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**ORDINANCE NO. 2022-19**

**AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 54 TITLED “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES” IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 20 TITLED “STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES,” AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, ESTABLISH REGULATIONS FOR WORK WITHIN WELLINGTON’S RIGHTS-OF-WAY AND EASEMENTS, OUTLINE PROCEDURES FOR VACATING AND ABANDONING WELLINGTON RIGHTS-OF-WAY AND EASEMENTS, PROVIDE REGULATIONS PERTAINING TO TRUCK TRAFFIC CONTROL, AND ADOPT PROCEDURES AND REGULATIONS PERTAINING TO PUBLIC ASSEMBLIES THAT PRESERVE THE PUBLIC’S CONSTITUTIONAL RIGHTS WHILE FOSTERING WELLINGTON’S SUBSTANTIAL AND COMPELLING INTERESTS OF PROTECTING THE PUBLIC HEALTH AND SAFETY; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

29  
30       **WHEREAS**, Wellington adopted its first Code of Ordinances in 1997, shortly after  
31 incorporation, and since that time has adopted revisions as necessary to protect the  
32 health, safety, and welfare of its citizens; and

33  
34       **WHEREAS**, Wellington believes that it is in the best interest of the community to  
35 make additional modifications to the Code of Ordinances to remove outdated and  
36 unnecessary provisions and to simplify the provisions set forth therein; and

37  
38       **WHEREAS**, in addition to the other provisions addressed by this ordinance, and  
39 due to recent interest in public events, commonly referred to and defined herein as “public  
40 assemblies” the Wellington Council desires to adopt procedures and regulations  
41 pertaining to public assemblies; and

42  
43       **WHEREAS**, the objective of Wellington’s regulation of public assemblies is to  
44 facilitate the exercise of the constitutional rights of free speech and peaceful assembly on  
45 certain Wellington property, while fostering Wellington’s substantial and compelling  
46 interests of protecting the public health and safety.

47  
48 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**  
49 **FLORIDA, THAT:**

50  
51 **SECTION 1:** Chapter 54 of Wellington’s Code of Ordinances is hereby repealed  
52 in its entirety, and is amended and renumbered as Chapter 20, titled “Streets, Sidewalks,  
53 and Other Public Places,” and is hereby adopted as specifically provided in Exhibit A  
54 attached to this Ordinance.

55  
56 **SECTION 2:** All ordinances or parts of ordinances in conflict herewith are hereby  
57 repealed.

58  
59 **SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this  
60 Ordinance conflict with any section, paragraph, clause, or phrase of any prior Wellington  
61 Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of  
62 this Ordinance shall prevail to the extent of such conflict.

63  
64 **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this  
65 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision  
66 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,  
67 other than the part so declared to be invalid.

68  
69 **SECTION 5:** This Ordinance shall become effective immediately upon adoption  
70 of the Wellington Council following second reading.

71  
72 **PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022 upon first reading.

73  
74 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ on second and  
75 final reading.

76  
77 **WELLINGTON**

	<b>FOR</b>	<b>AGAINST</b>
78 BY: _____	_____	_____
79 Anne Gerwig, Mayor		
80		
81 _____	_____	_____
82 Michael Drahos, Vice Mayor		
83		
84 _____	_____	_____
85 John McGovern, Councilman		
86		
87 _____	_____	_____
88 Michael Napoleone, Councilman		
89		
90 _____	_____	_____
91 Tanya Siskind, Councilwoman		
92		

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**ATTEST:**

BY: \_\_\_\_\_  
Chevelle D. Addie Village Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
Laurie S. Cohen, Village Attorney

## EXHIBIT A

### ~~Chapter 54 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES<sup>1</sup>~~

#### ~~ARTICLE I. IN GENERAL~~

~~Secs. 54-1—54-30. Reserved.~~

#### ~~ARTICLE II. RIGHTS-OF-WAY AND EASEMENTS~~

##### ~~DIVISION 1. GENERALLY~~

##### ~~Sec. 54-31. Scope, intent and authority of article.~~

- ~~(a) All provisions of this article shall be effective within the boundaries of the village and shall set restrictions, constraints and prohibitions to enhance the village's road rights-of-way and provide a measure of uniformity for them.~~
- ~~(b) This article is adopted under the authority of article VIII, section 2 of the state constitution, F.S. ch. 166, and all other applicable law.~~

~~(Ord. No. 97-09, § 1, 5-27-97)~~

##### ~~Sec. 54-32. Purpose of article.~~

~~The purpose of this article is to establish a regulatory framework and guidance document which will help ensure consistent work in the village's rights-of-way and easements.~~

~~(Ord. No. 97-09, § 2, 5-27-97)~~

##### ~~Sec. 54-33. Definitions.~~

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

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<sup>1</sup>Cross reference(s)—Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the village saved from repeal, § 1-8(5); any ordinance, charter or special act provision regulating the special assessment procedures for local improvements saved from repeal, § 1-8(15); public possession or consumption of alcoholic beverages, § 6-3; buildings and building regulations, ch. 18; cable communications, ch. 22; environment, ch. 30; manufactured homes and trailers, ch. 34; parks and recreation, ch. 38; planning, ch. 42; solid waste, ch. 46; special districts, ch. 50; traffic and vehicles, ch. 62; utilities, ch. 66; waterways, ch. 70; franchises, app. A-

State law reference(s)—Supplemental and alternative method of making local municipal improvements, F.S. ch. 170; municipal public works, F.S. ch. 180; injurious substances, obstruction of streets, etc., F.S. § 316.2035 et seq.

~~Jack and bore means piping under the surface for the purpose of installing pipe, culverts, conduits and/or other material.~~

~~Landscape means to change the natural features of a plot of ground so as to make it more attractive as by adding grass, lawn, trees, shrubs, hedges, flowers, plants or like material.~~

~~Open cut means physically cutting and removing existing road surface for the purpose of installing pipe, culverts, conduits and/or other material.~~

~~Right-of-way means that property, typically 60 feet, 80 feet, 100 feet or 120 feet in width, that is deeded to the village per plats and/or other dedicatory language.~~

~~Sidewalk means a path for pedestrians or other foot travelers, which is usually paved concrete or asphalt along the side of a street generally located on the outside of the right-of-way with the edge on the property line.~~

~~Swales means those areas lying between the road surface and the sidewalk or between the road surface and the right-of-way boundary line adjacent to the road surface, over which the village holds an easement or which the village has exclusive control as part of its road drainage right-of-way, or which are owned or maintained by the village.~~

~~(Ord. No. 97-09, § 3, 5-27-97)~~

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

#### ~~Sec. 54-34. Penalties for violation of article.~~

~~(a) Failure to comply with the requirements of this article shall constitute a violation and shall be punishable as provided by law. If a violation should occur, the property owner and all persons responsible or liable will be given notice to remove and/or repair work or construction performed or located in the right-of-way. If the violation is not timely remedied, appropriate steps to remedy the violation will be taken by village employees, and the responsible party will be responsible and liable for all associated costs and fines.~~

~~(b) Any violation of the provisions of this article may also be punishable by a fine not to exceed four times the cost of the permit to be determined by the village staff.~~

~~(c) Violators of this article are punishable by civil fine pursuant to F.S. ch. 162 and shall be referred to the code enforcement board.~~

~~(d) All monies collected pursuant to this article shall be deposited in the general fund of the village.~~

~~(Ord. No. 97-09, § 6, 5-27-97)~~

#### ~~Sec. 54-35. Work, activities and construction; requirements and permitted activities.~~

~~(a) Review and permit required. All work, activities or construction proposed to be performed in a village right-of-way or easement and all structures proposed to be~~

~~erected, located or maintained in a village right-of-way or easement must be reviewed and permitted by the public works department of the village.~~

- ~~(b) *Display of permit.* A lawfully obtained permit must be displayed at all work sites during all phases of work from start to finish.~~
- ~~(c) *Planting of trees.* Certain trees which meet the approval of the public works department may be planted in the right-of-way or easement; however, single trunk palms are preferred.~~
- ~~(d) *Landscaping.* Landscaping shall be limited to sod and trees, subject to the approval of the public works department of the village. No shrubs, hedges or other material shall be planted in the right-of-way without being properly permitted.~~
- ~~(e) *Open cut; jack and bore.* Open cut and jack and bore are allowed, subject to the approval of the public works department of the village and the obtaining of all necessary permits.~~
- ~~(f) *Walls, entrances, signing and fencing.* Walls, entrance enhancements, signing and fencing in right-of-way must be reviewed and properly permitted, subject to the approval of the public works department of the village.~~
- ~~(g) *Swale markers; placement and size.* Swale markers may be placed at the edge of swale areas to protect the edges of lawns from being driven on by passing vehicles, with swale markers to be round button, cement markers with anchor rods attached, not to exceed 12 inches in diameter and four inches in height.~~
- ~~(h) *Swale requirements.* Swales must conform to their original shape and grades, with the center of the swale adjacent to local streets (60 feet right-of-way) generally being eight inches below the road centerline or the back of sidewalk elevation.~~

~~(Ord. No. 97-09, § 4, 5-27-97)~~

#### **~~Sec. 54-36. Exemptions.~~**

~~The following exemptions from this article are provided:~~

- ~~(1) *Mailboxes.* Property owners may place mailboxes in the unpaved public right-of-way when such placement is a necessary prerequisite to mail delivery to their property, subject to the United States Postal Service criteria.~~
- ~~(2) *Trash for pickup.* Properly packaged trash, waste material, refuse and other similar articles may be placed on the unpaved public right-of-way no more than 24 hours before the next scheduled pickup.~~

