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ORDINANCE NO. 2014 - 31

AN ORDINANCE OF WELLINGTON FLORIDA'S COUNCIL, RELATING TO LICENSING AND REGULATION OF RESIDENTIAL RENTAL UNITS; AMENDING THE CODE OF ORDINANCES OF WELLINGTON, FLORIDA CHAPTER 71 "RENTAL DWELLING UNIT LICENSES," TO PROVIDE FOR THE MANDATORY LICENSING AND INSPECTION OF SINGLE FAMILY RESIDENTIAL UNITS HELD OUT FOR LEASE OR RENT AND PROVIDING RULES AND REGULATIONS PERTAINING TO SUCH LICENSES AND INSPECTIONS; WAIVING THE LICENSE AND INSPECTION FEES FOR OWNERS REGISTERING TWO (2) OR LESS UNITS; AMENDING SECTION 71-33 SUSPENSION OR REVOCATION OF LICENSE REQUIRING AN OWNER TO SUBMIT A MANAGEMENT PLAN AND INSTITUTING A REINSTATEMENT FEE AND PROVIDING PENALTIES FOR NONCOMPLIANCE WITH THE PROVISIONS OF THE CHAPTER; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this Ordinance is enacted pursuant to Article VIII of the Florida Constitution, Chapter 166, Florida Statutes, Wellington's Charter, and the police powers of the Municipality; and

WHEREAS, Wellington has determined that rental licensing regulations are necessary to protect and maintain Wellington's housing stock, enforce minimum housing standards and encourage property owners to maintain and improve their property; and

WHEREAS, Wellington's Council finds that the proposed regulations are consistent with the goals of the Comprehensive Plan; and

WHEREAS, Wellington's Council finds that the reasonable regulations contained herein will protect the health, safety, and welfare of the residents and property owners of Wellington.

NOW, THEREFORE, BE IT ORDAINED BY WELLINGTON'S COUNCIL, that:

Section 1. Chapter 71 entitled "Rental Dwelling Unit Licenses," of the Code of Ordinances is hereby amended to read as follows:

Sec. 71-21. - Definitions.

For the purposes of this chapter, the following definitions shall apply:

Department means the ~~planning, zoning and building department.~~ division of Wellington's municipal government containing the Code Compliance Division, as assigned by the Village Manager

Director means the director of the planning, zoning and building department or designee.

Development order means ~~any building permit, rezoning, master plan, site plan, variance, planned district development, variance or similar approval granted by the village council, planning, zoning and~~

1 ~~adjustment board (PZAB), village staff, or special magistrate employed by the village.~~

2 ~~Effective date means January 1, 2007.~~

3 *License* means a rental dwelling unit license.

4 *Owner* means any legal owner of record, legal owner, person, company, corporation, firm, or similar
5 entity owning one or more rental dwelling units and includes the authorized landlord, agent or
6 representative of an owner.

7 *Dwelling Unit* means the definition provided in Article 3 of Wellington's Land Development Regulations.

8 *Rental dwelling unit* means any dwelling unit that is rented for residential purposes, ~~including any duplex,~~
9 ~~triplex, quadplex, townhouse, multiple family dwelling, dormitory or other similar unit.~~

10 *Rental dwelling unit license* means the license that must be obtained by ~~any an owner person, company,~~
11 ~~corporation, firm or other entity~~ prior to entering into a written lease, oral agreement or other similar
12 instrument for the purpose of leasing one or more dwelling units.

13 *Sexual offender* means the definition as provided in section 36-41, of the Code of Ordinances.

14 *Sexual predator* means the definition as provided in section 36-41, of the Code of Ordinances.

15 (Ord. No. 2008-17, § 1, 10-14-08)

16 **Sec. 71-22. - Inclusion of and requirements for authorized agents or representatives or agents.**

17 (a) Each owner of one or more rental dwelling units must comply with the provisions set forth in
18 Sections 71-21 through 71-40 of this Code. An owner may appoint an agent or authorized
19 representative to act on its behalf. Any such shall comply with each of the following requirements:

20 (1) The representative or agent shall be at least 18 years of age; and

21 (2) The representative or agent shall be a resident of Palm Beach County, Florida.

