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ORDINANCE NO. 2022-20

AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 58 TITLED “TAXATION” IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 21 TITLED “TAXATION,” AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, ESTABLISH PUBLIC SERVICE TAXES AND COLLECTION PROCEDURES CONSISTENT WITH FLORIDA LAW, IMPOSE A LOCAL BUSINESS TAX AND OUTLINE RELATED PROCEDURES, EXEMPTIONS, AND PENALTIES, AND PROVIDE AN ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 YEARS OF AGE AND OLDER CONSISTENT WITH FLORIDA LAW; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

23
24 **WHEREAS**, Wellington adopted its first Code of Ordinances in 1997, shortly after
25 incorporation, and since that time has adopted revisions as necessary to protect the
26 health, safety, and welfare of its citizens; and

27
28 **WHEREAS**, Wellington believes that it is in the best interest of the community to
29 make additional modifications to the Code of Ordinances to remove outdated and
30 unnecessary provisions and to simplify the provisions set forth therein.

31
32 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**
33 **FLORIDA, THAT:**

34
35 **SECTION 1:** Chapter 58 of Wellington’s Code of Ordinances is hereby repealed
36 in its entirety, and is amended and renumbered as Chapter 21, titled “Taxation,” and is
37 hereby adopted as specifically provided in Exhibit A attached to this Ordinance.

38
39 **SECTION 2:** All ordinances or parts of ordinances in conflict herewith are hereby
40 repealed.

41
42 **SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this
43 Ordinance conflict with any section, paragraph, clause, or phrase of any prior Wellington
44 Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of
45 this Ordinance shall prevail to the extent of such conflict.
46

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

51
52 **SECTION 5:** This Ordinance shall become effective immediately upon adoption
53 of the Wellington Council following second reading.

54
55 **PASSED** this _____ day of _____, 2022 upon first reading.

56
57 **PASSED AND ADOPTED** this _____ day of _____, 20__ on second and
58 final reading.

59
60 **WELLINGTON**

	FOR	AGAINST
61 BY: _____	_____	_____
62 Anne Gerwig, Mayor		
63 _____	_____	_____
64 Michael Drahos, Vice Mayor		
65 _____	_____	_____
66 John McGovern, Councilman		
67 _____	_____	_____
68 Michael Napoleone, Councilman		
69 _____	_____	_____
70 Tanya Siskind, Councilwoman		

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78 **ATTEST:**

79
80 BY: _____

81 Chevelle D. Addie Village Clerk

82
83
84 **APPROVED AS TO FORM AND**

85 **LEGAL SUFFICIENCY**

86
87
88 BY: _____

89 Laurie S. Cohen, Village Attorney

90
91
92

EXHIBIT A

~~Chapter 58 TAXATION¹~~

~~ARTICLE I. IN GENERAL~~

~~Secs. 58-1—58-30. Reserved.~~

~~ARTICLE II. PUBLIC SERVICE TAX²~~

~~Sec. 58-31. Definitions.~~

~~Terms used herein and not otherwise defined herein have the meanings ascribed thereto in F.S. §§ 166.231, 166.232, 166.233 and 166.234.~~

~~(Ord. No. 98-32, § 2, 11-24-98)~~

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

~~Sec. 58-32. Levy; rates.~~

~~(a) There is hereby levied by the village, on each and every purchase within the incorporated area of the village of telecommunication services as defined by F.S. § 203.012, which originates and terminates in this state, a tax of seven percent of the total amount charged for any telecommunications service provided within the village or, if the location of the telecommunications service provided cannot be determined as part of the billing process, the total amount billed for such telecommunications service to a telephone or telephone number, a telecommunications number or device, a service address or a customer's billing address located within the village, excluding public telephone charges collected on site, charges for any foreign exchange service or any private line service except when such services are used or sold as a substitute for any telephone company switched service or dedicated facility by which a telephone company provides a communication path, access charges and~~

¹Cross reference(s)—Any ordinance levying or imposing taxes saved from repeal, § 1-8(7); administration, ch. 2; finance, § 2-261 et seq.

State constitution reference(s)—Local taxes, art. VII, § 9.

State law reference(s)—Municipal finance and taxation, F.S. § 166.201 et seq.; excise tax on property insurance premiums, F.S. § 175.101; excise tax on casualty insurance premiums, F.S. § 185.08; taxation and finance, F.S. ch. 192 et seq.; municipal assessment rolls, F.S. § 193.116; municipal excise tax on cigarettes prohibited, F.S. § 210.03.

