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ORDINANCE NO. 2022-18

AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 50 TITLED “SPECIAL DISTRICTS” IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 19 TITLED “SPECIAL DISTRICTS,” AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, AND ESTABLISH POLICIES AND PROCEDURES GOVERNING THE ACME IMPROVEMENT DISTRICT CONSISTENT WITH FLORIDA LAW; 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that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.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SECTION 1: Chapter 50 of Wellington’s Code of Ordinances is hereby repealed in its entirety, and is amended and renumbered as Chapter 19, titled “Special Districts,” and is hereby adopted as specifically provided in Exhibit A attached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SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.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,

47 other than the part so declared to be invalid.

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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	_____	_____
_____ Michael Drahos, Vice Mayor	_____	_____
_____ John McGovern, 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 50 SPECIAL DISTRICTS⁴~~

~~ARTICLE I. IN GENERAL~~

~~Secs. 50-1—50-30. Reserved.~~

~~ARTICLE II. ACME IMPROVEMENT DISTRICT~~

~~Sec. 50-31. Special legislative acts of district to become village ordinances; amendment.~~

~~(a) All the special legislative acts of Acme Improvement District, specifically Laws of Fla. ch. 28557 (1953), and all subsequent amending special acts, shall become ordinances of the village; provided, however, that Laws of Fla. ch. 28557 (1953), § 5, by Laws of Fla. ch. 82-349, § 2, is hereby amended to read as follows: The supervisors of Acme Improvement District shall serve without compensation, per diem or otherwise, but shall be entitled to reimbursement for travel expenses as provided by law.~~

~~(b) All other provisions of the special legislative acts of Acme Improvement District, not otherwise amended by this article, shall remain in full force and effect.~~

~~(Ord. No. 96-03, § 1, 4-30-96; Ord. No. 96-20, §§ 1, 2, 8-21-96)~~

~~Sec. 50-32. Adoption by reference of policies and procedures of district.~~

~~The village hereby adopts and incorporates by reference in this section all the policies and procedures, adopted by Acme Improvement District.~~

~~(Ord. No. 96-05, § 1, 4-30-96)~~

~~Sec. 50-33. Authority of village manager.~~

~~The village manager shall have all the same authorities as those of the chief administrator of Acme Improvement District as may be necessary to effectuate the purposes of the village.~~

~~(Ord. No. 96-05, § 2, 4-30-96)~~

⁴Cross reference(s)—Any ordinance, charter or special act provision regulating the special assessment procedures for local improvements saved from repeal, § 1-8(15); administration, ch. 2; finance, § 2-261 et seq.; planning, ch. 42; streets, sidewalks and other public places, ch. 54; authorized to utilize provisions contained in div. 2, art. II of ch. 54, § 54-64; utilities, ch. 66.

~~Sec. 50-34. District authority to establish rates and charges on utility services for consumers outside of village.~~

~~The village, which controls and operates Acme Improvement District, a dependent district of village, hereby reauthorizes Acme Improvement District to establish rates, fees, charges and surcharges on water and sewer utility services to consumers located outside the boundaries of the village and the district pursuant to the criteria set forth in F.S. § 180.191, and ratifies the prior imposition of such rates, fees, charges and surcharges.~~

~~(Ord. No. 97-03, § 1, 3-11-97; Ord. No. 98-35, § 1, 12-8-98)~~

~~Sec. 50-35. Unpaid utility charges; lien.~~

- ~~(a) The village hereby provides that all unpaid water and sewer utility charges shall constitute a lien on the real property affected 90 days following the date on which the water and sewer utility charges are due and payable. All unpaid water and sewer utility charges shall bear interest at the prevailing market rate of interest but no less than a rate of five percent per annum from the date when the same became due and payable.~~
- ~~(b) If any water and sewer utility charges become delinquent by not being fully paid within 90 days following the date on which the water and sewer utility charges are due and payable, and remain delinquent, the district shall cause to be prepared a notice of lien containing the amount of the delinquent charges including the amount of the first penalty, a legal description of the unit of real property against which the lien is imposed and the name of the owner of such real property as indicated on the real property records maintained by the property appraiser of the county. Said notice of lien shall be recorded in the public records of the county prior to the completion of the fiscal year for which the charges are levied, or as soon thereafter as the district shall determine. A copy of the notice of lien shall be served on the owner of record as provided in F.S. § 713.18, within ten days after the notice of lien is recorded.~~
- ~~(c) Until fully paid and discharged or barred by law, such liens shall be prior to all other liens except that such liens shall be on parity with a lien of state, county and municipal taxes, and any lien for charges for services created pursuant to F.S. § 159.17.~~
- ~~(d) All costs of enforcement of such liens, including reasonable attorney's fees and costs, shall become a lien upon the real property affected and shall bear interest at the prevailing market rate of interest but not less than a rate of five percent per annum from the date when the same became due and payable.~~
- ~~(e) Upon full payment of the delinquent water and sewer utility charges, including the costs of enforcement of any lien, Acme shall promptly discharge its recorded lien by recording a release of lien in the public records of Palm Beach County.~~
- ~~(f) Foreclosure of all liens imposed under this section shall be in the manner prescribed by F.S. ch. 173.~~
- ~~(g) This section shall operate retroactively to apply to liens previously filed by the district for failure to pay delinquent water and sewer utility charges and to all other delinquent utility charges, whether or not a notice of lien has been filed by the district.~~

