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ORDINANCE NO. 2024-19

AN ORDINANCE OF WELLINGTON'S COUNCIL AMENDING CHAPTER 9 OF THE WELLINGTON CODE OF ORDINANCES, SECTIONS 9-5 (PROCEDURE FOR ENFORCEMENT) AND 9-6 (APPEALS) TO CLARIFY THE PROCEDURES FOR NUISANCE ABATEMENT AND CREATE A NEW ARTICLE VI, SECTIONS 9-46 THROUGH 9-56, TO BE TITLED CHRONIC NUISANCE PROPERTY CODE AND ESTABLISHING PROCEDURES FOR ABATEMENT OF CHRONIC NUISANCES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wellington Council is authorized and empowered to adopt and amend legislation to govern the affairs of its citizens and promote the public health, safety, and welfare of the community; and

WHEREAS, Chapter 9, Article I of the Wellington Code of Ordinances ("Code") identifies certain conditions on properties as nuisances and sets forth a procedure for Wellington to abate such nuisances; and

WHEREAS, the Wellington Council believes that it is in the best interest of the community to amend the nuisance regulations to further clarify the process for nuisance abatement; and

WHEREAS, the Wellington Council further believes that it is in the best interest of the community to create a new article establishing a process to correct patterns of nuisance activity that result in repeated violations of Wellington's Codes and/or calls for service from law enforcement that disrupt the peace and tranquility of the surrounding neighborhoods and threaten the general public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON, FLORIDA, THAT:

SECTION 1: Chapter 9, section 9-5 of the Code of Ordinances, Wellington, Florida, is hereby amended to read as follows:

Sec. 9-5: Procedure for Enforcement

- A. *Notice of Nuisance.* Upon the finding by Wellington that a nuisance exists, Wellington will send a notice of nuisance by mail to the address of the property owner, as shown by the tax rolls of the county, by certified mail, return receipt requested. The notice of nuisance shall set forth:

- 1 1. The Code section violated and a description of the nature of the violation;
2 and
- 3
- 4 2. A demand that remedial action be completed to correct the nuisance within
5 a maximum of 21 days from the date of the mailing of such notice of
6 nuisance.
- 7
- 8 3. A statement that failure to remedy the nuisance may result in correction of
9 the nuisance by Wellington at the expense of the property owner; and
- 10
- 11 4. A statement that the notice of nuisance may be appealed pursuant to
12 section 9-6.
- 13

14 B. Notice of Violation.

- 15
- 16 1. If the nuisance has not been corrected within 21 days after the date of
17 mailing the notice of nuisance, a notice of violation shall be issued to the
18 property owner that shall set forth:
- 19
- 20 4-a. The Code section violated and description of the nature of the
21 violation;
- 22
- 23 2-b. A demand that remedial action be completed to correct the nuisance
24 within a maximum of 15 days from the date of the mailing, delivery,
25 or posting of such notice of violation;
- 26
- 27 3-c. A statement that failure to remedy the violation will result in correction
28 of the violation by Wellington at the expense of the property owner;
29 and
- 30
- 31 4-d. A statement that the notice of violation may be appealed pursuant to
32 section 9-6.
- 33

34 G-2. The notice of violation shall be mailed to the address of the property owner,
35 as shown by the tax rolls of the county, by certified mail, return receipt
36 requested. The notice shall also be posted upon the property's front door or
37 facade, or if there is no building, stapled to a stake sign and covered with
38 plastic. If Wellington has previously corrected the same violation, The the
39 notice shall state that no further notice of Wellington's intent to take remedial
40 actions to address the violations will be given if Wellington effects remedial
41 action and subsequently, the same condition or conditions occur. However,
42 this shall apply only if the property owner remains the same according to
43 the tax rolls of the county. If if the property owner changes, a new notice of
44 violation shall be provided.