²Editor's note(s)—Section 4 of Ord. No. 98-32, adopted Nov. 24, 1998, repealing §§ 58-31—58-39 and enacting similar new provisions in lieu thereof as §§ 58-31—58-38. Formerly, such provisions derived from §§ 2—10 of Ord. No. 96-15, adopted June 11, 1996.

Cross reference(s)—Utilities, ch. 66.

State law reference(s)—Public service tax, F.S. § 166.231.

~~any customer access line charges paid to a local telephone company. Purchase of telecommunications services as defined in F.S. § 203.012(5)(b), shall be taxed only on the monthly recurring customer service charges excluding variable usage charges.~~

- ~~(b) There is hereby levied by the village on each and every purchase within the incorporated area of the village of electricity, a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.~~
- ~~(c) There is hereby levied by the village on each and every purchase within the incorporated area of the village of metered or bottled gas (natural liquefied petroleum gas or manufactured), a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.~~
- ~~(d) The monthly period referenced to in subsections (b) and (c) above is the monthly billing cycle of a seller. If a seller bills in any manner other than on a monthly basis, the tax rate for all sales shall be ten percent unless changed by amendment to this article. The tax shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.~~

~~(Ord. No. 98-32, § 3, 11-24-98)~~

~~Sec. 58-33. Collection.~~

- ~~(a) The tax levied hereby shall be collected by the seller of the taxable item from the purchaser at the time of payment for such service.~~
- ~~(b) The seller shall remit the taxes collected to the village monthly on or before the 20th day of each month, except that remittance of taxes by sellers of telecommunication services shall be as provided in F.S. § 166.231(9)(f).~~
- ~~(c) It shall be unlawful for any seller to collect the price of any purchase of telecommunications services, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), sold within the incorporated area of the village, without at the same time collecting such tax hereby levied in respect to such purchase or purchases unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser or consumer, providing, however, that the seller shall not be liable for the payment of such tax upon uncollected bills.~~
- ~~(d) Any seller failing to collect such tax at the time of collecting the price of any purchase and sale, as aforesaid, where the seller has not elected to assume and pay such tax shall be liable to the village for the amount of such tax in like manner as if the same had actually been paid to the seller, and the village shall bring and cause to be~~

~~brought all such suits and actions and take such proceedings as may be necessary for the recovery of such tax.~~

- ~~(e) For the purpose of compensating the seller of telecommunications services, the seller of the telecommunications services shall be allowed one percent of the amount of the tax collected in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for keeping records and for collecting and remitting the tax.~~

~~(Ord. No. 98-32, § 5, 11-24-98)~~

Sec. 58-34. Recordkeeping; inspection of records.

- ~~(a) Each and every seller of telecommunications services, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), within the incorporated area of the village, with respect to sales and purchases, on which the tax is hereby levied, shall keep full and complete records showing all purchases and sales of such telecommunications services, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), within the incorporated area of the village, which records shall show the price charged upon each sale and purchase, the date and period of time covered thereby and the date of payment thereof.~~
- ~~(b) The records referred to in subsection (a) above shall, upon 60 days written notice, be open for inspection by duly authorized agents of the village during regular business hours of the seller at a place designated by the seller at the sole expense of the village. The agents of the village shall have the right, power and authority to make such transcripts or copies thereof as they may desire. Records not prepared by the seller in the ordinary course of business may be provided at the village's expense and as the village and the seller may agree in writing. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the village, shall be reported to the seller. The village's right to examine the records of the seller in accordance with this section shall not be conducted by any third party employed by the village whose fee for conducting such audit is contingent on findings of the audit.~~
- ~~(c) Within 20 days following the receipt of a written request accompanied by payment of the cost therefore, the village shall provide to any person requesting same: (1) a list containing each street name, known street name aliases, street address number ranges, applicable directionals, and zip codes associated with each street name, for all street addresses within the village; (2) a list containing each postal zip code and all the city names associated therewith for all zip codes assigned to geographic areas located entirely within the village, including zip codes assigned to post office boxes; and (3) a sequential list containing all post office box number ranges and the municipal names and zip codes associated therewith, for all post office boxes located within the village. The village shall update such lists as changes occur and shall furnish the updates information to all sellers affected by the changes. Each update shall specify an effective date which shall be the next ensuing January 1, April 1, July 1, or October 1 and shall be furnished to sellers not less than 60 days prior to the~~

