

**VILLAGE OF WELLINGTON**

**Subject:** Policy Implementing Chapter 20, Article IV, “Public Assemblies” of Wellington’s Code of Ordinances

**Policy Number:** VW-?????

**Issue Date:** xx/xx/22

**Revised Date:** xx/xx/22

**Effective Date:** xx/xx/22

**I. Purpose**

To facilitate the exercise of the constitutional rights of free speech and peaceful assembly on certain Wellington property, while fostering the Village of Wellington’s substantial and compelling interests in protecting the public health and safety, the Wellington Council adopted Chapter 20, Article IV, “Public Assemblies,” pursuant to Ordinance No. 2022-19 (the “Public Assembly Regulations”). In order to administer the Public Assembly Regulations, Wellington shall utilize the following Public Assemblies Policy. Any authority given to Wellington administrative staff to interpret and apply the Public Assembly Regulations or this Policy has been constrained by the specific and neutral criteria.

**II. Authority**

The Village Manager, or designee, shall oversee implementation of this Policy and all requests for public assemblies on Wellington property.

**III. Definitions**

The terms used in this Policy shall have the same meaning as defined in the Public Assembly Regulations.

**IV. Policy**

**A. Application requirements.**

The application for a public assembly permit shall be signed by the applicant and notarized. It shall set forth the following, and such other or further information that is unrelated to any message of the public assembly as may from time to time be required:

1. If the public assembly is proposed to be organized or conducted by an individual, the name, mailing address, and telephone number of the person seeking to conduct the public assembly.

2. If the public assembly is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the organization and of the authorized responsible head of the organization.
3. The name, mailing address, and telephone number of the individual person who will be the public assembly chairperson and who will be responsible for the conduct of the public assembly. If a vice-chairperson is selected, then the above details must be submitted for the vice-chairperson as well.
4. If the public assembly is to be held by, on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the director a notarized document from the person proposing to hold the public assembly authorizing the applicant to apply for the permit on his or her behalf.
5. The date(s) on which the public assembly is to be conducted.
6. The nature, but not the message, of the public assembly including the type of activity that will occur.
7. The hours when such public assembly will marshal or stage, start, and terminate.
8. A good faith and reasonable estimate of the number of people who are planned to or expected to attend and participate in the public assembly. Such estimate may be adjusted by the director if the estimate appears to be incorrect, based on clear and convincing evidence or if evident from the application itself.
9. The exact location of the public assembly.

**B. Public assembly permit application fees, security deposit, costs, and waiver.**

1. *Application Fee.* A non-refundable application fee, established by resolution of the Wellington Council, to defray the administrative costs of reviewing and processing the application for the public assembly permit shall be paid to Wellington by the person applying for the public assembly permit at the time of filing of the application.
2. *Security Deposit.* If the purpose of the public assembly is to

engage in speech or assembly protected under the United States Constitution or the Constitution of the State of Florida, no security deposit shall be required. For all other public assemblies, a security deposit of five hundred dollars (\$500.00) made payable to Wellington is required to cover the cost of repairing any damage to the hardscape, hardscape furnishings, and landscape caused by the public assembly. The deposit shall be filed with Wellington prior to the issuance of a permit. Wellington will inspect the location for the public assembly prior to the event and any pre-existing damage will be noted in a damage report. Wellington will inspect the location of the public assembly after the event and determine if any damage was incurred during the event, including set-up and take down. The cost of repairing or replacing any damaged items or areas shall be deducted from the security deposit, and the balance remaining, if any, shall be returned to the permittee within thirty (30) days of the date of the event. If the cost of repair or replacement exceeds the amount of the security deposit, Wellington shall invoice the permittee for the excess amount. The permittee shall pay such amount within ten (10) days of his or her receipt of the invoice, and the permittee shall not be eligible to apply for another public assembly permit until such amount is paid in full unless they receive a waiver for fees and costs associated with the subsequent public assembly permit.

3. *Costs.* An additional charge for the costs associated with the proposed public assembly may be assessed and shall be based upon projected attendance, proposed activities, and other aspects of the public assembly set forth in the application that determine the level of Wellington services and facilities required. The costs shall not take into account the content of any message associated with the public assembly or the anticipated response to that message.
4. *Waiver.*
  - a) All fees and costs for the public assembly permit shall be waived by Wellington if:
    - i. the activity proposed by the applicant involves expressive speech protected by the First Amendment of the United States Constitution or the Constitution of the State of Florida;

- ii. the payment of the fee(s) would be so financially burdensome that it would preclude the applicant from exercising such First Amendment rights; and
  - iii. the applicant lacks adequate alternate channels of expression.
- b) Within three (3) business days after receipt of a written request from the applicant for waiver, the director shall render a written decision on whether to grant the waiver and shall set forth the reasons for the decision, which reasons shall not include any message to be communicated by the public assembly or any anticipated reaction to that message.
  - c) An applicant wishing to appeal the adverse decision of the director on a waiver application may file a request for reconsideration with the director or file an appeal to the Village Manager pursuant to the appeal procedures set forth in the Public Assembly Regulations.

