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**ORDINANCE NO. 2019-XX**

**AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 3 (DEFINITIONS); AMENDING ARTICLE 6, TABLE 6.4-1 (USE REGULATION SCHEDULE), TABLE 6.8-2 (PLANNED DEVELOPMENT DISTRICT USE REGULATION SCHEDULE), AND TABLE C (EOZD PERMITTED, CONDITIONAL AND PROHIBITED USES); AMENDING SECTION 6.4.4 (SUPPLEMENTARY USE STANDARDS) OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON, FLORIDA, RELATING TO USES; TO REGULATE THE LOCATION OF NIGHTCLUB BUSINESSES AND CREATE OPERATION STANDARDS AND REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Wellington's Council, pursuant to the authority granted to it in Chapters 163 and 166, *Florida Statutes*, is authorized and empowered to consider changes to its land development regulations; and

**WHEREAS**, Wellington's Council recognizes that from time to time amendments to the land development regulations are necessary to provide clarity and to address changing circumstances and resolve evolving and continuing adverse impacts ; and

**WHEREAS**, Wellington's Council has determined that Nightclubs have significant impact on the developments and surrounding areas where they are located with respect to noise, traffic, civil conduct and obedience; and

**WHEREAS**, Wellington's Council desires to allow reasonable location(s) within the Community to accommodate Nightclub businesses, but to limit the location and manner of operation of such businesses to protect the health, safety, welfare and quality of life for its residents; and

**WHEREAS**, the Planning, Zoning and Adjustment Board, acting as the Local Planning Agency, after notice and public hearing on \_\_\_\_\_, has reviewed the proposed Ordinance and determined that the proposed amendments are consistent with Wellington's Comprehensive Plan; and

**WHEREAS**, the Council has taken the recommendations from the Local Planning Agency, Wellington staff and the comments from the public into consideration when considering the amendments to the Land Development Regulations that are the subject of this Ordinance.

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

1           **SECTION 1.** Article 3, Chapter 2 (DEFINITIONS), is hereby amended to modify the  
2 definition of Lounge, cocktail and Restaurant, general, as follows:  
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4           **Lounge, cocktail** means a use engaged in the preparation and retail sale of alcoholic  
5 beverages, including taverns, bars, lounges and similar uses other than restaurants or alcohol  
6 sales for off premises consumption. A cocktail lounge is distinct from a restaurant that sells  
7 alcohol when the establishment cannot qualify for a “Consumption on Premises, Special  
8 Restaurant Exemption” pursuant to the State Beverage Law and/or when on-site prepared  
9 food service is not necessarily available at all times when the business is open.  
10

11           **Restaurant, general means** an establishment excluding drive-thrus where the principal  
12 business is the sale of food and beverages in a ready-to-consume state and where the design  
13 or principal method of operation consists of one or more of the following:  
14

- 15           •A sit down restaurant where customers, normally provided with an individual menu,  
16           are generally served food and beverages in non-disposable containers by an  
17           employee at the same table or counter at which said items are consumed; or  
18
- 19           •A cafeteria or cafeteria type operation where foods and beverages generally are  
20           served in non-disposable containers and consumed within the restaurant; or  
21
- 22           •A restaurant, which may have the characteristics of a fast food restaurant, having  
23           floor area exclusively within a shopping or office center sharing common parking  
24           facilities with other businesses within the center, and having access to a common  
25           interior pedestrian access way.  
26
- 27           •~~This use~~ Restaurants may include the on premise sale, service and consumption of  
28           alcoholic beverages as an accessory and secondary use, provided that the sales  
29           and service of food is available at all times that the business is open.  
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32           **SECTION 2.** Article 3, Chapter 2 (DEFINITIONS) is hereby amended to add in  
33 alphabetical order, the definitions of Live Entertainment and Nightclub, as follows:  
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35           **Entertainment, live** means one or more of the following, performed live by one or more  
36 persons, whether for compensation or not and whether or not admission is charged:  
37 musical act, theatrical act, revue, stand-up comedy, dancing, magic act, disc jockey, or  
38 similar activity.  
39

40           **Nightclub** means any commercial establishment at which alcohol is sold and consumed  
41 and which, at any time, is determined to be a nightclub by application of the factors set  
42 forth in Article 6, Chapter 4, Sec. 6.4.4.76(A). If a commercial use could reasonably be  
43 classified as either a nightclub or some different use, it shall be deemed a nightclub for  
44 the purpose of this Code. If a commercial establishment functions as another use for  
45 portions of a day or week and as a nightclub for portions of a day or week, it shall be  
46 deemed a nightclub.  
47

48           **SECTION 3.** Article 6, Chapter 4, Sec. 6.4.4 (Supplementary Use Standards) is hereby

1 amended to add in numerical order a new subsection 6.4.4.76(A) to establish standards and  
2 criteria for nightclub, as follows:

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4 **76. (A). Nightclub** means any commercial establishment at which a cover charge, door  
5 charge, contribution requirement or one (1) time membership fee is paid at the door, or  
6 has a minimum drink requirement (excluding temporary events where a Special Use  
7 Permit has been granted by Wellington), or:  
8