~~effective date. The telecommunications service provider shall be responsible for or charging the tax only to the service and billing addresses contained in this listing.~~

~~(Ord. No. 98-32, § 6, 11-24-98)~~

~~**Sec. 58-35. Sellers of services to be collection medium and agency; certification of accuracy required.**~~

~~(a) The sellers of telecommunications services, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), within the incorporated area of the village, shall act as the collection medium and collecting agency for the collection from the purchaser of the herein levied tax for the use of the village. The village may bring such legal action as in its discretion may appear advisable under the terms of this section.~~

~~(b) The sellers of telecommunications services, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), within the incorporated area of the village, shall furnish to the village a certification duly executed by one of the officials of the company certifying as to the accuracy and correctness of billings and collections required under the terms of this section; which certification shall accompany the remittance of such tax collected or paid for the preceding month.~~

~~(Ord. No. 98-32, § 7, 11-24-98)~~

~~**Sec. 58-36. Failure to pay tax; interest and penalties.**~~

~~There are hereby assessed interest and penalties as provided below for failure to pay any tax when due or to file any required return, except that no penalty shall be assessed absent willful neglect, willful negligence, or fraud. Interest shall be assessed at the rate of one percent per month of the delinquent tax from the date the tax was due until paid. A penalty is assessed for the failure to file any return required to be filed in connection with the tax imposed hereby or for the failure to pay any tax required to be paid, but not both, at the rate of five percent per month of the delinquent tax, not to exceed a total penalty of 25 percent except that the minimum penalty for a failure to file a required return shall be \$15.00. The interest and penalty imposed hereby shall be in addition to any other penalties provided for by law.~~

~~(Ord. No. 98-32, § 8, 11-24-98)~~

~~**Sec. 58-37. Additional exemptions.**~~

~~In addition to exemptions otherwise provided by law, the following purchases of otherwise taxable items are hereby exempted from the tax imposed hereby:~~

~~(1) The first 200 kilowatt hours of electricity purchased per month for residential use. This exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate meter or a central meter, and shall be passed on to each individual tenant.~~

~~(2) The purchase of taxable items by any public body, as defined in F.S. § 1.01.~~

~~(3) The purchase of any taxable item by any recognized church in the State of Florida for exclusively church purposes.~~

~~(4) The purchase of telecommunications services made by a religious institution that possesses a consumer certificate of exemption issued under F.S. ch. 212.~~

~~(Ord. No. 98-32, § 9, 11-24-98)~~

~~Sec. 58-38. Computation of tax for monthly periods.~~

~~In all cases where the seller of the taxable commodity or service collects the price thereof in monthly periods, the tax hereby levied shall be computed on the aggregate amount of sales during each monthly period; providing that the amount of tax to be collected shall be the nearest whole cent to the amount computed. When a seller renders a bill to a purchaser to cover purchases made during the particular period of time to which a bill is applicable, the amount of the public service tax shall be stated separately from other governmental charges and taxes and shall not be levied on such taxes and charges.~~

~~(Ord. No. 98-32, § 10, 11-24-98)~~

~~Secs. 58-39—58-60. Reserved.~~

~~ARTICLE III. LOCAL BUSINESS TAX RECEIPT~~

~~Sec. 58-61. Tax imposed.~~

~~A local business tax is hereby imposed by the village upon:~~

~~(1) Any person maintaining a permanent business location or branch office within the village for the privilege of engaging in or managing any business, profession, or occupation within the village's jurisdiction.~~

~~(2) Any person not maintaining a permanent business location or branch office within the village who transacts any business or engages in any occupation or profession in interstate commerce where such tax is not prohibited by Section 8, Article 1 of the United States Constitution.~~

~~(Ord. No. 97-10, § 1, 6-10-97; Ord. No. 98-19, § 1, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-62. Applicability of exemptions.~~

~~The exemptions from municipal local business taxes provided by law shall be applicable in the village.~~

~~(Ord. No. 97-10, § 2, 6-10-97; Ord. No. 98-19, § 2, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-63. Places of business; vehicles.~~

~~Vehicles used by any person licensed under this article for the sale and delivery of tangible personal property, at either wholesale or retail, from his/her place of business on which a tax is paid shall not be construed to be separate places of business.~~

