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ORDINANCE NO. 2022-23

AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 70 TITLED “WATERWAYS” IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 24 TITLED “WATERWAYS,” AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, AND ESTABLISH RULES AND REGULATIONS FOR ACCESS TO AND USE OF PUBLICLY OWNED WATERWAYS; 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that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.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SECTION 1: Chapter 70 of Wellington’s Code of Ordinances is hereby repealed in its entirety, and is amended and renumbered as Chapter 24, titled “Waterways,” and is hereby adopted as specifically provided in Exhibit A attached to this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SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.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.

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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 70 WATERWAYS⁴~~

~~Sec. 70-1. Swimming, bathing, wading or immersing in public waters.~~

~~It shall be unlawful for any person to swim, bathe, wade, or immerse in any publicly owned water body, canal, or lake located within the village boundaries.~~

~~(Ord. No. 96-10, § 1, 5-14-96; Ord. No. 98-24, § 1, 10-27-98)~~

~~Cross reference(s)—Swimming in parks, § 38-83(a).~~

~~Sec. 70-2. Operation of personal watercraft within village boundaries prohibited; exceptions.~~

~~The operation of any gasoline, diesel, or fuel-powered boats, vessels, jetskis, waverunners, or other personal watercraft is hereby expressly prohibited on or in any publicly owned water body, lake, or canal located within the village boundaries, except that the use of gasoline, diesel, or fuel-powered boats may be permitted as provided in section 70-3 hereof. This section shall not be construed to prohibit the use of self-propelled, nonmotorized personal watercraft such as canoes, paddleboats, or rowboats, nor those watercraft propelled or powered by electric motors.~~

~~(Ord. No. 96-10, § 2, 5-14-96; Ord. No. 98-24, § 2, 10-27-98)~~

~~Sec. 70-3. Exceptions.~~

~~The use of gasoline, diesel, or fuel-powered boats may be permitted by council in the following instances:~~

- ~~(1) Municipal and other government agencies in the performance of aquatic weed control and other health and safety related programs.~~
- ~~(2) Educational programs, if such programs are conducted on Lake Wellington between the hours of 8:00 a.m. and 5:00 p.m. between December 15 and May 15, and are limited to no more than two 14-foot boats with a maximum nine horsepower motor. Permission may be granted by the village council after a public hearing to consider such request.~~

⁴~~Cross reference(s)—Buildings and building regulations, ch. 18; environment, ch. 30; planning, ch. 42; streets, sidewalks and other public places, ch. 54.~~

~~State constitution reference(s)—Game and fresh water fish commission, art. IV, § 9.~~

~~State law reference(s)—Attachment of vessels, F.S. § 76.32; beach and shore preservation, F.S. ch. 161; local regulation of the operation and equipment of vessels, F.S. § 327.60; taking or possession of saltwater fish, local regulation preempted, F.S. § 370.102; land-based commercial and recreational fishing activities, local ordinances, F.S. § 370.1103.~~

~~(Ord. No. 98-24, § 3, 10-27-98)~~

~~Sec. 70-4. Access regulation for publicly-owned waterways.~~

- ~~(a) The definitions set forth in Chapter 327 of the Florida Statutes, entitled the "Florida Vessel Registration Law," as it may be amended from time to time, are hereby incorporated into this section by reference.~~
- ~~(b) *Definitions.* In addition to the definitions set forth in Chapter 327, Florida Statutes, the following term or phrase and its derivations shall have the meaning given herein:
Village waterway is any water, waterway, lake, river, tributary, canal, lagoon or connecting water within the boundaries of the village.~~
- ~~(c) *License required.* Vessels shall not be operated in or on the village waterways unless properly licensed as required by applicable state and federal laws and regulations.~~
- ~~(d) *U.S. Coast Guard Regulations.* A vessel shall not be operated in or on village waterways unless it complies with all applicable requirements of the United States Coast Guard.~~
- ~~(e) *Speed limit.* The speed limit on all village waterways is established as "Idle Speed, No Wake," except as provided in section 70-3.~~
- ~~(f) *Maintenance of docks.* Persons controlling or occupying vessels shall at all times keep the docks, seawalls and premises adjacent to such vessels in a neat and orderly manner and free from trash, rubbish, repair parts, machinery, equipment and debris of all kinds.~~
- ~~(g) *Waste disposal.* Dumping of waste, including without limitation solid waste, garbage, paper, bottles, cans, refuse, debris and sanitary waste on, into or adjacent to village waterways is prohibited.~~
- ~~(h) *Launching of vessels.* Launching of vessels from a publicly or privately-owned property without the express authorization of the property owner, whether such property is developed or undeveloped, shall be prohibited.~~
- ~~(i) *Real property owners.* Real property owners or owners of real property is defined as any person or family member residing with any persons who owns real property within the municipal boundaries of the Village of Wellington. Real property owners or owners of real property shall also include trustees of a trust, partners of a partnership, or the individual designated through a corporate resolution by a corporation, where a trust, partnership or corporation entity hold title to the real property lying within the municipal boundaries of the Village of Wellington.~~