22 (b) If a new or additional representative is appointed by an owner, the representative's name, address,
23 and telephone number shall be supplied to the department by the owner within 15 days after the
24 appointment.

25 (Ord. No. 2008-17, § 1, 10-14-08)

26 **Sec. 71-23. - Exemptions.**

27 The following types of residential or transient dwelling units shall be exempt from the requirements of this
28 chapter:

29 ~~(1) Any detached single family dwelling, including any zero lot line dwelling;~~

30 ~~(2)~~(1) Any rental dwelling unit, the operation of which is licensed by the State;

31 ~~(3)~~(2) Any accessory dwelling as defined in Chapter 2 of Article 3, "Definitions", of the Land
32 Development Regulations of the Village of Wellington;

33 ~~(4)~~(3) Any room rented for transient lodging purposes when associated with a bed and
34 breakfast, hotel, inn, lodge, motel, or similar facility;

1 ~~(5)~~(4) Any quarters or guest quarters for employees or guests of owner; and

2 ~~(6)~~(5) Any security quarters or similar type of dwelling.

3 (Ord. No. 2008-17, § 1, 10-14-08)

4 **Sec. 71-24. - Rental dwelling unit license required.**

5 (a) ~~As of and following the effective date of this chapter, a~~ A license required by this chapter shall be
6 obtained by the owner of any rental dwelling unit located within the village. Following the effective date
7 of this ordinance, any owner ~~acquiring of~~ one or more rental dwelling units shall obtain a license ~~in order~~
8 to lease such unit. The license shall be obtained ~~within a minimum of 15 calendar days of acquiring prior~~
9 to the rental of such dwelling.

10 (b) A rental dwelling unit shall not be leased, rented or sublet without a rental dwelling unit license.

11 (c) Failure to obtain or maintain a rental dwelling unit license shall be subject to penalties as provided
12 herein.

13 (Ord. No. 2008-17, § 1, 10-14-08)

14 **Sec. 71-25. - Application and affidavit.**

15 Each year, the owner of a rental dwelling unit shall complete a rental license application and affidavit
16 acknowledging that each rental dwelling unit and each tenant living therein shall comply with all
17 applicable codes.

18 (1) The department shall determine the form or forms of the rental license application, but at a
19 minimum the application shall contain the information listed below.

20 a. The name, telephone number and address of the operator, representative or agent
21 actively managing the rental dwelling unit for which the license is required.

22 b. The legal address of the rental dwelling unit for which the license is applied.

23 c. The number of units, specific types of units, and the number of bedrooms within each
24 rental dwelling unit.

25 d. The name, telephone number and address of the owner or owners, or partners if a
26 partnership, or corporate officers if a corporation, for each rental dwelling unit for which a
27 license is required.

28 e. The name, telephone number, address and name of a representative for any
29 homeowners association or property owners association in which the rental dwelling unit is
30 located.

31 f. The signature of the owner.

32 g. A statement that the owner has received an affidavit from the prospective tenant(s)
33 attesting that no residents of the dwelling unit are registered as a sexual offender or a sexual
34 predator.

35 h. A statement that the landlord has reviewed the up-to-date list of sexual offenders and
36 sexual predators and determined that the prospective tenant or tenants are not included on the
37 list.

1 i. An acknowledgment that the requirements of Sections 36-40 through 36-44 of
2 Wellington's Code of Ordinances relating to sexual offenders or sexual predators shall apply to
3 all leases, subleases or rentals of dwelling units within Wellington.