~~(Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-19, § 3, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-64. Additional/separate fees.~~

~~A local business tax shall grant the privilege of engaging in or managing all businesses, professions, or occupations within the village's jurisdiction. It shall not excuse or be in lieu of any fee charged for a license permit, registration, examination, or inspection, which is hereby deemed to be regulatory and in addition to and not in lieu of the local business tax imposed under the provisions of this article.~~

~~(Ord. No. 97-10, § 4, 6-10-97; Ord. No. 98-19, § 4, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-65. Filing of application.~~

~~Before the village shall be required to issue a local business tax receipt for engaging in or carrying on any of the businesses, professions, or occupations specified and set forth in this article, it shall be the duty of the applicant to file an application with the village clerk, such application to be in the form provided by the village clerk.~~

~~(Ord. No. 97-10, § 5, 6-10-97; Ord. No. 98-19, § 5, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-66. When taxes due; expiration; penalty for delinquency.~~

~~All local business tax receipts shall be sold beginning August 1 of each year, shall be due and payable before September 30 of each year, and shall expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Those receipts not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid, provided that the total delinquency penalty shall not exceed 25 percent of the local business tax for the delinquent establishment.~~

~~(Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-19, § 6, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-67. Engaging in business, occupation, etc. without license; penalty.~~

~~Any person engaging in or managing any business, occupation, or profession without obtaining an local business tax receipt required under this article shall be subject to a penalty of 25 percent of the license determined to be due. In addition to such penalty, any person engaging in any trade, business, profession, or occupation within the village without a local business tax receipt as required in this article, or under a local business tax receipt issued upon false statements made by such person or in their behalf, shall, upon conviction thereof, be punished as provided by law.~~

~~(Ord. No. 97-10, § 7, 6-10-97; Ord. No. 98-19, § 7, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-68. Civil actions and penalties.~~

~~Any person who engages in any business, occupation, or profession covered by this article, who does not pay the required local business tax within 150 days after the initial notice of tax due, and who does not obtain the required local business tax receipt, is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.00.~~

~~(Ord. No. 97-10, § 8, 6-10-97; Ord. No. 98-19, § 8, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-69. Issuance of receipt.~~

~~Upon payment of the taxes required by this article, the village shall issue to the person paying the same a receipt, which receipt shall expire at the end of the period for which such receipt is issued as specified in this article.~~

~~(Ord. No. 97-10, § 9, 6-10-97; Ord. No. 98-19, § 9, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06; Ord. No. 2020-05, § 1, 3-10-20)~~

~~Sec. 58-70. Period of local business tax receipt; issuance.~~

~~Unless otherwise provided, the amount of the local business tax specified by this article shall be on the basis of one year covering the period from October 1 to September 30 next succeeding, but receipts shall be issued in accordance with the following:~~

- ~~(1) Receipts issued between September 30 and March 30 shall pay the full amount.~~
- ~~(2) Receipts issued between April 1 and September 30 shall pay one-half of the full amount.~~

~~(Ord. No. 97-10, § 10, 6-10-97; Ord. No. 98-19, § 10, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-71. Expiration date.~~

~~No receipt shall be issued for more than one year, and all receipts shall expire on September 30 of each year unless otherwise provided.~~

~~(Ord. No. 97-10, § 11, 6-10-97; Ord. No. 98-19, § 11, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-72. Transfer to new ownership; fee.~~

~~All local business tax receipts may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00, and presentation of evidence of the sale and the original receipt. Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another location within the village upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00.~~

~~(Ord. No. 97-10, § 12, 6-10-97; Ord. No. 98-19, § 12, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06)~~

~~Sec. 58-73. Issuance of local business tax receipt to licensed professionals.~~

~~No local business tax receipt shall be issued to a licensed professional or business office unless the professional possesses certificate from the state or applicable industry licensing board. Any licensed professional, either employed by a local business or an independent contractor, shall provide satisfactory evidence that the certificate(s) or license(s) referred to in this article are still in force and effect.~~

~~(Ord. No. 2012-014, § 1, 7-10-12)~~

~~Sec. 58-74. Issuance of local business tax receipt to contractor.~~

~~No local business tax receipt shall be issued to a contractor unless the contractor possesses a certificate from the state construction industry licensing board or a license from the Construction Industry Management Council of Palm Beach County. Before the issuance of the village, the applicant must produce satisfactory evidence that the certificate or license referred to in this article is still in force and effect.~~

