ORDINANCE NO. 2011-10

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL RELATING TO THE REMOVAL OF BOARD AND COMMITTEE MEMBERS AMENDING CHAPTER II "ADMINISTRATION", ARTICLE VI "BOARDS AND COMMITTEES" TO PROVIDE FOR THE REMOVAL OF BOARD AND COMMITTEE MEMBERS UNDER CERTAIN CIRCUMSTANCES AND REVISING THE QUALIFICATIONS TO SERVE ON A BOARD AND COMMITTEE TO PROVIDE THAT NO ONE WHO HAS BEEN CONVICTED OF A FELONY WITHIN THE LAST TEN YEARS MAY SERVE ON A BOARD OR COMMITTEE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Wellington's Council passed Ordinance #2010-15 on June 22, 2010 providing that boards and committees shall consist of seven regular members with no alternatives; and

WHEREAS, in order to have Wellington's Boards and Committees operate efficiently participation from all appointed members is necessary; and

WHEREAS, the Council has determined there shall be a more efficient mechanism to remove Board and Committee members who are not able to meet the standard of participation necessary to allow the Boards and Committees to function efficiently.

NOW THEREFORE BE IT ORDAINED BY WELLINGTON'S COUNCIL THAT:

SECTION 1. Chapter II "Administration", Article VI "Boards and Committees" amended by amending Section 2-288 "General Provisions" to read as follows:

2-288 General Provision: All members of boards and committees shall:

(1) Serve at the pleasure of the Wellington Council.

(2) Be a resident of Wellington, maintain residency in Wellington during the term of appointment, and meet such other eligibility requirements as may be established by ordinance or resolution. Resident, for purposes of this chapter, shall include persons who are domiciled in Wellington for only a portion of the year.

(3) To be eligible to serve, a member or prospective member shall not have been convicted of a felony, by the State of Florida, the United States, or its other states and territories within ten (10) years prior to the date of their appointment or any time after their appointment.

~~(3)~~ (4) Any member who fails to meet the requirements for his/her appointment to a board or committee shall immediately cease to be a member of his/her board or committee, and that position shall be deemed vacant.

~~(4)~~ (5) All boards and committees shall be part of the municipal government and shall utilize, insofar as practicable, the services of the regular departments in Wellington.

~~(5)~~ (6) No board or committee member shall hold any elected office in the government or be a full-time employee of Wellington.

~~(6)~~ (7) If any member of a board or committee shall find that his/her private or personal interests are involved in the matter coming before the board, he/she shall disqualify himself/herself from all participation in that matter. No member of a board or committee shall appear before that board or committee or the Wellington Council as agent or attorney for any person.

~~(7)~~ (8) No board member shall have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

~~(8)~~ (9) Board or committee members may not serve on more than one board or committee, provided, however, that board or committee members may serve on special task force committees formed by Wellington Council for a specific purpose and for a limited duration. Board or committee members may only serve on such special task force committees for six months or less, unless their term is specifically extended by the Wellington Council.

SECTION 2. Chapter II "Administration", Article VI "Boards and Committees" is amended by amending Section 2-291 "Meetings" to read as follows:

2-291 Meetings

(a) Unless otherwise provided, meetings shall be held quarterly, or at such times as Wellington's Council may provide by resolution: or as otherwise provided by law. Special meetings shall not be held unless at least 24 hours' notice is given to each member and Wellington manager.

(b) Members shall notify the board liaison if they are unable to attend a meeting. ~~The Wellington Clerk shall notify the alternative that his/her attendance is required.~~ Upon receiving notice of the expected absence, prior to the time the meeting is due to begin, the Board liaison shall register the absence as being excused, regardless of the underlying reason for the member's absence. If a quorum will not be present, the Wellington Clerk shall notify the chairperson, who may cancel the scheduled meeting.

(c) A quorum for the transaction of business shall be established in the ordinance or resolution creating the board or committee.

(d) An audio tape recording shall be made of all meetings. Additionally, minutes shall be kept of the proceedings at each meeting and shall record the official acts taken by the board. Audio tapes and minutes shall be forwarded to the Wellington Clerk.

(e) All meetings and public hearings of board and committees shall be open to the public. All meetings shall be governed by Robert's Rules of Order, Newly Revised, and Government-in-the-Sunshine pursuant to F.S. § 286.011.

