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ORDINANCE NO. 2022-05

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AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 30 TITLED "ENVIRONMENT" IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 9 TITLED "ENVIRONMENT," AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, ADDRESS NUISANCE ABATEMENT PROCEDURES, REGULATE STORMWATER SYSTEMS IN ACCORDANCE WITH FEDERAL AND STATE LAWS CONCERNING WATER QUALITY, SET STANDARDS FOR WATER CONSERVATION, AND DEFINE BEST MANAGEMENT PRACTICES FOR LIVESTOCK WASTE AND FERTILIZER MANAGEMENT; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wellington Council, as the governing body, pursuant to the authority vested in it by Chapter 166, Florida Statutes, and Article VIII, Section 2 of the Florida Constitution, is authorized and empowered to adopt legislation to govern the affairs of its citizens; and

WHEREAS, Wellington adopted its first Code of Ordinances in 1997, shortly after incorporation, and since that time has adopted revisions as necessary to protect the health, safety and welfare of its citizens; and

WHEREAS, Wellington believes that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.

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

SECTION 1: Chapter 30 of Wellington's Code of Ordinances is hereby repealed in its entirety, and is amended and renumbered as Chapter 9, titled "Environment," and is hereby adopted as specifically provided in Exhibit A attached to this Ordinance.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

SECTION 4: Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 5: This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

PASSED this _____ day of _____, 2022 upon first reading.

PASSED AND ADOPTED this _____ day of _____, 20__ on second and final reading.

WELLINGTON

| | FOR | AGAINST |
|--|------------|----------------|
| BY: _____ Anne Gerwig, Mayor | _____ | _____ |
| _____ John McGovern, Vice Mayor | _____ | _____ |
| _____ Michael Drahos, Councilman | _____ | _____ |
| _____ Michael Napoleone, Councilman | _____ | _____ |
| _____ Tanya Siskind, Councilwoman | _____ | _____ |

ATTEST:

BY: _____
Chevelle D. Addie Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie S. Cohen, Village Attorney

EXHIBIT A

~~Chapter 30 ENVIRONMENT¹~~

~~ARTICLE I. IN GENERAL~~

~~Secs. 30-1—30-30. Reserved.~~

~~ARTICLE II. NUISANCES~~

~~DIVISION 1. GENERALLY~~

~~Secs. 30-31—30-50. Reserved.~~

~~DIVISION 2. LOT CLEARING AND DILAPIDATED PROPERTIES²~~

~~Sec. 30-51. Definitions.~~

The following words, terms and phrases, as used in this division, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:

Adjacent property means the lot immediately adjoining a lot that is subject to review under this division.

Department means the village planning, zoning, and building department.

Developed property means any real property upon which a structure, paving, lake, waterway, water body, golf course or sports field improvement, or other improvement has been erected or installed. Overhead, underground, and other public or private franchised utility installations shall not be considered improvements for the purposes of this definition.

Dilapidated structure means any unoccupied real property upon which all or a portion of the structure is not maintained in good repair, in a structurally sound manner, or in a sanitary manner, including but not limited to the following items when such items are visible from a public right of way, public property or adjacent property; broken window or door glass; broken or damaged windows or window frames; broken or damaged doors or entryways; broken or damaged garage doors; roofs with damage that may cause interior leaks; or unsecured or stagnant swimming pools.

Landscaped areas means outdoor areas required to consist of or consisting of any of the following or combination thereof: grass, ground covers, shrubs, vines, hedges, trees, or palms;

¹Cross reference(s) — Animals, ch. 14; buildings and building regulations, ch. 18; manufactured homes and trailers, ch. 34; parks and recreation, ch. 38; planning, ch. 42; solid waste, ch. 46; streets, sidewalks and other public places, ch. 54; utilities, ch. 66; waterways, ch. 70.

State law reference(s) — Environmental control, F.S. ch. 403.

²Editor's note(s) — Ord. No. 2008-15, § 1, adopted Sept. 9, 2008, amended the former Art. II, Div. 2, §§ 30-51—30-56, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from Ord. No. 97-05, adopted Mar. 25, 1997; Ord. No. 99-06, §§ 1—6, adopted May 25, 1999; Ord. No. 2002-04, § 6, adopted Mar. 19, 2002.

and non-living durable material commonly used in landscaping, such as rocks, pebbles, sand, walls, or fences, but excluding paving.

Lot means any tract or parcel of land other than an approved landfill site.

Native vegetation means any plant species with a geographic distribution indigenous to all or part of the village. Plant species that have been introduced by man are not native vegetation.

Natural area means an area of native vegetative cover.

Non-native means any plant not native to the State of Florida.

Noxious vegetation means *Schinus terebinthifolius* (commonly known as Florida Holly or Brazilian Pepper); *Melaleuca quinquenervia* (commonly known as Punk Tree, Cajeput, or Paper Bark Tree); and *Casuarina spp.* (commonly known as Australian Pine).

Owner means the owner of record of a lot as appears in the official records of Palm Beach County.

Special magistrate means the special magistrate appointed as provided in Chapter 2, "Administration", Article 4, "Code Enforcement", Section 2-293, "Special Magistrate".

Stagnant residential swimming pool means a pool with water that does not comply with the water clarity or turnover requirements as provided in Chapter 3, "General Standards", Section 303, "Swimming Pools, Spas and Hot Tubs", Section 303.1 of the International Property Maintenance Code or as provided in Sec. 9.1.3 of the American National Standards Institute/National Spa and Pool Institute 5-2003 (ANSI/NSPI 5-2003) "Standards for Residential Inground Swimming Pools."

Undeveloped property means any real property that is not developed property.

Unoccupied structure means any structure without the daily or normal use associated with the structure, including the residing of an individual or individuals overnight or the use equipment, merchandise, or machinery in any public, commercial or industrial building.

Unsecured swimming pool means an existing swimming pool that is not in compliance with the pool barrier requirements of Section 4.2.4.1.3.1.9 or Section 424.2.17 of the 2004 edition of the Florida Building Code.

Untended vegetation means grass, weeds, and underbrush allowed to grow in an uncontrolled manner, or not cared for or maintained on a regular basis.

Waste shall be defined in section 46-23, Code of Ordinances of the Village of Wellington. (Ord. No. 2008-15, § 1, 9-9-08; Ord. No. 2019-01, § 1, 1-22-19)

Cross reference(s) — Definitions generally, § 1-2.

~~Sec. 30-52. Exemption.~~

Natural areas, if the vegetation consists entirely of native vegetation, shall be exempt from the requirements of these regulations.

(Ord. No. 2008-15, § 1, 9-9-08)

Sec. 30-53. Nuisance declared.

It is hereby declared and determined by the village council that the following shall each individually, or in any combination, be considered nuisances when they exist upon a lot, an occupied structure or an unoccupied structure in the village:

- (1) ~~Accumulations of waste, yard trash or rubble, and debris.~~
- (2) ~~Excessive growth of grass, weeds, and low-growing vegetation. Such grass, weeds and low-growing vegetation shall be maintained as follows:~~

| Table 30.53-1 | | |
|--|----------------------------|---|
| Lot and Use | Size of Lot | Maximum Maintenance Height |
| Undeveloped or Vacant— Residential and Non-Residential | One-half acre or less | 6 inches on the entire lot |
| Undeveloped or Vacant— Residential and Non-Residential | Greater than one-half acre | 12 inches on the first 120 feet measuring from property line or pod line of the lot on all sides of the lot adjacent to a developed lot. 18 inches on the first 120 feet outside of the Urban Services area and in Little Ranches |
| Developed or Partially Developed— Residential and Non-Residential | One-half acre or less | 6 inches on the entire lot |
| Developed or Partially Developed— Residential and Non-Residential | Greater than one-half acre | 6 inches on the first 120 feet measuring from property line or pod line of the lot on any side of the lot |
| Golf Course—Active, Inactive or Abandoned (Prior to Redevelopment) | Any size | 6 inches on the entire lot(s) |

- (3) ~~Noxious vegetation.~~
- (4) ~~Vegetation on developed or undeveloped property that creates a danger to public health, safety and welfare by creating a fire hazard; by providing a nesting, breeding or feeding area for sandflies, mosquitoes, rodents, snakes or other species of pests and vermin, or disease-bearing organisms; by impairing the vision of motorists or bicyclists or impeding pedestrians; or by adversely affecting the aesthetic appearance of the property upon which the vegetation is found and adjacent properties.~~
- (5) ~~Dilapidated structures.~~
- (6) ~~Private residential swimming pools that are unsecured or stagnant.~~

(Ord. No. 2008-15, § 1, 9-9-08; Ord. No. 2019-01, § 2, 1-22-19)

Sec. 30-54. Nuisance abated.

The village council further determines that any nuisance that is found in the village shall be abated in the following manner:

- (1) ~~If the nuisance consists of accumulations of waste, yard trash, or rubble and debris, it shall be abated in its entirety.~~
- (2) ~~If the nuisance consists of grass, weeds, and low-growing vegetation as provided in section 30-53(2) the nuisance shall be abated as provided in Table 30.53-1.~~
- (3) ~~If the nuisance consists noxious vegetation on developed or undeveloped lots inside the urban service area that are adjacent to developed lots, the nuisance shall be abated in its entirety if the lot is one-half acre or less. If the lot is greater than one-half acre, only so much of the nuisance shall be abated as lies within 120 feet of the boundary of an adjacent property that is developed and within 120 feet of a property line abutting a street.~~
- (4) ~~If the nuisance consists of vegetation that impairs the vision of motorists or bicyclists, or impedes pedestrians, the nuisance shall be abated so as to afford a clear, unobstructed view and safe pedestrian access. If the nuisance creates a danger to the health, safety and welfare in one or more of the ways provided in section 30-53(4), the nuisance shall be abated in its entirety.~~
- (5) ~~If the nuisance consists of an unoccupied structure containing broken window or door glass, broken or damaged windows or window frames, broken or damaged exterior doors or entryways, broken or damaged garage doors, an unsecured swimming pool, a stagnant swimming pool, or damaged roofs that may allow an interior leak, the nuisance shall be abated in its entirety.~~

(Ord. No. 2008-15, § 1, 9-9-08; Ord. No. 2019-01, § 3, 1-22-19)

Sec. 30-55. Procedure for enforcement.

- (a) ~~Upon the finding by the village that a nuisance exists, the village will send a notice of nuisance to the property owner.~~
- (b) ~~If the nuisance has not been corrected within 21 days after mailing the notice of nuisance, a notice of violation shall be issued to the property owner that shall set forth:~~
 - (1) ~~The code section violated and description of the nature of the violation;~~
 - (2) ~~A demand that remedial action be completed within a maximum of 15 days from the date of the mailing, delivery, or posting of such notice;~~
 - (3) ~~A statement that failure to remedy the violation will result in correction of the violation by the village at the expense of the property owner; and~~

~~(4) A statement that the notice of violation may be appealed pursuant to section 30-56.~~

- ~~(c) The notice of violation shall be mailed to the address of the property owner as shown by the tax rolls of the county by certified mail, return receipt requested. The notice shall also be posted upon the property's front door or facade, or if there be no building, stapled to a stake sign and covered with plastic. The notice shall state that no further notice of village remedial actions to address violations of section of the Code will be given if the village effects remedial action and subsequently, the same condition or conditions occur. However, this shall be applicable only if the property owner remains the same according to the tax rolls of the county. If the property owner has changed, a new notice shall be provided.~~
- ~~(d) If the owner of the subject property fails to correct the violation as required by this section and the notice of violation by the date specified in the notice of violation, the village manager or designee may authorize the correction of the noncomplying condition by the village. The charge for the cost of abatement shall be levied in an amount equal to the actual cost to the village plus an administrative and operating fee of \$250.00. The actual method of correction shall be determined by the village manager, and may, in the case of a dilapidated structure, include boarding of broken windows and doors.~~
- ~~(e) If the village effects abatement, the costs and administrative and operating fee shall be calculated, and an invoice sent to the property owner of record by regular mail.~~
- ~~(f) Failure to pay the full amount of any charges assessed pursuant to this section when due shall result in the Village of Wellington filing a lien in the public records of Palm Beach County, which lien when recorded shall constitute a lien against the property co-equal with the lien of state, county, district and municipal taxes and superior in dignity to all other liens, titles, charges (included but not limited to liens of proper recorded mortgages until paid). Such lien shall bear interest at the rate of 12 percent per annum from the date of recordation until paid. The property owner shall be responsible for the cost of filing and/or release of the lien. A notice that a lien has been recorded shall be sent to the property owner at the owner's address according to the tax rolls of the county.~~
- ~~(g) Nothing in this section shall prevent the department from pursuing enforcement of this division through the code enforcement process.~~
- ~~(h) The village enforcement personnel will keep a docket of these liens, and will notify the village governing body of liens which are not paid. The village may enforce the lien in any manner or method permitted by law, including instituting an action to foreclose the lien in a similar manner as mortgages are foreclosed after authorization given by the village council. Should the village council not give its approval, this shall not constitute an estoppel or waiver of the village and thereafter the village staff shall bring to the village council for consideration the foreclosure of each lien not satisfied periodically. Should the village enforce a lien, the village shall be able to recover all expenses, costs and attorney's fees, including those on appeal.~~

(Ord. No. 2008-15, § 1, 9-9-08)

~~Sec. 30-56. Appeals.~~

The lot owner may file an appeal to the special magistrate for a hearing to show that the condition alleged in the notice does not exist, or to show that the condition does not constitute a nuisance. Any appeal must be filed within 15 days after the date of the initial notice of a nuisance sent by the department. Notice of the right to an appeal shall be included in the initial notice of nuisance to the lot owner. The owner's appeal shall be submitted upon forms to be provided by the department and shall be accompanied by a certified check or money order in the amount of \$100.00 made payable to the village. The amount shall constitute the fee necessary to defray the costs to the village, the department, and the special magistrate for processing and administering the appeal. The special magistrate shall give the lot owner seeking an appeal written notice of the date and location of the scheduled hearing and shall hear the appeal at its regularly scheduled agenda no later than 30 days after receipt of the appeal by the department. Failure to file an appeal or to appear before the special magistrate shall be deemed a waiver of the lot owner's rights to appeal the administrative action.