~~(Ord. No. 97-10, § 13, 6-10-97; Ord. No. 98-19, § 13, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06; Ord. No. 2012-014, § 1, 7-10-12)~~

~~Sec. 58-75. Local business tax receipt required for additional trades, business, etc.~~

~~Any persons engaged in two or more trades, vocations, businesses, or professions enumerated herein for which a local business tax receipt is required shall be required to pay a local business tax receipt for each separate line of trade, business, vocation, or profession.~~

~~(Ord. No. 97-10, § 14, 6-10-97; Ord. No. 98-19, § 14, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06; Ord. No. 2012-014, § 1, 7-10-12)~~

~~Sec. 58-76. Exemptions for local business tax receipts.~~

~~Beginning October 1, 2012, any individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. For the purposes of this section, an individual licensed and operating as a broker associate or sales associate is considered an employee. A principal or employer who is required to obtain a local business tax receipt may be required to provide licensing information for individuals exempt under this section in order to obtain a local business tax receipt. An individual acting in the capacity of an independent contractor is not an employee and is required to obtain a local business tax receipt as provided in this article.~~

~~(Ord. No. 2012-014, § 1, 7-10-12)~~

~~Sec. 58-77. Display of local business receipt.~~

~~Each person holding a local business tax receipt under this article shall keep the receipt posted in a conspicuous place, and the receipt shall be shown to any officer of the village demanding to see it.~~

~~(Ord. No. 97-10, § 15, 6-10-97; Ord. No. 98-19, § 15, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06; Ord. No. 2012-014, § 1, 7-10-12)~~

~~Sec. 58-78. Classification and rate schedule.~~

~~A local business tax classification and rate schedule is hereby adopted [by reference] and attached hereto as exhibit A [of Ordinance No. 2012-014].~~

~~(Ord. No. 97-10, § 16, 6-10-97; Ord. No. 98-19, § 16, 9-22-98; Ord. No. 2006-26, § 3, 12-12-06; Ord. No. 2012-014, § 1, 7-10-12)~~

~~Secs. 58-79—58-99. Reserved.~~

~~ARTICLE IV. ADDITIONAL HOMESTEAD EXEMPTION~~

~~Sec. 58-100. Additional homestead exemption for persons 65 years and older.~~

~~(a) *Purpose.* The purpose of this article is to provide an additional homestead exemption for persons 65 years of age and older in accordance with F.S.(2007) § 196.075 and as such may be amended in the future. It is the intent of the village council that this article conforms to the requirements of F.S. § 196.075 as presently constituted and as such may be amended from time to time.~~

~~(b) *Definitions.*~~

~~(1) *Household* means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding or renting a portion of a dwelling.~~

~~(2) *Household income* means the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of the household.~~

~~(c) *General.*~~

~~(1) *Village of Wellington taxes only.* Pursuant to and in accordance with F.S.(2007) § 196.075 the additional homestead exemption set forth in this section shall apply only to taxes levied by the Village of Wellington, including, if any, dependent special districts and municipal service taxing units.~~

~~(2) *Amount of additional homestead exemption.* Any person who meets the requirements set forth in subsection (d) herein below, shall be eligible for an additional \$50,000.00 homestead exemption.~~

~~(d) *Requirements to obtain additional homestead exemption.* Any person who on January 1 has attained the age of 65 years of age will be entitled to an additional homestead exemption if all of the following requirements are met:~~

~~(1) *The person has legal or beneficial title in equity to real estate; and*~~

- ~~(2) The person maintains thereon and in good faith makes the same his or her permanent residence or the permanent residence of another or others legally or naturally dependent upon such person; and~~
 - ~~(3) The person's household income does not exceed \$20,000.00 as adjusted herein below; and~~
 - ~~(4) The taxpayer claiming the exemption submits annually to the Palm Beach County Property Appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Florida Department of Revenue; and~~
 - ~~(5) In accordance with rules of the Florida Department of Revenue, a statement is filed which is supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents which the Florida Department of Revenue deems necessary, for each member of the household. Such documentation must be submitted by June 1 and the statement shall attest to the accuracy of such copies; and~~
 - ~~(6) The property appraiser approves the exemption after being provided with all required documentation.~~
- ~~(e) *Household income.* For purposes of subsection (d)(3) above, the \$20,000.00 household income limitation shall be calculated in accordance with F.S. (2007) § 196.075(3) and shall have been adjusted annually, adjusted annually since January 2001, and continue to be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the state 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.~~
- ~~(f) If title is held jointly with the right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.~~
- ~~(Ord. No. 2003-26, § 1, 10-28-03; Ord. No. 2007-09, § 2, 5-22-07)~~