4 (2) The owner of a rental dwelling unit shall execute an affidavit as part of the application to obtain
5 a rental dwelling unit license. The affidavit shall be in a form approved by the Village Attorney. The
6 affidavit shall include the following:

7 a. A statement that the owner is aware of all code requirements applicable to residential
8 properties, including applicable requirements of the land development regulations, and
9 including but not limited to maintenance and appearance of residential dwellings, proper
10 disposal of garbage and trash, proper storage of garbage cans, and proper parking of personal
11 and commercial vehicles;

12 b. A statement that the owner will comply with code requirements applicable to residential
13 properties, including applicable requirements of the land development regulations, and
14 including but not limited to maintenance and appearance of residential dwellings, proper
15 disposal of garbage and trash, proper storage of garbage cans, and proper parking of personal
16 and commercial vehicles; and

17 c. A statement that the owner will inform all tenants of code requirements applicable to
18 residential properties, including applicable requirements of the land development regulations,
19 and including but not limited to maintenance and appearance of residential dwellings, proper
20 disposal of garbage and trash, proper storage of garbage cans, and proper parking of personal
21 and commercial vehicles.

22 (3) ~~The application shall include a copy of the controlling site plan or landscape plans approved by~~
23 ~~Palm Beach County or the Village of Wellington.~~ The inspection of the premises will include an
24 inspection of the landscaping to determine if the landscaping is being maintained in accordance with
25 the approved plans and the village's land development regulations.

26 (Ord. No. 2008-17, § 1, 10-14-08)

27 **Sec. 71-26. - Rental dwelling unit license fee and license renewal.**

28 (a) The owner shall pay an initial, nonrefundable license fee in the amount of \$75.00 per license for
29 each of their rental dwelling units. The rental dwelling unit license fee shall be waived for owners licensing
30 less than two (2) rental dwelling units.

31 (b) Rental dwelling unit licenses shall be renewed each year not later than October 1. An application for
32 renewal shall be filed with the department at least 60 calendar days prior to October 1 of each year. For
33 an existing unit for which ownership has not changed, no license renewal fee shall be charged if the
34 renewal application is received timely. If a renewal application is not received timely a late penalty of
35 \$37.50 shall be charged if the application is received in October and an additional \$7.50 per month shall
36 be charged for every additional month or any portion thereof, beyond November 1 of each year. This late
37 penalty shall be in addition to any fines that may be assessed as a result of code enforcement action as
38 provided in Chapter 2, Article IV of the Code of Ordinances.

39 (c) In the event ownership of the rental dwelling unit changes, the new owner shall submit to the Village
40 an initial application in accordance with subsection (a) above, within thirty (30) days from the date of such
41 ownership transfer.

42 (Ord. No. 2008-17, § 1, 10-14-08)

1 **Sec. 71-27. - Rental dwelling unit inspection fee.**

2 (a) The owner shall pay an initial inspection fee of \$25.00. A fee shall not be charged for any rental
3 dwelling unit within 24 months after the issuance of a certificate of occupancy for the unit. The rental
4 dwelling unit inspection fee shall be waived for owners licensing less than two (2) rental dwelling units.

5 (b) So as long as the ownership of the rental dwelling unit does not change, no further inspection fee
6 shall be charged, provided, however that Village staff is authorized to perform an annual inspection. Upon
7 a change of ownership of a rental dwelling unit, ~~to a~~ the new owner shall pay an initial inspection fee in
8 accordance with subsection (a) above within thirty (30) days from the date of such ownership transfer.

9 (Ord. No. 2008-17, § 1, 10-14-08)

10 **Sec. 71-28. - Rental dwelling unit inspection.**

11 (a) Upon receipt of a properly completed license application or renewal license application and all
12 required affidavits and fees, an inspection shall be conducted to determine if the dwelling unit is in
13 conformance with all applicable rules and regulations of the village and county, state or federal
14 governments. The inspection shall include, but not be limited to, the following items:

15 (1) Exterior condition and appearance of the dwelling unit, yard, accessory buildings and any other
16 associated structure;

17 (2) Facilities for the proper disposal of rubbish, garbage and vegetative matter; (3) Review of and
18 compliance with property maintenance standards, as established in the Code of Ordinances and the
19 land development regulations;

20 (4) Such other items as may be appropriate to the individual rental dwelling unit, as determined by
21 the director; and

22 (5) Compliance with applicable landscape standards or requirements.