~~(Ord. No. 97-09, § 5, 5-27-97)~~

#### **~~Sec. 54-37. Fees; determination.~~**

~~All fees collected pursuant to this article shall be determined by resolution adopted by the village, entitled the "Permit and Inspection Fee Schedule."~~

~~(Ord. No. 97-09, § 7, 5-27-97)~~

**~~Secs. 54-38—54-50. Reserved.~~**

**~~DIVISION 2. VACATING AND ABANDONMENT~~**

**~~Sec. 54-51. Short title.~~**

~~This division shall be designated and may be cited as the Village of Wellington Right-of-Way Abandonment division.~~

~~(Ord. No. 97-20, § 1, 11-18-97)~~

**~~Sec. 54-52. Definitions.~~**

~~*Abandon*, and any variant thereof, includes the term "vacate."~~

~~*Abutting property* means any parcel of real property whose boundaries, or any part thereof, also serves as the boundary, or portion thereof, of the petition site.~~

~~*Affected property* means any parcel of real property, or portion thereof, which lies within 300 feet of the boundaries of the petition site.~~

~~*Department* means the village department of planning, zoning and building.~~

~~*Land value* means the value of land as established for the tax base by the property appraiser's office prior to any or all exemptions.~~

~~*Owner* means that person, governmental entity or business entity which is the fee simple title holder of real property.~~

~~*Owners association* means any association or corporation created under the laws of the state, the membership of which is comprised of all owners of real property over which the owners association has jurisdiction by virtue of a declaration of covenants and restrictions, declaration of condominium, or similar instrument. The term shall include the terms "homeowners association," "condominium association," "cooperative association," and property owners association."~~

~~*Petitioner* means the person, governmental entity or business entity submitting a petition for abandonment pursuant to this chapter. The term "petitioner" shall include "co-petitioner" where appropriate.~~

~~*Petition for abandonment* or *petition* means the form prescribed by the department which requests the abandonment of a plat, or portion thereof, right-of-way or public easement pursuant to this article.~~

~~*Petition site* means any parcel of real property subject to a petition for abandonment pursuant to this chapter.~~

~~*Plat* means any drawing of real property made and recorded pursuant to chapter 177, Florida Statutes.~~

~~*Private right-of-way* means any right-of-way dedicated or deeded to an owners association or the owner of the abutting property or which is dedicated as a right-of-way and is the perpetual maintenance obligation of any owners association or the owner of abutting property.~~

~~*Public easement* means any utility, maintenance or drainage easement which is dedicated by plat in perpetuity for utility or drainage purposes, or which is conveyed by a separate instrument which has been approved by the village. The term shall not include instruments of conveyances or dedications made to specifically named utility companies, owners associations, or other governmental entities.~~

~~*Official records* means the documents recorded in the official records of the office of the clerk of court in and for Palm Beach County, Florida.~~

~~*Right-of-way* means any strip of land dedicated or deeded for ingress and egress or access purposes. The term shall include the terms "road," "highway," "alley," "accessway," and any other similar term. The term shall mean both a village right-of-way and private right-of-way.~~

~~*Utility company* means any public or franchised entity which provides electrical, gas or communication services.~~

~~*Village right-of-way* means any right-of-way acquired by the village or the public by virtue of a dedication to the public or village on a plat, by separate instrument of conveyance, or by prescription.~~

~~(Ord. No. 97-20, § 2, 11-18-97)~~

~~**Sec. 54-53. Declaration of jurisdiction and control of the village; application of ordinance.**~~

~~(a) Any dedication or conveyance of real property for the purpose of streets, rights-of-way, access, ingress, egress, utilities and drainage which is made on or by a plat, easement, deed or other instrument of any kind, which instruments are approved by the village council or board of county commissioners for recording in the official records or which instruments convey any interest in real property to the village is hereby deemed to be under the jurisdiction and control of the village council for the purposes of the vacation or abandonment of plats or portions thereof, rights-of-way and easements for utility, drainage or maintenance purposes.~~

~~(b) The provisions of this division shall apply to all plats, rights-of-way and easements under the jurisdiction and control of the village council.~~

~~(c) The procedures set forth in this division shall apply to all applications made pursuant to section 177.101(1) and (2), Florida Statutes, and to all applications for vacating plats, or any portion thereof, including public easements, pursuant to section 177.101(3), Florida Statutes. Any petition to vacate a plat or portion thereof, which plat or portion thereof contains a private right-of-way or a utility easement shall not require a public hearing; however, a public hearing shall be required if the petition site includes a Village right-of-way or public easement for drainage purposes which services a Village right-of-way.~~

~~(Ord. No. 97-20, § 3, 11-18-97)~~



#### **~~Sec. 54-54. Petitions generally.~~**

- ~~(a) *Petitions for abandonment of plats.* Any person desiring to abandon a plat, or any portion thereof, including public easements, shall be required to make application to the village pursuant to section 177.101, Florida Statutes, and the provisions of this division. Such application shall be on the petition form prescribed by the department, and the information contained therein shall be verified by the petitioner under oath. Unless initiated by the village, the petition shall be signed by all owners of any portion of the petition site.~~
- ~~(b) *Petitions for abandonment of rights-of-way and easements for utility, drainage or maintenance purposes.* Any person desiring to abandon the public's interest in and to any right-of-way and easements for utility, drainage or maintenance purposes shall be required to make application to the village pursuant to this division. Such application shall be on the petition form prescribed by the department, and the information contained therein shall be verified by the petitioner under oath. Unless initiated by the village, any petition for abandonment of rights-of-way shall be signed by all owners of abutting property.~~
- ~~(c) *Signature of village manager or designee.* Any petition made on behalf of the village shall be signed by the village manager or his/her designee.~~

~~(Ord. No. 97-20, § 4, 11-18-97)~~

#### **~~Sec. 54-55. Application and privilege fees.~~**

- ~~(a) *Petition Fee.* Except as provided herein, each petition shall be accompanied by a fee as set by resolution of the village council to cover the cost of administrative review, site analysis and investigation, publications, and official recording. This fee will be credited to any privilege fee imposed. No refund shall be made. Petitions of the village or any other governmental agency shall be exempt from the application fee.~~
- ~~(b) *Privilege fee.* A privilege fee is hereby established, payable by any petitioner requesting the abandonment of the interest of the village and public in and to any right-of-way under the jurisdiction and control of the village council. The privilege fee is to be used for the purpose of reimbursing the village's costs and expenses incurred when acquiring real property for public use.~~
- ~~(c) *[Final determination.]* The village council shall make the final determination of the application of the privilege fee based upon recommendations submitted by village staff at the scheduled public hearing for abandonment of the petition site.~~
- ~~(d) *[Calculation of privilege fee.]* The privilege fee shall be determined by computing 80 percent of the total land value of the petition site.~~
- ~~(e) *[Total land value.]* The total land value of the petition site, per square foot, shall be equal to the averaged square foot land value of the abutting property, as established by the most current county property appraiser records. This calculation shall be based upon the cumulative land value of the abutting properties (cumulative value), determining the average value of the properties on a square footage basis (square~~

footage value), and multiplying the square footage value by the number of square feet of the petition site to ascertain the total land value of the petition site.

~~(f) [Exemptions.] Such privilege fee shall not apply to petitions submitted by the following:~~

- ~~(1) The fee simple owner of the property subject to an easement;~~
- ~~(2) The original gratuitous conveyor of all the public rights-of-way to be abandoned;~~
- ~~(3) Rights-of-way contained in plats which were approved by the village when no conveyance of lots by reference to the plat appear of record; or~~
- ~~(4) When the petitioner is a duly organized governmental body.~~

~~(Ord. No. 97-20, § 5, 11-18-97)~~

#### **~~Sec. 54-56. Access to water.~~**

~~No right-of-way, road, street or public accessway giving access to any publicly accessible waters in the village shall be closed, vacated or abandoned except in those instances where the petitioner offers to trade or give to the village comparable land or lands for a right-of-way, road, street or public accessway to give access to the same body of water. Such access is to be of such condition so as to not work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the village council.~~

~~(Ord. No. 97-20, § 6, 11-18-97)~~

#### **~~Sec. 54-57. Notice of intent.~~**

~~Immediately prior to filing the petition for abandonment with the department, the village will publish a "notice of intent" in a newspaper of general circulation in the county twice, with the first publication being approximately two weeks prior to the date for such hearing. Such notice of intent shall state the intent of the petitioner to file a petition pursuant to this division and, in the case of plat abandonment or any portion thereof, chapter 177, Florida Statutes.~~

~~(Ord. No. 97-20, § 7, 11-18-97)~~

#### **~~Sec. 54-58. Petition application procedures.~~**

~~In addition to any other information required by the department, the petition shall contain the following:~~

- ~~(1) *Legal description of petition site.* A complete and accurate legal description of the petition site.~~
- ~~(2) *Type of petition.* A statement identifying the type of petition as being for abandonment of:
  - ~~a. A plat;~~
  - ~~b. A portion of a plat;~~~~

- c.— A Village right-of-way;
- d.— The public's interest in a private right-of-way; or
- e.— A public easement.