45

1 ~~D.3.~~ If the owner of the subject property fails to correct the violation- nuisance as
2 ~~required by this section and the notice of violation~~ by the date specified in
3 the notice of violation, the Village Manager may authorize the correction (or
4 abatement) of the ~~noncomplying condition~~ nuisance by Wellington. The
5 charge for the cost of abatement shall be levied in an amount equal to the
6 actual cost to Wellington. The actual method of correction shall be
7 determined by the Village Manager or designee, and may, in the case of a
8 dilapidated structure, include boarding of broken windows and doors.
9

10 ~~E.C.~~ If Wellington effects abatement, the costs shall be calculated, and an invoice sent
11 to the property owner of record by regular mail.
12

13 ~~F.D.~~ Failure to pay the full amount of any charges assessed pursuant to this section,
14 when due, shall result in Wellington filing a lien in the public records of Palm Beach
15 County. ~~Such lien shall bear interest at the rate of 12 percent per annum from the~~
16 ~~date of recordation until paid. The property owner shall be responsible for the cost~~
17 ~~of filing and release of the lien.~~ A notice that a lien has been recorded shall be sent
18 to the property owner at the owner's address according to the tax rolls of the
19 county.
20

21 ~~G.E.~~ Nothing in this section shall prevent the department from pursuing enforcement of
22 this article through the code compliance process or through any other means
23 permissible by law.
24

25 ~~H.F.~~ The Wellington Code Compliance Division will keep a docket of these liens, and
26 will notify the Wellington Council of liens that are not paid. Wellington may enforce
27 the lien in any manner or method permitted by law, including instituting an action
28 to foreclose the lien on non-homestead property after authorization by the
29 Wellington Council. The Wellington Council's decision not to approve foreclosure
30 shall not constitute an estoppel or waiver of Wellington's lien rights or staff's ability
31 to present the matter for Council consideration at a later time. Wellington is entitled
32 to recover all costs, expenses, and attorneys' fees incurred in enforcing the lien,
33 including those on appeal.
34

35 **SECTION 2:** Chapter 9, section 9-6 of the Code of Ordinances, Wellington, Florida
36 is hereby amended to read as follows:
37

38 **Sec. 9-6: Appeals** 39

40 ~~The lot A property~~ owner may file an appeal to the special magistrate for a hearing
41 to show that the condition alleged in the notice of nuisance and/or notice of violation does
42 not exist, or to show that the condition does not constitute a nuisance. Any appeal must
43 be filed within ~~45~~ 10 days after the date of the ~~initial~~ notice of a nuisance/violation sent by
44 the department. ~~Notice of the right to an appeal shall be included in the initial notice of~~
45 ~~nuisance to the property owner.~~ The owner's appeal shall be submitted upon forms to be
46 provided by the department and shall be accompanied by a certified check or money

1 order in the amount of \$100.00 made payable to Wellington. ~~The~~This amount shall
2 constitute the fee necessary to defray the costs to Wellington for processing and
3 administering the appeal. The special magistrate shall give the property owner seeking
4 an appeal written notice of the date, time, and location of the scheduled hearing and shall
5 hear the appeal at its regularly scheduled agenda no later than 30 days after receipt of
6 the appeal by the department, unless otherwise agreed to by Wellington and the property
7 owner. Failure to file an appeal or to appear before the special magistrate shall be
8 deemed a waiver of the property owner's rights to appeal the administrative action.

9
10 **SECTION 3:** Chapter 9 of the Code of Ordinances, Wellington, Florida is hereby
11 amended to create new Article VI, to be numbered Sections 9-46 through 9-56, which
12 Article shall read as follows:

13
14 **ARTICLE VI – CHRONIC NUISANCE PROPERTY CODE**

15
16 **Sec. 9-46: Short Title**

17
18 This article shall be known as the “Village of Wellington Chronic Nuisance Property Code”
19 or “Chronic Nuisance Property Code.”

20
21 **Sec. 9-47: Pattern of Nuisance Activity**

22
23 A. Nuisance activity. Nuisance activity means any activities relating to the following
24 violations at a specific property within Wellington, whenever engaged in by a
25 property owner, agent, tenant, occupant, or invitee of the property owner or tenant
26 of the respective property.

27
28 1. Chapter 3 - Alcoholic Beverages.

29
30 2. Chapter 9, Article I - Lot Clearing and Dilapidated Properties.

31
32 3. Chapter 13, Article I - Property Maintenance.

33
34 4. Chapter 13, Article II - Noise Standards.

