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**ORDINANCE 2023-13**

**AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL, AMENDING ARTICLE 6 OF THE LAND DEVELOPMENT REGULATIONS RELATED TO VACATION RENTALS BY REVISING THE USE REGULATIONS FOR VACATION RENTALS IN TABLE 6.2-1 FROM A PERMITTED USE TO A SPECIAL USE; AMENDING THE SUPPLEMENTARY USE REGULATIONS FOR VACATION RENTALS FOUND IN SEC.6.2.2.A; CREATING SUSPENSION AND REVOCATION PROVISIONS AND ESTABLISHING A SPECIAL USE PERMIT REQUIREMENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

15           **WHEREAS**, Chapter 509, Florida Statutes, establishes certain regulations for  
16 lodging establishments, including vacation rentals and transient lodging; and

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18           **WHEREAS**, the Florida Statutes provide definitions, including but not limited to,  
19 vacation rentals, transient lodging, and third-party rental platforms; and

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21           **WHEREAS**, third-party online platforms have made vacation rentals easily  
22 available to the general public; and

23  
24           **WHEREAS**, Section 509.032, Florida Statutes, restricts local governments from  
25 enacting regulations that prohibit vacation rentals or regulate the duration or frequency of  
26 rentals, but otherwise allows local governments to enact new regulations governing  
27 vacation rentals that protect the health, safety, and welfare of its residents; and

28  
29           **WHEREAS**, Wellington acknowledges the potential negative impacts of transitory  
30 uses of residential properties on the character and quality of its neighborhoods and, has  
31 determined that to protect the public health, safety, and welfare, it is necessary to adopt  
32 certain regulations and impose certain remedies and penalties appropriate to said uses  
33 to prevent and/or mitigate impacts created by such transitory uses of residential property;  
34 and

35  
36           **WHEREAS**, these regulations are designed to protect the character of the  
37 residential neighborhoods and provide the public with the opportunity to offer and use  
38 vacation rentals in a manner that is consistent with state and local regulations while  
39 preserving the quiet nature and atmosphere of residential uses; and  
40

41           **WHEREAS**, the Wellington Council, as the governing body, pursuant to the  
42 authority vested in it by Chapters 163 and 166 of the Florida Statutes, is authorized and  
43 empowered to consider changes to its Land Development Regulations (LDR); and  
44

45           **WHEREAS**, the Planning, Zoning and Adjustment Board, as the Local Planning  
46 Agency, after notice and public hearing held on September 28, 2023, recommended  
47 approval of the Zoning Text Amendment with changes with a 5-1 vote (Herman  
48 dissenting); and  
49

50           **WHEREAS**, the Council has taken the recommendations of the Planning, Zoning  
51 and Adjustment Board, Wellington staff, and the comments from the public into  
52 consideration in adopting the amendments to the LDR that are the subject of this  
53 ordinance.  
54

55           **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**  
56 **FLORIDA, THAT:**  
57

58           **SECTION 1:** Table 6.2-1: Use Regulations Schedule of the LDR is hereby  
59 amended as set forth in Exhibit A attached hereto [~~strike-through~~ formatted text is to be  
60 deleted; underline formatted text is to be added].  
61

62           **SECTION 2:** Sec.6.2.2. titled “Supplementary Standards for Principal Uses”,  
63 subsection A.5 “Vacation Rentals” is hereby amended as follows [~~strike-through~~ formatted  
64 text is to be deleted; underline formatted text is to be added]:  
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66           5. Vacation Rentals:  
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68           a. As used in this section, the following definitions apply:  
69

70           i. Third-Party Platform Entity means any person, service, business,  
71 company, marketplace, or other entity that, for a fee or other  
72 consideration, provides property owners and responsible parties a  
73 platform or means to offer vacation rentals to transient occupants,  
74 whether through the internet or other means.  
75

76           ii. Responsible Party means the owner of the property and any person or  
77 entity authorized by the property owner to obtain all necessary  
78 licensing for a vacation rental and who will be responsible for ensuring  
79 compliance with all regulations related to vacation rentals. Further, the  
80 Responsible Party must be available to respond 24 hours per day,

81 seven (7) days per week to any issue that arises related to the vacation  
82 rental.