~~The statement shall identify the source(s) of the village's or public's interest, together with a reference to the recording information for same, in and to the petition site. A complete and accurate copy of the source(s) of the village's or public's interest shall be attached as an exhibit to the petition. If the source is a recorded instrument, the copy of the source shall be certified by the clerk of the court of the county.~~

- ~~(3) *Survey.* A certified land survey measuring no less than eight and one-half inches by 14 inches and not larger than 11 inches by 17 inches shall be prepared by a state registered land surveyor in accordance with the minimum technical standards of section 472.027, Florida Statutes, and Chapter 21HH-6, Florida Administrative Code and attached as an exhibit to the petition. The survey shall also contain or depict the following information:
  - a.— An accurate drawing of the petition site;
  - b.— The boundaries of abutting properties;
  - c.— The square footage of the petition site; and
  - d.— Existing structures, utilities, easements, encroachments and other improvements, including but not limited to the location of overhead, underground or surface utility lines and equipment, ditches, fences, buildings, pathways and drainage structures contained on the petition site.~~
- ~~(4) *Location map.* A drawing measuring not less than eight and one-half inches by 11 inches and no larger than 11 inches by 17 inches which clearly and legibly identifies the location of the petition site in relation to the nearest public right-of-way, excluding the petition site, and all affected properties. The location map may be located on the survey in a separate block.~~
- ~~(5) *List of owners of abutting property and affected property.* A complete list of all owners of abutting property and affected property within 300 feet (this 300 foot mailing procedure is required if the petition is subject to a public hearing, section 54-60(a)), their mailing addresses and legal description of the property owned. For private right-of-way abandonment requests, a complete list of abutting property owners only, their mailing addresses and legal description of the property owned shall be required. The petition shall state the source of the information used to compile the list and shall contain an affidavit of the preparer that to the best of his knowledge the list is complete and accurate. If the abutting property or affected property is under the jurisdiction of an owners association, this requirement of notice may be fulfilled by mailing such notice to the owners association; however, all abutting property owners must also be separately notified. The list shall be accompanied by a number ten white envelope for each abutting property and affected property owner and each petitioner as follows:
  - a.— The following return address shall be printed or typed thereon:~~

Village of Wellington  
Planning, Zoning and Building Department  
14000 Greenbriar Boulevard  
Wellington, FL 33414

- b. ~~It shall be pre-stamped with sufficient postage for certified, return receipt postage for addresses in the United States and registered mail postage for addresses in foreign countries.~~
- c. ~~A properly completed certified mail receipt or registered mail receipt, as applicable, shall be clipped to each envelope.~~
- ~~(6) *Utility approvals.* The written approval or consent of the utility providing the service to or within the petition site shall be attached to the petition.~~
- ~~(7) *Access to abutting property and affected property.* The petition shall contain a statement that to the best of the petitioner's knowledge, the granting of the petition would not affect the ownership or right of convenient access of persons owning abutting property, affected property or other property in the subdivision.~~
- ~~(8) *Federal, state or county right-of-way statement.* The petitioner shall certify that the petition site or any portion thereof, is not a part of any federal, state or county right-of-way and was not acquired or dedicated for federal, state or county right-of-way purposes.~~
- ~~(9) *Notice of Intent.* Proof of publication of the notice of intent shall be attached to the petition.~~
- ~~(10) *Evidence of title.* The petition shall state the source of the petitioner's ownership or interest in and to the petition site, and a reference to the recording information for same. A copy of the source instrument shall be certified by the clerk of court of the county and attached as an exhibit to the petition.~~
- ~~(11) *Evidence of taxes and special assessments paid.* The petition shall state that all state, municipal, county and other taxes and special assessments on the petition site have been paid. The certificate of the county tax collector's office showing payment of same, as payment is defined in section 177.101(4), Florida Statutes, shall be attached as an exhibit to the petition. If the petition site or any portion thereof is tax exempt, the petition shall so state and a copy of the tax roll from the tax collector's office which shows such exemption shall be attached as an exhibit to the petition.~~
- ~~(12) *Fees.* The petition shall state whether the petition site is subject to the privilege fee, the amount of the fee, and that the application fee is submitted therewith. The petition shall include the appropriate documentation supporting the petition's calculation of the privilege fee.~~
- ~~(13) *Justification.* The petition shall detail the relevant reasons in support of the request and granting of the petition.~~

(Ord. No. 97-20, § 8, 11-18-97)

**~~Sec. 54-59. Review of petition.~~**

- ~~(a) Each petition shall be reviewed by the department, the village utilities and public works departments, and any governmental agency deemed affected by the department. Upon receipt, the department shall distribute the petition to the reviewing departments and agencies. Within 20 days of receipt of the petition, the reviewing departments and agencies shall submit a written report containing their findings and recommendations to the designated staff of the department. Upon receipt of all written reports, the department shall review the petition and reports and shall notify the petitioner in writing of any reasonable conditions to be performed prior to forwarding the petition and reports pursuant to subsection (b).~~
- ~~(b) After expiration of the 20-day period above or sooner, if conditions are not imposed, or if imposed are responded to by the petitioner in the manner set forth above, the department shall forward the petition together with its findings and recommendations of same to the village council for their review in accordance with this division.~~
- ~~(c) The department shall not be charged with the duty of:
  - ~~(1) Searching the official records or any other records in and for the county; or~~
  - ~~(2) Any other investigation to determine the truth or accuracy of the statements and information contained in the petition and any attachments thereto.~~~~

~~(Ord. No. 97-20, § 9, 11-18-97)~~

**~~Sec. 54-60. Public hearing of petitions for abandonment of village rights-of-way and public easements for drainage of village rights-of-way.~~**

- ~~(a) *Required if village rights-of-way or public easement affected.* A public hearing shall be held for any petition for abandonment which affects a village right-of-way or public easement for drainage which services a village right-of-way. If a petition does not affect a village right-of-way or public easement for drainage which services a village right-of-way, a public hearing is not required, and upon its review and sole discretion, the village council shall adopt a resolution either approving or denying the petition.~~
- ~~(b) *Time and place of hearing.* The village council hereby exercises their authority as set forth in F.S. § 336.09, by authorizing and directing the village manager or his/her designee to establish a definite time and place to hold the public hearing required by F.S. § 336.10, and this division, and to publish the notice of said hearing.~~
- ~~(c) *Publication and notice of public hearing.* Notice of such public hearing shall be published two times in a newspaper of general circulation in the county, with the first publication being at least two weeks prior to the date stated therein for such hearing.~~
- ~~(d) *Posting of notice of public hearing.* The department shall notify the petitioner of the date and time of the public hearing and shall direct the petitioner to post the property with a notice of petition to vacate. The petitioner shall post the notice in a conspicuous and easily visible location on the subject property, abutting a public thoroughfare when possible, at least ten days prior to the public hearing.~~

~~(e) *Mailing of notice of public hearing.* The department shall mail a copy of the notice of public hearing to each addressee in the envelopes provided by petitioner pursuant to section 54-58(e) herein, at least ten days prior to the public hearing.~~

~~(f) *Testimony.* At the public hearing, all interested persons shall be entitled to testify under oath regarding the petition; however, the village council may refuse to hear testimony that is repetitious, irrelevant or immaterial. If the village council approves the petition, the village council may vacate all or any portion of the subject property and may require such conditions as the village council may deem to be in the public interest.~~

~~(g) *Adoption of resolution.* If the village council determines to approve the petition, it shall do so by resolution.~~

~~(Ord. No. 97-20, § 10, 11-18-97)~~

#### **~~Sec. 54-61. Effect of resolution.~~**

~~The village council's determination of whether to approve the petition, being a legislative determination, is final and binding, and is not subject to appeal or judicial review.~~

~~(Ord. No. 97-20, § 11, 11-18-97)~~

#### **~~Sec. 54-62. Publication of notice of adoption of resolution and recordation of resolution.~~**

~~Notice of adoption of such resolution shall be published one time within 30 days following the date of adoption of such resolution in a newspaper of general circulation in the county. The proof of publication of the notice of public hearing, and the proof of publication of the notice of the adoption of the resolution, and a certified copy of the resolution shall be recorded in the official records.~~

~~(Ord. No. 97-20, § 12, 11-18-97)~~

#### **~~Sec. 54-63. Effect of recording resolution of abandonment.~~**

~~(a) For village rights-of-way, upon the recordation of the proof of publication of notice of public hearing, proof of publication of notice of adoption of the resolution, and certified copy of the resolution in the public records, all interest of the village and public in the rights-of-way abandoned or vacated shall be abrogated and such interest shall be vested in the abutting landowners to the extent and in the same manner as in case of termination of an easement for road purposes.~~

~~(b) For plats or portions thereof, recordation in the public records of resolutions approving abandonment of a plat or a portion thereof shall have the effect of vacating all streets and alleys in accordance with F.S. § 177.101(5), and shall either return the vacated property to the status of unplatted acreage or shall vacate the first plat in accordance with F.S. § 177.101(1) or (2), as applicable.~~

~~(Ord. No. 97-20, § 13, 11-18-97)~~

**~~Sec. 54-64. Acme improvement district authorized to utilize the abandonment procedures contained herein to the extent not otherwise prohibited by law.~~**

~~Acme improvement district, a dependent district of the village is hereby authorized to utilize the procedures contained in this division to the extent not otherwise prohibited by law.~~

~~(Ord. No. 97-20, § 14, 11-18-97)~~

~~Cross reference(s)—Acme Improvement District, § 50-31 et seq.~~

**~~Secs. 54-65—54-70. Reserved.~~**

**~~ARTICLE III. PUBLIC ART PROGRAM~~**

**~~Sec. 54-71. Goals.~~**

~~The mission of the public arts program is to:~~

- ~~(1) To promote the spiritual, intellectual and aesthetic enrichment of the community through public arts;~~
- ~~(2) To select a diversity of public art for the Village of Wellington;~~
- ~~(3) To select works of art which have aesthetic and technical merit and are appropriate in context to the location;~~
- ~~(4) To select artists who are professionally and technically competent; and~~
- ~~(5) To disperse public art throughout the Village of Wellington in such as a manner that it is visible and accessible to the greatest number of people.~~

~~(Ord. No. 2044-15, § 1, 9-28-04)~~

**~~Sec. 54-72. Definitions.~~**

~~When used in this article, the following terms shall have the following meanings, unless the context otherwise clearly requires:~~

