuant to the criteria in Sec. 1.6.4.F below.
- E. In determining whether improvements exceed thirty (30) percent of a structure's improvement value, the International Code Council's Building Valuation Data Table shall be used. The Building Official, in his discretion, may use other comparable guidelines accepted in practice to make this determination. The Valuation Data Table is outlined in the Building Safety Journal as amended periodically to provide average construction costs per square foot in determining the value of improvements to perform expansion, maintenance, renovation or natural disaster damage repair.
- F. In making a determination for a request for reconstruction greater than thirty (30) percent but not more than fifty (50) percent due to natural disaster damage pursuant to Sec. 1.6.4.D the Planning, Zoning and Adjustment Board shall be guided by the following standards:
 - i. Compliance of the lot and structure with the Land Development Regulations;
 - ii. The degree of nonconformity of the structure;
 - iii. Whether applicable design elements of the lot or structure (such as parking, landscaping, vehicular circulation or access points) are adequate to meet minimum health and safety standards;
 - iv. Whether the nonconforming structure will result in a health and safety hazard;
 - v. Whether the nonconforming structure can be reduced or redesigned to mitigate the nonconformity.
- G. If a nonconforming structure is discontinued or abandoned for a period of more than six (6) consecutive months or for fifteen (15) months during any three (3) consecutive years then such use may not be re-established and any subsequent use shall conform to this Code. When government

action can be documented as a reason for discontinuance or abandonment the time of the governmental delay shall not be counted.

Sec. 1.6.5. - Unsafe structure.

Any portion of a nonconforming structure which becomes physically unsafe or unlawful due to lack of repairs and maintenance shall be declared unsafe or unlawful by the Wellington Building Official. An owner who wishes to restore, repair or rebuild shall do so in conformance with this Code.

Sec. 1.6.6. - Residential Development on Nonconforming Lots.

A single-family dwelling and customary accessory uses may be developed on a single lot if all of the following conditions are met:

- A. Development of a single family dwelling and customary accessory uses were permissible under the applicable Code at the time the lot was created.
- B. Record of lot documented by the following.
 - 1. The lot was the subject of a recorded agreement for deed or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the Wellington Engineer for compliance with Art. 8 Subdivision, Platting and Required Improvements;
 - 2. The lot was shown on a recorded map, plat, drawing or survey prior to the adoption of this Code;
 - 3. The lot is within an antiquated subdivision as determined by the Comprehensive Plan and is not subject to the lot recombination requirements of Art. 8. Subdivision, Platting and Required Improvements or the Comprehensive Plan.
 - 4. The lot was legally subdivided prior to the adoption of this Code.
- C. Property development regulations whereby the proposed use is permitted and the lot meets the minimum property development regulations for the zoning district in which it is located except for the minimum lot area and dimensions. If the lot does not meet the minimum yard setback, maximum lot coverage or maximum total floor area regulations of the district the following requirements may be applied for the specific lot characteristics which are nonconforming:
 - 1. Minimum Yard Setback Requirements¹.

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| Front | 30% of lot depth |
| Side (corner) | 20% of lot width |
| Side (interior) | 15% of lot width |
| Rear | 20% of lot depth |

¹Lots one and one-half (1½) acre or smaller which cannot meet minimum setbacks or the percentage setback may apply a minimum twenty-five (25) foot setback.

2. Maximum Lot Coverage: 40% of lot area.
3. Maximum Floor Area: 25% of lot area.

Sec. 1.6.7. - Non-residential development on Nonconforming Lots.

Non-residential development and customary accessory uses may be developed on a single nonconforming lot if all of the following conditions are met:

- A. Development of the non-residential use and customary accessory uses were permissible under the applicable Code at the time the nonconforming lot was created.
- B. Record of lot creation by any of the following;
 1. The lot was the subject of an agreement for deed which was recorded or proof of agreement is furnished or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the Wellington Engineer for compliance with Art. 8 Subdivision, Platting and Required Improvements;
 2. The lot was shown on a recorded map, plat, drawing or survey prior to the adoption of this Code;
 3. The lot was determined to be a lot within an antiquated subdivision as determined by the Comprehensive Plan; and was not subject to the lot recombination requirements of Art. 8 Subdivision, Platting and Required Improvements.
 4. The lot was legally subdivided prior to the adoption of this Code.
- C. The proposed use is permissible under this Code or the proposed use obtains a variance pursuant to the requirements of Sec. 5.10.

Sec. 1.6.8. - Zoning district amendment on lots of record.

When amending the zoning district designation for a portion of a single lot of record any portion proposed for amendment shall be subject to the current density and intensity requirements of the Comprehensive Plan.

CHAPTER 7. - PROPERTIES AFFECTED BY EMINENT DOMAIN PROCEEDINGS

Sec. 1.7.1. - Applicability.

This section of the Code shall apply to properties impacted by eminent domain. Site improvements and conditions including nonconforming features which existed prior to the time of the eminent domain action shall not be affected. Nonconforming uses shall also not be affected or cause a specific use on a property impacted by an eminent domain action to cease.