(Ord. No. 2008-15, § 1, 9-9-08)

~~Secs. 30-57—30-70. Reserved.~~

~~ARTICLE III. STORMWATER SYSTEM~~

~~DIVISION 1. GENERALLY~~

~~Sec. 30-71. Title.~~

This article shall be known as the "Village of Wellington Initial Stormwater Control Ordinance," and may be so cited.

(Ord. No. 97-24, Art. 1.0, 1-27-98)

~~Sec. 30-72. Purpose and intent.~~

The purpose of this article is to promote the health, safety and general welfare of the inhabitants of the village. This article is intended to comply with federal and state law and regulations regarding water quality.

(Ord. No. 97-24, Art. 1.0(1.1), 1-27-98)

~~Sec. 30-73. Definitions.~~

[For the purposes of this article, the following terms shall have the following meanings:]

Authorized official means any employee or agent of the village authorized in writing by the director to administer or enforce the provisions of this article.

~~Director means the director of public works.~~

~~Discharge means any direct or indirect entry of any solid, liquid or gaseous matter.~~

~~Person means any natural individual, corporation, partnership, institution, or other entity.~~

~~Site of industrial activity means any area or facility used for manufacturing, processing or storing of raw materials, as defined under 40 CFR Section 122.26(a)(14) of regulations of the U.S. Environmental Protection Agency, as amended.~~

~~Stormwater means any stormwater runoff, and surface runoff and drainage.~~

~~Stormwater system means the system of conveyances owned by the village used for collecting, storing, and transporting stormwater but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.~~

~~(Ord. No. 97-24, Art. 1.0(1.2), 1-27-98)~~

~~Sec. 20-74. Operation and maintenance responsibilities for stormwater systems.~~

~~Water management systems within the village shall be operated and maintained in a manner that will ensure that development and redevelopment adequately accommodate stormwater to meet all federal, state, and local requirements.~~

~~The village establishes the following regulations relating to the operation and maintenance of stormwater management systems within the village:~~

- ~~(1) The village will be responsible for the construction, operation and maintenance of the primary water management system in the village (backbone), which consists of canals, pump stations and other stormwater management facilities described in drainage facility map.~~
- ~~(2) The village will be responsible for the secondary water management system as defined by village rights of way and village-owned properties.~~
- ~~(3) All other stormwater management facilities shall be operated and maintained by either the individual property owner or a duly constituted home owners or property owners association having ownership or control of the property on which the facilities are located.~~
- ~~(4) Operation and maintenance responsibilities for stormwater management facilities on private property may be assumed by the village only pursuant to a written agreement between the parties and the execution of all necessary easements and/or rights of entry.~~
- ~~(5) The village will monitor all applications to modify the Surface Water Management Permit No. 50-00548-S (Master Permit for the Village of Wellington issued to Acme Improvement District) and will object to the issuance of any modification by South Florida Water Management District which is inconsistent with these regulations.~~

~~{Ord. No. 2004-20, § 2, 4-27-04}~~

~~Secs. 30-75—30-80. Reserved.~~

DIVISION 2. INDUSTRIAL ACTIVITY

~~Sec. 30-81. General prohibitions.~~

~~Any discharge into the stormwater system in violation of any federal, state, county, municipal or other law, rule, regulation or permit is prohibited.~~

~~{Ord. No. 97-24, Art. 2.0(2.1), 1-27-98}~~

~~Sec. 30-82. Specific prohibitions.~~

~~By adoption of industrial activity stormwater regulations or by issuance of industrial activity stormwater permits, or both, the director may impose reasonable limitations as to the quality of stormwater (including without limitation the designation of maximum levels of pollutants) discharged into the stormwater system from sites of industrial activity. Any promulgation of such regulations and issuance of permits by the director shall be in accordance with applicable law.~~

~~{Ord. No. 97-24, Art. 2.0(2.2), 1-27-98}~~

~~Sec. 30-83. Administrative orders.~~

~~The director may issue an order to any person to immediately cease any discharge determined by the director to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.~~

~~{Ord. No. 97-24, Art. 2.0(2.3), 1-27-98}~~

~~Sec. 30-84. NPDES permits.~~

~~Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit shall provide a copy of such permit to the director no later than the later of 60 calendar days after the effective date of this article or 60 calendar days after issuance.~~

~~{Ord. No. 97-24, Art. 2.0(2.4), 1-27-98}~~

~~Secs. 30-85—30-90. Reserved.~~

DIVISION 3. ILLICIT DISCHARGES

~~Sec. 30-91. General prohibitions.~~

~~Except as set forth under section 30-93 of this article or as in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.~~

~~(Ord. No. 97-24, Art. 3.0(3.1), 1-27-98)~~

~~Sec. 30-92. Specific prohibitions.~~

~~Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.~~

~~(Ord. No. 97-24, Art. 3.0(3.2), 1-27-98)~~

~~Sec. 30-93. Authorized exceptions.~~

~~Unless the director determines that it is not properly managed or otherwise is not acceptable, the following discharges are exempt from the general prohibition set forth under section 30-91 of this article: flows from firefighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration to the stormwater system, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, and dechlorinated swimming pool contributions.~~

~~(Ord. No. 97-24, Art. 3.0(3.3), 1-27-98)~~

~~Sec. 30-94. Illicit connections.~~

~~No person may maintain, use or establish any direct or indirect connection to the stormwater system that results in any discharge in violation of this article. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.~~

~~(Ord. No. 97-24, Art. 3.0(3.4), 1-27-98)~~

~~Sec. 30-95. Administrative order.~~

~~The director may issue an order to any person to immediately cease any discharge, or any connection to the stormwater system, determined by the director to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.~~

~~{Ord. No. 97-24, Art. 3.0(3.5), 1-27-98}~~

~~Secs. 30-96—30-100. Reserved.~~

~~DIVISION 4. SPILLS AND DUMPING~~

~~Sec. 30-101. General prohibitions.~~

~~Except as set forth under section 30-93 of this article or as in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.~~

~~{Ord. No. 97-24, Art. 4.0(4.1), 1-27-98}~~

~~Sec. 30-102. Specific prohibitions.~~

~~Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders or permits, is prohibited.~~

~~{Ord. No. 97-24, Art. 4.0(4.2), 1-27-98}~~

~~Sec. 30-103. Notification of spills.~~

~~As soon as any person has knowledge of any discharge to the stormwater system in violation of this article, such person shall immediately notify the director by telephoning (561) 791-4000, and if such person is directly or indirectly responsible for such discharge, then such person shall also take immediate action to ensure the containment and clean up of such discharge and shall confirm such telephone notification in writing to the director at the public works department, Village of Wellington, 14000 Greenbriar Boulevard, Wellington, FL 33414 within three calendar days.~~

~~{Ord. No. 97-24, Art. 4.0(4.3), 1-27-98}~~

~~Sec. 30-104. Administrative order.~~

~~The director may issue an order to any person to immediately cease any discharge, or connection to the stormwater system, determined by the director to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.~~

~~{Ord. No. 97-24, Art. 4.0(4.4), 1-27-98}~~

~~Secs. 30-105—30-110. Reserved.~~

~~DIVISION 5. ENFORCEMENT~~

~~Sec. 30-111. Injunctive relief.~~

~~Any violation of any provision of this article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.~~

~~(Ord. No. 97-24, Art. 5.0(5.1), 1-27-98)~~

~~Sec. 30-112. Continuing violation.~~

~~A person shall be deemed guilty of a separate violation for each and every day during any continuing violation of any provision of this article, or of any regulation or permit issued hereunder.~~

~~(Ord. No. 97-24, Art. 5.0(5.2), 1-27-98)~~

~~Sec. 30-113. Enforcement actions.~~

~~The director may take all actions necessary, including the issuance of notices of violation, the filing of court actions and/or referral of the matter to the local code enforcement board to require and enforce compliance with the provisions of this article and with any regulation or permit issued hereunder.~~

~~(Ord. No. 97-24, Art. 5.0(5.3), 1-27-98)~~

~~Secs. 30-114—30-120. Reserved.~~

DIVISION 6. INSPECTIONS AND MONITORING

~~Sec. 30-121. Authority for inspections.~~

~~Whenever necessary to make an inspection to enforce any of the provisions of this article, or regulation or permit issued hereunder, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, or regulation or permit issued hereunder, any authorized official may enter any property, building or facility at any reasonable time to inspect the same or to perform any duty related to enforcement of the provisions of this article or any regulations or permits issued hereunder; provided that (a) if such property, building or facility is occupied, such authorized official shall first present proper credentials and request permission to enter, and (b) if such property, building or facility is unoccupied, such authorized official shall make a reasonable effort to locate the owner or other person having charge or control of the property, building or facility, and shall request permission to enter. Any request for permission to enter made hereunder shall state that the owner or person in control has the right to refuse entry, and that~~

in such event that entry is refused, the authorized official may enter to make inspection only upon issuance of a search warrant by a duly authorized magistrate. If the owner or person in control refuses permission to enter after such request has been made, the authorized official is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or area wide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article, including but not limited to random sampling and sampling in areas with evidence of stormwater contamination, non-stormwater discharges, or similar factors.

{Ord. No. 97-24, Art. 6.0(6.1), 1-27-98}

~~Sec. 30-122. Authority for monitoring and sampling.~~

Any authorized official may establish on any property such devices as are necessary to conduct sampling or metering of discharges to the stormwater system. During any inspections made to enforce the provisions of this article, or regulations or permits issued hereunder, any authorized official may take any samples deemed necessary.

{Ord. No. 97-24, Art. 6.0(6.2), 1-27-98}

~~Sec. 30-123. Requirements for monitoring.~~

The director may require any person engaging in any activity or owning any property, building or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic reports.

{Ord. No. 97-24, Art. 6.0(6.3), 1-27-98}

~~Secs. 30-124—30-140. Reserved.~~

ARTICLE IV. WATER CONSERVATION

~~Sec. 30-141. Applicability.~~

All provisions of this article shall be effective within the Village of Wellington and shall set restrictions, constraints, and prohibitions to enhance the village's water sources and provide a permanent water conservation measure. Nothing in this article shall be construed to relieve any person from compliance with any applicable regulations enacted by any agency of the State of Florida having jurisdiction over water resources in the village.

{Ord. No. 99-08, § 1, 5-11-99}

~~Sec. 30-142. Purpose.~~

~~The purpose of this article is to establish a regulatory framework and guidance document which will help ensure consistent water and landscape irrigation conservation throughout the village.~~

~~(Ord. No. 99-08, § 2, 5-11-99)~~

~~Sec. 30-143. Definitions.~~

~~The following definitions shall apply within this article:~~

~~*Impervious areas* shall mean land surfaces which do not allow the penetration of water, including, but not limited to, paved roads, sidewalks, driveways, parking lots, and highly compacted areas, including shell and clay.~~

~~*Landscape irrigation* means the direct application of water by means other than precipitation.~~

~~*Low-volume irrigation system (micro-irrigation)* means that type of equipment or irrigation device designed to provide small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes, but is not limited to, methods or concepts such as bubbler, drip, trickler, mist or micro-spray, and subsurface irrigation.~~

~~*Water user* means any person who directly or indirectly takes water from private or public utility systems, individual wells, or surface water.~~

~~(Ord. No. 99-08, § 3, 5-11-99)~~

~~Sec. 30-144. Restrictions.~~

- ~~(a) All landscape irrigation shall adhere to the schedule of times defined by South Florida Water Management District as the schedule currently exists or may be modified by standards, rules, regulations or restrictions imposed by the South Florida Water Management District Board.~~
- ~~(b) It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing water to be wasted, including watering of impervious areas, other than which may occur incidental to the proper operation of the irrigation system.~~
- ~~(c) It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing water to be directed onto any sidewalk or paved portion of a road right-of-way.~~
- ~~(d) Any irrigation system installed in new construction shall be a nonpotable water irrigation system. These systems shall be restricted to surface, well water, or water re-use only; the use of village potable water is prohibited.~~

~~Note(s)—The provisions of the above subsection (d) shall not apply to single-family residences which have been issued building permits prior to June 11, 1999.~~

~~(e)—New installations of automatic irrigation systems shall be equipped with a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred, pursuant to F.S. § 373.62.~~

~~Failure to comply with the requirements of these restrictions will constitute a violation of the Village's Code of Ordinances.~~

~~(Ord. No. 99-08, § 4, 5-11-99; Ord. No. 2009-06, § 2, 2-24-09)~~

Sec. 30-145. Exemptions.