~~*Annual public art plan* means an itemized and prioritized list of anticipated art projects including the objectives, design approach, budgets and scheduling for the upcoming year. The annual public art plan shall be developed by the public arts panel and shall be presented to the village council for approval.~~

~~*Capital improvement project* means all construction projects included in the village's capital improvement plan involving construction of new capital facilities, major remodeling of any capital facilities, or additions to any capital facilities. Land, equipment purchases, repair, software, purchases and maintenance costs are excluded.~~

~~*Construction costs* include all labor, structural materials, plumbing, electrical, mechanical, infrastructure, site work, irrigation and landscaping, but not the cost of any personal property or costs for maintenance or repair.~~

~~*Public places* means all spaces, indoor or outdoor, that are accessible and visible to the general public and located where residents and visitors live or congregate.~~

~~Site means each construction project associated with a particular site plan regardless of phasing.~~

~~Works of art means a tangible creation by an artist exhibiting the highest quality of skill and aesthetic principles, including but not limited to, paintings, sculptures, stained glass, engravings, statuettes, base-relief's, carvings, frescos, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, monuments and fountains.~~

~~(Ord. No. 2044-15, § 1, 9-28-04)~~

#### ~~Sec. 54-73. Public art trust fund.~~

~~(a) There is hereby created a public art trust fund which shall be a separate, interest bearing account set up by the village to receive monies for the public art program and shall consist of the following:~~

~~(1) All funds or art donated to the village for public art.~~

~~(2) Art fees received from the village's capital improvement program.~~

~~(3) Other funds allocated by the village through the budgetary process.~~

~~(b) The village council shall approve the amount of monies dispersed from the fund in accordance with the annual public art plan.~~

~~(Ord. No. 2044-15, § 1, 9-28-04)~~

#### ~~Sec. 54-74. Funding.~~

~~The village council may make the determination to set aside a public arts fee for village public buildings or outdoor site improvements to which there is or will be public access, excluding projects funded through utility proceeds, during the capital budget process; however, the budget, through normal amendatory procedures, can be amended at any time to either include or delete a project from this article. The public art fee shall exclude land, architectural design fees, construction management and engineering fees, fixtures, furnishings, streets, sewers and similar accessory construction and shall be appropriated and deposited in the public arts fund to commission or purchase artwork to be located in a public area in or at such building or project.~~

~~(Ord. No. 2044-15, § 1, 9-28-04)~~

#### ~~Sec. 54-75. Use of public arts fee proceeds.~~

~~The public art trust fund shall be solely used for expenses associated with the selection, commissioning, acquisition, installation, maintenance, public education, administration, removal and insurance of the works of art, and such funds shall be administered by the public art advisory panel.~~

~~(Ord. No. 2044-15, § 1, 9-28-04)~~

#### ~~Sec. 54-76. Ownership and maintenance.~~

~~(a) Ownership of all works of art donated or acquired shall be vested in the village, which shall retain title to each work of art.~~



- ~~(b) All works of art shall be required to be accompanied by detailed instructions for maintenance and ongoing care, including annual maintenance cost projections.~~
  - ~~(c) Funds for ongoing maintenance shall be designated annually by the village council in accordance with the annual public art plan.~~
  - ~~(d) All artwork shall be placed or constructed in locations that are open to the public during normal business hours and visible to the public at all times.~~
- ~~(Ord. No. 2044-15, § 1, 9-28-04)~~

~~**Secs. 54-77—54-90. Reserved.**~~

~~**ARTICLE IV. TRUCK TRAFFIC CONTROL<sup>2</sup>**~~

~~**Sec. 54-91. Vehicles over six wheels prohibited—Generally.**~~

- ~~(a) It is unlawful to operate or permit to be operated any vehicle, or combination of vehicles and trailers, driving on over six wheels upon any village road whenever said road is posted with signs prohibiting said operation, except as hereinafter provided.~~
- ~~(b) The notice of restriction shall be posted at conspicuous places at the terminal points of the section of road to which the restriction applies, and at appropriate crossroads of and junctions with the section of road to which the restriction applies in such a way as to provide reasonable notice of the restriction.~~

~~(Ord. No. 2005-10, § 1, 4-12-05)~~

~~**Sec. 54-92. Same—General exceptions.**~~

- ~~(a) The prohibition of vehicles over six wheels provided in section 54-70 shall not apply to:
  - ~~(1) Garbage trucks engaged in collection;~~
  - ~~(2) Vehicles owned by any governmental entity, volunteer fire and/or ambulance company or public utility, the unhampered operation of which is necessary to the public safety;~~
  - ~~(3) Vehicles making deliveries of goods or services within the area served by the posted road;~~
  - ~~(4) Recreational vehicle as defined in Article 3 of the ULDC.~~
  - ~~(5) A vehicle not over six wheels when towing:
    - ~~a. A boat trailer;~~
    - ~~b. A cargo trailer with not more than four wheels having a cargo containment area of not more than 20 feet; or~~~~~~

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<sup>2</sup>Editor's note(s)—Ord. No. 2005-10, § 1, adopted Apr. 12, 2005, set out provisions intended for use as Art. III, §§ 54-71—54-75. For purposes of classification and to preserve the style of this Code, and at the editor's discretion, these provisions have been included as Art. IV, §§ 54-91—54-95.

~~(b) This article shall not be enforced so as to interfere with or interrupt traffic over state or county roads, including officially established detours for such roads.~~

~~(Ord. No. 2005-10, § 1, 4-12-05)~~

**~~Sec. 54-93. Same—Enforcement.~~**

~~(a) This article shall be enforced by the Palm Beach County Sheriff.~~

~~(b) A violation of this article shall constitute a violation under F.S. Ch. 316, and shall be enforced in accordance with the provisions of F.S. Ch. 318.~~

~~(Ord. No. 2005-10, § 1, 4-12-05)~~

**~~Sec. 54-94. Same—Designated restricted roads.~~**

~~The division of public works shall post signs prohibiting use of the following roads by vehicles driving on over six wheels:~~

~~(1) Paddock Drive~~

~~(2) 12<sup>th</sup> Fairway~~

~~(3) Birkdale Drive~~

~~(4) 50<sup>th</sup> Street South~~

~~(5) Pierson Road~~

~~(6) Big Blue Trace~~

~~(7) Forest Hill Boulevard~~

~~(8) Binks Forest Drive~~

~~(9) Flying Cow Road~~

~~To the extent the cooperation of other governmental entities' permission is necessary to effectuate the placement of signs, staff is directed to request such permission and coordinate with them to effect the intent on this article.~~

~~(Ord. No. 2005-10, § 1, 4-12-05)~~

**~~Sec. 54-95. State weight, height and length limitations applicable.~~**

~~Notwithstanding any provision of this article to the contrary, it shall be unlawful for any person to operate or permit the operation of any vehicle or combination of vehicles on village roads in excess of the weight, height and length limitations contained in F.S. Ch. 316.~~

~~(Ord. No. 2005-10, § 1, 4-12-05)~~

**Chapter 20 - STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES**

**ARTICLE I - RIGHTS-OF-WAY AND EASEMENTS**

## **Sec. 20-1: Scope, Intent, and Authority of Article**

All provisions of this article shall be effective within the boundaries of Wellington and shall set restrictions, constraints and prohibitions to enhance the performance of Wellington's road rights-of-way and provide a measure of uniformity for them.

## **Sec. 20-2: Purpose of Article**

The purpose of this article is to establish a regulatory framework and guidance document that will help ensure consistent work in Wellington's rights-of-way and easements.

## **Sec. 20-3: Definitions**

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

*Jack and Bore:* piping under the surface for the purpose of installing pipe, culverts, conduits, and/or other material.

*Landscape:* to change the natural features of a plot of ground so as to make it more attractive as by adding grass, lawn, trees, shrubs, hedges, flowers, plants, or like material.

*Open Cut:* physically cutting and removing existing road surface for the purpose of installing pipe, culverts, conduits and/or other material.

*Right-of-Way:* land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies. The term shall mean both a Wellington right-of-way and private right-of-way, but shall not include property conveyed to or owned by Wellington in fee simple.

*Roadside Marker:* a sign or other device installed by Wellington within a road right-of-way to identify the location of a significant event or occurrence.

*Sidewalk:* that portion of a street between the curblineline, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

*Swales:* those areas lying between the road surface and the sidewalk or between the road surface and the right-of-way boundary line adjacent to the road surface, over which Wellington holds an easement or over which Wellington has exclusive control as part of its road drainage right-of-way, or which are owned or maintained by Wellington.

## **Sec. 20-4: Penalties for Violation of Article**

- (a) Failure to comply with the requirements of this article shall constitute a violation and shall be punishable as provided by law. If a violation occurs, the property owner and all persons responsible or liable will be given notice to remove and/or repair work or construction performed or located in the right-of-way. If the violation is not timely remedied, appropriate steps to remedy the violation will be taken by Wellington employees, and the responsible party will be liable for all associated costs and fines.
- (b) Any violation of the provisions of this article may also be punishable by a fine not to exceed four times the cost of the permit to be determined by the Wellington staff.
- (c) Violations of this article are punishable by civil fine pursuant to F.S. ch. 162 and shall be referred to the special magistrate pursuant to Chapter 2 of this Code.
- (d) All monies collected pursuant to this article shall be deposited in the Wellington general fund.