83  
84 iii. Transient Occupant means any person who rents or occupies any  
85 dwelling unit or part thereof for less than 30 days or one calendar  
86 month, whichever is less, and any guest or invitee of such person.

87  
88 iv. Vacation Rental, also called a short-term rental, means any dwelling  
89 unit or residence, including, but not limited to, any single family or any  
90 unit or group of units in a condominium, cooperative, or apartment  
91 building, that is rented in whole or in part, to a transient occupant,  
92 which is advertised or held out to the public as a place that may be  
93 rented to a transient occupant, but shall not include a hotel, motel, or  
94 bed and breakfast as defined or referenced in the LDR, more than  
95 three (3) times in a calendar year for periods of less than 30 days or  
96 (1) calendar month. ~~For the purpose of this section, Vacation Rental is~~  
97 ~~synonymous with the term short-term residential rental.~~

98  
99 b. Vacation Rentals property owners shall comply with all requirements of the  
100 Code of Ordinances (CO) and the LDR ~~pertaining to the applicable zoning~~  
101 ~~district~~, along with the following ~~general~~ standards for operation of a  
102 Vacation Rental:

103  
104 i. The Responsible Party shall maintain a register with the names and  
105 dates of stay of all guests, including but not limited to, all Transient  
106 Occupants and their invitees.

107  
108 ii. Maximum occupancy for Vacation Rentals shall be limited to two (2)  
109 persons per bedroom, excluding children under the age of three (3),  
110 for overnight use. At all other times, the maximum occupancy for  
111 vacation rentals shall not exceed the maximum overnight occupancy  
112 of the rental, plus four (4), excluding children under the age of three  
113 (3). For the purpose of this section "overnight" means 11:00 p.m. until  
114 6:00 a.m. the following day.

115  
116 iii. Overnight parking for Vacation Rentals shall be limited to, not including  
117 vehicles fully parked in garages, one (1) vehicle per bedroom, with a  
118 maximum of four (4) vehicles. Vacation Rentals with more than four  
119 (4) bedrooms and on a parcel that is one (1) acre in size or greater  
120 may park one (1) additional vehicle for each bedroom greater than four

121 (4). Notwithstanding the maximums above, the maximum overnight  
122 parking is further limited to the number of vehicles that can be properly  
123 parked on a driveway, parking apron, or designated hard surfaced  
124 parking area. Vehicle parking which is not in a garage, on a  
125 driveway/parking apron, or in a designated parking area is prohibited.  
126 At all times, all automobiles shall be parked in an approved off-street  
127 parking space or driveway on the property. The parking of automobiles  
128 on a swale, lawn, landscape area, within the public right-of-way, or  
129 sidewalk is prohibited.  
130

131 iv. The Responsible Party for all Vacation Rental properties is required to  
132 conduct a nationwide search to confirm that the prospective Transient  
133 Occupant(s) is/are not a registered sexual offender or sexual predator  
134 as a result of a conviction of a sexual offense. The Department of  
135 Justice offers a free search for all states on the National Sex Offender  
136 Public Website. Further, if a Vacation Rental property is located within  
137 2,500 feet of a school, child care facility, ~~school bus stop~~, or park, or  
138 playground, it is a violation of Wellington's CO to allow any person to  
139 establish a temporary, permanent, or transient residence with  
140 knowledge that such person is a registered sexual offender or  
141 registered sexual predator in any jurisdiction.  
142

143 v. The Responsible Party and all Transient Occupants shall abide by all  
144 applicable state and local public nuisance regulations, including but  
145 not limited to, regulations that prohibit any place or premise from being  
146 used as the site for the unlawful sale or delivery of controlled  
147 substances, prostitution, youth and street gang activity, gambling,  
148 illegal sale or consumption of alcoholic beverages, or lewd or  
149 lascivious behavior ~~that adversely affects the public health, safety, and~~  
150 ~~welfare.~~  
151