The following activities shall be exempt from the provisions of this article:

~~(1)—Landscape irrigation by hand watering using a self-canceling nozzle or low-volume irrigation system.~~

~~(2)—Landscape irrigation by systems from which the sole source is treated wastewater effluent.~~

~~(3)—Landscape irrigation by systems for system repair and maintenance; however, such operation shall be limited to ten minutes per zone per week.~~

~~(4)—Flushing of water and sewer mains required for normal clearance and maintenance and for maintenance of water quality; however, where practical, contractors and utilities shall direct flushed water into pervious areas, flush at the minimum rate necessary for cleaning, and disperse the water in such a manner to benefit local vegetation.~~

~~(5)—Landscape irrigation for purpose of watering in fungicides, insecticides, herbicides, pesticides, and fertilizers as required by the manufacturer or by federal [or] state laws; however, this exemption applies only to licensed pest control operators and shall be limited to manufacturer's recommendations, which must be completed within 24 hours of application. Further, such operators must be on premises when such watering takes place outside the hours allowed for irrigation.~~

~~(6)—Recirculating ornamental water features.~~

~~(7)—Firefighting, health, or medical uses.~~

~~(8)—Agricultural irrigation.~~

~~(9)—Irrigation of clay tennis courts, limited to one hour two times per day.~~

~~(Ord. No. 99-08, § 5, 5-11-99)~~

~~Sec. 30-146. Enforcement and penalties.~~

- ~~(a) Failure to comply with the requirements of this article shall constitute a violation of a village ordinance and may be punishable as pursuant to F.S. § 162.21. Each day in violation of this article shall constitute a separate offense and shall be referred to the code compliance division.~~
- ~~(b) In addition to the sanctions contained herein, the village may take appropriate action, including, but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this article.~~
- ~~(Ord. No. 99-08, § 6, 5-11-99; Ord. No. 2001-03, § 3, 2-13-01)~~

~~Sec. 30-147. Variance relief.~~

~~The village will recognize any variance granted by the South Florida Water Management District. Any person who has obtained such a variance may file a copy with the village.~~

~~(Ord. No. 99-08, § 7, 5-11-99)~~

~~Secs. 30-148, 30-149. Reserved.~~

ARTICLE V. STORMWATER QUALITY MANAGEMENT

~~Sec. 30-150. Definitions.~~

~~The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:~~

- ~~(a) *Application* or *apply*: The actual physical deposition of fertilizer to turf or landscape plants in Wellington.~~
- ~~(b) *Applicator*: Any person who applies fertilizer on turf and/or landscape plants in Wellington.~~
- ~~(c) *Approved disposal site*: A real property in which a state or county registration or permit has been issued for the disposal and/or processing of livestock waste, as amended from time to time, and/or a plot of land that is conducting bona fide agricultural activities in accordance with F.S. § 193.461.~~
- ~~(d) *Approved test*: A soil test and livestock waste test from a governmental entity or commercial licensed laboratory that regularly performs soil testing and recommendations.~~
- ~~(e) *Best management practices* or "*BMP*": A practice, or combination of practices, based on research, field testing, and expert review to be the most effective and practicable,~~

including economic and technological considerations and means of achieving a desired result such as improving water quality in discharges to an acceptable level.

- ~~(f) *Best management practices livestock waste (fertilization) management plan (BMPLW(F)MP)*: A comprehensive waste management plan covering all aspects of managing livestock manure, urine, and bedding waste and/or all aspects of managing fertilizer storage and application developed to prevent the uncontrolled release of pollutants from these wastes.~~
- ~~(g) *Code compliance officer*: Any designated employee or contractor of Wellington whose duty is to enforce codes and ordinances enacted by Wellington.~~
- ~~(h) *Commercial fertilizer applicator* (except as provided in F.S. § 482.1562(9)): Any person or entity who applies fertilizer for payment or other consideration to property.~~
- ~~(i) *Commercial livestock waste hauler*: Person(s), firm(s), corporation(s), or other legal entity(ies) permitted by Wellington to provide livestock waste removal services for a fee within Wellington in accordance with terms and conditions established by this article.~~
- ~~(j) *Common livestock waste storage area*: A livestock waste storage area established for the temporary storage of livestock waste from off-site livestock facilities.~~
- ~~(k) *Composting*: The process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner for a period of 30 to 90 days.~~
- ~~(l) *Cover*: The placement of a lid, roof or protective covering (tarp like) over a livestock waste storage area so as to shield the livestock waste from rain / stormwater intake.~~
- ~~(m) *District*: The South Florida Water Management District.~~
- ~~(n) *Drainage basin*: A topographic region in which all water drains to a common area.~~
- ~~(o) *Everglades protection area*: Water conservation areas 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge (Water Conservation Area 1), and the Everglades National Park.~~
- ~~(p) *Drainage conveyance systems*: Canals, detention/retention areas, grass swales, underground piping, drainage inlets, junction boxes, manholes are all components that store, collect, and convey rain/surface waters. Specifically above ground ports of entry or near surface components that store or collect rain/surface waters are herein referred to as drainage conveyance systems.~~
- ~~(q) *Fertilizing or fertilization*: The act of applying fertilizer to turf, specialized turf, or plants.~~
- ~~(r) *Fertilizer*: Any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or~~

alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

- ~~(s) *Institutional applicator*: Any person other than a private, non-commercial or commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.~~
- ~~(t) *Livestock*: All animals of the equine, bovine, or swine class.~~
- ~~(u) *Livestock facility*: Property under single ownership or control where livestock is raised and or boarded.~~
- ~~(v) *Livestock waste*: Wastes composed of excreta of animals and residual materials that have been used for bedding, sanitary, or feeding purposes for such animals. For purposes of this article, livestock waste that has been properly composted shall not be considered livestock waste.~~
- ~~(w) *Livestock waste self-hauler*: Property owner or authorized representative registered with Wellington to provide livestock waste removal services from their own property in accordance with the terms and conditions established by this article.~~
- ~~(x) *Livestock waste storage area*: An area constructed of impermeable material such as concrete or asphalt; with an impermeable cover; or a mechanical storage container that can be sealed, lifted, and transported.~~
- ~~(y) *Manure test*: An analysis of livestock waste by a qualified laboratory to determine the nutrient value and make up the owner's livestock, specifically the phosphorus content.~~
- ~~(z) *Monitoring wells*: Strategically located wells from which water samples are drawn for water quality analysis or measurement of ground water levels.~~
- ~~(aa) *Paddock*: A fenced grassed area of ¼ acre or less used primarily for exercise and secondarily for feeding of livestock.~~
- ~~(bb) *Pasture*: A fenced, grassed area of approximately more than ¼ acre used primarily for exercise and secondarily for feeding of livestock.~~
- ~~(cc) *Prohibited application period*: The time period during which a Flood Watch or Warning, a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Palm Beach County, issued by the National Weather Service, or if heavy rain (two inches or more within a 24-hour period is likely).~~
- ~~(dd) *Saturated soil*: A soil in which the voids are filled with water. Saturation soil does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.~~

~~(ee) Slow release, controlled release, timed release, slowly-available, or insoluble nitrogen: Nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid of quick release product.~~

~~(ff) Soil test: An analysis of a site soil sample by a qualified laboratory to determine fertilizer needs of the site, specifically phosphorus needs of the plants grown on the site.~~

~~(gg) Spreading: Refers to the human or mechanical means to distribute livestock waste or compost. Animal waste on pasture lands shall not be considered spreading of livestock waste.~~

~~(hh) Stormwater treatment areas "STAs": Those water quality treatment and water storage areas know as Stormwater Treatment Area 1 East (STA 1E) as described and depicted in the district's conceptual design document of February 15, 1994, and any modifications thereto.~~

~~(ii) Turf, sod, or lawn: An area of grass-covered soil held together by the roots of the grass.~~

~~(jj) Urban landscape: Pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as provided in F.S. § 570.02.~~

~~(Ord. No. 00-18, § 1, 9-26-00; Ord. No. 2004-34, § 1, 6-8-04; Ord. No. 2012-12, § 1, 3-26-13)~~

~~Sec. 30-151. Purpose.~~

~~The purpose of these best management practices (BMPs) for livestock waste and fertilizer management is to comply with Policy 1.2.11 and 13 of the Conservation Element Wellington's Comprehensive Plan and to comply with the conditions of the Joint Cooperation Agreement between Wellington and the South Florida Water Management District which requires Wellington to implement a compliance-based pollution prevention program designed to reduce nutrient discharges, specifically phosphorus, from its surface water system into the Everglades protection area. Wellington is therefore implementing a BMPs program designed to reduce, abate, and prevent, directly and indirectly, phosphorus discharges to the surface water system within Wellington.~~

~~(Ord. No. 00-18, § 1, 9-26-00; Ord. No. 2012-12, § 2, 3-26-13)~~

~~Sec. 30-152. Applicability.~~

~~These standards shall apply to all property within the boundaries of the Village of Wellington.~~

~~(Ord. No. 00-18, § 1, 9-26-00; Ord. No. 2012-12, § 3, 3-26-13)~~

~~Sec. 30-153. Best management practices for livestock waste.~~

~~Livestock waste shall be placed, or stored in a livestock waste storage area or water tight container such as a roll-off or dumpster which is associated with a permit issued by the Village of Wellington. Livestock waste shall not be placed, accepted, stored, or allowed to accumulate on any property in Wellington, except as provided herein.~~

~~(a) Management of livestock waste.~~

~~(1) Each livestock facility shall provide a storage area for livestock waste.~~

~~(2) Livestock waste shall be placed, or stored in a livestock waste storage area that meets the following requirements:~~

~~a. As of June 24, 2013, all new or reconstructed livestock waste storage area shall be constructed with an impermeable floor with sidewalls constructed of concrete block, concrete or molded resin-based plastic on three sides. The storage area shall be designed and constructed to be water tight with a cover which will not allow storm water discharge. The floor shall be impermeable and have a curb or rolled lip of asphalt or concrete not less than one inch in height or a slab pitched downward toward the rear wall of the storage area. (Minimum fall from front to rear of two inches); and~~

~~b. The livestock waste storage area shall be elevated to a minimum of six inches above the crown of road/access easement; or 12 inches below the residential finish floor whichever is greater; and~~

~~c. A building "permit" or a zoning compliance determination shall be obtained from the Village of Wellington prior to constructing or altering a livestock waste storage area within Wellington boundaries; and~~

~~d. The determination of the size of the livestock waste storage area is the responsibility of the property owner based upon the number of horses or livestock on the property and their daily generation of manure, urine and bedding material as well as intended frequency of removal for disposal. At no time shall livestock waste be allowed to accumulate beyond the threshold of the livestock waste storage area; and~~

~~e. Roll off and dumpster containers may be used as livestock waste storage areas subject to the following requirements:~~

~~i. Roll off and dumpster containers used as livestock waste storage areas shall be placed on a concrete or asphalt pad with at least a two inch curb around the entire storage area; and~~

~~ii. Roll off and dumpster containers used as livestock waste storage areas shall meet the same elevation requirements as in [subsection] (2)b.~~

~~iii. Roll off and dumpster containers must be water tight at all times.~~

~~(3) All equestrian facilities shall properly store livestock waste and shall have livestock waste removed from the facility as provided in this section.~~

~~(b) Location of waste storage facilities.~~

~~(1) Livestock waste storage and roll-off and dumpster containers shall be located:~~

- ~~a. At least five feet away from any adjacent structure roof overhang;~~
- ~~b. At least 50 feet away from any grassed drainage swale~~
- ~~c. At least 100 feet away from any drainage port of entry, body of water, public or private storm drainage conveyance system which has direct discharge into any body of water;~~
- ~~d. At least 100 feet away from a potable water supply well.~~
- ~~e. Within reasonable proximity to the stable/barn structure and in accordance with the minimum accessory use set back requirements.~~

~~(2) Extenuating circumstances; if compliance with the setback regulations is not possible because of properties unusual circumstances, the property owner may submit an alternate method of compliance. Mitigation measures such as berms, grading changes or secondary containment systems can be considered in addressing unique and unusual circumstances. If alternative measures are approved they must be installed and maintained in accordance with the approved specifications. Any alternate method of compliance must;~~

- ~~a. Meet the intent of these provisions,~~
- ~~b. Demonstrate the ability to mitigate water quality impacts~~
- ~~c. Provide a secondary method of containment and~~
- ~~d. Be supported by an engineering study.~~

~~(c) Livestock waste storage area maintenance.~~

~~(1) The removal and transportation of livestock waste on commercial and private properties within Wellington boundaries shall be done exclusively by either a registered commercial livestock waste hauler or a registered livestock waste self-hauler.~~

~~(2) Livestock waste shall be confined within the waste storage structure.~~

~~(3) Livestock waste storage area(s) shall be continuously maintained so that no stormwater runoff or any types of liquids/materials are allowed to be released.~~

~~(4) All livestock waste storage areas, containers and pads shall be inspected by a code compliance officer or building inspector annually for cracks, crevices, holes, and other damages. Repair shall be made as warranted to prevent spillage or discharge.~~

~~(d) —Disposal of livestock waste.~~ The disposal of livestock waste within Wellington must be accomplished by composting the waste, implementing a nutrient management program, or by hauling the waste off-site to an approved disposal site.