An eminent domain action occurs when property is acquired through an eminent domain proceeding or where such property is voluntarily conveyed under the threat of condemnation to a condemning authority.

Sec. 1.7.2. - Properties Affected by Eminent Domain Action.

Properties and site improvements impacted by eminent domain action may continue to exist and may expand as outlined below.

- A. Due to an eminent domain action, a reduction in the size of a lot causes a reduction below the required lot area, setbacks, parking, landscaping, sign location or other development regulations

in this Code. The structure(s), use(s) within the structure(s) and other site improvements may continue to exist in the configuration remaining after the condemnation except:

1. The length of accessways shall not be less than ten (10) feet measured from the right-of-way line unless otherwise approved in writing by the Wellington Engineer based on accepted traffic engineering principles; and
 2. Ingress and egress to the site shall be in a forward direction. Where parking is reduced the use of off-site parking, cross parking agreements and shared parking agreements are encouraged.
- B. A structure or site improvement on property reduced by an eminent domain action may be enlarged or expanded if the enlarged or expanded portion complies with this Code. Changes in use are also allowed if permitted by the zoning district.
- C. Redesign of the property is encouraged to achieve greater visibility and enhanced landscaping along roadways. Site improvements may be relocated or replaced provided the redesign meets code requirements. Redesign shall follow the permitting procedures of this code except for provisions noted below.
1. A variance shall be obtained for any additional deviation from required property development regulations or site design standards proposed by the redesign. Any redesign or expansion which reduces an existing deviation from required property development regulations or site design standards does not require a variance. For the purposes for applying the variance standards in Sec. 5.10 of this code the eminent domain action shall be presumed to be sufficient evidence to demonstrate hardship resulting from the eminent domain action.
 2. Where a proposed redesign is located on property which is the subject of a development order approved by Council, any redesign shall be approved by the Development Review Committee even if the redesign proposes changes in excess of the administrative limits contained in Sec. 5.9, of this Code.
 3. To encourage site redesign when both Development Review Committee approval and a variance would be required only a variance shall be required.
 4. If site redesign involves either a lot combination, vehicular use area or other alteration required by subsection 1.7.2.A, a reduction of up to thirty-five (35%) percent of the required parking spaces shall be permitted provided:
 - a. The access standards of Secs. 7.2 and 7.7 of this code are met; and
 - b. A landscape buffer strip a minimum of five (5) feet wide with landscaping is installed along the affected right-of-way portion(s) of the property.
- D. A structure which becomes damaged may be reconstructed in the location and manner as it legally existed after the eminent domain action except for a structure which is destroyed or damaged in excess of fifty (50) percent of its improvement value at the time of reconstruction. In determining the value of such a structure the standards and procedures described in Article 1 of this code shall be used.
- E. Any existing legally established point of purchase or free standing sign located within the property included in the eminent domain action may be relocated on site subject to the standards of this Section and the following criteria:
1. Any sign(s) to be relocated shall comply with the height, size, area and maximum number of signs allowed under this Code.

2. In no event shall the front setback be less than five (5) feet from the ultimate right-of-way and less than a two (2) foot side setback except upon receipt of a sign relocation permit.
 3. Signs which must be relocated for compliance with the setback requirement above may obtain a sign relocation approval from the Planning & Zoning Director subject to this subsection. The Planning & Zoning Director shall review the sign relocation request provided the applicant can meet the following standards:
 - a. The sign relocation would create additional loss in the number of required parking;
 - b. The proposed sign location does not encroach into any right-of-way or utility easement unless it is part of a negotiated settlement with the condemning authority; and
 - c. There is no other location on the subject property to place the sign consistent with safe vehicular area design.
- F. A vacant lot reduced by an eminent domain action to any size or configuration below the minimum required district lot size, frontage, depth or width specified in Sec. 6.5, property development regulations may be developed. Uses subject to lot size requirements of Sec. 6.4 supplemental regulations shall be required to comply with those standards. In all cases required district setbacks shall be used.
- G. This subsection is intended to encourage the combining of lots for the purpose of creating safer, more functional, attractive developments and achieving a greater degree of compliance with code requirements. This subsection may apply to combined lots whether or not they are owned by the same person.

Combined lots may be developed as a single lot for the purposes of applying property development regulations provided either a cross parking or cross access agreement is executed. This agreement shall be made in a form acceptable to the Wellington Attorney and recorded in the official records of Palm Beach County, Florida.

Lot combination shall follow the permitting requirements and procedures of this code except as clarified or provided for below:

1. Required parking for combined lots may be administratively reduced by up to twenty (20) percent upon approval by the Planning & Zoning Director of a site plan which reduces points of access and the execution of a unity of control which includes a cross parking or cross access agreement.
2. Lots which have been combined and where the principal structures have been demolished shall be considered to be a vacant lot pursuant to Sec. 1.7.2.F above.
3. Where a proposed lot combination is located on property which is the subject of an approved site plan it may be approved by the Development Review Committee even if the redesign proposes site plan changes in excess of the administrative limits contained in Sec. 5.9 of this Code but shall still be subject to any associated conditions of approval.