**C. Review of application for public assembly permit.**

- a) *Review of Application.* The application for a public assembly permit will be reviewed in accordance with the following process:
  - 1) *Distribution.* Within three (3) business days after receipt of a completed application, the application fee, and any security deposit for a public assembly permit, the director shall deliver copies of the application to the Public Works Department, Risk Management, the Building Department, Palm Beach County Fire Rescue, the Palm Beach County Sheriff's Office, and all other applicable departments, divisions, or offices.
  - 2) *Report.* Within seven (7) business days after receipt of the application for a public assembly permit, each such department, division, or office shall review the application and prepare and deliver a written report to the director relating to the application. The application shall be reviewed against the requirements of the Public Assembly Regulations, any other applicable laws or ordinances, and any applicable technical codes or manuals, including, without limitation, those related to fire safety, traffic control, structures, and buildings. The report shall include

comments or findings regarding the application. The report may also include conditions, restrictions, or requirements which (based solely on the requirements of the Public Assembly Regulations, any other applicable laws or ordinances, and any applicable technical codes or manuals) the reviewing department or division determines are appropriate for the public assembly permit to be issued. Such conditions, restrictions, or requirements may include that the applicant prepare a traffic plan or apply for and obtain other necessary permits and licenses.

- 3) *Estimated Costs.* If any governmental services or facilities or both are to be provided for the public assembly, the reviewing department, division, or office shall estimate the costs of such services or facilities to Wellington and indicate those estimated costs in the report. Estimated costs shall be the costs estimated to be incurred in providing facilities or services including, but not limited to, maintaining traffic control and maintaining and policing the orderly activity of the participants in the public assembly. These costs shall be based upon the estimated cost of providing appropriate traffic control by staff and providing law enforcement officers to control traffic and maintain a peaceable and orderly assembly at the rates the Palm Beach County Sheriff's Office charges Wellington for such services. Any costs for other required facilities or services shall similarly be estimated based on the actual costs to Wellington of providing them. Estimated costs shall not include any costs related to policing onlookers or counter-protestors.
- 4) *Conditions.* Recommended conditions of the report may include that the applicant make a larger pre-payment or security deposit for the estimated costs of the public assembly than normally required, that the applicant remove any structures or facilities erected or used in conjunction with the public assembly, and other conditions designed to mitigate the undue adverse impacts of the public assembly on Wellington. Conditions shall not be based on the content of any message associated with the public assembly, or on any perceived reaction to the message.

- b) *Applicable Laws and permits.* Nothing in this Policy shall be

construed as exempting or excusing the applicant from having to obtain any other required permits, licenses or certificates from any applicable authority needed to lawfully operate or conduct the public assembly, including but not limited to a building permit, an occupational license, a certificate of occupancy, a fireworks permit, or an alcoholic beverage license.

**D. Insurance.**

Unless the applicant received a waiver pursuant to the criteria set forth in this Policy, if required, the applicant for a public assembly permit shall deliver to the director not later than three (3) business days before the date of the public assembly, certificates of insurance for coverages and amounts which shall be determined by Wellington. Wellington shall determine the coverages and amounts based upon an objective risk assessment and shall maintain a uniform schedule of insurance guidelines for particular types of public assemblies.

1) The applicant's insurance shall not be responsible for the conduct of a third party without a finding that the applicant authorized—either actually or apparently—or ratified unlawful conduct. Further, the applicant's insurance shall not be responsible for the acts of government officials.

2) Only an insurer holding a current certificate of authority pursuant to F.S. Ch. 624, shall underwrite the insurance. Such insurance shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of Wellington. The certificate shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until fifteen (15) days after receipt of written notice by Wellington.

3) All coverages shall be provided on an occurrence form. In the event that coverage is only available on a claims-made form, the insured shall maintain extended reporting coverage for a minimum of two (2) years past the expiration of the annual policy term.

4) Notwithstanding anything to the contrary, the liabilities of the permittee for obtaining and maintaining the coverage(s) required under this section shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of particular policies for insurance coverage.

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