35
36 5. Chapter 13, Article III - Sexual Offenders and Sexual Predators.

37
38 6. Chapter 22 - violation of Section 22-10(H) prohibiting stopping, standing, or
39 parking on public or private swales.

40
41 7. Land Development Regulations Section 6.2.2(A)(5) – Vacation Rentals

42
43 8. F.S. § 767.12—Dangerous dogs.

44
45 9. F.S. § 790.10—Improper exhibition of dangerous weapons or firearms.

46

1 10. F.S. § 790.15(1)—Discharging firearm in public.

2
3 11. F.S. § 796.06—Renting space to be used for prostitution.

4
5 12. F.S. § 796.07—Prostitution.

6
7 13. F.S. § 800.03—Exposure of sexual organs.

8
9 14. F.S. § 806.13—Criminal mischief.

10
11 15. F.S. § 812.019—Dealing in stolen property.

12
13 16. F.S. § 823.01—Nuisance.

14
15 17. F.S. § 828.12—Cruelty to animals.

16
17 18. F.S. § 856.011—Disorderly intoxication.

18
19 19. F.S. § 856.015—Open house parties.

20
21 20. F.S. § 877.03—Breach of the peace; disorderly conduct.

22
23 21. F.S. ch 893—Any offense under the Florida Comprehensive Drug Abuse
24 Prevention and Control Act.

25
26 22. A call for service to property for law enforcement, fire, medic, or other
27 emergency personnel to assist an individual who displays the symptoms of
28 an overdose of a controlled substance.

29
30 B. Pattern of nuisance activity. Real property shall be deemed to exhibit a pattern of
31 nuisance activity if:

32
33 1. Law enforcement has responded to three (3) or more nuisance activities at
34 the property within 30 days;

35
36 2. Law enforcement has responded to seven (7) or more nuisance activities at
37 the property within six (6) months;

38
39 3. Law enforcement, fire, medic or other emergency personnel (or any
40 combination thereof) has responded to two (2) or more calls for service
41 within 30 days or three (3) or more calls for service within six (6) months, to
42 assist an individual who displays the symptoms of an overdose of a
43 controlled substance;
44

1 4. Wellington has remediated/abated a nuisance at the property under
2 Chapter 9, Article I - Lot Clearing and Dilapidated Properties on more than
3 two (2) occasions in a three (3)-year period.

4
5 5. Wellington has issued a notice of violation for hedge encroachments into
6 the right-of-way at the property under Chapter 13, Article I - Property
7 Maintenance on more than three (3) occasions in a two (2)-year period.

8
9 6. Wellington has issued a notice of violation of section 22-10(H) for stopping,
10 standing, or parking on public or private swales at the property on more than
11 two (2) occasions in a one (1)-year period; or

12
13 7. Wellington has issued citations for violations of section 6.2.2(A)(5) of the
14 Land Development Regulations pertaining to vacation rentals at the
15 property on more than two (2) occasions in a one (1)-year period.

16
17 C. Construction and application. Pattern of nuisance activity shall not be construed
18 to include:

19
20 1. A nuisance activity where the property owner, agent, tenant, or invitee of
21 the property owner, agent or tenant is the victim of a crime and called for
22 service; or

23
24 2. A complaint or call for service to which law enforcement, fire, medic and/or
25 other emergency personnel responded and it was determined that no
26 violation was committed.

27
28 D. Separate occurrences. For purposes of this article, every time law enforcement
29 responds to a nuisance activity at the property shall be a separate occurrence.

30
31 **Sec. 9-48: Declaration of Chronic Nuisance Property; Action Plan**

32
33 A. Declaration of chronic nuisance property. If a pattern of nuisance activity exists
34 upon real property, Wellington, through its Code Compliance Division, may declare
35 the property to be a chronic nuisance. Wellington's declaration of chronic nuisance
36 property shall constitute a notice of violation which, if unaddressed by agreement
37 as set forth herein, may be prosecuted by Wellington before the special magistrate.
38 Wellington shall notify the property owner of the declaration of chronic nuisance
39 property in accordance with section 9-54(A). The declaration of chronic nuisance
40 property shall contain at least the following information:

41
42 1. A reference to Chapter 9, Article VI (the "Village of Wellington Chronic
43 Nuisance Property Code");

44
45 2. The address and parcel control number of the property;
46

- 1 3. The dates that the nuisance activities occurred at the property;
2
3 4. A description of the nuisance activities;
4
5 5. A statement that the property owner is required to either:
6
7 a. Enter into an agreement with Wellington that will incorporate an
8 action plan to address and eliminate the nuisance activity on the
9 property, hereinafter "chronic nuisance abatement agreement" or
10
11 b. Request a hearing before the special magistrate as set forth in
12 section 9-49 to challenge the declaration.
13

14 The statement shall give the property owner 15 days from the date of the
15 declaration of chronic nuisance property to advise Wellington's Code
16 Compliance Division in writing of the property owner's decision;
17

- 18 6. A statement that if the property owner fails to timely request a hearing, the
19 property owner shall be deemed to have waived the right to contest the
20 declaration of chronic nuisance property;
21
22 7. A statement that failure to enter into a chronic nuisance abatement
23 agreement with Wellington may result in the entry of a chronic nuisance
24 service order by the special magistrate;
25
26 8. A statement that the costs of any chronic nuisance services provided by
27 Wellington to a property that has been declared to be a chronic nuisance
28 will be charged to the property owner as set forth in section 9-53;
29
30 9. A statement that if such costs are not paid, Wellington may file a lien against
31 the property in the public records of Palm Beach County; and
32
33 10. A warning statement that the notice posted pursuant to section 9-54 cannot
34 be removed except with written permission of Wellington.
35

36 B. *Development of action plan.* If the property owner does not request a hearing
37 before the special magistrate within the time provided, the property owner shall
38 enter into a chronic nuisance abatement agreement with Wellington, which will
39 incorporate a written action plan outlining the specific measures that the property
40 owner will take to curtail or eliminate the re-occurrence of nuisance activities at the
41 property. The chronic nuisance abatement agreement will contain a timetable for
42 corrective action and must be executed by the property owner. The property owner
43 shall provide the chronic nuisance abatement agreement to Wellington's Code
44 Compliance Division no later than 30 days from the date of the declaration of
45 chronic nuisance property. Failure or refusal to enter into a chronic nuisance

1 abatement agreement with Wellington may result in the entry of a chronic nuisance
2 service order being issued by the special magistrate pursuant to this article.

3
4 C. *The action plan.* The action plan, to be incorporated into a chronic nuisance
5 abatement agreement may include, but shall not be limited to:

- 6
7 1. The property owner's agreement to commence an eviction action pursuant
8 to F.S. ch. 83, to remove those individuals engaged in the nuisance activity
9 from the property;
- 10
11 2. Frequency of site visits and inspections at various times of both day and
12 night;
- 13
14 3. Hiring of a property manager;
- 15
16 4. Hiring of private security;
- 17
18 5. Installation of security cameras or noise monitoring devices with recording
19 capabilities;
- 20
21 6. Use of a written lease agreement requiring compliance with state, local and
22 municipal codes;
- 23
24 7. Criminal background checks for prospective tenants and lease renewals;
- 25
26 8. Posting of "no trespassing" signs at the property;
- 27
28 9. Written documentation of all efforts to curtail or eliminate the re-occurrence
29 of nuisance activities on the property;
- 30
31 10. Any other action that Wellington determines is reasonably sufficient to
32 curtail or eliminate the re-occurrence of nuisance activities on the property.

33
34 D. *Modification of the action plan.* Wellington will periodically monitor the property to
35 assure compliance for a period of one (1) year following execution of the chronic
36 nuisance abatement agreement. During that time, the parties may agree to modify
37 the chronic nuisance abatement agreement when it is demonstrated by either party
38 that:

- 39
40 1. Modification will improve the action plan; or
 - 41
42 2. The action plan is not adequate to curtail or eliminate the re-occurrence of
43 nuisance activities on the property.
- 44

1 If the property owner refuses to modify the chronic nuisance abatement agreement
2 as requested by Wellington, then Wellington may refer the matter to the special
3 magistrate for entry of a chronic nuisance service order as set forth in this article.