Chapter 21 - TAXATION

ARTICLE I - PUBLIC SERVICE TAX

Sec. 21-1: Definitions

Terms used herein and not otherwise defined herein have the meanings ascribed thereto in F.S. §§ 166.231, 166.232, 166.233 and 166.234.

Sec. 21-2: Communications Services Tax

There is hereby levied, on each and every purchase within the incorporated area of Wellington of communication services, as defined by F.S. § 202.11, which originates and terminates in this state, a local communications services tax in the amount set forth in F.S. 202.20, as amended from time to time. The rate of levy and collection of said tax shall be governed by Chapters 202 and 203, Florida Statutes.

Sec. 21-3: Other Public Service Taxes

- (a) There is hereby levied by Wellington on each and every purchase within the incorporated area of Wellington of electricity, a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.
- (b) There is hereby levied by Wellington on each and every purchase within the incorporated area of Wellington of metered or bottled gas (natural liquefied petroleum gas or manufactured), a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.
- (c) The monthly period referenced to in subsections (b) and (c) above is the monthly billing cycle of a seller. If a seller bills in any manner other than on a monthly basis, the tax rate for all sales shall be ten percent unless changed by amendment to this article. The tax shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility.

Sec. 21-4: Collection

- (a) The tax levied hereby shall be collected by the seller of the taxable item from the purchaser at the time of payment for such service.
- (b) The seller shall remit the taxes collected to Wellington monthly on or before the 20th day of each month.
- (c) It shall be unlawful for any seller to collect the price of any purchase of electricity, or metered or bottled gas (natural, liquefied petroleum gas or manufactured), sold within the incorporated area of Wellington, without at the same time collecting such tax hereby levied in respect to such purchase or purchases, unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser or consumer, provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills.
- (d) Any seller failing to collect such tax at the time of collecting the price of any purchase and sale, as aforesaid, where the seller has not elected to assume and pay such tax shall be liable to Wellington for the amount of such tax in like manner as if the same had actually been paid to the seller, and Wellington shall bring and cause to be

brought all such suits and actions and take such proceedings as may be necessary for the recovery of such tax.

Sec. 21-5: Recordkeeping; Inspection of Records

- (a) Each and every seller of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, with respect to sales and purchases, on which the tax is hereby levied, shall keep full and complete records showing all purchases and sales of such electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, which records shall show the price charged upon each sale and purchase, the date and period of time covered thereby, and the date of payment thereof.
- (b) The records referred to in subsection (a) above shall, upon 60 days written notice, be open for inspection by duly authorized agents of Wellington during regular business hours of the seller at a place designated by the seller at the sole expense of Wellington. The agents of Wellington shall have the right, power, and authority to make such transcripts or copies thereof as they may desire. Records not prepared by the seller in the ordinary course of business may be provided at Wellington's expense and as Wellington and the seller may agree in writing. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to Wellington, shall be reported to the seller. Wellington's right to examine the records of the seller in accordance with this section shall not be conducted by any third party employed by Wellington whose fee for conducting such audit is contingent upon findings of the audit.

Sec. 21-6: Sellers of Services to be Collection Medium and Agency; Certification of Accuracy Required

- (a) The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, shall act as the collection medium and collecting agency for the collection from the purchaser of the herein levied tax for the use of Wellington. Wellington may bring such legal action as in its discretion may appear advisable under the terms of this article.
- (b) The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, shall furnish to Wellington a certification duly executed by one of the officials of the company certifying as to the accuracy and correctness of billings and collections required under the terms of this article, which certification shall accompany the remittance of such tax collected or paid for the preceding month.