23 ~~(6) Compliance with applicable development order conditions or restrictions.~~

24 (b) Thereafter, each rental dwelling unit shall be inspected annually, unless otherwise provided herein.
25 ~~The department shall establish a cooperative procedure for scheduling the annual inspections.~~

26 (Ord. No. 2008-17, § 1, 10-14-08)

27 **Sec. 71-29. - Maintenance of structures and property.**

28 (a) All structures and property shall be maintained in accordance with all applicable standards and
29 requirements of the Code of Ordinances, the land development regulations and the Florida Building
30 Code. The procedures for enforcement of all codes and regulations, as provided in section 30-55 of the
31 Code of Ordinances, is modified as indicated below.

32 (b) Each owner of rental property shall, if required by the Village, label all garbage cans and recycling
33 bins with the address or address and unit number to which the cans and bins are assigned. Garbage cans
34 and recycling bins shall be labeled within 30 calendar days of written notification by the village of this
35 requirement.

36 (c) The owner shall be responsible for any violation of Village requirements regarding the following:

37 (1) Times and locations when garbage cans, bulk waste, and recycling bins are to be set out for
38 disposal and taken in following pickup; and

1 (2) The location and screening of garbage cans and recycling bins.

2 (Ord. No. 2008-17, § 1, 10-14-08)

3 ~~Sec. 71-30. - Prohibited licenses.~~

4 ~~A license shall not be issued for any grooms quarters, guest quarters, accessory dwelling unit or any~~
5 ~~other similar residential dwelling unit intended for the employees or guests of the owners and not~~
6 ~~intended to be rented or leased.~~

7 ~~(Ord. No. 2008-17, § 1, 10-14-08)~~

8 **Sec. 71-34 30. - Consent to inspection.**

9 The submission of a license application shall constitute consent to and authorization by the owner of the
10 premises to the conduction of an inspection by the Village of the exterior of all buildings or structures
11 containing the rental dwelling unit, the land upon which the rental dwelling unit is located and accessory
12 uses or structures related to the rental dwelling. Failure to allow entry to property for a required inspection
13 may constitute sufficient reason for the denial or revocation of the rental dwelling unit license.

14 (Ord. No. 2008-17, § 1, 10-14-08)

15 **Sec. 71-32 31. - Reinspection fees.**

16 If a department inspector or representative notices a violation during the rental dwelling unit inspection,
17 the inspector or representative shall reinspect the premises to confirm that the violations have been
18 corrected. If the violations have not been corrected within 30 calendar days following a notice of
19 violation/notice of hearing, an additional fee in the amount of \$25.00 shall be assessed for each
20 succeeding reinspection, until compliance has been obtained. Reinspection fees may be assessed for
21 violations that have not been corrected even if the owner of the rental dwelling unit was charged for the
22 annual inspection.

23 (Ord. No. 2008-17, § 1, 10-14-08)

24 **Sec. 71-33 32. - Transfer prohibited.**

25 A rental dwelling unit license shall not be transferred to another rental dwelling unit owner. Each owner
26 with a rental dwelling unit shall provide written notice to the department within 24 hours after having
27 transferred or otherwise disposed of the legal control of any licensed rental dwelling unit. Following
28 notification, the new owner shall apply for a new license within thirty (30) days of such transfer. An
29 inspection of the rental dwelling unit is required following the transfer of ownership. Transfer of ownership
30 shall not eliminate the requirement for the annual inspection of a rental dwelling unit.