152 vi. If the Responsible Party permits Transient Occupants to have pets at  
153 the Vacation Rental, such pets shall, at all times, be secured within the  
154 property lines or on a leash, but shall not be tethered. Continual  
155 nuisance barking by pets is prohibited.  
156

157 vii. All swimming pools on-site must have in place at least one (1) pool  
158 safety feature listed in section 515.27, Florida Statutes, prior to the use  
159 of the property as a Vacation Rental.  
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- viii. The Responsible Party and all Transient Occupants must comply with all applicable local, state, and federal regulations, including but not limited to, applicable laws pertaining to anti-discrimination, disability, and fair housing.
  - ix. To provide a safety benefit for the neighborhood, and maximize compliance with rules and standards by the Transient Occupants, the owner of the Vacation Rental shall post a notice, as provided by the Village of Wellington, of Wellington’s applicable ordinances in a location on the property that is clearly visible to the Transient Occupants.
  - x. The Vacation Rental shall be rented as a whole unit to a Transient Occupant or Transient Occupant party. In no event may individual sleeping rooms be offered for rent, nor may the unit be offered for rent to multiple Transient Occupant parties.
- c. No property owner, Responsible Party, or Third-Party/Platform Entity shall offer a Vacation Rental, or allow any person to rent or occupy any property as a Vacation Rental, ~~, in whole or in part,~~ without first obtaining a Special Use Permit from Wellington and then a Business Tax Receipt (BTR) from Wellington and Palm Beach County. A Special Use Permit shall be required for each unit subject to the requirements of the Vacation Rental supplemental regulations. The Special Use Permit is not transferable. A Special Use Permit application for a Vacation Rental shall be required for all existing and future Vacation Rentals. The property owner and Responsible Party shall both be listed on the Special Use Permit and BTR application. All documentation required by the Florida Department of Business and Professional Regulation shall be provided with the Special Use Permit and BTR application. Additionally, the applicant must submit the Vacation Rental Affidavit for the Special Use Permit, which shall contain:
- i. Address of the Vacation Rental;
  - ii. Name, address, phone number and email of the property owner;
  - iii. Name, address, phone number and email of the Responsible Party;
  - iv. Name and contact information for ~~the~~ all Third-Party/Platform Entity or Entities on which the Vacation Rental is, or will be, listed;

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- v. Statement that the Responsible Party is, or will be, remitting all applicable County business tax and tourist taxes as required by the County and State. If the Third-Party/Platform Entity will be remitting all such taxes associated with the Vacation Rental on behalf of the Responsible Party, then the applicant must disclose this as part of the affidavit;
- vi. Statement that the Responsible Party ~~has the permission~~ is the designated agent of the property owner and has authority to offer the property as a Vacation Rental and act as the Responsible Person consents to Responsible Party accepting civil citations on behalf of the property owner;
- vii. Statement of the Number of rooms and occupancy of the dwelling unit ~~that will be used for a Vacation Rental~~;
- viii. Statement acknowledging that the Vacation Rental must be registered with the Florida Department of Revenue, or successor agency, for the purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
- ix. Statement acknowledging that the property is, and will at all times during which it is used as a Vacation Rental, be in compliance with the Vacation Rental standards set forth in this section, along with all other applicable CO and LDR regulations, such as noise, vehicle parking, and garbage;
- x. Acknowledge and provide a copy of the consent from any governing homeowners association, condominium association, or property owners association with the BTR application;
- xi. Statement acknowledging the Responsible Party will comply at all times with the sexual offender/predator regulations for Vacation Rentals; and
- xii. Statement that all safety measures and features for swimming pools are, and will be at all times, maintained in compliance with the Vacation Rental regulations;

241 d. The property owner, Responsible Party and Third-Party/Platform Entity  
242 information shall be maintained regularly. When there are changes,  
243 notification must be submitted to Wellington's Planning Department and  
244 Business Tax Official within 15 calendar days of the changes. All  
245 documentation must be readily available for inspection by Wellington at any  
246 time. A new Special Use Permit shall be required for any change in  
247 ownership.