~~(1) —[Composting of livestock waste:]~~ Composting of livestock waste is permitted under the following conditions within Wellington's boundaries:

a. ~~—Large scale composting:~~ Where the composter has received a permit from the Florida Department of Environmental Protection (DEP) pursuant to F.S. § 403.707, and in accordance with Chapter 62-709, Florida Administrative Code. The approved DEP Form shall be submitted to Wellington. A copy of any and all annual reports required to be filed with DEP shall be filed with Wellington annually.

b. ~~—Small scale composting:~~ Where the composter proposes to spread compost within their property and is not required to obtain a permit from the DEP pursuant to F.S. § 403.707, and in accordance with Chapter 62-709, Florida Administrative Code, the composter shall prepare and submit a permit application to Wellington's Engineer as described in this section. This application entitled: Registration and Annual Reporting for Composting shall be completed and reviewed based on the following standards.

i. ~~—Property information:~~

a) ~~—The number of horses kept within the owner's properties.~~

b) ~~—The amount of livestock waste being generated monthly.~~

c) ~~—The amount of compost being generated monthly.~~

d) ~~—Provide an application with a site plan denoting area calculation of net available lands where compost will be spread along with the type of vegetation within the landscape areas, pastures, etc.~~

e) ~~—Setbacks from wells, drainage inlets and water bodies as referenced in section 30-153(b)(1).~~

f) ~~—Soil and compost test sample reports shall be submitted (UF-IFAS Soil Testing Laboratories) detailing the nutrient value of the composted waste and the nutrient uptake of the soil and vegetation. This report shall specify the animal units (horses) per acre which the properties vegetation can sustainance.~~

ii. ~~—Site plan of property to include:~~

a) ~~—A description of all structures located on property including proposed size, location, use and setbacks (Section 6.10.6 Development standards, (A) minimum setbacks).~~

b) ~~—Composting pad location and construction materials.~~

c) ~~Livestock waste storage facility location and construction materials section 30-153(a)2a.~~

iii. ~~Narrative to include: (see Composting Frequently Asked Questions)~~

a) ~~A brief description of how the compost will be used.~~

b) ~~A description of how odor and vectors will be controlled.~~

c) ~~A description of how stormwater intrusion will be controlled and the type of cover to be provided in the storage structure.~~

d) ~~The operating parameters to be followed for managing the process.~~

e) ~~A description of how the facility will be closed.~~

iv. ~~Application:~~

a) ~~Completed application for registration and annual composting.~~

b) ~~\$25.00 non-refundable application fee made payable to Wellington.~~

c) ~~Completed annual report for a solid waste management facility producing compost made from solid waste (Part C).~~

v. ~~Compost spreading plan:~~

a) ~~The spreading of livestock waste shall be prohibited within Wellington's boundaries, except as provided herein:~~

1) ~~The property owner must prepare a best management practice livestock waste management plan (BMPLWMP) in accordance with Wellington requirements and submitted to Wellington's Engineer or designee, who will coordinate with all other departments for review and approval. Spreading of composted livestock waste is prohibited without an approved plan. All existing spreading plans shall be required to submit a new BMPLWMP by October 1, 2014, and all BMPLWMP's shall be subject to an annual renewal at which time the property owner shall submit to Wellington an annual report on spreading activities.~~

2) ~~Livestock waste shall be composted before any spreading occurs.~~

3) ~~Best management practices livestock waste management plans applications, which have been approved by Wellington, shall be reviewed annually to~~

ensure practices are being followed as originally submitted and in accordance with the annual report.

(2) ~~*Nutrient management plan:*~~ A landowner may be considered exempt from composting livestock waste if a nutrient management plan is submitted to Wellington and approved. Annually the landowner shall submit a nutrient management plan to the village engineer for review and approval, based on the following standards:

a. ~~*Property information:*~~

- i. ~~The number of horses kept within the owner's properties.~~
- ii. ~~The amount of livestock waste being generated monthly.~~
- iii. ~~Provide an application with a site plan denoting area calculation of net available lands where livestock waste will be spread along with the type of vegetation within the landscape areas, pastures, etc.~~
- iv. ~~Setbacks from wells, drainage inlets and water bodies as referenced in section 30-153(b)1.~~
- v. ~~Soil and manure test sample reports shall be submitted (UF-IFAS soil testing laboratories) detailing the nutrient value of the livestock waste and the nutrient uptake of the soil and vegetation. This report shall specify the animal units (horses) per acre which the properties vegetation can sustainance. Permit shall remain valid so long as testing meets the applicable state standard.~~

(3) ~~*Livestock waste hauling:*~~

- a. ~~All commercial livestock waste haulers and/or livestock waste self-haulers shall be permitted and registered, as required, annually by Wellington.~~
- b. ~~Livestock waste may be moved from one livestock facility to another in Wellington only for.~~
 - i. ~~The purpose of composting in an approved composting area; or~~
 - ii. ~~Storage in a common livestock waste storage area for removal in bulk.~~
- c. ~~All livestock facilities within Wellington boundaries shall remove livestock waste by either a commercial livestock waste hauler or a livestock waste self-hauler that is registered by Wellington.~~
- d. ~~Disposal of livestock waste must be within an approved disposal site which is registered to operate under Florida Administrative Code Chapter 62-709.320, additionally the disposal facility must provide copies of all current valid permits annually to Wellington and must agree to periodic audits and~~

~~provide copies of all load tickets to Wellington which were obtained from the haulers.~~

- ~~e. Commercial livestock waste haulers will pay a permit fee to the Village of Wellington as may be adjusted from time to time. Livestock waste self-haulers will not pay a fee.~~
- ~~f. Commercial livestock waste haulers and livestock waste self-haulers permits and registrations shall be subject to revocation for failure to abide by the terms of this article.~~
- ~~g. Hauling reports shall be provided by commercial livestock waste haulers and livestock self-haulers to Wellington quarterly. Hauling records shall identify the waste source, quantity in cubic yards, and the waste disposal site with quantity deposited in cubic yards within an approved site. Hauling records shall include signed load tickets or affidavits certifying the loads from both the source and disposal site owners. Failure to provide quarterly hauling records may result in the loss of the haulers permit in Wellington. Wellington reserves the right to audit the hauling record and load tickets from the generating properties and disposal sites which have been approved as a disposal site as defined herein.~~

~~(Ord. No. 00-18, § 1, 9-26-00; Ord. No. 2004-34, § 2, 6-8-04; Ord. No. 2012-12, § 4, 3-26-13)~~

~~Sec. 30-154. Best management practices for the application and storage of fertilizer.~~

- ~~(a) All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.~~
- ~~(b) No fertilizer containing in excess of two percent phosphate/phosphorus ($P^{2-}O^{5-}$) per guaranteed analysis label (as defined by F.S. ch. 576) shall be applied to turf grass, pastures, paddocks, or used in nurseries unless justified by a soil test.~~
- ~~(c) Fertilizer containing in excess of two percent phosphate/phosphorus ($P^{2-}O^{5-}$) per guaranteed analysis label shall not be applied within ten feet of the edge of water or within ten feet of a drainage facility.~~
- ~~(d) All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.~~
- ~~(e) Liquid fertilizers containing in excess of two percent phosphate/phosphorus ($P^{2-}O^{5-}$) per guaranteed analysis label shall not be applied through an irrigation system within ten feet of the edge of water or within ten feet of a drainage facility.~~
- ~~(f) Liquid fertilizers containing in excess of two percent phosphate/phosphorus ($P^{2-}O^{5-}$) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within ten feet of the edge of water or within ten feet of a drainage facility.~~

~~(g) Wellington shall establish a public education program that is focused on the following: proper irrigation of landscaped areas; application rates of fertilizer; appropriate types of fertilizer for different plants; and proper use of organic fertilizers and soil amendments.~~

~~(h) Timing of fertilizer applications.~~

~~(1) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape during the prohibited application period and within the fertilizer free zones as identified in section 30-154(i)(1) below or to saturated soils.~~

~~(2) Fertilizer containing nitrogen and/or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildlife, etc.), or in accordance with the stormwater pollution plan for that site.~~

~~(i) Fertilizer free zones.~~

~~(1) Fertilizer shall not be applied within ten feet of any pond, stream, lake, canal, water body or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340), Florida Administrative Code or from the top of a headwall or lake bulkhead. Newly planted turf or landscape plants may be fertilized in its zone only for a 60-day period beginning no sooner than 30 days after planting if needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.~~

~~(j) Fertilizer content and application rates.~~

~~(1) Fertilizers applied to turf within Wellington shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers. Under Rule 5E-1.003(2), Florida Administrative Code, required application rate and frequency maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or container.~~

~~(2) Unless a soil or tissue deficiency has been verified by an approved test, nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in section (1) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs.~~

~~(3) Fertilizer used for sports turf at golf courses shall be applied in accordance with the recommendations in "Best Management Practice for the Enhancement of Environmental Quality of Florida Golf Courses", published by the Florida Department of Environmental Protection, dated January 2007. Fertilizer used at parks or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.~~

~~(k) Fertilizer application practices.~~

~~(1) Spreader deflector shields shall be used when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.~~

~~(2) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container~~

~~(3) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies. Property owners and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.~~

~~(l) Management of grass clippings, vegetative matter.~~

~~(1) In no case shall grass clippings, vegetative material and/or vegetative debris intentionally be washed, swept, or blown on to or into storm water drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is inadvertently deposited shall be immediately removed to the maximum extent practicable.~~

~~(m) Training.~~

~~(1) All Commercial and Institutional Applicators of Fertilizer within Wellington shall abide by and successfully complete the six hour training program in the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" offered by the Florida Department of Environmental Protection through the University of Florida/Palm Beach County Cooperative Extension Service "Florida Friendly Landscapes" program or approved equivalent program.~~

~~(2) Non-commercial and non-institutional applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida/IFAS "Florida-Friendly Landscape Program" and label instructions when applying fertilizer.~~

~~(n) Licensing of commercial applicators.~~

~~(1) All businesses applying fertilizer to turf of landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, multi-family, equestrian and condominium properties) must ensure that the business owner or his/her designee holds the appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Local Business Tax Certificate or landscape registration. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the~~

Wellington. It is the responsibility of the business owner to maintain the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" certificate to receive their Business Tax Receipt or landscape registration annually.

(2) After December 31, 2013, all commercial applicators of fertilizer within Wellington, shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per Rule 5E 14.117(18) Florida Administrative Code.

(3) All businesses applying fertilizer to turf and/or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties multi-family, equestrian and condominium properties) must ensure that at least one employee has an appropriate "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Business Tax Receipt or landscape registration. Standard Business Tax Receipt (BTR) or landscape registration and transaction fees shall apply.

(Ord. No. 00-18, § 1, 9-26-00; Ord. No. 2001-10, § 1, 9-25-01; Ord. No. 2012-12, § 5, 3-26-13)

Sec. 30-155. Commercial fertilizer applicators.

(a) Any person, firm, corporation, or other legal entity which provides fertilization services for a fee within the Village of Wellington shall pay such an annual registration fee as may be adjusted from time to time. This registration fee may, from time to time, be adjusted by resolution of Wellington Council.

(b) Commercial fertilizer registrations shall be subject to revocation for failure to abide by the terms and conditions established in this and other regulations of Wellington.

(Ord. No. 2001-10, § 2, 9-25-01; Ord. No. 2012-12, § 6, 3-26-13)

Sec. 30-156. Enforcement.