Sec. 21-7: Failure to Pay Tax; Interest and Penalties

There are hereby assessed interest and penalties as provided below for failure to pay any tax when due or to file any required return, except that no penalty shall be assessed

absent willful neglect, willful negligence, or fraud. Interest shall be assessed at the rate of one percent per month of the delinquent tax from the date the tax was due until paid. A penalty is assessed for the failure to file any return required to be filed in connection with the tax imposed hereby or for the failure to pay any tax required to be paid, but not both, at the rate of five percent per month of the delinquent tax, not to exceed a total penalty of 25 percent except that the minimum penalty for a failure to file a required return shall be \$15.00. The interest and penalty imposed hereby shall be in addition to any other penalties provided for by law.

Sec. 21-8: Additional Exemptions

In addition to exemptions otherwise provided by law, the following purchases of otherwise taxable items are hereby exempted from the tax imposed hereby:

- (1) The first 200 kilowatt hours of electricity purchased per month for residential use. This exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate meter or a central meter, and shall be passed on to each individual tenant.
- (2) The purchase of taxable items by any public body, as defined in F.S. § 1.01.
- (3) The purchase of any taxable item by any recognized church in the State of Florida for exclusively church purposes.

Sec. 21-9: Computation of Tax for Monthly Periods

In all cases in which the seller of the taxable commodity or service collects the price thereof in monthly periods, the tax hereby levied shall be computed on the aggregate amount of sales during each monthly period; provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed. When a seller renders a bill to a purchaser to cover purchases made during the particular period of time to which a bill is applicable, the amount of the public service tax shall be stated separately from other governmental charges and taxes and shall not be levied on such taxes and charges.

ARTICLE II - LOCAL BUSINESS TAX RECEIPT

Sec. 21-10: Tax Imposed

A local business tax is hereby imposed by Wellington upon:

- (1) Any person who maintains a permanent business location or branch office within Wellington for the privilege of engaging in or managing any business within Wellington's jurisdiction.
- (2) Any person who maintains a permanent business location or branch office within Wellington, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.
- (3) Any person who does not qualify under subsection (1) or subsection (2) and who transacts any business or engages in any occupation or profession in

interstate commerce, if the business tax is not prohibited by Section 8, Article 1 of the United States Constitution.

Sec. 21-11: Applicability of Exemptions

The exemptions from municipal local business taxes provided by law shall be applicable in Wellington.

Sec. 21-12: Places of Business; Vehicles

Vehicles used by any person licensed under this article for the sale and delivery of tangible personal property, at either wholesale or retail, from their place of business on which a tax is paid shall not be construed to be separate places of business.

Sec. 21-13: Additional/Separate Fees

A local business tax shall grant the privilege of engaging in or managing all businesses, professions, or occupations within Wellington's jurisdiction. It shall not excuse or be in lieu of any fee charged for a license, permit, registration, examination, or inspection, which is hereby deemed to be regulatory and in addition to and not in lieu of the local business tax imposed under the provisions of this article.

Sec. 21-14: Filing of Application

It shall be the responsibility of any business operator to file an application for a local business tax receipt with Wellington on the form provided before engaging in or managing any business, profession, or occupation within Wellington's jurisdiction.

Sec. 21-15: When Taxes Due; Expiration; Penalty for Delinquency

All local business tax receipts shall be sold beginning August 1 of each year, shall be due and payable before September 30 of each year, and shall expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Those receipts not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid, provided that the total delinquency penalty shall not exceed 25 percent of the local business tax for the delinquent establishment.

Sec. 21-16: Engaging in Business, Occupation, or Profession Without Tax Receipt; Penalties

Any person engaging in or managing any business, occupation, or profession without obtaining a local business tax receipt required under this article shall be subject to a

penalty of 25 percent of the tax determined to be due. Any person who engages in any business, occupation, or profession covered by this article, who does not pay the required local business tax within 150 days after the initial notice of tax due, and who does not obtain the required local business tax receipt, is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.00. Any person engaging in any trade, business, profession, or occupation under a local business tax receipt issued upon false statements made by such person or on their behalf, shall, upon conviction thereof, be punished as provided by law.

Sec. 21-17: Issuance of Receipt

Upon payment of the taxes required by this article, Wellington shall issue to the person paying the same a receipt, which receipt shall expire at the end of the period for which such receipt is issued as specified in this article.

Sec. 21-18: Period of Local Business Tax Receipt; Issuance

Unless otherwise provided, the amount of the local business tax specified by this article shall be on the basis of one year covering the period from October 1 to September 30 next succeeding, but receipts shall be issued in accordance with the following:

- (1) Receipts issued between September 30 and March 30 shall pay the full amount.
- (2) Receipts issued between April 1 and September 30 shall pay one-half of the full amount.