4
5 E. *Termination of the action plan.* If the property owner complies with the chronic
6 nuisance abatement agreement as determined by the Code Compliance Manager
7 or designee, and the nuisance has been abated, Wellington will issue a notice of
8 compliance, and no further action shall be required from the property owner.
9 Wellington may require the property owner to enter into a new agreement if a
10 nuisance activity re-occurs on the property.

11
12 **Sec. 9-49: Hearings; Waiver**

13
14 A. *Request for hearing.* If the property owner refuses to timely enter into a chronic
15 nuisance abatement agreement, does not respond to notices issued by Wellington,
16 or subsequently violates the terms of an agreement, Wellington may prosecute its
17 declaration of chronic nuisance property or the violation of the agreement at a
18 hearing before the special magistrate. A property owner may also request a
19 hearing before the special magistrate upon receipt of a declaration of chronic
20 nuisance property. A request for hearing shall be filed with Wellington's Code
21 Compliance Division and shall:

22
23 1. *Be in writing;*

24
25 2. *Provide a short, plain statement identifying the factual, procedural, or legal*
26 *error upon which the request for hearing is based; and*

27
28 3. *Include a copy of the declaration of chronic nuisance property or otherwise*
29 *provide the owner's name and mailing address and the address of the*
30 *property that has been declared a chronic nuisance.*

31
32 B. *Time for filing a request for hearing; waiver of right to contest.* A request for hearing
33 shall be filed by the property owner within 15 days from the date of the declaration
34 of chronic nuisance property. If the property owner fails to request a hearing within
35 the time provided, the property owner shall be deemed to have waived the right to
36 contest the declaration of chronic nuisance property.

37
38 C. *Hearing by the special magistrate.* A hearing concerning the declaration of chronic
39 nuisance property shall be limited to a review of the record or evidence upon which
40 Wellington based its declaration of chronic nuisance property. If the property owner
41 timely requested the hearing, the property owner shall have the right to challenge
42 the declaration of chronic nuisance property. A hearing pertaining to a violation of
43 a chronic nuisance abatement agreement shall be limited to the failure of the
44 property owner to implement the action plan and/or adhere to the requirements of
45 the chronic nuisance abatement agreement. Wellington and the property owner
46 shall be allowed to present evidence on the issue of the violation of the chronic

1 nuisance abatement agreement. All hearings shall be conducted pursuant to
2 section 2-37 of this Code.

3
4 D. *Decision of the special magistrate.* After reviewing the testimony and evidence
5 presented, the special magistrate shall either uphold or reject the declaration of
6 chronic nuisance property or the notice of violation pertaining to the chronic
7 nuisance abatement agreement, as appropriate. The decision of the special
8 magistrate shall be in writing and shall be deemed final. If the special magistrate
9 upholds the declaration of chronic nuisance property, the special magistrate shall
10 enter a chronic nuisance service order as set forth in this article. If the special
11 magistrate finds that there was a violation of the chronic nuisance abatement
12 agreement, the special magistrate may enter an order consistent with the chronic
13 nuisance abatement agreement and/or authorize Wellington to seek any remedies
14 provided by law. If the special magistrate rejects either the declaration of chronic
15 nuisance property or the notice of violation regarding the chronic nuisance
16 abatement agreement, the special magistrate shall enter an order of denial, which
17 order shall identify the factual, procedural, or legal error upon which the decision
18 is based. An order rejecting Wellington's declaration of chronic nuisance property
19 shall not bar Wellington from recommencing the chronic nuisance process. An
20 order rejecting the notice of violation regarding the chronic nuisance abatement
21 agreement does not bar Wellington from re-citing the property owner for future
22 violations of the agreement.