Any owner, owner's representative, tenant or person violating any provision of this part may be subject to enforcement as provided in Chapter 2 Article IV, Division 1 and 2 of the Wellington Codes of Ordinances.

(Ord. No. 2012-12, § 6, 3-26-13)

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[Chapter 9- ENVIRONMENT^{\[1\]}](#)

[ARTICLE 1. - LOT CLEARING AND DILAPIDATED PROPERTIES](#)

Sec.-9-1. - Definitions.

The following words, terms and phrases, as used in this article, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:

Adjacent Property means the lot immediately adjoining a lot that is subject to review under this article.

Department means the Wellington Planning, Zoning, and Building Department.

Developed Property means any real property upon which a structure, paving, lake, waterway, water body, golf course or sports field improvement, or other improvement has been erected or installed. Overhead, underground, and other public or private franchised utility installations shall not be considered improvements for the purposes of this definition.

Dilapidated Structure means any real property upon which all or a portion of the structure or structures is not maintained in good repair, in a structurally sound manner, or in a sanitary manner, including but not limited to the following items when such items are visible from a public right-of-way, public property, or adjacent property: broken window or door glass; broken or damaged windows or window frames; broken or damaged doors or entryways; broken or damaged garage doors; roofs with damage that may cause interior leaks; or unsecured or stagnant swimming pools. Landscaped Areas means outdoor areas required to consist of or consisting of any of the following or combination thereof: grass, ground covers, shrubs, vines, hedges, trees, or palms; and non-living durable material commonly used in landscaping, such as rocks, pebbles, sand, walls, or fences, but excluding paving.

Lot means any tract or parcel of land other than an approved landfill site.

Native Vegetation means any plant species with a geographic distribution indigenous to all or part of Wellington. Plant species that have been introduced by man are not native vegetation.

Natural Area means an area of native vegetative cover.

Non-native means any plant not native to the State of Florida.

Noxious Vegetation means *Schinus terebinthifolius* (commonly known as Florida Holly or Brazilian Pepper); *Melaleuca quinquenervia* (commonly known as Punk Tree, Cajeput, or Paper Bark Tree); and *Casuarina* spp. (commonly known as Australian Pine).

Owner means the owner of record of a lot as appears in the official records of Palm Beach County.

Special Magistrate means the special magistrate appointed as provided in Chapter 2 of this Code.

Stagnant Residential Swimming Pool means a pool with water that does not comply with the water clarity or turnover requirements as provided in the International Property Maintenance Code or the American National Standards Institute/National Spa and Pool Institute 5-2003 (ANSI/NSPI-5 2003) "Standards for Residential Inground Swimming Pools," as amended.

Undeveloped Property means any real property that is not developed property.

Unoccupied Structure means any structure not occupied by a permitted use normally associated with the structure, including the residing of an individual or individuals overnight or the use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

Unsecured Swimming Pool means an existing swimming pool that is not in compliance with the pool barrier requirements of the Florida Building Code, as amended.

Untended Vegetation means grass, weeds, and underbrush allowed to grow in an uncontrolled manner, or not cared for or maintained on a regular basis.

Waste shall be defined as in Chapter 17 of this Code .

Sec.-9-2. - Exemption.

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Natural areas, if the vegetation consists entirely of native vegetation, shall be exempt from the requirements of these regulations.

Sec. -9-3. - Nuisance Declared.

It is hereby declared and determined by the Wellington Council that the following shall each individually, or in any combination, be considered nuisances when they exist upon a lot, an occupied structure or an unoccupied structure in Wellington:

- (1) Accumulations of waste, trash, yard trash, junk, rubble, or debris.
- (2) Excessive growth of grass, weeds, and low-growing vegetation. Such grass, weeds and low-growing vegetation shall be maintained as follows:

| <u>Table .9-3.1</u> | | |
|---|-----------------------------------|---|
| <u>Lot and Use</u> | <u>Size of Lot</u> | <u>Maximum Maintenance Height</u> |
| <u>Undeveloped or Vacant—Residential and Non-Residential</u> | <u>One-half acre or less</u> | <u>6 inches on the entire lot</u> |
| <u>Undeveloped or Vacant—Residential and Non-Residential</u> | <u>Greater than one-half acre</u> | <u>12 inches on the first 120 feet measuring from property line or pod line of the lot on all sides of the lot adjacent to a developed lot. 18 inches on the first 120 feet outside of the urban services area and in Little Ranches and Rustic Ranches</u> |
| <u>Developed or Partially Developed—Residential and Non-Residential</u> | <u>One-half acre or less</u> | <u>6 inches on the entire lot</u> |
| <u>Developed or Partially Developed—Residential and Non-Residential</u> | <u>Greater than one-half acre</u> | <u>6 inches on the first 120 feet measuring from property line or pod line of the lot on any side of the lot</u> |
| <u>Golf Course—Active, Inactive or Abandoned (Prior to Redevelopment)</u> | <u>Any size</u> | <u>6 inches on the entire lot(s)</u> |

(3) Noxious vegetation.

- (4) Vegetation on developed or undeveloped property that creates a danger to public health, safety, and welfare by: (a) creating a fire hazard; (b) providing a nesting, breeding or feeding area for sandflies, mosquitoes, rodents, snakes or other species of pests and vermin, or disease-bearing organisms; (c) posing a danger to persons or structures on the property upon which the vegetation

is found or adjacent properties; (d) impairing the vision of motorists or bicyclists or impeding pedestrians; or (e) adversely affecting the aesthetic appearance of the property upon which the vegetation is found or adjacent properties.

(5) Dilapidated structures.

(6) Private residential swimming pools that are unsecured or stagnant.

Sec. -9-4. - Nuisance Abated.

The Wellington Council further determines that any nuisance listed in section 9-3 that is found in Wellington shall be abated in the following manner:

- (1) If the nuisance consists of accumulations of waste, trash, yard trash, junk, rubble, or debris, it shall be abated in its entirety.
- (2) If the nuisance consists of grass, weeds, and low-growing vegetation as provided in section 9-3(2) the nuisance shall be abated as provided in Table 9-3.1.
- (3) If the nuisance consists of noxious vegetation on developed or undeveloped lots inside the urban services area that are adjacent to developed lots, the nuisance shall be abated in its entirety if the lot is one-half acre or less. If the lot is greater than one-half acre, only so much of the nuisance shall be abated as lies within 120 feet of the boundary of an adjacent property that is developed and within 120 feet of a property line abutting a street.
- (4) If the nuisance consists of vegetation that impairs the vision of motorists or bicyclists, or impedes pedestrians, the nuisance shall be abated so as to afford a clear, unobstructed view and safe pedestrian access. If the nuisance creates a danger to the health, safety, and welfare in one or more of the ways provided in section 9-3(4), the nuisance shall be abated in its entirety.
- (5) If the nuisance consists of an unoccupied structure containing broken window or door glass, broken or damaged windows or window frames, broken or damaged exterior doors or entryways, broken or damaged garage doors, an unsecured swimming pool, a stagnant swimming pool, or damaged roofs that may allow an interior leak, the nuisance shall be abated in its entirety.

Sec. 9-5. - Procedure for Enforcement.

- (a) Upon the finding by Wellington that a nuisance exists, Wellington will send a notice of nuisance to the property owner.
- (b) If the nuisance has not been corrected within 21 days after mailing the notice of nuisance, a notice of violation shall be issued to the property owner that shall set forth:
 - (1) The Code section violated and description of the nature of the violation;
 - (2) A demand that remedial action be completed within a maximum of 15 days from the date of the mailing, delivery, or posting of such notice;
 - (3) A statement that failure to remedy the violation will result in correction of the violation by Wellington at the expense of the property owner; and
 - (4) A statement that the notice of violation may be appealed pursuant to section 9-6.
- (c) The notice of violation shall be mailed to the address of the property owner as shown by the tax rolls of the county by certified mail, return receipt requested. The notice shall also be posted upon the property's front door or facade, or if there is no building, stapled to a stake sign and covered with plastic. The notice shall state that no further notice of Wellington remedial actions to address the violations will be given if Wellington effects remedial action and subsequently, the same condition or conditions occur. However, this shall apply only if the property owner remains the same according to the tax rolls of the county. If the property owner changes, a new notice shall be provided.

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- (d) If the owner of the subject property fails to correct the violation as required by this section and the notice of violation by the date specified in the notice of violation, the Village Manager may authorize the correction of the noncomplying condition by Wellington. The charge for the cost of abatement shall be levied in an amount equal to the actual cost to Wellington plus an administrative and operating fee of \$250.00. The actual method of correction shall be determined by the Village Manager, and may, in the case of a dilapidated structure, include boarding of broken windows and doors.
- (e) If Wellington effects abatement, the costs and administrative and operating fee shall be calculated, and an invoice sent to the property owner of record by regular mail.
- (f) Failure to pay the full amount of any charges assessed pursuant to this section when due shall result in Wellington filing a lien in the public records of Palm Beach County. Such lien shall bear interest at the rate of 12 percent per annum from the date of recordation until paid. The property owner shall be responsible for the cost of filing and release of the lien. A notice that a lien has been recorded shall be sent to the property owner at the owner's address according to the tax rolls of the county.
- (g) Nothing in this section shall prevent the department from pursuing enforcement of this article through the code compliance process.
- (h) The Wellington Code Compliance Division will keep a docket of these liens, and will notify the Wellington Council of liens that are not paid. Wellington may enforce the lien in any manner or method permitted by law, including instituting an action to foreclose the lien after authorization by the Wellington Council. The Wellington Council's decision not to approve foreclosure shall not constitute an estoppel or waiver of Wellington's lien rights or staff's ability to present the matter for council consideration at a later time. Wellington is entitled to recover all costs, expenses, and attorneys' fees incurred in enforcing the lien, including those on appeal.

Sec. 9-6. - Appeals.

The lot owner may file an appeal to the special magistrate for a hearing to show that the condition alleged in the notice does not exist, or to show that the condition does not constitute a nuisance. Any appeal must be filed within 15 days after the date of the initial notice of a nuisance sent by the department. Notice of the right to an appeal shall be included in the initial notice of nuisance to the lot owner. The owner's appeal shall be submitted upon forms to be provided by the department and shall be accompanied by a certified check or money order in the amount of \$100.00 made payable to Wellington. The amount shall constitute the fee necessary to defray the costs to Wellington for processing and administering the appeal. The special magistrate shall give the lot owner seeking an appeal written notice of the date, time, and location of the scheduled hearing and shall hear the appeal at its regularly scheduled agenda no later than 30 days after receipt of the appeal by the department. Failure to file an appeal or to appear before the special magistrate shall be deemed a waiver of the lot owner's rights to appeal the administrative action.

ARTICLE II. - STORMWATER QUALITY MANAGEMENT

Sec. 9-7 - Title.

This article shall be known as the "Village of Wellington Initial Stormwater Control Ordinance," and may be so cited.

Sec. 9-8. - Purpose and Intent.

The purpose of this article is to promote the health, safety, and general welfare of the inhabitants of Wellington. This article is intended to comply with federal and state law and regulations regarding water quality.

Sec. 9-9. - Definitions.

For the purposes of this article, the following terms shall have the following meanings:

Authorized Official means any employee or agent of Wellington authorized in writing by the director to administer or enforce the provisions of this article.

Director means the director of public works.

Discharge means any direct or indirect entry of any solid, liquid, or gaseous matter.

District means the South Florida Water Management District, a government entity created under Chapter 373, F.S.

Person means any natural individual, corporation, partnership, institution, or other entity.

Site of Industrial Activity means any area or facility used for manufacturing, processing or storing of raw materials, as defined under 40 CFR Section 122.26(b)(14) of regulations of the U.S. Environmental Protection Agency, as amended.

Stormwater means any stormwater runoff, and surface runoff and drainage.

Stormwater System means the system of conveyances owned by Wellington used for collecting, storing, and transporting stormwater but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

Sec. 9-10. - Operation and Maintenance Responsibilities for Stormwater Systems.

Water management systems within Wellington shall be operated and maintained in a manner that will ensure that development and redevelopment adequately accommodate stormwater to meet all federal, state, and local requirements.

Wellington establishes the following regulations relating to the operation and maintenance of stormwater management systems within Wellington:

- (1) Wellington will be responsible for the construction, operation, and maintenance of the primary water management system in Wellington (backbone), which consists of canals, pump stations and other stormwater management facilities described in Wellington's drainage facility map.
- (2) Wellington will be responsible for the secondary water management system, which is comprised of Wellington rights-of-way and Wellington-owned properties.
- (3) All other stormwater management facilities shall be operated and maintained by either the individual property owner or a duly constituted homeowners or property owners association having ownership or control of the property on which the facilities are located.
- (4) Operation and maintenance responsibilities for stormwater management facilities on private property may be assumed by Wellington only pursuant to a written agreement between the parties and the execution of all necessary easements and/or rights of entry.
- (5) Wellington will monitor all applications to modify the Surface Water Management Permit No. 50-00548-S (Master Permit for the Village of Wellington issued to Acme Improvement District) and will object to the issuance of any modification by the District that is inconsistent with these regulations.