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249 e. Penalties, Suspension, and Appeals:

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251 i. Offenses/violations:

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253 a) Non-compliance with any provision of the  
254 supplemental standards for Vacation Rentals shall  
255 constitute a violation of this Article by the property  
256 owner and may be enforced as provided by law.

257

258 b) Upon a finding of a violation of the Supplemental  
259 Regulations for a Vacation Rental, each day a violation  
260 exists shall constitute a separate and distinct violation,  
261 except that violations regarding maximum occupancy  
262 shall constitute a single violation for a rental period.

263

264 c) A violation of any provision of the Supplemental  
265 Regulations for a Vacation Rental shall constitute a  
266 Class III civil infraction by the property owner.  
267 Violations may be enforced by a Code Compliance  
268 Officer or a Law Enforcement Officer in accordance  
269 with Chapter 2 of Wellington's Code of Ordinances and  
270 LDR. Further, Wellington finds that violations of this  
271 Article present a serious threat to the public health,  
272 safety and welfare of its residents or are irreparable  
273 and irreversible. Accordingly, a Code Enforcement  
274 Officer or Law Enforcement Officer is authorized to  
275 issue a citation pursuant to this section without issuing  
276 a written warning/notice, as provided in Section 2-45 of  
277 the Wellington Code of Ordinances. Service by  
278 certified mail to the property owner shall constitute  
279 valid service of a civil citation pursuant to Wellington's  
280 Code of Ordinances Section 2-45.

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ii. Suspension: In addition to the fines and other penalties described herein, or provided by law, the Planning Director, or designee, may suspend a Special Use Permit in accordance with the following:

a) Upon a second violation within a 12-month period – up to a period of thirty (30) calendar days.

b) Upon a third violation within a 12-month period – up to a period of one hundred eighty (180) days.

c) Upon a fourth violation within a 12-month period – up to a period of three hundred and sixty-five (365) days.

d) A suspension shall begin immediately following notice of suspension, commencing either at the end of the current lease period or within thirty (30) calendar days, whichever date commences earlier.

e) Operation during any period of suspension shall be deemed a violation and shall be subject to a daily fine, up to one hundred and twenty-five dollars (\$125) or to the maximum amount as otherwise provided by the Florida Statutes for repeat violations, for each day that the rental operates during a period of violation.

f. Revocation: The approval of a Special Use Permit may be revoked by the Planning Director upon the fifth (5th) violation, as described in the above sections, within a 12-month period. Revocation action may also be imposed by Wellington for a single offense involving a felony or misdemeanor charge, if the action occurred on the subject property, and resulted in injury to a Transient Occupant or visitor to the property or involved a underage drinking, drug, or prostitution charge.

g. Appeals: All appeals of suspensions or revocations shall be made to the Special Magistrate in accordance with Chapter 2, Article IV of the Code of Ordinances.



321           **SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this  
322 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington  
323 Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of  
324 this Ordinance shall prevail to the extent of such conflict.  
325

326           **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this  
327 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision  
328 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,  
329 other than the part so declared to be invalid.  
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331           **SECTION 5:** This Ordinance shall become effective January 1, 2024, upon  
332 adoption by the Wellington Council following second reading.  
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**PASSED** this 7 day of November, 2023, upon first reading.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023, on second and final reading.

**WELLINGTON**

**FOR                      AGAINST**

BY: _____	_____	_____
Anne Gerwig, Mayor		
_____	_____	_____
Michael J. Napoleone, Vice Mayor		
_____	_____	_____
John T. McGovern, Councilman		
_____	_____	_____
Michael Drahos, Councilman		
_____	_____	_____
Tanya Siskind, Councilwoman		

**ATTEST:**

BY: \_\_\_\_\_  
Chevelle D. Addie, MMC, Village Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
Laurie Cohen, Village Attorney