### Sec. 20-5: Work, Activities, and Construction; Requirements and Permitted Activities

- (a) *Review and permit required.* All work, activities, or construction proposed to be performed in a Wellington right-of-way or easement and all structures proposed to be erected, located, or maintained in a Wellington right-of-way or easement must be reviewed and permitted by the Public Works Department and/or the Engineering Department unless expressly exempted by Florida law or this Code.
- (b) *Display of permit.* If applicable, a lawfully obtained permit must be displayed at all work sites during all phases of work from start to finish.
- (c) *Planting of trees.* Certain trees, with the approval of the Public Works Department, may be planted in a right-of-way or easement. Single trunk palms are preferred.
- (d) *Landscaping.* Landscaping shall be limited to sod and trees, subject to the approval of the Public Works Department. No shrubs, hedges, or other material shall be planted in the right-of-way without being properly permitted.
- (e) *Open cut; jack and bore.* Open cut and jack and bore are allowed, subject to the approval of the Public Works Department and the obtaining of all necessary permits.
- (f) *Walls, entrances, signage, and fencing.* Walls, entrance enhancements, signage, and fencing in a right-of-way must be reviewed and properly permitted by the Public Works Department.
- (g) *Swale markers; placement and size.* Swale markers may be placed at the edge of swale areas to protect the edges of lawns from being driven on by passing vehicles, with swale markers to be round button, cement markers with anchor rods attached, not to exceed 12 inches in diameter and four inches in height.
- (h) *Swale requirements.* Swales must conform to their original shape and grades, with the center of the swale adjacent to local streets (60 feet right-of-way) generally being eight inches below the road centerline or the back of sidewalk.
- (i) *Roadside marker.* A maximum of one roadside marker per incident where a fatality has occurred may be installed by Wellington personnel. The application and payment of fees for a roadside marker shall be made to the Wellington Engineer, or their designee. Roadside markers shall have a maximum height of 42 inches and a maximum diameter of 15 inches.

## **Sec. 20-6: Exemptions**

The following are exempt from the provisions of this article:

- (1) *Mailboxes.* Property owners may place mailboxes in the unpaved public right-of-way when such placement is a necessary prerequisite to mail delivery to their property, subject to the United States Postal Service criteria.
- (2) *Trash for pickup.* Properly packaged trash, waste material, refuse, and other similar articles may be placed on the unpaved public right-of-way no more than 24 hours before the next scheduled pickup. Placement of all such materials must be directly in front of the property that generated the trash.

## **Sec. 20-7: Fees; determination**

All fees collected pursuant to this article shall be determined by resolution adopted by Wellington, entitled the "Permit and Inspection Fee Schedule."

## **ARTICLE II - VACATING AND ABANDONMENT**

### **Sec. 20-8: Definitions**

*Abandon:* and any variant thereof, includes the term "vacate."

*Abutting Property:* any parcel of real property whose boundaries, or any part thereof, also serves as the boundary, or portion thereof, of the petition site.

*Affected property:* any parcel of real property, or portion thereof, that lies within 300 feet of the boundaries of the petition site.

*Community Association:* any corporation created under Florida law, the membership of which is comprised of all owners of real property over which the community association has jurisdiction by virtue of a declaration of covenants and restrictions, declaration of condominium, or similar instrument. The term shall include the terms "homeowners association," "condominium association," "cooperative association," and "property owners association." *Department:* the Wellington Planning, Zoning and Building Department.

*Land Value:* the value of land as established for the tax base by the property appraiser's office prior to any or all exemptions.

*Owner:* the fee simple title holder of real property.

*Petitioner:* the person, governmental entity, or business entity submitting a petition for abandonment pursuant to this article. The term "petitioner" shall include "co-petitioner" where appropriate.

*Petition for Abandonment or Petition:* the form prescribed by the department in which a petitioner requests the abandonment of a plat, or portion thereof, right-of-way, or public easement pursuant to this article.

*Petition Site:* any parcel of real property subject to a petition for abandonment pursuant to this article.

*Plat:* any drawing of real property made and recorded pursuant to Chapter 177, Florida Statutes.

*Private Right-of-Way:* any right-of-way dedicated to a community association or the owner of the abutting property, or which is dedicated as a right-of-way and is the perpetual maintenance obligation of any community association or the owner of abutting property.

*Public Easement:* any utility, maintenance, or drainage easement that is dedicated to Wellington by plat in perpetuity for utility or drainage purposes., The term shall not include instruments made to specifically named utility companies, community associations, or other governmental entities.

*Official Records:* the documents recorded in the official records of the Clerk of the Circuit Court & Comptroller in and for Palm Beach County, Florida.

*Right-of-Way:* land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies. The term shall mean both a Wellington right-of-way and private right-of-way, but shall not include property conveyed to or owned by Wellington in fee simple.

*Utility Company:* any public or franchised entity which provides electrical, gas, or communication services.

*Wellington Right-of-Way:* any right-of-way acquired by Wellington or the public by virtue of a dedication to the public or to Wellington on a plat, by separate instrument of conveyance, or by prescription.

## **Sec. 20-9: Declaration of Jurisdiction and Control of Wellington; Application of Ordinance**

(a) Any dedication or conveyance of real property to Wellington in fee simple for the purpose of streets, rights-of-way, access, ingress, egress, utilities, and drainage that is made on or by a plat, easement, deed, or other instrument of any kind, which instruments are approved by the Wellington Council, or Board of County Commissioners for recording in the official records is hereby deemed to be under the jurisdiction and control of the Wellington Council for the purposes of the vacation or abandonment of plats or portions thereof, rights-of-way, and easements for utility, drainage, or maintenance purposes.

- (b) The provisions of this article shall apply to all plats, rights-of-way, and easements under the jurisdiction and control of the Wellington Council.
- (c) The provisions of this article are intended to apply to dedications of real property being held by Wellington in trust for the benefit of the public and shall not apply to real property owned by Wellington in fee simple. Properties owned by Wellington in fee simple may be conveyed in accordance with the provisions of Florida law.
- (d) The procedures set forth in this article shall also apply to applications made pursuant to section 177.101(1) and (2), Florida Statutes, and to all applications for vacating plats, or any portion thereof, including public easements, pursuant to section 177.101(3), Florida Statutes. Any petition to vacate a plat or portion thereof, which plat or portion thereof contains a private right-of-way or a utility easement shall not require a public hearing; however, a public hearing shall be required if the petition site includes a Wellington right-of-way or public easement for drainage purposes that services a Wellington right-of-way.

### **Sec. 20-10: Petitions Generally**

- (a) *Petitions for abandonment of plats.* Any person desiring to abandon a plat, or any portion thereof, including public easements, shall be required to make application to Wellington pursuant to section 177.101, Florida Statutes, and the provisions of this article. Such application shall be on the petition form prescribed by the department, and the information contained therein shall be verified by the petitioner under oath. Unless initiated by Wellington, the petition shall be signed by all owners of any portion of the petition site.
- (b) *Petitions for abandonment of rights-of-way and easements for utility, drainage, or maintenance purposes.* Any person desiring to abandon the public's interest in and to any right-of-way and easements for utility, drainage, or maintenance purposes shall be required to make application to Wellington pursuant to this article. Such application shall be on the petition form prescribed by the department, and the information contained therein shall be verified by the petitioner under oath. Unless initiated by Wellington, any petition for abandonment of rights-of-way shall be signed by all owners of abutting property.
- (c) *Signature of Village Manager or designee.* Any petition made on behalf of Wellington shall be signed by the Village Manager or their designee.

### **Sec. 20-11: Application and Privilege Fees**

- (a) *Petition fee.* Except as provided herein, each petition shall be accompanied by a fee as set by resolution of the Wellington Council to cover the cost of administrative review, site analysis and investigation, publications, and official recording. This fee will be credited to any privilege fee imposed. No refund shall be made. Petitions of Wellington or any other governmental agency shall be exempt from the petition fee.
- (b) *Privilege fee.* A privilege fee is hereby established, payable by any petitioner requesting the abandonment of the interest of Wellington and the public in and to any right-of-way under the jurisdiction and control of the Wellington Council. The privilege

fee is to be used for the purpose of reimbursing Wellington's costs and expenses incurred when acquiring real property for public use.

- (c) Final determination. The Wellington Council shall make the final determination of the application of the privilege fee based upon recommendations submitted by staff at the scheduled public hearing for abandonment of the petition site.
- (d) Calculation of privilege fee. The privilege fee shall be determined by computing 80 percent of the total land value of the petition site.
- (e) Total land value. The total land value of the petition site, per square foot, shall be equal to the averaged square foot land value of the abutting property, as established by the most current county property appraiser records. This calculation shall be based upon the cumulative land value of the abutting properties (cumulative value), determining the average value of the properties on a square footage basis (square footage value), and multiplying the square footage value by the number of square feet of the petition site to ascertain the total land value of the petition site.
- (f) Exemptions. The privilege fee shall not apply to petitions submitted by the following:
  - (1) The fee simple owner of the property subject to an easement;
  - (2) The original gratuitous conveyor of all the public rights-of-way to be abandoned;
  - (3) Rights-of-way contained in plats that were approved by Wellington when no conveyance of lots by reference to the plat appear of record; or
  - (4) When the petitioner is a duly organized governmental body.

### **Sec. 20-12: Access to Water**

No right-of-way, road, street, or public means of ingress or egress leading to any publicly accessible waters in Wellington shall be closed, vacated, or abandoned except in those instances where the petitioner offers to trade or give to Wellington comparable land or lands for a right-of-way, road, street, or public means of ingress or egress to give access to the same body of water. Such access is to be of such condition so as to not work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the Wellington Council.

### **Sec. 20-13: Petition Application Procedures**

In addition to any other information required by the department, the petition shall contain the following:

- (1) Legal description of petition site. A complete and accurate legal description of the petition site.
- (2) Type of petition. A statement identifying the type of petition as being for abandonment of:
  - a. A plat;
  - b. A portion of a plat;
  - c. A Wellington right-of-way;
  - d. The public's interest in a private right-of-way; or
  - e. A public easement.