Sec. 21-19: Expiration Date

No receipt shall be issued for more than one year, and all receipts shall expire on September 30 of each year unless otherwise provided.

Sec. 21-20: Transfer to New Ownership; Fee

All local business tax receipts may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00, and presentation of evidence of the sale and the original receipt. Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another location within Wellington upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00.

Sec. 21-21: Issuance of Local Business Tax Receipt to Licensed Professionals

No local business tax receipt shall be issued to a licensed professional or business office unless the professional possesses a certificate from the state or applicable industry

licensing board. Any licensed professional, either employed by a local business or an independent contractor, shall provide satisfactory evidence that the certificate or license referred to in this section is still in force and effect.

Sec. 21-22: Issuance of Local Business Tax Receipt to Contractor

No local business tax receipt shall be issued to a contractor unless the contractor possesses a certificate from the state construction industry licensing board or a license from the Construction Industry Management Council of Palm Beach County. Before the issuance by Wellington, the applicant must produce satisfactory evidence that the certificate or license referred to in this section is still in force and effect.

Sec. 21-23: Local Business Tax Receipt Required for Additional Trades, Business, etc.

Any person engaged in two or more trades, vocations, businesses, or professions for which a local business tax receipt is required shall be required to pay a local business tax for each separate line of trade, business, vocation, or profession.

Sec. 21-24: Exemptions for Local Business Tax Receipts

Any individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. For the purposes of this section, an individual licensed and operating as a broker associate or sales associate is considered an employee. A principal or employer who is required to obtain a local business tax receipt may be required to provide licensing information for individuals exempt under this section in order to obtain a local business tax receipt. An individual acting in the capacity of an independent contractor is not an employee and is required to obtain a local business tax receipt as provided in this article.

Sec. 21-25: Display of Local Business Tax Receipt

Each person holding a local business tax receipt under this article shall keep the receipt posted in a conspicuous place, and the receipt shall be shown to any officer of Wellington demanding to see it.

Sec. 21-26: Classification and Rate Schedule

A local business tax classification and rate schedule is hereby adopted by reference and is attached as exhibit A to Ordinance No. 2012-014.

ARTICLE III - ADDITIONAL HOMESTEAD EXEMPTION

Sec. 21-27: Additional Homestead Exemption for Persons 65 Years and Older

- (a) Purpose. The purpose of this article is to provide an additional homestead exemption for persons 65 years of age and older in accordance with F.S. § 196.075, as amended from time to time.
- (b) Definitions.
- (1) Household: a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding or renting a portion of a dwelling.
 - (2) Household Income: the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of the household.
- (c) General.
- (1) Village of Wellington taxes only. Pursuant to and in accordance with F.S. § 196.075, the additional homestead exemption set forth in this section shall apply only to taxes levied by the Village of Wellington, including, if any, dependent special districts and municipal service taxing units.
 - (2) Amount of additional homestead exemption. Any person who meets the requirements set forth in subsection (d) herein below, shall be eligible for an additional \$50,000.00 homestead exemption.
- (d) Requirements to obtain additional homestead exemption. Any person who on January 1 has attained the age of 65 years will be entitled to an additional homestead exemption if all of the following requirements are met:
- (1) The person has legal or beneficial title in equity to real estate; and
 - (2) The person maintains thereon and in good faith makes the same their permanent residence or the permanent residence of another or others legally or naturally dependent upon such person; and
 - (3) The person's household income does not exceed \$20,000.00 as adjusted herein below; and
 - (4) The taxpayer claiming the exemption submits annually to the Palm Beach County Property Appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Florida Department of Revenue; and
 - (5) In accordance with rules of the Florida Department of Revenue, a statement is filed which is supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents which the Florida Department of Revenue deems necessary, for each member of the household. Such documentation must be submitted by June 1 and the statement shall attest to the accuracy of such copies; and
 - (6) The property appraiser approves the exemption after being provided with all required documentation.
- (e) Household income. For purposes of subsection (d)(3) above, the \$20,000.00 household income limitation shall be calculated in accordance with F.S. § 196.075(3) and shall have been adjusted annually, since January 2001, and continue to be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of

the monthly consumer-price-index figures for the state 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

- (f) If title is held jointly with the right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.