~~(Ord. No. 2005-13, § 1, 6-14-05; Ord. No. 2006-06, § 1, 2-28-06)~~

~~Sec. 70-5. Boat ramp access.~~

- ~~(a) *Use and maximum hull length.* Village boat ramps shall be for the exclusive use of village residents and owners of real property lying within the village's boundaries. The maximum boat length permitted to use a village boat ramp shall be 20 feet, except that by special permit the community development department may approve~~

a longer vessel length where that vessel is owned by a resident whose property abuts Lake Wellington and the vessel is regularly docked or anchored at the residence.

~~(b) *Procedures for exclusive use, generally.* The village council directs the village manager to establish the necessary procedures and safeguards to ensure that the boat ramps are utilized exclusively by village residents and owners of real property lying within the village's boundaries and to ensure the safe operation and use of boats in, on and around boat ramps.~~

~~(Ord. No. 2005-13, § 1, 6-14-05; Ord. No. 2006-06, § 2, 2-28-06)~~

Sec. 70-6. License required at village owned boat ramps.

~~(a) *Parking license.* Only residents of the village shall be allowed to park vehicles and boat trailers in designated parking areas at village-owned boat ramps. Such vehicles shall be required to obtain a parking license from the village, pursuant to the following regulations:~~

~~(1) The required licenses shall be obtained from the community services department.~~

~~(2) The licenses shall be renewed annually.~~

~~(3) The annual fee for a license shall be \$25.00. This fee shall pay for administrative costs and is not refundable.~~

~~(4) Proof of insurance and a current registration for the vessel for which the license is intended shall be provided to the village for a new license and each year to renew a license.~~

~~(5) The license shall be prominently displayed on the tongue of the vessel's trailer.~~

~~(6) Only residents of the village, as evidenced by two types of identification, shall be allowed to obtain parking license for parking at village-owned boat ramps.~~

~~(7) The applicant for a parking license shall be required to sign a form indicating that he or she shall abide by the village regulations restricting gas powered engines on village waterways. This form need only be signed one time.~~

~~(8) Village, law enforcement and other public agency vessels shall be exempt from having to display a boat ramp license when parking at such facilities.~~

~~(9) Real property owners applying for a parking license shall be required to present evidence that they are the current owner of the property as is listed on the property appraisers records or in the alternative, provide a copy of a deed and current title opinion of a Florida attorney or title policy evidencing their ownership of the property. Family members living with the property owners shall be required to present an affidavit confirming they live with the property owner.~~

~~(b) *Enforcement.* The enforcement of this section shall be the responsibility of the village's code compliance division and the district office of the Palm Beach Sheriff's Office in the same manner as parking violations are issued pursuant to Chapter 62 of the Village of Wellington Code of Ordinances and subject to the Administrative Appeal provisions of section 62-39 of the Village of Wellington Code of Ordinances.~~

~~(c) *Penalty.* Violations of this section shall be punishable by a civil penalty of \$30.00 for a first offense and \$250.00 for a second offense.~~

~~(Ord. No. 2005-13, § 1, 6-14-05; Ord. No. 2006-06, § 3, 2-28-06)~~

Chapter 24 - WATERWAYS

Sec. 24-1: Swimming, Bathing, Wading or Immersing in Public Waters

It shall be unlawful for any person to swim, bathe, wade, or immerse in any publicly owned water body, canal, or lake located within Wellington boundaries.

Sec. 24-2: Operation of Personal Watercraft Within Wellington Prohibited; Exceptions

The operation of any gasoline, diesel, or fuel-powered boats, vessels, jet skis, waverunners, or other personal watercraft is hereby expressly prohibited on or in any publicly owned water body, lake, or canal located in Wellington, except that the use of gasoline, diesel, or fuel-powered boats may be permitted as provided in section 24-3 hereof. This section shall not be construed to prohibit the use of self-propelled, non-motorized, personal watercraft such as canoes, paddleboats, or rowboats, nor those watercraft propelled or powered by electric motors.