The statement shall identify the source of Wellington's or the public's interest, together with a reference to the recording information for same, in and to the petition site. A complete and accurate copy of the source of Wellington's or the public's interest shall be attached as an exhibit to the petition. If the source is a recorded instrument, a copy of the source shall be certified by the clerk of court of the county.

(3) Survey. A certified land survey measuring no less than eight and one-half inches by 14 inches and not larger than 11 inches by 17 inches shall be prepared by a state registered land surveyor in accordance with the minimum technical standards adopted by the Board of Professional Surveyors and Mappers pursuant to section 472.027, Florida Statutes and Chapter 21HH-6, Florida Administrative Code, and shall be attached as an exhibit to the petition. The survey shall also contain or depict the following information:

- a. An accurate drawing of the petition site;
- b. The boundaries of abutting properties;
- c. The square footage of the petition site; and
- d. Existing structures, utilities, easements, encroachments, and other improvements, including but not limited to the location of overhead, underground, or surface utility lines and equipment, ditches, fences, buildings, pathways, and drainage structures contained on the petition site.

(4) Location map. A drawing measuring not less than eight and one-half inches by 11 inches and no larger than 11 inches by 17 inches that clearly and legibly identifies the location of the petition site in relation to the nearest public right-of-way, excluding the petition site, and all affected properties. The location map may be located on the survey in a separate block.

(5) List of owners of abutting property and affected property. For the purpose of providing notice to abutting and affected property owners, a complete list of all owners of abutting property and affected property within 300 feet (this 300 foot mailing procedure is required if the petition is subject to a public hearing, section 20-16), their mailing addresses, and a legal description of the property owned. For private right-of-way abandonment requests, a complete list of all owners of abutting property, their mailing addresses, and a legal description of the property owned shall be required. The petition shall state the source of the information used to compile the list and shall contain an affidavit of the preparer that to the best of their knowledge, the list is complete and accurate. If the abutting property or affected property is under the jurisdiction of a community association, this requirement of notice may be fulfilled by mailing such notice to the community association; however, all abutting property owners must also be separately notified. The list shall be accompanied by a number ten white envelope for each abutting property and affected property owner and each petitioner that comports with the following:

- a. The following return address shall be printed or typed thereon:  
Village of Wellington  
Planning, Zoning and Building Department  
12300 Forest Hill Boulevard

Wellington, FL 33414

- b. It shall be pre-stamped with sufficient postage for certified, return receipt postage for addresses in the United States and registered mail postage for addresses in foreign countries.
- c. A properly completed certified mail receipt or registered mail receipt, as applicable, shall be clipped to each envelope.
- (6) Utility approvals. The written approval or consent of the utility providing service to or within the petition site shall be attached to the petition.
- (7) Access to abutting property and affected property. The petition shall contain a statement that to the best of the petitioner's knowledge, the granting of the petition would not affect the ownership or right of convenient access of persons owning abutting property, affected property, or other property in the subdivision.
- (8) Federal, state, or county right-of-way statement. The petitioner shall certify that the petition site, or any portion thereof, is not a part of any federal, state, or county right-of-way and was not acquired or dedicated for federal, state, or county right-of-way purposes.
- (9) Notice of Intent. Proof of publication of the notice of intent shall be attached to the petition.
- (10) Evidence of title. The petition shall state the source of the petitioner's ownership or interest in and to the petition site, and a reference to the recording information for same. A copy of the source instrument shall be certified by the clerk of court of the county and attached as an exhibit to the petition.
- (11) Evidence of taxes and special assessments paid. The petition shall state that all state, municipal, county, and other taxes and special assessments on the petition site have been paid. The certificate of the county tax collector's office showing payment of same, as payment is defined in section 177.101(4), Florida Statutes, shall be attached as an exhibit to the petition. If the petition site, or any portion thereof, is tax-exempt, the petition shall so state and a copy of the tax roll from the tax collector's office showing such exemption shall be attached as an exhibit to the petition.
- (12) Fees. The petition shall state whether the petition site is subject to the privilege fee, the amount of the fee, and that the petition fee is submitted therewith. The petition shall include the appropriate documentation supporting the petition's calculation of the privilege fee.
- (13) Justification. The petition shall detail the relevant reasons in support of the request and granting of the petition.

#### **Sec. 20-14: Review of Petition**

- (a) Each petition shall be reviewed by the department, the Wellington Utilities and Public Works departments, and any governmental agency the department deems affected by the petition. Upon receipt, the department shall distribute the petition to the reviewing departments and agencies. Within 20 days of receipt of the petition, the reviewing departments and agencies shall submit a written report containing their findings and recommendations to the designated staff of the department. Upon receipt of all written reports, the department shall review the petition and reports and

shall notify the petitioner in writing of any reasonable conditions to be performed prior to forwarding the petition and reports pursuant to subsection (b).

- (b) After expiration of the 20-day period or sooner, if conditions are not imposed, or if imposed conditions are responded to by the petitioner, the department shall forward the petition together with its findings and recommendations of same to the Wellington Council for review.
- (c) The department shall not be responsible for:
  - (1) Searching the official records or any other records in and for the county; or
  - (2) Any other investigation to determine the truth or accuracy of the statements and information contained in the petition and any attachments thereto.

### **Sec. 20-15: Notice of Intent**

Prior to filing the petition for abandonment with the department, the petitioner shall give notice of their intention to file the petition by publishing legal notice in a newspaper of general circulation in the county, in not less than two weekly issues of said paper.

### **Sec. 20-16: Public Hearing of Petitions for Abandonment of Wellington Rights-of-Way and Public Easements for Drainage of Wellington Rights-of-Way**

- (a) *Public hearing required if Wellington rights-of-way or public easement affected.* A public hearing shall be held for any petition for abandonment that affects a Wellington right-of-way or public easement for drainage that services a Wellington right-of-way. If a petition does not affect a Wellington right-of-way or public easement for drainage that services a Wellington right-of-way, a public hearing is not required, and upon its review and sole discretion, the Wellington Council shall adopt a resolution either approving or denying the petition.
- (b) *Time and place of hearing.* The Wellington Council hereby directs the Village Manager or their designee to establish a definite time and place to hold the public hearing required by this article, and to publish the notice of said hearing.
- (c) *Publication and notice of public hearing.* Notice of such public hearing shall be published two times in a newspaper of general circulation in the county, with the first publication being at least two weeks prior to the date stated therein for such hearing.
- (d) *Posting of notice of public hearing.* The department shall notify the petitioner of the date and time of the public hearing and shall direct the petitioner to post the property with a notice of petition to vacate. The petitioner shall post the notice in a conspicuous and easily visible location on the subject property, abutting a public thoroughfare when possible, at least ten days prior to the public hearing.
- (e) *Mailing of notice of public hearing.* The department shall mail a copy of the notice of public hearing to each addressee in the envelopes provided by petitioner pursuant to the provisions of this article, at least ten days prior to the public hearing.
- (f) *Testimony.* At the public hearing, all interested persons shall be entitled to testify under oath regarding the petition; however, the Wellington Council may decline to hear testimony that is repetitious, irrelevant, or immaterial. If the Council approves the petition, it may vacate all or any portion of the subject public interest and may require such conditions as the Council deems to be in the public interest.

(g) Adoption of resolution. If the Council approves the petition, it shall do so by resolution.

### **Sec. 20-17: Effect of Resolution**

The Wellington Council's determination of whether to approve the petition, being a legislative determination, is final and binding.

### **Sec. 20-18: Publication of Notice of Adoption of Resolution and Recordation of Resolution**

Notice of the adoption of a resolution approving a petition for abandonment pursuant to this article shall be published one time, within 30 days following the date of adoption in a newspaper of general circulation in the county. The proof of publication of the notice of public hearing, the resolution as adopted, and the proof of publication of the notice of the adoption of such resolution shall be recorded in the official records.

### **Sec. 20-19: Effect of Recording Resolution of Abandonment**

- (a) For Wellington rights-of-way, upon the recordation of the proof of publication of the notice of public hearing, the resolution as adopted, and the proof of publication of the notice of adoption of the resolution, all interest of Wellington and the public in the rights-of-way abandoned or vacated shall be abrogated and such interest shall be vested in the abutting landowners to the extent and in the same manner as in the case of termination of an easement for road purposes.
- (b) For plats or portions thereof, recordation in the public records of resolutions approving abandonment of a plat or a portion thereof shall have the effect of vacating all streets and alleys in accordance with F.S. § 177.101(5), and shall either return the vacated property to the status of unplatted acreage or shall vacate the first plat in accordance with F.S. § 177.101(1) or (2), as applicable.

### **Sec. 20-20: Acme Improvement District Authorized to Utilize the Abandonment Procedures Contained Herein to the Extent Not Otherwise Prohibited by Law**

Acme Improvement District, a dependent district of Wellington is hereby authorized to utilize the procedures contained in this article to the extent not otherwise prohibited by law.

## **ARTICLE III - TRUCK TRAFFIC CONTROL**

### **Sec. 20-21: Vehicles Over Six Wheels Prohibited (Generally)**

- (a) It is unlawful to operate or permit to be operated any vehicle, or combination of vehicles and trailers, driving on over six wheels upon any Wellington road whenever said road is posted with signs prohibiting said operation, except as hereinafter provided.

(b) The notice of restriction shall be posted at conspicuous places at the terminal points of the section of road to which the restriction applies, and at appropriate crossroads of and junctions with the section of road to which the restriction applies in such a way as to provide reasonable notice of the restriction.