31 (Ord. No. 2008-17, § 1, 10-14-08)

32 **Sec. 71-34 33. - Suspension, ~~or~~ revocation and reinstatement of license.**

33 The department may suspend or revoke a rental dwelling unit license or deny an application for a license
34 based upon any of the following:

35 (1) If the license was issued in error or if the license was issued on the basis of false, incomplete,
36 incorrect or inaccurate information supplied in an application;

37 (2) If the license was issued for a rental dwelling unit that was sold or transferred to a new owner,
38 and the new owner did not apply for a license within the required period of time;

1 (3) If the department determines the use of the dwelling unit constitutes a nuisance or is in
2 violation of any ordinance, rule or regulation of the village, county, state or federal government;

3 (4) If the owner has failed to or refused to pay fees to the village for required applications, ~~or~~
4 inspections;

5 (5) If the owner or applicant has failed to comply with any conditions set forth in any permit or
6 development order granted by the village;

7 (6) If the activities of person(s) residing within a rental dwelling unit create or have created a
8 serious nuisance or danger to the public health, safety or welfare; or

9 (7) If the owner fails to comply with all applicable portions of the code relating to renting or leasing
10 a residence to sexual offenders or sexual predators.

11 (b) The owner of record will be notified of the suspension or revocation by the department via registered
12 mail return receipt requested.

13 (c) When requested by the department and approved by the director, upon issuance of a notice of
14 suspension or revocation the property owner may be required to:

15 (1) Within fifteen (15) calendar days of the notification of suspension or revocation, submit a
16 management plan to the department for the dwelling to achieve full compliance within the timeframe
17 provided by Wellington's regulations, or such other time as the department finds reasonable. Upon
18 approval by the department, the management plan shall be instituted by the owner within 30 calendar
19 days, and;

20 (2) Maintain the rental dwelling unit so that it does not violate any additional applicable code
21 provisions or nuisance activities during the timeframe of the management plan. The rental dwelling unit
22 may be offered for rent during the timeframe of the management plan.

23 (d) Upon completion of the management plan and provided the rental dwelling unit is in compliance with
24 the provisions set forth herein and all applicable code provisions, the owner may submit a written
25 request to the department for reinstatement of the license. The request shall be accompanied by a fee
26 of \$75.00 per license.

27 (e) Failure to comply with applicable code provisions or continued nuisance activities during the
28 timeframe of the management plan may result in revocation of the rental dwelling unit license.

29 (f) Upon issuance of a notice of suspension or revocation of a rental dwelling unit license, a dwelling
30 unit shall be vacated within 30-days from the date of the suspension or revocation.

31 (g) Appeals shall be submitted pursuant to Sec. 71-39 - Appeals.

32 (Ord. No. 2008-17, § 1, 10-14-08)

33 **Sec. 71-35 ~~34~~. - Prohibited rentals.**

34 The rental of real property for permanent or temporary residential purposes to sexual offenders and
35 sexual predators that does not comply with all requirements of Chapter 36, Article IV, of the Code of
36 Ordinances is prohibited.

1 (Ord. No. 2008-17, § 1, 10-14-08)

2 **Sec. 71-36 ~~35~~. - Penalties.**

3 Any owner, owner's representative, person or tenant violating any provision of this chapter shall be
4 subject to enforcement as provided in Article IV, Chapter 2, of the Code of Ordinances.

5 (Ord. No. 2008-17, § 1, 10-14-08)

6 **Sec. 71-37 ~~36~~. - Alternative to licensure and inspection.**

7 (a) As an alternative to the licensure and inspection requirements of this chapter, the owner of large
8 scale rental property may register, on an annual basis, as the provider of rental dwelling units, subject to
9 the standards of this section. Registration is required on an annual basis, and is subject to each
10 requirement of this section. Registration as the provider of rental dwelling units may occur if an applicant
11 for registration complies with each of the standards listed below.

12 (1) The provider owns, manages or operates a rental dwelling complex containing at least 50
13 dwelling units.

14 (2) The rental dwelling unit complex is located on a compact, contiguous property, and is operated
15 as a single entity, with common entries, management, amenities, etc.

16 (3) The provider is responsible for ongoing upkeep, maintenance and repair of all structures,
17 dwellings, landscaping, grounds, amenities and similar common features.

18 (4) The provider provides proof of management by a bonded management company.