9 a.)If none of the factors listed above exist and no Special Use Permit has been  
10 approved by Wellington, then if any four (4) of the following conditions exist, the  
11 establishment is a nightclub:  
12

- 13 1.There is a dance floor or other open area for use by patrons for dancing or  
14 viewing of live entertainment (permanently or which can be established by  
15 temporary removal or rearrangement of furniture).
- 16 2.The establishment is open to the public anytime between 12:00 a.m. and 8:00  
17 a.m. on any day of the week.
- 18 3.The maximum capacity of the establishment as set by the fire officials through  
19 fire, building structure and other relevant laws and ordinances is one hundred  
20 fifty (150) or more persons. Voluntary reduction of capacity by the  
21 establishment shall not prevent the building or fire officials from determining a  
22 different and increased capacity.
- 23 4.Alcohol is sold, served and/or consumed on the premises at any time.
- 24 5.Advertisements for the establishment describe specific entertainment events or  
25 encouragements (e.g. "House Party Saturday Night"; "DJ Saturday Night";  
26 "Live Music Tonight").
- 27 6.The establishment features a platform or musical staging area used in  
28 connection with performances or entertainment.

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30 b.)Security- All nightclubs shall supply interior and exterior security personnel of a  
31 number equaling one security officer for every one hundred fifty (150) occupants or  
32 portion thereof. Security officers employed or contracted by the owners/operators of  
33 the business must possess a class D license established pursuant to Florida  
34 Statutes, Sec. 493.6303. Alternatively, off duty law enforcement officers can be  
35 utilized to meet this requirement.  
36

37 c.)Patron age restriction- It shall be unlawful for persons under the age of twenty- one  
38 (21) to patronize, visit, loiter, be admitted or allowed access to any commercial  
39 establishment during the hours in which it functions as a nightclub; except this  
40 restriction shall not apply to:  
41

- 42 1.Persons employed by or at the nightclub.
- 43 2.During periods when the establishment is not selling, serving or permitting  
44 consumption of alcoholic beverages.
- 45 3.Members of the military or armed services with proper military identification which  
46 reflects that they are currently on active duty.  
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- 1 d.) Any person who gains access to a nightclub by using fraudulent identification shall be  
 2 considered in violation of this Ordinance.  
 3 e.) Nightclub establishments located at Equestrian facilities within the EOZD may only  
 4 be open for business during the days and hours that equestrian competition events  
 5 are being conducted on the property where they are located.  
 6 f.) Enforcement and penalties- violations of this Section shall be subject to enforcement  
 7 as provided in Articles 5 and 14 of the Wellington Land Development Regulations  
 8 and Chapter 36 of the Wellington Code of Ordinances; and additional penalties  
 9 available through the provisions of F.S. Sec.125.69(1).  
 10 g.) Applicability-The provisions of this Ordinance shall apply to all existing  
 11 establishments and all new establishments meeting the definition of "nightclub." All  
 12 establishments existing at the time of the adoption of this Ordinance are deemed to  
 13 be conforming uses.

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 16 **SECTION 4.** Article 6, Chapter 4, Table 6.4-1 (Use Regulation Schedule) is hereby  
 17 amended to add the use Nightclub to the schedule in alphabetical order:  
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Table 6.4—01  
 Use Regulations Schedule

Use Type	ZONING DISTRICTS ≤Blank≥ = Not Permitted; P=Permitted; S=Special Use; D=DRC; C=Conditional Use													N O T E S  §6.4.4
	Residential								Commercial			Industrial/ Public		
	A R	R S E R	C R S	R E T S	R S	R M	R H	C N	C C	C R E	I L	C F		
<u>Nightclub</u>										<u>C</u>				<u>76A</u>

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 25 **SECTION 5.** Article 6, Chapter 8, Table 6.8-2 (Planned Development District Use  
 26 Regulation Schedule) is hereby amended to add the use Nightclub to the schedule in  
 27 alphabetical order:  
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1           **SECTION 7.** Should any section, paragraph, sentence, clause, or phrase of this  
2 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington  
3 Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this  
4 Ordinance shall prevail to the extent of such conflict.  
5

6           **SECTION 8.** Should any section, paragraph, sentence, clause, or phrase of this  
7 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall  
8 not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the  
9 part so declared to be invalid.  
10

11           **SECTION 9.** This Ordinance shall become effective immediately upon adoption of the  
12 Village Council following second reading.  
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15 **PASSED this** \_\_\_\_\_ day of \_\_\_\_\_, 2019 on first reading.  
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17  
18 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2019, on second and final reading.  
19

20 <b>WELLINGTON</b>	21 <b>FOR</b>	22 <b>AGAINST</b>
23 BY: _____ Anne Gerwig, Mayor	_____	_____
24 _____ Michael Drahos, Vice Mayor	_____	_____
25 _____ John T. McGovern, Councilman	_____	_____
26 _____ Michael J. Napoleone Councilman	_____	_____
27 _____ Tanya Siskind, Councilwoman	_____	_____

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37 **ATTEST:**

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39 BY: \_\_\_\_\_  
40 Chevelle Nubin, Clerk  
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42 **APPROVED AS TO FORM AND**  
43 **LEGAL SUFFICIENCY**  
44

45  
46 BY: \_\_\_\_\_  
47 Laurie Cohen, Village Attorney