### **Sec. 20-22: Exceptions**

- (a) The prohibition of vehicles over six wheels provided in this article shall not apply to:
- (1) Garbage trucks engaged in collection;
  - (2) Vehicles owned by any governmental entity, volunteer fire and/or ambulance company, or public utility, the unhampered operation of which is necessary to the public safety;
  - (3) Vehicles making deliveries of goods or services within the area served by the posted road;
  - (4) Recreational vehicles as defined in Article 3 of the LDR.
  - (5) A vehicle not over six wheels when towing:
    - a. A boat trailer; or
    - b. A cargo trailer with not more than four wheels having a cargo containment area of not more than 20 feet.
- (b) This article shall not be enforced so as to interfere with or interrupt traffic over state or county roads, including officially established detours for such roads.

### **Sec. 20-23: Enforcement**

- (a) This article shall be enforced by the Palm Beach County Sheriff's Office.
- (b) A violation of this article shall constitute a violation under F.S. Ch. 316, and shall be enforced in accordance with the provisions of F.S. Ch. 318.

### **Sec. 20-24: Designated Restricted Roads.**

The Public Works Department shall post signs prohibiting use of the following roads by vehicles driving on over six wheels:

- (1) Paddock Drive
- (2) 12<sup>th</sup> Fairway
- (3) Birkdale Drive
- (4) 50<sup>th</sup> Street South
- (5) Pierson Road
- (6) Big Blue Trace
- (7) Forest Hill Boulevard
- (8) Binks Forest Drive
- (9) Flying Cow Road
- (10) Greenview Shores Boulevard

To the extent the cooperation of other governmental entities' permission is necessary to effectuate the placement of signs, staff is directed to request such permission and coordinate with them to effect the intent on this article.

## **Sec. 20-25: State Weight, Height, and Length Limitations applicable**

Notwithstanding any provision of this article to the contrary, it shall be unlawful for any person to operate or permit the operation of any vehicle or combination of vehicles on Wellington roads in excess of the weight, height, and length limitations contained in F.S. Ch. 316.

## **ARTICLE IV - PUBLIC ASSEMBLIES**

### **Sec. 20-26: Definitions**

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

**Advertise:** the act of publicly announcing or calling public attention to a public assembly, and shall include, but not be limited to, the distribution of literature, the use of outdoor advertising, and announcements by radio, television, newspaper, the internet, e-mail, or any other media now available or hereafter created.

**Applicant:** any person or organization who applies for a public assembly permit.

**Director:** the Wellington Planning, Zoning and Building Director or their designee.

**Distribution of literature:** the passing of pamphlets, handbills, flyers, brochures, or any printed materials to persons.

**Fast-Breaking Assembly:** a public assembly that is occasioned by fast-breaking news or affairs coming into public knowledge less than 48 hours prior to such public assembly, which may be held at only those locations designated by Wellington for fast-breaking assemblies.

**Law Enforcement Officer:** any member of the Palm Beach County Sheriff's Office.

**Organization:** any organization, corporation, partnership, trust, or other entity.

**Person:** any person, firm, partnership, association, club, corporation, company, or organization of any kind.

**Policy:** the Public Assemblies Policy adopted by resolution by the Wellington Council.

**Public Assembly:** any event, ceremony, rally, march, walk, show, exhibition, display,

procession, race, concert, pageant, picketing, demonstration, or similar activity including, but not limited to, such activities used as a means of protest or as a means of presenting a cause or grievance, located partially or totally on public property, where 10 or more persons are in attendance.

**Public Assembly Permit:** a permit required by this article for a public assembly.

**Public Property:** outdoor property that is owned by or dedicated to Wellington or Acme Improvement District (“Acme”) and located within Wellington.

**Permittee:** any person or organization who receives a public assembly permit.

**Picketing:** conduct involving standing or marching back and forth by one or more persons who may be carrying a placard or, potentially, engaging in the distribution of literature incidental thereto, to communicate the picketer’s message.

**Right-of-Way:** land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies. The term shall mean both a Wellington right-of-way and private right-of-way, but shall not include property conveyed to or owned by Wellington in fee simple.

**Roadway:** that portion of the right-of-way set aside for purposes of vehicular traffic, including any berm, shoulder, median strip, or on-street public parking area.

**Sidewalk:** that portion of a street between the curblines, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

## **Sec. 20-27: Purpose and Intent**

- A. Wellington finds that it should facilitate the exercise of the constitutional rights of free speech and peaceful assembly on certain property within Wellington. Wellington also finds that, due to their size, the location, or a combination of size and location, certain public assemblies may cause adverse public conditions requiring regulation and the provision of additional services or facilities to protect the public health, safety, and welfare. These services and facilities include, but are not limited to, law enforcement, emergency medical, traffic control, parking, bathroom, crowd control, and trash collection and disposal. Wellington further finds that it is necessary to assure the preservation of property that is used in connection with these public assemblies, and to assure financial accountability for damage caused thereto by such assemblies while providing waivers for those costs that are so financially burdensome that they prevent the exercise of First Amendment rights.

B. The purpose of this article is to protect the public health, safety, and welfare by regulating certain public assemblies, and it is the intent of Wellington that this article be construed liberally in favor of protecting the public health, safety, and welfare. This article is intended to be a content-neutral time, place, and manner regulation. This article is not directed solely at communicative activity, but rather at all activity constituting a “public assembly” as defined herein.

### **Sec. 20-28: Public Assembly Permit; When Required**

No person or organization shall stage, promote, conduct, engage in, participate in, aid, form, advertise, or start any public assembly in or on any public property unless a public assembly permit shall first have been applied for and obtained from Wellington in accordance with this article, if a public assembly permit is required by this article.

### **Sec. 20-29: Scope**

This article shall not apply to, nor shall a public assembly permit be required for, any of the following activities:

1. An authorized or official event of Wellington or any department or division thereof.
2. A public assembly which:
  - i. does not require Wellington or Acme services or facilities, and
  - ii. is attended at any one time, is calculated to be attended at any one time, or is reasonably expected to be attended at any one time, by less than 10 people, and
  - iii. is not anticipated to impede or interfere with the use of or travel on rights-of-way or to violate normal traffic regulations or controls.
3. A fast-breaking assembly, which:
  - i. must only be conducted at the location(s) designated for fast-breaking assemblies by Wellington because an assembly at this location(s) is not anticipated to impede or interfere with the use of or travel on rights-of-way or to violate normal traffic regulations or controls, and
  - ii. must stay within the maximum capacity of its location(s), and
  - iii. must comply with all applicable laws, and with the general requirements of section 20-30 for public assemblies, and



- iv. must not include fireworks, temporary structures, alcoholic beverages, road closures, or other activities requiring permits pursuant to applicable laws without obtaining such permits.

The name, mailing address, and telephone number of the person or representative of an organization planning a fast-breaking assembly shall be submitted to the director at [assembly@wellingtonfl.gov](mailto:assembly@wellingtonfl.gov), along with the planned time, duration, date, and exact location, the nature of the activities planned, and a good faith and reasonable estimate of the number of people who are planned to or expected to attend and participate in the fast-breaking assembly.

### **Sec. 20-30: Requirements for Public Assemblies**

- A. Hours. Public assemblies may only be held between 7 AM and 10 PM, or as otherwise stated on the permit, seven days a week. Overnight public assemblies are prohibited.
- B. Sound. If sound will be augmented by electrical means that increase the sound level or volume as part of the public assembly, the resulting sound must not be plainly audible at a distance of 300 feet from the source of the sound. "Plainly audible" means able to be clearly heard by a person of normal sensibilities using only unaided auditory senses, at a volume greater than that of ordinary conversation, and shall exclude barely audible sounds. If the sound is music, the detection of a rhythmic bass reverberating sound shall be deemed to be plainly audible.
- C. Cleanup. Consistent with section 255.045, Florida Statutes, the organizer shall ensure the necessary cleanup, repair, and restoration of any public assembly area to its condition prior to the public assembly, with such cleanup, repair, or restoration to be accomplished within 24 hours after the public assembly is concluded.

### **Sec. 20-31: Application for Public Assembly Permit**

- A. Any person seeking the issuance of a public assembly permit shall file a complete application, pursuant to the requirements of the Policy, with Wellington at the location designated by and on forms provided by the director. Applications for public assembly permits shall be processed in order of receipt.
- B. To the extent practicable, an application shall be filed not less than 30 days before the date of the public assembly. Wellington finds and determines that this is the minimum timeframe necessary to identify and coordinate the various Wellington or Acme services or facilities needed for addressing the public health, safety, and welfare impacts of a public assembly.

C. The minimum filing period requirement of subsection B above may be shortened or waived by the director, if, after due consideration of the following factors in an even-handed manner and without regard to any message of or perceived reaction to the public assembly, it is determined that the public assembly will not present an undue hazard to the public safety because of the reduced time available to process the application, based upon:

1. the date, time, place, and nature of the public assembly;
2. the anticipated number of participants; and
3. the necessity for, and the amount of, public services or facilities required in connection with the public assembly.

### **Sec. 20-32: Review Process; Decision on Application; Grounds for Denial**

A. *Review of Application:* The review process shall take place as outlined in the Policy.

B. *Decision on Application; Notice:* Within three business days after receipt of all of the department, division, or office reports, the director shall either approve, conditionally approve, or deny the public assembly permit application, and shall notify the applicant by hand delivering a copy of the decision to the street address listed on the public assembly permit application or by faxing, e-mailing, or mailing by next day delivery a copy of the decision to the contact information listed on the application. The director shall also promptly notify the relevant Wellington departments and personnel of the final decision on the application. The director's decision on the application shall be based solely on the reports timely received and the requirements of this article, without regard to the content of any message that may be associated with the public assembly or any perceived reaction to such message. If no decision is timely made regarding the application, it shall be deemed approved.