~~(h) Any unpaid water and sewer utility charges incurred by a former tenant of rental property shall not be the basis for any lien against the rental property or action against the present tenant or owner to recover such charges except to the extent that the present tenant or owner has benefitted directly from the service provided to the former occupant.~~

~~(Ord. No. 97-22, §§ 1—8, 12-16-97)~~

Chapter 19 - SPECIAL DISTRICTS

ACME IMPROVEMENT DISTRICT

Sec. 19-1: Special Legislative Acts of District are Wellington Ordinances; Amendment

- (a) Effective March 28, 1996, Acme Improvement District became a dependent district of Wellington and all special legislative acts of the Acme Improvement District became ordinances of Wellington. Further, on June 26, 2003, all prior special acts of the legislature relating to Acme Improvement District were re-codified in chapter 2003-330, Laws of Florida, and all prior special acts of the legislature were repealed. Acme Improvement District shall have all powers and authority set forth in Chapter 2003-330, Laws of Florida, together with all powers set forth in Chapters 298 and 189, Florida Statutes.
- (b) All subsequent special legislative acts of Acme Improvement District shall remain in full force and effect.

Sec. 19-2: Adoption by Reference of Policies and Procedures of District.

Wellington hereby adopts and incorporates by reference all the policies and procedures adopted by Acme Improvement District.

Sec. 19-3: Authority of Board of Supervisors and Village Manager

- (a) The Village Council shall serve as the supervisors of Acme Improvement District and shall have the powers granted by Chapter 2003-330, Laws of Florida and Chapter 298, Florida Statutes. The Board of Supervisors shall serve without compensation, per diem or otherwise, but shall be entitled to reimbursement for travel expenses as provided by law.
- (b) The Village Manager shall serve as the chief administrator of the Acme Improvement District and shall exercise those authorities provided by law, as may be necessary to effectuate the purposes of Acme.

Sec. 19-4: District Authority to Establish Rates and Charges on Utility Services for Consumers Outside of Wellington

Wellington, which controls and operates Acme Improvement District, a dependent district of Wellington, authorizes Acme Improvement District to establish rates, fees, charges and surcharges on water and sewer utility services to consumers located outside the boundaries of Wellington and the district pursuant to the criteria set forth in F.S. § 180.191.

Sec. 19-5: Unpaid Utility Charges; Lien

- (a) Wellington hereby provides that all unpaid water and sewer utility charges shall constitute a lien on the real property affected 90 days following the date on which the water and sewer utility charges are due and payable. All unpaid water and sewer utility charges shall bear interest at the prevailing market rate of interest but no less than a rate of five percent per annum from the date when the same became due and payable.
- (b) If any water and sewer utility charges become delinquent by not being fully paid within 90 days following the date on which the water and sewer utility charges are due and payable, and remain delinquent, the district shall cause to be prepared a notice of lien containing the amount of the delinquent charges including the amount of the first penalty, a legal description of the unit of real property against which the lien is imposed and the name of the owner of such real property as indicated on the real property records maintained by the property appraiser of the county. Said notice of lien shall be recorded in the public records of the county prior to the completion of the fiscal year for which the charges are levied, or as soon thereafter as the district shall determine. A copy of the notice of lien shall be served on the owner of record as provided in F.S. § 713.18, within ten days after the notice of lien is recorded.
- (c) Until fully paid and discharged or barred by law, such liens shall be prior to all other liens except that such liens shall be on parity with a lien of state, county, and municipal taxes, and any lien for charges for services created pursuant to F.S. § 159.17.
- (d) All costs of enforcement of such liens, including reasonable attorney's fees and costs, shall become a lien upon the real property affected and shall bear interest at the prevailing market rate of interest but not less than a rate of five percent per annum from the date when the same became due and payable.
- (e) Upon full payment of the delinquent water and sewer utility charges, including the costs of enforcement of any lien, Acme Improvement District shall promptly discharge its recorded lien by recording a release of lien in the public records of Palm Beach County.
- (f) Foreclosure of all liens imposed under this section shall be in the manner prescribed by F.S. ch. 173.
- (g) This section shall operate retroactively to apply to liens previously filed by the district for failure to pay delinquent water and sewer utility charges and to all other delinquent utility charges, whether or not a notice of lien has been filed by the district.
- (h) Any unpaid water and sewer utility charges incurred by a former tenant of rental property shall not be the basis for any lien against the rental property or action

against the present tenant or owner to recover such charges except to the extent that the present tenant or owner has benefitted directly from the service provided to the former occupant.