19 (5) The provider signs an affidavit that each unit complies with and is maintained in accordance
20 with all applicable land development regulations and with all applicable building, landscaping,
21 appearance, property maintenance codes and requirements adopted by the village. The affidavit
22 shall allow the village to enter and inspect the exterior of the rental dwelling complex if the village
23 believes the complex does not comply with applicable regulations, codes and requirements.

24 (6) The provider agrees to allow the village an inspection, as part of the initial registration process,
25 to ensure compliance with all applicable land development regulations and with all applicable
26 building, landscaping, appearance and property maintenance codes and requirements adopted by
27 the village.

28 (7) The provider completes the registration form. The registration shall be established by the
29 department, and shall include but is not limited to such information as the name, address, and
30 telephone number of the owner, the registered agent or representative, the management company,
31 the onsite manager and the emergency contact for the complex.

32 (8) The provider pays an annual registration fee of \$1,000.00 or as otherwise established by
33 resolution of the village council.

34 (9) The provider agrees to comply with all applicable portions of Chapter 36, Article IV, of this
35 Code regarding permanent or temporary rental of a dwelling unit to a sexual offender or sexual
36 predator.

37 (b) Once a rental dwelling complex is registered, then the complex is exempt from each of the following:

38 (1) Obtaining an annual license for each rental dwelling unit;

1 (2) Complying with other requirements applicable to rental dwelling complexes of less than 50
2 units.

3 (Ord. No. 2008-17, § 1, 10-14-08)

4 **Sec. 71-38 ~~37~~. - Reliance upon license or inspection.**

5 The license and inspection required by this chapter are not a representation, guarantee or warranty of
6 any kind by the village with respect to the fitness of the dwelling for residential purposes or that the
7 dwelling unit complies with all applicable village, county, state or federal codes and requirements. There
8 shall be no reliance by any person on the rental license as to the condition of such dwelling unit. Each
9 lease for a rental dwelling unit executed within the village shall contain a statement substantially in the
10 form of this section.

11 (Ord. No. 2008-17, § 1, 10-14-08)

12 **Sec. 71-39 ~~38~~. - Access to change of occupancy records.**

13 The owner shall make available to the department any rental record necessary to determine when
14 changes of occupancy have occurred. The records shall be made available within not more than two
15 weeks after a written request by the director.

16 (Ord. No. 2008-17, § 1, 10-14-08)

17 **Sec. 71-40 ~~39~~. - Appeals.**

18 Any person aggrieved by the suspension, denial or revocation of a rental dwelling license by the
19 department may appeal to the special magistrate, as established in section 2-203 of the Code of
20 Ordinances. The decision of the department shall be provided in writing to the owner of the rental dwelling
21 unit within ten calendar days after the decision has been made. An appeal shall be filed within 30
22 calendar days following receipt of the decision.

23 (Ord. No. 2008-17, § 1, 10-14-08)

24

25 **Sec. 71-40. - Savings Clause**

26 Nothing contained herein shall prohibit the Village of Wellington from enforcing its codes by any other
27 means, including, but not limited to, injunction, abatement or as otherwise provided by Code.

28 SECTION 2. Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with
29 any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal
30 Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such
31 conflict.

32 SECTION 3. Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared
33 by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this
34 Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

35 SECTION 4. This Ordinance shall become effective immediately upon adoption of the Village Council
36 following second reading.

37 **PASSED** this ____ day of _____, 2014, on first reading.

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PASSED AND ADOPTED this ____ day of _____, 2014, on second and final reading.

WELLINGTON	FOR	AGAINST
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BY: _____	_____	_____
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Bob Margolis, Mayor

_____	_____	_____
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John Greene, Vice Mayor

_____	_____	_____
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Matt Willhite, Councilman

_____	_____	_____
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Howard K. Coates, Jr. Councilman

_____	_____	_____
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Anne Gerwig, Councilwoman

ATTEST:

BY: _____

Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____

Laurie Cohen, Village Attorney