23 24 **Sec. 9-50: Entry of Chronic Nuisance Service Order**

25
26 A. *Chronic nuisance service order.* If the special magistrate upholds the declaration of
27 chronic nuisance property, the special magistrate shall enter a chronic nuisance
28 service order. Wellington shall provide a copy of the chronic nuisance service order
29 to the property owner by first class mail. The chronic nuisance service order shall:

- 30
31 1. Enter findings of fact establishing a pattern of nuisance activity and violation
32 of this article;
33
34 2. Authorize Wellington to provide chronic nuisance services to the property;
35
36 3. Authorize Wellington to bill the costs of any chronic nuisance services to the
37 owner of the chronic nuisance property;
38
39 4. Require the owner of the chronic nuisance property to implement
40 reasonable and specific measures that the property owner must take to
41 curtail or eliminate the re-occurrence of nuisance activities on the property;
42
43 5. Authorize the Wellington Council to seek appropriate judicial action (e.g.,
44 an injunction) against the property owner to close the property until specific
45 measures are taken by either Wellington or the property owner to curtail or
46 eliminate the nuisance activities on the property.

1
2 6. Provide for the recording of a certified copy of the chronic nuisance service
3 order in the public records; and

4
5 7. Provide for continuing jurisdiction over the chronic nuisance property.

6
7 B. *Duration of chronic nuisance service order.* The chronic nuisance service order
8 entered in accordance with this section shall remain in effect until there have been
9 no nuisance activities at the property for one (1) year.

10
11 **Sec. 9-51: Appeal of Orders of Special Magistrate**

12
13 The property owner or Wellington may appeal a final order of the special magistrate
14 to the circuit court of Palm Beach County, pursuant to Ch. 162, Florida Statutes. Such
15 appeal shall not be a hearing de novo, but shall be limited to appellate review of the record
16 created before the special magistrate. An appeal shall be filed within 30 days of the
17 execution of the order to be appealed.

18
19 **Sec. 9-52: Abatement of Chronic Nuisances; Provision of Services**

20
21 The property owner is responsible for abatement of nuisances on the property. In
22 those circumstances when the Village Manager determines that conditions exist on the
23 property that constitute a danger to the health, safety, or welfare of Wellington's residents,
24 and the property owner has not taken remedial action, Wellington may abate chronic
25 nuisances on real property by providing chronic nuisance services to curtail or eliminate
26 the re-occurrence of nuisance activities. The costs of such chronic nuisance services shall
27 be billed to the property owner and such costs may be collected by Wellington by any
28 legal means.

29
30 **Sec. 9-53: Establishment of Costs; Billing of Costs; Lien; Enforcement**

31
32 A. *Chronic nuisance service costs.* All chronic nuisance service costs shall be
33 established based upon the actual costs incurred by Wellington. Chronic nuisance
34 service costs shall not include any amount attributable to general law enforcement
35 activities or the general enforcement of municipal codes upon a property that has
36 not been declared by Wellington to be a chronic nuisance and that has not received
37 a chronic nuisance service order from the special magistrate.

38
39 B. *Billing of chronic nuisance service costs.* Wellington shall bill all chronic nuisance
40 service costs to the owner of the chronic nuisance property by first class mail to
41 the address as shown by the tax rolls of Palm Beach County. The bill shall contain
42 at least the following information:

43
44 1. The address and parcel control number of the chronic nuisance property;

45
46 2. The date of each chronic nuisance service;

- 1
- 2 3. A description of each chronic nuisance service;
- 3
- 4 4. The amount of the bill for each chronic nuisance service;
- 5
- 6 5. A statement that the total amount of the bill shall be paid to Wellington within
- 7 30 days from the date of the bill and that any chronic nuisance service cost
- 8 which has not been paid within 30 days from the date of the bill shall be
- 9 delinquent;
- 10
- 11 6. A statement that Wellington may record a lien against the property in the
- 12 public records of Palm Beach County for any delinquent chronic nuisance
- 13 service costs; and
- 14
- 15 7. A statement that Wellington may enforce the lien in any manner or method
- 16 permitted by law, including instituting an action to foreclose the lien on non-
- 17 homestead property after authorization by the Wellington Council.
- 18

19 C. *Lien; Enforcement.* A lien arising from chronic nuisance service costs pursuant to

20 this article runs in favor of Wellington's Council, and the Council may execute a

21 satisfaction or release of lien entered. Such lien may be enforced in accordance

22 with Chapter 162, Florida Statutes and Chapter 2, Article IV of Wellington's Code

23 of Ordinances. Except as delegated by policy by Wellington's Council, only the

24 Council is authorized to compromise a lien imposed pursuant to this article, or to

25 execute a satisfaction or release of an outstanding lien.