Sec. 9-11 - General Prohibitions.

- (a) Any discharge into the stormwater system in violation of any federal, state, county, municipal or other law, rule, regulation, or permit is prohibited.

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(b) Except as set forth under section 9-16 of this article or in accordance with a valid NPDES permit, any discharge to the stormwater system that is not composed entirely of stormwater is prohibited.

Sec. 9-12 - Administrative Orders.

The director may issue an order to any person to immediately cease any discharge determined by the director to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.

Sec. 9-13 - Specific Prohibitions on Industrial Activity.

By adoption of industrial activity stormwater regulations or by issuance of industrial activity stormwater permits, or both, the director may impose reasonable limitations as to the quality of stormwater (including without limitation the designation of maximum levels of pollutants) discharged into the stormwater system from sites of industrial activity. Any promulgation of such regulations and issuance of permits by the director shall be in accordance with applicable law.

Sec. 9-14. - NPDES Permits.

Any person who holds a National Pollutant Discharge Elimination System (NPDES) permit shall provide a copy of such permit to the director no later than 60 calendar days after issuance.

Sec. 9-15 - Specific Prohibitions – Sewage or Waste Materials.

Any discharge to the stormwater system containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, municipal, or other laws, rules, regulations, orders, or permits, is prohibited.

Sec. 9-16 - Authorized Exceptions.

Unless the director determines that it is not properly managed or otherwise is not acceptable, the following discharges are exempt from the general prohibitions set forth under section 9-12 of this article: flows from firefighting, water line flushing and other contributions from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, direct infiltration to the stormwater system, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, and dechlorinated swimming pool contributions.

Sec. 9-17 - Illicit Connections.

No person may maintain, use or establish any direct or indirect connection to the stormwater system that results in any discharge in violation of this article. This prohibition is retroactive and applies to connections made in the past, regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.

Sec. 9-18 - Notification of Spills.

As soon as any person has knowledge of any discharge to the stormwater system in violation of this article, such person shall immediately notify the Village of Wellington, and if such person is directly or indirectly responsible for such discharge, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such notification in writing to the director and to the Utility Department within 24 hours.

Sec. 9-19 - Injunctive Relief.

Any violation of any provision of this article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety, or general welfare.

Sec. 9-20 - Continuing Violation.

Each day during any continuing violation of any provision of this article, or of any regulation or permit issued hereunder, shall be a separate violation.

Sec 9-21- Enforcement Actions.

The director may take all actions necessary, including the issuance of notices of violation, the filing of court actions, or referral of the matter to the Code Compliance Division to require and enforce compliance with the provisions of this article and with any regulation or permit issued hereunder.

Sec. 9-22 - Authority for Inspections.

Whenever necessary to make an inspection to enforce any of the provisions of this article, or regulation or permit issued hereunder, or whenever an authorized official has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, or regulation or permit issued hereunder, any authorized official may enter the property, building, or facility at any reasonable time to inspect the same or to perform any duty related to enforcement of the provisions of this article or any regulations or permits issued hereunder; provided that (a) if such property, building, or facility is occupied, such authorized official shall first present proper credentials and request permission to enter, and (b) if such property, building, or facility is unoccupied, such authorized official shall make a reasonable effort to locate the owner or other person having charge or control of the property, building, or facility, and shall request permission to enter. Any request for permission to enter made hereunder shall state that the owner or person in control has the right to refuse entry, and in the event entry is refused, the authorized official may enter to make inspection only upon issuance of a search warrant by a duly authorized authority. If the owner or person in control refuses permission to enter after such request has been made, the authorized official is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or area-wide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article, including but not limited to random sampling and sampling in areas with evidence of stormwater contamination, non-stormwater discharges, or similar factors.

Sec. 9-23 - Authority for Monitoring and Sampling.

Any authorized official may establish on any property such devices as are necessary to conduct sampling or metering of discharges to the stormwater system. During any inspections made to enforce the provisions of this article, or regulations or permits issued hereunder, any authorized official may take any samples deemed necessary.

Sec. 9-24 - Requirements for Monitoring.

The director may require any person engaging in any activity or owning any property, building, or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic reports.

ARTICLE III. - WATER CONSERVATION

Sec. 9-25. - Applicability.

The provisions of this Code shall apply to each user providing landscape irrigation from all water resources within the boundaries of the Wellington.

Declaration of a water shortage condition and/or water shortage emergency within all or parts of Wellington

by the District's Governing Board or Executive Director shall supersede this Code for the duration of the applicable declaration.

Such a declaration applies to all users using the water resource within the geographical areas subject to a water shortage or water shortage emergency, as determined by the District, whether from public or privately-owned water utility systems, private wells or private connections with surface water bodies, but shall not apply to users using reclaimed water.

Nothing in this article shall be construed to relieve any person from compliance with any applicable regulations enacted by any agency of the State of Florida having jurisdiction over water resources in Wellington.

Sec. 9-26 - Purpose.

It is the intent and purpose of this Code to implement requirements to protect the water resources of Wellington and to promote water conservation through the efficient use of landscape irrigation consistent with the District's mandatory year-round landscape irrigation conservation measures in accordance with Chapter 40E-24, Florida Administrative Code, (F.A.C.) and to increase water use efficiency; prevent and curtail wasteful irrigation practices by providing mandatory landscape irrigation conservation measures; and to prohibit the operation of irrigation systems in a manner causing water to be wasted.

Sec. 9-27 - Definitions.

The following definitions shall apply within this article:

Address means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers, but excludes post office box numbers. "

Athletic Play Area means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis, and lawn bowling fields, and rodeo, equestrian and livestock arenas.

Consumptive Use Permit (CUP) means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

District means the South Florida Water Management District, a government entity created under Chapter 373, F.S.

Even-Numbered Address means an address ending in the number 0, 2, 4, 6 or 8; rights-of-way or other locations with no address; or the letters A-M.

Existing Landscaping means any landscaping that has been planted in the ground for more than ninety (90) days.

Landscaping means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale.

Landscape Irrigation means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale.

Low Volume Hand Watering means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

Low Volume Irrigation means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated, and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.

Micro-irrigation means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or micro-spray, and subsurface irrigation.

New Landscaping means any landscaping that has been planted and established for ninety (90) days or less.

Odd-Numbered Address means an address ending in the number 1, 3, 5, 7 or 9; or the letters N-Z.

Reclaimed Water means wastewater that has received at least secondary treatment, and basic disinfection and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, who directly or indirectly takes water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses water from individual wells or pumps.

Wasteful and Unnecessary means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; or allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water Shortage means when the District determines there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. means when the District determines the provisions listed in Part II

of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare; the health of animals, fish, or aquatic life; a public water supply; or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses.

Sec. 9-28 - Restrictions.

The following requirements or exceptions shall apply to all users, unless otherwise specified.

- (1) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as provided below.
- (2) Irrigation of existing landscaping shall comply with the following provisions:
- a. Even-Numbered Addresses and rights-of-way, or other locations without an address, may accomplish necessary landscape irrigation only on Thursdays, and/or Sundays.
 - b. Odd-Numbered Addresses may accomplish necessary landscape irrigation only on Wednesdays, and/or Saturdays.
- (3) Irrigation of new landscaping shall comply with the following provisions:
- a. New landscaping may be irrigated once on the day it is installed without regard to the listed watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the listed watering days and times.
 - b. A 90 day establishment period begins on the day new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.
 - c. Irrigation of new landscaping that has been in place for 30 days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.
 - d. Irrigation of new landscaping that has been in place for 31 to 90 days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.
 - e. Irrigation of the new landscaping is limited to areas containing only the new landscaping. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this Code if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation. Targeted watering may be accomplished by low volume hand watering, or any appropriate method that isolates and waters only the new landscaping.
- (4) Irrigation systems may be operated outside restricted days and/or times for cleaning, maintenance, and repair with an attendant on-site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 10 minutes per zone.
- (5) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides, and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall be allowed under the following conditions:
- a. Such watering-in shall be limited to one application in the absence of specific alternative instructions from the manufacturer; and

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b. Such watering-in shall be accomplished during normal watering days and times listed above unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(6) Any plant material may be watered using low volume irrigation, micro-irrigation, low volume hand watering methods, rain barrels, cisterns, or other similar rain-harvesting devices without regard to the listed watering days or times.

(7) In addition to the specific listed measures, all wasteful and unnecessary water use is prohibited.

(8) In the event the District imposes restrictions on landscape irrigation for new and existing installations that are more restrictive than those imposed by this Code, such as under the declaration of a water shortage or water shortage emergency, the more restrictive regulations shall apply for the applicable duration of the more restrictive regulations.

(9) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this Code that affect each particular water use.

(10) Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture in accordance with section 373.62, F.S. and these ordinances.

(11) It shall be unlawful to operate or cause the operation of any irrigation system or device in a manner causing water to be directed onto any sidewalk or paved portion of a road right-of-way.

(12) Failure to comply with the requirements of these restrictions will constitute a violation of this Code.

Sec. 9-29 - Exemptions.

The activities below shall be exempt from the provisions of this article, unless prohibited by District requirements.

(1) Landscape irrigation by hand watering using a self-canceling nozzle or low-volume irrigation system.

(2) Landscape irrigation by systems from which the sole source is treated wastewater reuse.

(3) Flushing of water and sewer mains required for normal clearance and maintenance and for maintenance of water quality.

(4) Landscape irrigation for the purpose of watering in fungicides, insecticides, herbicides, pesticides, and fertilizers as required by the manufacturer or by federal or state laws; however, this exemption applies only to licensed pest control operators and shall be limited to manufacturer's recommendations, which must be completed within 24 hours of application. Further, such operators must be on premises when such watering takes place outside the hours allowed for irrigation.

(5) Recirculating ornamental water features.

(6) Firefighting, health, or medical uses.

(7) Agricultural irrigation (including nurseries).

(8) Irrigation of clay tennis courts or athletic play areas, limited to one hour two times per day.

Sec. 9-30 - Enforcement and Penalties.

(a) Enforcement

Every law enforcement official having jurisdiction in the area governed by this Code may, in connection with all other duties imposed by law, enforce the provisions of this article by issuance of a citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. The Village Manager may also delegate enforcement responsibility for this article to other departments of Wellington, in accordance with state and local law.

(b) Penalties

Any user who violates any provision of this article shall also be subject to the remedies authorized by Chapter 2 of this Code, or as otherwise allowed by law.

(c) In addition to the sanctions contained herein, Wellington may take appropriate action, including, but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this article.

Sec. 9-31 - Variance Relief.

(1) Any user affected by this Code may apply for a variance to the Village Manager, or their designee.

(2) Recognition of District Variances. Wellington recognizes and adopts all irrigation variances or waivers issued by the District.

ARTICLE IV – WATER SHORTAGES

Sec. 9-32 - Applicability

The provisions of this article shall apply to each user using the water resource within the geographical areas subject to the water shortage condition or water shortage emergency, as determined by the District, whether from public or privately-owned water utility systems, private wells, or private connections with surface water bodies. This article shall not apply to users using reclaimed water.

Sec. 9-33 - Purpose

It is the intent and purpose of this article to protect the water resources of Wellington from the harmful effects of overutilization during periods of water shortage in support of the District's implementation of its water shortage plan, or issued water shortage orders, under Chapter 40E-21, Florida Administrative Code (F.A.C.).

Se. 9-34 – Definitions

The following definitions shall apply within this article:

District means the South Florida Water Management District, a government entity created under Chapter 373, F.S].

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User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, who directly or indirectly take water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells and pumps.

Water Resources means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water Shortage means when the District determines there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require temporary reduction in total use within a particular area to protect water resources from serious harm.

Water Shortage Emergency means when the District has determined that the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses.

Sec. 9-35 – Declaration of Water Shortage or Water Shortage Emergency

A declaration of a water shortage condition and/or water shortage emergency within all or parts of Wellington issued by the District's Governing Board or Executive Director shall invoke the provisions of this article. Upon such declaration, all water use restrictions or other measures adopted by the District applicable to Wellington, or any portion thereof, shall be subject to enforcement action in accordance with this Code. Any violation of the water use restrictions or other measures adopted by the District, or any order issued, shall be a violation of this Code. Water shortage or water shortage emergency measures adopted by the District and enforced by Wellington shall supersede mandatory year-round water irrigation measures until the more restrictive measure is rescinded by the District.

Sec. 9-36 – Variances

Wellington recognizes all variances issued by the District.