C. *Conditions Precedent:* If the public assembly permit application is conditionally approved, the director shall inform the applicant of any conditions precedent and notify the applicant that final approval of the application shall be subject to the applicant proving, at least three business days before the date of the public assembly, that the applicant has complied with or satisfied all the conditions precedent.

D. *Insurance and Indemnification:* In addition, at least three business days before the date of the public assembly, the applicant shall tender the indemnification agreement and certificates of insurance required by the Policy, if required to do so by the Policy. If the applicant fails to tender any required indemnification agreement or certificates of insurance at least three business days before the date

of the public assembly, the public assembly permit application shall be deemed denied. However, if the applicant tenders the requisite indemnification agreement and certificates of insurance at least three business days before the date of the public assembly, the application shall be given final approval as of the date the indemnification agreement and certificates of insurance were tendered.

E. Denial.

1. Notice and Opportunity to Cure: If a public assembly permit application is denied, the director shall provide the applicant with the reasons for the denial and shall afford the applicant an opportunity to cure or resolve the issues which caused the denial. If the applicant cures and resolves the issues at least three business days before the date of the public assembly, the director shall inform the applicant that the application is approved, subject to the applicant also complying in a timely manner with all conditions precedent, including, without limitation, tendering the required indemnification agreement and certificates of insurance, if any.
2. Conflicts: If an application is or will be denied because the public assembly would take place at the same time and place as a previously scheduled or approved event, the director shall inform the applicant of alternative locations or times where the public assembly could be held.
3. Criteria for Denial: An application for a public assembly permit may be denied if any of the following is established by clear and convincing evidence, or if evident from the application itself:
  - a. The applicant did not fully or properly complete and execute the application and any related forms for a public assembly permit (including, without limitation, any required attachments or submissions);
  - b. The applicant did not tender the required non-refundable application fee with the application, or did not tender any required indemnification agreement, insurance certificate, or security deposit, and did not receive a waiver of such requirements;
  - c. The applicant did not file the application by the minimum time period prescribed by this article, if applicable;
  - d. The application contained a material falsehood or misrepresentation;
  - e. Under Florida law, the applicant is legally incompetent to enter into a contract or to sue and be sued;

- f. The applicant or the person or organization on whose behalf the application was filed has, on prior occasions, damaged Wellington or Acme property and has not paid in full for such damage, or has any other outstanding and unpaid debts to Wellington or Acme, and is not entitled to a waiver for such expenses;
  - g. Another fully executed application for a public assembly permit for the same time and place has been filed, or a public assembly permit has been or will be granted to a prior applicant authorizing a public assembly for the same time and place, and the time and place would not reasonably permit multiple or shared occupancy;
  - h. The public assembly would substantially interfere with or would have an un-mitigatable adverse impact upon access and traffic circulation in the area in which it is to be conducted;
  - i. The public assembly would substantially interrupt the safe and orderly movement, public transportation, or other vehicular or pedestrian traffic in the area of the public assembly, or would cause an un-mitigatable conflict with construction or development in the particular roadway;
  - j. The public assembly as proposed by the applicant would present an unreasonable danger or harm to the health or safety of the applicant, participants, observers, spectators, or other users of the particular roadway, Wellington employees or agents, or the public;
  - k. The applicant has not complied, or cannot comply, with licensing or other permitting requirements applicable to the public assembly, including, without limitation, building permits, sign permits, and occupational licenses;
  - l. The applicant has not complied, or cannot comply, with all of the conditions, restrictions, or requirements found necessary by the reviewing departments;
  - m. The use or activity proposed by the applicant is prohibited by law, by court order, by this article, or by any other Wellington regulations.
4. Not Content Based: A permit shall not be granted or denied based upon the content or viewpoint of any message or on the anticipated reaction to that message.
5. Limited Time and Date: If Wellington approves a public assembly permit, it shall only be for the day or dates and times shown on the permit. Wellington

shall not grant recurring permits; each public assembly requires a separate application and review process.

### **Sec. 20-33: Indemnification**

The applicant for a public assembly permit and any other person or organization on whose behalf the application for a public assembly permit is made, by filing an application, shall agree to jointly and severally, to the fullest extent provided in F.S. § 768.28, indemnify and hold Wellington and Acme harmless from any and all claims, damages, losses, and expenses made against or incurred or suffered by Acme, Wellington, or the Palm Beach County Sheriff's Office because of injury or death to persons or damage to property, including, without limitation, court costs and attorneys' fees, and attorneys' fees on appeal, resulting from the intentional or negligent acts or omissions of the applicant or of any person acting on applicant's behalf in connection with the holding of a public assembly or the issuance of the public assembly permit. Neither the applicant nor the person or organization on whose behalf the application for a public assembly permit is made shall be responsible for the conduct of a third party without a finding that it authorized—either actually or apparently—or ratified unlawful conduct. Further, the applicant shall not be responsible for the acts of government officials.

### **Sec. 20-34: Additional Duties of Applicant, Permittee, Chairperson, and Vice-Chairperson**

- A. *Display of Permit:* The application for a public assembly permit shall become the actual permit, upon written approval by the director on the face of the permit and shall be in the physical possession of the permittee, chairperson, or vice-chairperson of the public assembly during the conduct of the public assembly. The public assembly permit shall be displayed upon demand to the director or to any law enforcement officer, code compliance officer, or any other Wellington employee charged with the administration of this article. The director shall keep a copy of the public assembly permit and may distribute copies to the reviewing departments and divisions. The permittee, chairperson, or vice-chairperson of the public assembly shall be present at all times during the public assembly.
- B. *Vice-Chairperson:* The duties of the vice-chairperson, if one is designated, shall be the same duties as the chairperson.
- C. *Joint Responsibility:* The permittee, chairperson (and vice-chairperson, if any) shall be jointly and individually responsible for conducting the public assembly in a manner that complies with the public assembly permit, including, without limitation, its directions and conditions, and with the requirements of all applicable laws, regulations, and ordinances, including, without limitation, this article.

### **Sec. 20-35: Revocation**

The director has the authority to suspend or revoke a public assembly permit issued under this article instantly and without prior notice upon material violation of the public assembly permit, including, without limitation, its directions and conditions, or material violation of the requirements of all applicable laws, regulations, and ordinances, including, without limitation, this article, but in no event shall a permit be suspended or revoked based on the content of any message communicated by the public assembly, or the reaction to that message.

### **Sec. 20-36: Offenses and Penalties**

- A. It shall be unlawful for any person to stage, present, or conduct any public assembly without first having obtained a public assembly permit therefore as provided herein, unless the public assembly is exempt from the permitting requirements as expressly provided in this article.
- B. It shall be unlawful for any person knowingly to participate in any public assembly for which a public assembly permit has not been granted, unless the public assembly is exempt from the permitting requirements as expressly provided in this article.
- C. It shall be unlawful for any person responsible for the duly permitted public assembly to knowingly fail to comply with the public assembly permit, including, without limitation, its directions and conditions, and with the requirements of all applicable laws, regulations, and ordinances, including, without limitation, this article.
- D. No person shall engage in any activity during the public assembly that places any person in the roadway or blocks the sidewalks within or adjacent to the public assembly or otherwise causes a nuisance.
- E. Violations of this article shall be enforced by the Palm Beach County Sheriff's Office pursuant to the Supplemental Code Compliance Procedures set forth in Chapter 2, Article IV of this Code and may also be punished as provided under any applicable state law.
- F. Wellington may seek legal or equitable relief against any person or organization violating the public assembly permit, including, without limitation, its directions and conditions, and with the requirements of all applicable laws, regulations, and ordinances, including, without limitation, this article.

### **Sec. 20-37: Public Safety at Outdoor Public Assemblies**

- A. *Police:* The Palm Beach County Sheriff's Office serves as the law enforcement agency of Wellington and shall be the primary provider of personal safety and property security at a public assembly, as necessary.

B. *Fire*: Palm Beach County Fire Rescue shall be the primary provider of fire protection services and emergency medical services at a public assembly, as necessary.

C. *Vehicles*: Upon review of a public assembly application in accordance with the Policy, Wellington may, as necessary, prohibit or restrict the parking or driving of vehicles along, across, or in close proximity to the route of a public assembly in order to ensure the safe and efficient flow of vehicular and pedestrian traffic, and may post signs to such effect.

### **Sec. 20-38: Appeal**

An applicant or permittee, whichever is applicable, wishing to appeal an adverse decision of Wellington on an application for a public assembly permit, on a waiver, or on a revocation or a suspension of a public assembly permit, may:

A. File a written request for reconsideration of the adverse decision with the director, within five business days after receipt of the notice of the adverse decision, specifying the relevant facts or bases for such reconsideration. Such request for reconsideration shall be considered and determined by the director within 10 days after the director's receipt of the request for reconsideration. A written notice of the director's decision on reconsideration shall be provided to the filer of the request for reconsideration within two business days after the director's decision.

B. File an appeal to the Village Manager by filing a written notice of appeal with the director, with a copy delivered to the Village Manager, within five business days after receipt of the notice of adverse decision (or notice of denial of reconsideration), specifying the relevant facts or bases for such appeal. Such appeal shall be considered and determined within 12 days after the director's receipt of the notice of appeal. A written notice of the Village Manager's decision shall be provided to the filer of the appeal.

### **Sec. 20-39: Judicial Review**

In the event an application for a public assembly permit is denied, the granting of a public assembly permit is made subject to conditions, a public assembly permit is suspended or revoked, an appeal or waiver is not granted, or a decision is not rendered in accordance with the time requirements of this article, the applicant or the permittee, whichever is applicable, may file a request for immediate judicial review with a court having jurisdiction thereof upon the filing of an appropriate pleading.