26

27 **Sec. 9-54: Method of Notice**

28

29 All notices required by this article shall be provided to the property owner(s)

30 consistent with the requirements for notice provided in F.S. § 162.12, regarding notices

31 for code compliance cases, except that if any notice sent by certified mail is not signed

32 as received within 15 days after the date of mailing, notice may be provided by posting

33 as described in F.S. § 162.12(2)(b). In addition, when Wellington provides notice by

34 posting, removal of the posted notice without written approval from Wellington is

35 prohibited. Notice by posting may run concurrently with, or may follow, an attempt or

36 attempts to provide notice by hand delivery or by mail as set forth above. Evidence that

37 an attempt has been made to hand deliver or mail notice as provided above, together with

38 proof of posting, shall be sufficient to show that the notice requirements of this part have

39 been met, without regard to whether or not the owner actually received such notice.

40

41 **Sec. 9-55: Change in Ownership of Chronic Nuisance Property**

42

43 If the owner of a property that has been declared a chronic nuisance property

44 transfers ownership of the property at any time between the time the property is declared

45 a chronic nuisance property and the matter is closed, such owner shall:

46

- 1 A. Disclose, in writing, the existence of the declaration of chronic nuisance property
2 and any applicable chronic nuisance abatement agreement or chronic nuisance
3 service order to the prospective transferee;
4
5 B. Deliver to the prospective transferee a copy of all documents and materials relating
6 to the declaration of chronic nuisance property, including any applicable chronic
7 nuisance abatement agreement or chronic nuisance service order, received by the
8 transferor;
9
10 C. Disclose, in writing, to the prospective transferee that the new owner will be
11 responsible for compliance with the applicable codes and orders; and
12
13 D. File a notice with the Code Compliance Division of the transfer of the property, with
14 the identity and address of the new owner and copies of the disclosures made to
15 the new owner, within five (5) days of the date of the transfer.

16
17 A failure to make the disclosures described in paragraphs (A), (B), and (C) before the
18 transfer creates a rebuttable presumption of fraud.
19

20 **Sec. 9-56: Construction of Article**
21

- 22 A. *Code compliance action.* This article shall not be construed to prevent Wellington
23 from addressing nuisance activity through the code compliance process set forth
24 in Chapter 2 of this Code, or through any other means permissible by law.
25
26 B. *Nuisance abatement.* This article shall not be construed to conflict with the
27 nuisance abatement process set forth in Chapter 9, Article I of this Code.
28
29 C. *Exemptions.* This article shall not be construed to apply to property owned by
30 Wellington or any other governmental entity.
31

32 **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this
33 Ordinance conflict with any section, paragraph, clause, or phrase of any prior Wellington
34 Ordinance, Resolution, or Municipal Code provision, in that event the provisions of this
35 Ordinance shall prevail to the extent of such conflict.
36

37 **SECTION 5:** Should any section, paragraph, sentence, clause, or phrase of this
38 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision
39 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,
40 other than the part so declared to be invalid.
41

42 **SECTION 6:** This Ordinance shall become effective immediately upon adoption
43 of the Wellington Council following second reading.
44

45 **PASSED** this _____ day of _____, 2024 upon first reading.
46

1 **PASSED AND ADOPTED** this _____ day of _____, 2024 on second and
2 final reading.

3
4 **WELLINGTON**

5 **FOR** **AGAINST**

6
7 BY: _____
8 Michael J. Napoleone, Mayor

9
10 _____
11 John T. McGovern, Vice Mayor

12
13 _____
14 Tanya Siskind, Councilwoman

15
16 _____
17 Maria Antuña, Councilwoman

18
19 _____
20 Amanda Silvestri, Councilwoman

21
22
23
24 **ATTEST:**

25
26 BY: _____
27 Chevelle D. Hall, MMC, Village Clerk

28
29
30 **APPROVED AS TO FORM AND**
31 **LEGAL SUFFICIENCY**

32
33
34 BY: _____
35 Laurie S. Cohen, Village Attorney