Sec. 9-37 – Enforcement and Penalties

(a) Enforcement

Every law enforcement official having jurisdiction in the area governed by this a may, in connection with all other duties imposed by law, enforce the provisions of this article by issuance of a citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. The Village Manager may also delegate enforcement responsibility for this article to other Wellington departments, in accordance with state and local law.

(b) Penalties

Any user who violates any provision of this article shall also be subject to the remedies authorized by Chapter 2 of this Code, or as otherwise allowed by law.

ARTICLE V. - BEST MANAGEMENT PRACTICES FOR LIVESTOCK WASTE AND FERTILIZER MANAGEMENT Introduction

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The Everglades ecological system not only contributes to South Florida's water supply, flood control, and recreation, but also serves as the habitat for diverse species of wildlife and plant life. It is one of Florida's great treasures and its ecological system is unique in the world. In response to adverse changes in water quality, quantity, distribution and timing of flows that were damaging and endangering the system, the Florida Legislature enacted the Everglades Forever Act in 1994. It has been determined that waters flowing into the Everglades Protection Area contain excessive levels of phosphorus, which must be reduced to benefit the ecology of the Everglades.

Wellington discharges its stormwater into the C-51 canal, which is then routed through the South Florida Water Management District's (SFWMD) Stormwater Treatment Area 1 East (STA 1E) and into the Arthur R. Marshall Loxahatchee National Wildlife Refuge, which is within the Everglades Protection Area.

Recognizing that animal and fertilizer waste discharge significantly impacts water quality, Wellington and the SFWMD entered into a Joint Cooperation Agreement in September of 2000, pursuant to which Wellington adopted and implemented regulatory measures aimed at lowering phosphorous discharge. In 2003, Wellington and the SFWMD entered into a Memorandum of Understanding for water resource management facilities in the Basin B area, and a Cooperative/Cost Share Agreement for the implementation of Best Management Practices for livestock waste and fertilizer. In 2004, Wellington and the SFWMD entered into Memorandum of Understanding No. CP040318 concerning funding for the Acme Basin B Discharge Project to divert stormwater discharges away from the Arthur R. Marshall Loxahatchee National Wildlife Refuge. All of these agreements, together with Wellington's SFWMD Environmental Resource Permit (50-00548-S, application 070330-35) and the State of Florida Flood Plain Management mandates, require Wellington to adopt and enforce these Best Management Practices.

Sec. 9-38 - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

Apply Fertilizer means the actual physical deposition of fertilizer to turf or landscape plants in Wellington.

Applicator means any person who applies fertilizer on turf or landscape plants in Wellington.

Approved Disposal Site means a real property in which a state or county registration or permit has been issued for the disposal and/or processing of livestock waste, as amended from time to time, and/or a plot of land that is conducting bona fide agricultural activities in accordance with F.S. § 193.461.

Approved Test means a soil test and livestock waste test from a governmental entity or commercial licensed laboratory that is certified and qualified to perform soil testing and recommendations.

Best Management Practices or "BMP" means a practice, or combination of practices, based on research, field-testing, and expert review deemed to be the most effective and practicable, including economic and technological considerations and means of achieving a desired result such as improving water quality to an acceptable level in discharges.

Best Management Practices Livestock Waste (Fertilization) Management Plan (BMPLW(F)MP) means a comprehensive waste management plan covering all aspects of managing livestock manure, urine, and bedding waste and all aspects of managing fertilizer storage and application developed to prevent the uncontrolled release of pollutants from these wastes.

Code Compliance Officer means any designated employee or contractor whose duty is to enforce codes and ordinances enacted by Wellington.

Commercial Fertilizer Applicator (except as provided in F.S. § 482.1562(9)) means any person or entity that applies fertilizer to property for payment or other consideration.

Commercial Livestock Waste Hauler means person(s), firm(s), corporation(s), or other legal entity(ies) permitted by Wellington to provide livestock waste removal services within Wellington for a fee in accordance with terms and conditions established by this article.

Common Livestock Waste Storage Area means a livestock waste storage area established for the temporary storage of livestock waste from off-site livestock facilities.

Composting means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material that can easily and safely be stored, handled, and used in an environmentally acceptable manner for a period of 30 to 90 days.

Cover means the placement of a lid, roof or protective covering (tarp like) over a livestock waste storage area so as to shield the livestock waste from rain or stormwater intake.

District means the South Florida Water Management District.

Drainage Basin means a topographic region in which all water drains to a common area.

Everglades Protection Area means water conservation areas 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge (Water Conservation Area 1), and the Everglades National Park.

Drainage Conveyance Systems means canals, detention/retention areas, grass swales, underground piping, drainage inlets, junction boxes, manholes, and any other components that store, collect, and convey rain or surface waters.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Fertilizing or Fertilization means the act of applying fertilizer to turf, specialized turf, or plants.

Impermeable Containment Pad or Floor means a containment pad or floor that utilizes non-porous building materials such as concrete or asphalt or like materials to prevent leakage and uncontrolled ground contamination, and provides overall containment of livestock waste or fertilizers or chemicals.

Institutional Applicator means any person other than a private, non-commercial, or commercial applicator (unless such definitions also apply under the circumstances), who applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators include, but are not limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium or common ownership.

Livestock means all animals of the equine, bovine, or swine class.

Livestock Facility means property under single ownership or control where livestock is raised or boarded.

Livestock Waste means wastes composed of excreta of animals and residual materials that have been used for bedding, sanitary, or feeding purposes for such animals. For purposes of this article, livestock waste that has been properly composted shall not be considered livestock waste.

Livestock Waste Self-Hauler means property owner or authorized representative registered with Wellington to provide livestock waste removal services from the owner's property in accordance with the terms and conditions established by this article.

Livestock Waste Storage Area means an at grade, screened from public view area constructed of impermeable material such as concrete or asphalt that allows for the storage of roll dumpsters, compactors, or other storage containers.

Manure Bin means a physical structure with three (3) concrete walls, a roof/cover, with a sloping floor of one-quarter (¼) inch per foot to the rear/back wall, with a minimum of a one and one-half (1-1/2") inch rolled containment lip/curb along the front open end edge of the structure to prevent leakage.

Manure Test means an analysis of livestock waste by a qualified laboratory to determine the nutrient value and makeup of the property owner's livestock waste, specifically the phosphorus content.

Monitoring Wells means strategically located wells from which water samples are drawn for water quality analysis or measurement of ground water levels.

Paddock means a fenced grassed area of ¼ acre or less used primarily for exercise and secondarily for feeding of livestock.

Pasture means a fenced, grassed area of approximately more than ¼ acre used primarily for exercise and secondarily for feeding of livestock.

Permit Criteria and Best Management Practices Manual for Works in the Village of Wellington means a description of permit criteria for the development or redevelopment of properties within Wellington, detailing the requirements for stormwater management, water quantity, and water quality.

Prohibited Application Period means the time period during which a Flood Watch or Warning, a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Palm Beach County, issued by the National Weather Service, or if heavy rain (two inches or more within a 24-hour period) is likely.

Saturated Soil means a soil in which the voids are filled with water. Saturated soil does not allow flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Screening means an opaque barrier that blocks the livestock waste storage area from view from the street or neighboring properties.

Slow Release, Controlled Release, Timed Release, Slowly-Available, or Insoluble Nitrogen means nitrogen in a form that delays its availability for plant uptake and use after application, or that extends its availability to the plant longer than a reference rapid or quick release product.

Soil Test means an analysis of a site soil sample for nutrient levels by a qualified laboratory to determine fertilizer needs of the site, specifically phosphorus needs of the plants located on the property.

Spreading means the human or mechanical means used to distribute livestock waste or compost. Animal waste on pasture lands shall not be considered spreading of livestock waste.

Stormwater Treatment Areas "STAs" means those water quality treatment and water storage areas known as Stormwater Treatment Area 1 East (STA 1E) as described and depicted in the District's conceptual design document of February 15, 1994, and any modifications thereto.

Turf, Sod, or Lawn means an area of grass-covered soil held together by the roots of the grass.

Sec. 9-39 - Purpose.

The purpose of these BMPs for livestock waste and fertilizer management is to implement the policies and objectives of the Conservation, Sustainability & Resiliency Element of Wellington's Comprehensive Plan and to comply with the conditions of the Joint Cooperation Agreement between Wellington and the District. The agreement requires Wellington to implement a compliance-based

pollution prevention program designed to reduce nutrient discharges, specifically phosphorus, from its surface water drainage system into the Everglades Protection Area. Wellington is therefore implementing a BMPs program designed to reduce, abate, and prevent, directly and indirectly, phosphorus discharges to the surface water system within its boundaries, pursuant to the State of Florida water quality and water quantity standards

Sec. 9-40 - Applicability.

These standards shall apply to all property within the jurisdictional boundaries of Wellington.

Sec. 9-41 - Best Management Practices for Livestock Waste

Livestock waste shall be placed in a manure bin or a livestock waste storage container that is water tight, including roll-off containers or dumpsters that meet the standards of this section. Further, manure bins and containers must be kept within a livestock waste storage area that is associated with a permit issued by Wellington. Livestock waste shall not be placed, accepted, stored, or allowed to accumulate on any property in Wellington, except as provided herein.

(a) Management of livestock waste.

(1) Each livestock facility shall provide a livestock storage area for livestock waste.

(2) The property owner is responsible to ensure that only livestock waste is placed in the storage container. Debris or garbage found in the livestock waste storage container cannot be removed from the property and must be separated from the livestock waste before it can be removed

(3) Livestock waste shall be placed or stored in a livestock waste storage area that meets the following requirements:

a. All new or reconstructed livestock waste storage areas shall be constructed with an impermeable floor with sidewalls constructed of concrete block or concrete or molded resin based plastic on three sides. All livestock waste storage areas, livestock waste storage containers, and manure bins shall be designed and constructed to be water-tight with a cover that will not allow storm water to enter into or any liquids to discharge from the storage area. The impermeable pad or floor shall have a curb or rolled lip of asphalt or concrete not less than one and one-half inches in height on all four sides of the containment area. The floor of a manure bin shall be pitched downward toward the rear wall of the manure bin (minimum fall from front to rear of one-quarter inch (1/4") per foot

b. As an alternative livestock waste storage area and manure bin design, the impermeable floor may be designed to include a floor drain or trench drain to allow stormwater to drain from the area. The floor drain or trench drain must be connected to an exfiltration trench or French Drain system designed and sized by a Professional Civil Engineer. The exfiltration trench or French Drain system must be designed to drain a volume of water equal to the area of the livestock waste storage area or manure bin multiplied by the 1-in-100 year rainfall event. A filtration system or sediment tank must be included as part of the design and must be approved by Wellington's Engineering Department.

c. The livestock waste storage area shall comply with flood plain management standards, which require the storage area to be elevated to a minimum of six inches above the crown of the adjacent roadway or access easement, or 12 inches below the minimum residential finish floor, whichever is greater.

d. An Engineering Permit shall be obtained from Wellington prior to constructing or altering a livestock waste storage area within Wellington's boundaries.

e. The determination of the size of the livestock waste storage area is the responsibility of the property owner based upon the number of horses or livestock on the property and their daily generation of manure, urine and bedding material, as well as intended frequency of removal

for disposal. At no time shall livestock waste be allowed to accumulate beyond the threshold of the livestock waste storage area.

f. Roll-off and dumpster containers may be used as livestock waste storage areas subject to the following requirements:

- i. Livestock waste storage containers, including all dumpster types and compactors, must be placed within a livestock waste storage area or manure bin..
- ii. Livestock waste storage containers, including all dumpster types, shall meet the same elevation requirements as in Sec. 9-41(a)(3)(c).
- iii. Livestock waste storage containers, including all dumpster types and compactors, must contain an attached lid or cover and be water tight at all times. Livestock waste storage containers must be fully covered/closed when not being filled, emptied, loaded, or unloaded.

(4) All equestrian facilities shall properly store livestock waste and shall have livestock waste removed from the facility as provided in this section.

(b) Location of waste storage facilities.

(1) Livestock waste storage and roll-off and dumpster containers shall be located.

- a. At least five feet away from any adjacent structure roof overhang.
- b. At least 50 feet away from any grassed drainage swale.
- c. At least 100 feet away from any drainage port of entry, body of water, public or private storm drainage conveyance system with direct discharge into any body of water;
- d. At least 100 feet away from a public potable water supply well, and 100 feet from a private potable well.
- e. Within reasonable proximity to the stable or barn structures on the property and in accordance with the minimum accessory use set back requirements.
- f. Adjacent to a stabilized vehicular access drive or road, of not less than 10 feet in width. The stabilized vehicular access drive or road must connect the livestock waste storage area to the adjacent access easement or road right-of-way. The stabilized access drive must be designed and constructed to provide for safe ingress/egress for waste removal services and waste haulers.
- g. When the livestock waste storage area, manure bin, or livestock waste storage container(s) are located within a barn or a detached roofed structure with four (4) walls, and there is a roll-up door or similar structure that can be utilized to completely enclose the livestock waste storage area, manure bin, or livestock waste storage container(s), then a 50% reduction of the minimum setbacks listed above, may be considered by Wellington's Engineering Department. However, no reduction shall be granted for the minimum setbacks from all potable water supply wells.