CHAPTER 8. - CREATION OF POTENTIALLY BUILDABLE RESIDENTIAL SINGLE FAMILY LOTS

Sec. 1.8.1. - Applicability.

The following provisions shall apply to the development of any lot which is not depicted on either a plat of record, affidavit of exemption or affidavit of plat waiver which is currently valid and in effect for the subject project.

Sec. 1.8.2. - Determination Criteria.

A residential single family lot as originally conveyed may be considered eligible for building permits if determined the lot complies with the following criteria;

- A. The single family lot was conveyed into ownership separate from abutting lands pursuant to a recorded deed, recorded agreement for deed or other recorded instrument of conveyance before February 2, 1973 and has not been reconveyed in whole or in part into common ownership with an abutting property.
- B. The lot created by conveyance complied with the density requirements of the Comprehensive Plan in effect at the time the lot was created.
- C. The lot complies with all other development standards of the zoning regulations in effect at the time it was conveyed and recorded. A variance shall not be permitted to reduce the minimum lot size to qualify for the requirements of this subsection.
- D. The lot has legal access established at the time the lot was recorded in compliance with any of the following:
 1. The street classifications found in Chart 8.22-2;
 2. A recorded access easement with a minimum of twenty (20) feet in width granting the owner, its successors and assigns a perpetual right of useable access across all properties lying between said lot and a street.

Sec. 1.8.3. - Determination of compliance.

Prior to the submittal of a building permit application, the property owner shall submit, on forms established by the Planning & Zoning Director a request for a determination the lot is in compliance with this subsection. The Planning & Zoning Director shall make a determination within ten (10) days.

Sec. 1.8.4. - Recordation of a potentially buildable lot.

After issuance of a determination of compliance but prior to the submittal of a building permit the property owner shall record a Potentially Buildable Lot Affidavit, along with a survey and legal description of the lot with the Clerk of the Court in a form established by the Planning & Zoning Director.

Sec. 1.8.5. - Issuance of a building permit.

If a Buildable Lot Affidavit is recorded in accordance with the standards and procedures herein and the lot and proposed residence comply with zoning requirements, drainage requirements, environmental control rules and all other permitting requirements a building permit may be issued.

CHAPTER 9. - INTERPRETATION OF THE CODE

Sec. 1.9.1. - Interpretations.

- A. Interpretations to this Code shall be made by the Wellington Engineer, Wellington Attorney and the Planning and Zoning Director as follows; The Wellington Engineer shall have the authority to make all interpretations of Sec. 7.7, Driveways and Access; Article 9, Traffic Performance Standards; and Art. 8, Subdivision. The Wellington Attorney shall have the authority to make all interpretations of Sec.7.15, Maintenance and Use Documents. The Planning & Zoning Director shall have the authority to make interpretations of all other provisions of this Code and the Comprehensive Plan.
- B. A code interpretation may be requested by a landowner or person having a contractual interest in properties within Wellington or any person who has submitted an application for development permit pursuant to this Code.
- C. Procedures:
 - 1. Before an interpretation shall be provided by the appropriate official, a Request for Interpretation shall be submitted in a form established by the designated official. The request shall be accompanied by a fee established by Council from time to time for the filing and processing of the Request for Interpretation. The fee shall be non-refundable.
 - 2. Within five (5) working days after a Request for Interpretation has been submitted the official responsible for rendering the interpretation shall determine whether it is sufficient.
 - a. If the official determines the request is not sufficient a written notice shall be served on the applicant specifying the deficiencies. The official shall take no further action on the Request for Interpretation until the deficiencies are remedied. If the applicant fails to correct the deficiencies within ten (10) working days the Request for Interpretation shall be considered withdrawn.
 - b. When the Request for Interpretation is determined sufficient, the official shall review and render an interpretation pursuant to the procedures and standards of this article.
 - 3. Within fifteen (15) working days after the Request for Interpretation has been determined sufficient the official responsible for rendering the interpretation shall review and evaluate the request in accordance with the Comprehensive Plan, this Code and if necessary consult with the Wellington Attorney in order to render an interpretation.
- D. The interpretation shall be in writing and shall be sent to the applicant by mail within five (5) working days after the interpretation is made by the designated official.
- E. Within twenty (20) working days after issuance of a written interpretation by the designated official responsible for the interpretation the applicant may appeal the decision to the Planning, Zoning and Adjustment Board, per Sec. 5.17.
- F. Each Wellington official responsible for rendering an interpretation shall maintain a record of their interpretation and forward a copy to the Planning & Zoning Director. This official record shall be available for public inspection upon reasonable request during normal business hours.

Sec. 1.9.2. - Assistance or representation by staff.

Any assistance given or representation made by any member of the staff during consultation shall not constitute the approval of the Department, shall not bind the staff, the Department, the Division, the Village Manager, or the Village Council, and shall not relieve any person of any requirements of this Code, or other applicable provisions of federal or state law or local ordinances. If there exists a conflict

between any staff representation and the laws, rules, codes or ordinances, such laws, rules, codes or ordinances shall prevail. Nothing herein shall authorize any change to the administrative interpretations of the Code.