Sec. 24-3: Exceptions

The use of gasoline, diesel, or fuel-powered boats may be permitted by the Council in the following instances:

- (1) Municipal and other government agencies in the performance of aquatic weed control and other health and safety related programs.
- (2) Emergency rescue or recovery vessels associated with a permitted event or activity.
- (3) Educational or recreational programs approved as a special use permit by the Wellington Council, following a public hearing. Such permits must specifically provide for the use of fuel powered boats and specify the number, size, and power limitations of same.

Sec. 24-4: Access Regulation for Publicly-Owned Waterways

- (a) The definitions set forth in F.S. ch. 327, as amended from time to time, are hereby incorporated into this chapter by reference.
- (b) *Definitions.* In addition to the definitions set forth in F.S. ch. 327, the following definitions apply to this chapter:
Wellington Waterway is any water, waterway, lake, river, tributary, canal, lagoon, or connecting water within Wellington.

- (c) License required. A vessel shall not be operated in or on Wellington waterways unless properly licensed as required by applicable state and federal laws and regulations.
- (d) U.S. Coast Guard Regulations. A vessel shall not be operated in or on Wellington waterways unless it complies with all applicable requirements of the United States Coast Guard.
- (e) Speed limit. The speed limit on all Wellington waterways is established as "Idle Speed, No Wake," (5 Knotts).
- (f) Maintenance of docks. Persons controlling or occupying vessels shall at all times keep the docks, seawalls and premises adjacent to such vessels in a neat and orderly manner and free from trash, rubbish, repair parts, machinery, equipment, and debris of all kinds.
- (g) Waste disposal. Dumping of waste, including without limitation solid waste, garbage, paper, bottles, cans, refuse, debris, and sanitary waste on, into, or adjacent to Wellington waterways is prohibited.
- (h) Launching of vessels. Launching of vessels from a publicly or privately-owned property without the express authorization of the property owner, whether such property is developed or undeveloped, shall be prohibited.

Sec. 24-5: Boat Ramp Access

Use and maximum hull length. Wellington boat ramps shall be for the exclusive use of Wellington residents and owners of real property lying within Wellington's boundaries. The maximum boat length permitted to use a Wellington boat ramp shall be 20 feet, except that by special permit the Wellington Engineering Department may approve a longer vessel length where that vessel is owned by a resident whose property abuts Lake Wellington and the vessel is regularly docked or anchored at the residence.

Sec. 24-6: License Required at Wellington-Owned Boat Ramps

- (a) Parking license. Only residents and property owners of Wellington shall be allowed to park vehicles and boat trailers in designated parking areas at Wellington-owned boat ramps. Such vehicles shall be required to obtain a parking license from Wellington, pursuant to the following regulations:
 - (1) The required licenses shall be applied for through the Customer Services Department. Applicants must demonstrate residency by submitting two forms of identification.
 - (2) The licenses shall be renewed annually.
 - (3) The annual fee for a license shall be \$25.00. This fee shall pay for administrative costs and is not refundable.
 - (4) Proof of insurance and a current registration for the vessel for which the license is intended shall be provided to Wellington for a new license and each year to renew a license.
 - (5) The license shall be prominently displayed on the tongue of the vessel's trailer.
 - (6) The applicant for a parking license must sign a form indicating that they agree to abide by Wellington regulations restricting gas powered engines on Wellington waterways. This form need only be signed one time.

(7) Wellington, law enforcement, and other public agency vessels shall be exempt from having to display a boat ramp license when parking at such facilities.

(8) Property owners and residents applying for a parking license must present evidence that they are the current owner of the property as is listed on the property appraiser's records or in the alternative, provide a copy of a deed or current lease evidencing their ownership or lease hold of the property. Family members living with the property owners must present an affidavit confirming they live with the property owner.

(b) *Enforcement.* This section shall be enforced by Wellington's Code Compliance Division and the district office of the Palm Beach Sheriff's Office in the same manner as parking violations pursuant to Chapter 22 of this Code except that violations of this section shall be punishable by a civil penalty of \$30.00 for a first offense and \$250.00 for a second offense.