(2) Extenuating circumstances. If compliance with the setback regulations is not possible because of a property's unusual circumstances, the property owner may submit for approval an alternate method of compliance. Mitigation measures, such as berms, grading changes or secondary containment systems, may be considered in addressing unique and unusual circumstances. Alternative measures must be approved by Wellington's Engineering Department and shall be installed and maintained in accordance with the approved specifications. Any alternative method of compliance must:

- a. Meet the intent of these provisions;
- b. Demonstrate the ability to mitigate water quality impacts;

c. Provide a secondary method of containment; and

d. Be designed, signed, and sealed by a Professional Civil Engineer currently registered in the State of Florida.

(c) Livestock waste storage area maintenance.

(1) The removal and transportation of livestock waste on commercial and private properties within Wellington's boundaries shall be done exclusively by a registered commercial livestock waste hauler or a registered livestock waste self-hauler.

(2) Livestock waste shall be confined within the livestock waste storage area, manure bin, or livestock waste storage container.

(3) Livestock waste storage area(s) shall be continuously maintained so that no stormwater runoff, liquids, or materials of any type are released or leak.

(4) All livestock waste storage areas, manure bins, livestock waste storage containers, and impermeable pads shall be inspected by a code compliance officer or building inspector annually for cracks, crevices, holes, and other damage. Repairs shall be made as warranted to prevent spillage or discharge within 30 days of notice to the owner by the Wellington Code Compliance Division of the Planning, Zoning and Building Department.

(d) Disposal of livestock waste. The disposal of livestock waste within Wellington must be accomplished by composting the waste, implementing a nutrient management program, or by hauling the waste off-site to an approved disposal site.

(1) Composting of livestock waste. Composting of livestock waste is permitted under the following conditions within Wellington's boundaries:

a. Large scale composting: Where the composter has received a permit from the Florida Department of Environmental Protection (DEP) pursuant to F.S. § 403.707, and in accordance with Chapter 62-709, Florida Administrative Code. The approved DEP Form shall be submitted to Wellington. A copy of any and all annual reports required to be filed with DEP shall be filed with Wellington annually.

b. Small scale composting: Where the composter proposes to spread compost within their property and is not required to obtain a permit from the DEP pursuant to F.S. § 403.707, and in accordance with Chapter 62-709, Florida Administrative Code, the composter shall prepare and submit a permit application to Wellington's Engineer as described in this section. This application entitled: Registration and Annual Reporting for Composting shall be completed and reviewed based upon the following.

i. Property information:

a) The number of horses kept on the owner's property.

b) The amount of livestock waste being generated monthly.

c) The amount of compost being generated monthly.

d) A site plan application denoting area calculation of net available lands where compost will be spread, along with the type of vegetation within the landscape areas, pastures, or other areas where spreading will occur.

e) Setbacks from wells, drainage inlets, and water bodies as referenced in this Code.

f) Soil and compost test sample reports prepared by UF-IFAS Soil Testing Laboratories shall be submitted, detailing the nutrient value of the composted waste and the nutrient uptake of the soil and vegetation. This report shall specify the animal units (horses) per acre that the property's vegetation can sustain.

ii. Site plan of property:

- a) A description of all structures located on the property, including existing and proposed size, location, use, and setbacks as set forth in section 6.3.1 of Wellington's Land Development Regulations, Table 6.3-1 Property Development Regulations.
- b) Composting pad location and construction materials.
- c) Livestock waste storage facility location and construction materials as set forth in this Code.

iii. Application contents:

- a) Completed application for registration and annual composting.
- b) \$50.00 non-refundable application fee made payable to Wellington.
- c) Completed annual report for a solid waste management facility producing compost made from solid waste.

iv. Compost spreading plan: The spreading of livestock waste shall be prohibited within Wellington's boundaries, except as provided herein:

- a) The property owner must prepare a best management practice livestock waste management plan (BMPLWMP) in accordance with the requirements of this article, and must be submitted to Wellington's Engineer or designee, who will coordinate with all other departments for review and approval. Spreading of composted livestock waste is prohibited without an approved plan. All BMPLWMP's shall be subject to an annual renewal at which time the property owner shall submit to Wellington an annual report on spreading activities.
- b) Livestock waste shall be composted before any spreading occurs.
- c) Applications for best management practices livestock waste management plans that have been approved by Wellington, shall be reviewed annually to ensure practices are being followed as originally submitted and in accordance with the annual report.

(2) Nutrient management plan: A landowner may be considered exempt from composting livestock waste if a nutrient management plan is submitted to and approved by Wellington. Annually the landowner shall submit a nutrient management plan to Wellington's Engineer for review and approval, based on the following:

- a. The number of horses kept on the owner's properties.
- b. The amount of livestock waste being generated monthly.
- c. A site plan denoting area calculation of net available lands where livestock waste will be spread along with the type of vegetation within the landscape areas, pastures, and other areas where spreading will occur.
- d. Setbacks from wells, drainage inlets, and water bodies as referenced in this Code.
- e. Soil and manure test sample reports prepared by UF-IFAS Soil Testing Laboratories shall be submitted, detailing the nutrient value of the livestock waste and the nutrient uptake of the soil and vegetation. This report shall specify the animal units (horses) per acre which the property's vegetation can sustain.

(3) Livestock waste hauling:

- a. All commercial livestock waste haulers and livestock waste self-haulers shall be annually permitted and registered, as required by Wellington.
- b. Livestock waste may be moved from one livestock facility to another in Wellington only for:
 - i. The purpose of composting in an approved composting area; or
 - ii. Storage in a common livestock waste storage area for removal in bulk.

- c. All livestock facilities within Wellington's boundaries shall provide for the removal of livestock waste by either a commercial livestock waste hauler or a livestock waste self-hauler that is permitted and registered by Wellington.
- d. Disposal of livestock waste must be within an approved disposal facility that is registered to operate under Florida Administrative Code Section 62-709.320. Additionally, the disposal facility must provide copies of all current valid permits annually to Wellington and must agree to periodic audits and provide copies of all load tickets obtained from the haulers to Wellington's Engineer.
- e. Commercial livestock waste haulers will pay a permit fee to Wellington as may be adjusted from time to time. Livestock waste self-haulers will not pay a fee.
- f. Commercial livestock waste haulers and livestock waste self-haulers permits and registrations shall be subject to revocation for failure to abide by the terms of this article.
- g. Hauling reports shall be provided by commercial livestock waste haulers and livestock self-haulers to Wellington quarterly. Hauling records shall identify the waste source, quantity in cubic yards or tons, and the waste disposal site with quantity deposited in cubic yards or tons within an approved site. Hauling records shall include signed load tickets or affidavits certifying the loads from both the source and disposal site owners. Failure to provide quarterly hauling records may result in the loss of the hauler's permit. Wellington reserves the right to audit the hauling record and load tickets from the generating properties and approved disposal sites.

Sec. 9-42 - Required Horse Washes

- (a) All properties with a barn or on which horses will be housed must have a horse wash area designed and designated specifically for the bathing and cleaning of horses.
- (b) Horse wash areas must be designed with a floor drain(s) and/or trench drain(s) designed to collect all water used to wash horses. No water is permitted to leave the horse wash area, except through an approved drain system.
- (c) All horse wash areas must be connected to a permitted and approved Horse Wash Drainfield system. Horse Wash Drainfield systems are highly recommended, but not required, to be designed to include a dual-chambered sediment basin/septic tank/horse hair interceptor prior to the gray water entering the Horse Wash Drainfield.
- (d) All Horse Wash Drainfield systems must meet the minimum sizing criteria per Wellington's Engineering Standards Manual. The minimum Horse Wash Drainfield sizing criteria is based on the number of stalls located on the property, regardless of the type of stalls (permanent stalls in barn or temporary tent stalls).
- (e) No new connections of Horse Wash Drainfields to the sanitary sewer system shall be permitted..
- (f) Location of Horse Wash Drainfields. Horse Wash Drainfields shall be located:
 - (1) At least 50 feet away from any grassed drainage swale;
 - (2) At least 100 feet away from any drainage port of entry, body of water, public or private storm drainage conveyance system that has direct discharge into any body of water; and
 - (3) At least 100 feet away from a public potable water supply well, and 100 feet from a private potable well.

Sec. 9-43 - Best Management Practices for the Application and Storage of Fertilizer

- (a) All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.
- (b) No fertilizer containing in excess of two percent phosphate/phosphorus ($P^{2}O^{5}$) per guaranteed analysis label (as defined by F.S. ch. 576) shall be applied to turf grass, pastures, paddocks, or used in nurseries unless justified by a soil test.

- (c) Fertilizer containing in excess of two percent phosphate/phosphorus ($P^{2}O^{5}$) per guaranteed analysis label shall not be applied within ten feet of the edge of water or within ten feet of a drainage facility.
- (d) All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.
- (e) Liquid fertilizers containing in excess of two percent phosphate/phosphorus ($P^{2}O^{5}$) per guaranteed analysis label shall not be applied through an irrigation system within ten feet of the edge of water or within ten feet of a drainage facility.
- (f) Liquid fertilizers containing in excess of two percent phosphate/phosphorus ($P^{2}O^{5}$) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within ten feet of the edge of water or within ten feet of a drainage facility.
- (g) Wellington shall establish a public education program focused on the following: proper irrigation of landscaped areas; application rates of fertilizer; appropriate types of fertilizer for different plants; and proper use of organic fertilizers and soil amendments.
- (h) Timing of fertilizer applications.

 - (1) No applicator shall apply fertilizers containing nitrogen or phosphorus to turf or landscape during the prohibited application period and within the fertilizer free zones as identified in section 9-37(i)(1) below, or to saturated soils.
 - (2) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation, or in accordance with the stormwater pollution plan for the site.
- (i) Fertilizer free zones.

 - (1) Fertilizer shall not be applied within ten feet of any pond, stream, lake, canal, water body, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a headwall or lake bulkhead. Newly planted turf or landscape plants may be fertilized in their zones only for a 60-day period beginning no sooner than 30 days after planting, if needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.
- (j) Fertilizer content and application rates.

 - (1) Fertilizers applied to turf within Wellington shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers. Under Rule 5E-1.003(2), Florida Administrative Code, required application rate and frequency maximums, which vary by plant and turf types, are found on the labeled fertilizer bag or container.
 - (2) Unless a soil or tissue deficiency has been verified by an approved test, nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in section (1) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs.
 - (3) Fertilizer used for sports turf at golf courses shall be applied in accordance with the recommendations in "Best Management Practice for the Enhancement of Environmental Quality of Florida Golf Courses", published by the Florida Department of Environmental Protection, dated January 2007. Fertilizer used at parks or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.
- (k) Fertilizer application practices.

 - (1) Spreader deflector shields shall be used when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands. Any fertilizer applied, spilled, or deposited on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

(2) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or other permissible surface, or be returned to the original or other appropriate container.

(3) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies. Property owners and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.

(l) Management of grass clippings, vegetative matter.

(1) In no case shall grass clippings, vegetative material, or vegetative debris be washed, swept, or blown onto or into storm water drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is inadvertently deposited shall be immediately removed to the maximum extent practicable.

(m) Training.

(1) All commercial and institutional applicators of fertilizer within Wellington shall abide by and successfully complete the six hour training program in the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" offered by the Florida Department of Environmental Protection through the University of Florida/Palm Beach County Cooperative Extension Service "Florida Friendly Landscapes" program or approved equivalent program.

(2) Non-commercial and non-institutional applicators not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida/IFAS "Florida Friendly Landscape Program" and label instructions when applying fertilizer.

(n) Licensing of commercial applicators.

(1) All commercial applicators applying fertilizer to turf or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, multi-family, equestrian, and condominium properties) must ensure that the business owner or the owner's designee holds the appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Local Business Tax Certificate or landscape registration. Owners of such businesses shall provide proof of completion of the program to Wellington. It is the responsibility of the business owner to maintain the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" certificate as a condition of receiving their business tax receipt or landscape registration annually.

(2) All commercial applicators of fertilizer within Wellington shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a commercial fertilizer applicator.

Sec. 9-44 - Commercial Fertilizer Applicators

(a) Any person, firm, corporation, or other legal entity which provides fertilization services for a fee within Wellington shall pay an annual registration fee as may be adjusted from time to time by resolution of Wellington's Council.

(b) Commercial fertilizer registrations shall be subject to revocation for failure to abide by the terms and conditions established in this article and other Wellington regulations.

Sec. 9-45 - Enforcement

Any owner, owner's representative, tenant, or person violating any provision of this article may be subject to enforcement as provided in Chapter 2 of this Code.