SECTION 3. Chapter II "Administration", Article VI "Boards and Committees" is hereby amended by amending Section 2-292 "Removal of Board and Committee Members" to read as follows:

2-292 Removal of Board and Committee Members

(a) ~~*Automatic r*~~*Removal based on absenteeism*. Active participation by members of the boards and committees is essential to the effectiveness of the board or committee operations. It is therefore necessary for members to attend the meetings as frequently as possible. As important as participation and attendance is, Wellington's Council understands that a member's activities and other obligations of either a personal or professional nature will on occasion take precedence over their participation in board or committee activities. If a member recognizes they will not be able to fully and regularly participate in the board or committee meetings they should resign from the board or committee and allow the Council to fill the vacancy created by their resignation. In order to maintain a standard of commitment from the members they shall be subject to removal from their position as a member of a board or committee under the following circumstances. Any member of a board or committee, during the course of their two year term, who has ~~three~~ two consecutive unexcused absences or four absences out of the last six meetings whether excused or unexcused from regular meetings ~~shall be automatically removed~~ is subject to being removed as a member of the respective board or committee.~~, unless otherwise specified herein~~. If the board of committee member was appointed by an individual Council member to the board or committee the decision on whether to remove the board or committee member for absenteeism shall be up to the Council member who appointed them or if the Council member who appointed them is no longer in office, the Council member who is sitting in the seat of the Council person who appointed the board or committee member. If the board or committee member was appointed as an at-large member chosen by the vote of the majority of the Council, the Manager shall within thirty (30) days of the Clerk giving notification to the board or committee member of their excessive absenteeism, place on the Council agenda, the question of whether the board or committee members shall be removed prior to the agenda being published the board or committee member will be able to submit an explanation of their absences and shall have an opportunity to appear and make a presentation to the council on why they should be able to remain a board or committee member. The Council need not take public comment on the issue of the board or committee members' removal. The Council shall by majority vote determine whether to remove the board or committee member. If the board or committee member is not removed they will be subject to removal under this same process if and when the board or committee member incurs another two (2) unexcused absences or three (3) additional absences whether they are excused or unexcused over the remainder of their term. ~~Automatic~~ The removal of a member shall cause a vacancy to exist in the membership of the particular board or committee. ~~However,~~ The removal of a member shall ~~not~~ be deemed effective ~~until~~ when ~~Wellington~~ Wellington's Manager sends ~~confirms that~~ the member ~~has received~~ written notice by certified mail, return receipt requested ~~from the Wellington Clerk of the reason for the action being taken to remove the member~~ of their removal due to absences from meetings. ~~The~~

~~notice of removal shall include the statement that~~ The member removed for absenteeism does not ~~has~~ have the right to request a hearing before the Wellington Council.

(b) *Removal for reasons other than absenteeism and failure to maintain the requirements for being a board member.* All board and committee members shall serve at the pleasure of the Wellington Council and may be removed without cause by a majority vote of the Wellington Council, unless otherwise provided by the Charter or Florida Statutes. Any member so removed shall have the right to request a hearing before the Wellington Council.

~~(c)~~ 1. *Hearing; decision of Council.* Any request for hearing must be filed with the Wellington Clerk within five days of the date of the decision to remove. Upon the timely request of the member for a hearing before the Wellington Council, the Council shall set a date and time for a hearing and direct the Wellington Clerk to give the member notice of the hearing. Such hearing shall be held no later than 30 days from receipt of a request for a hearing. At the hearing, the member may present evidence and argument as to why he/she should not be removed. The decision of the Council may be to remove, to suspend, to reprimand, or to absolve the member.

~~(d)~~ 2. The effective date of removal of a member shall be immediately after the expiration of the time in which the member has the right to request a hearing before the Wellington Council, or any later date which the Wellington Council may provide, unless the member timely requests a hearing before the Wellington Council. If the member requests a hearing, the member shall continue to serve on the board or committee until conclusion of the hearing or withdrawal of the request. If the member timely requests a hearing, and the Wellington Council decides to remove the member upon the conclusion of the hearing, the removal shall take effect immediately unless the Wellington Council specifies a later date. If a member timely requests a hearing but withdraws the request prior to the hearing, the effective date shall be the date on which the request is withdrawn.

SECTION 4. Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 5: Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 6. This Ordinance shall become effective on April 1, 2012.

PASSED this 29th day of November, 2011 upon first reading.

PASSED AND ADOPTED this 13th day of December, 2011, on second and final reading.

WELLINGTON

	FOR	AGAINST
BY: _____ Darell Bowen, Mayor	✓	
_____ Matt Willhite, Vice Mayor	✓	
_____ Dr. Carmine A. Priore, Mayor pro tem	✓	
_____ Howard K. Coates, Jr., Councilman	✓	
_____ Anne Gerwig, Councilwoman		✓

ATTEST:

BY: _____
Awilda Rodriguez, Wellington Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: _____
Jeffrey S. Kurtz, Esq., Attorney for Wellington