

Ordinance No. 2018-01 – Exhibit A

ARTICLE 1 – GENERAL PROVISIONS

CHAPTER 1 – GENERAL

Sec.1.1.1 – Land Development Regulations

This code shall be known as the Land Development Regulations, commonly referred to as the Code or the LDR.

Sec. 1.1.2 – Authority

Village Council has the authority to adopt the LDR pursuant to Article VIII, Sec.2(b), Fla. Const., Chapter 163 and 166, F.S. and pursuant to other authorities established by the State of Florida.

- A. Pursuant to Chapter 163, Part II, F.S., known as the Community Planning Act, Wellington is required to prepare and adopt a Comprehensive Plan. Implementation of the Comprehensive Plan shall be achieved by adopting the LDRs to govern development. All development undertaken and all actions taken in regards to development orders by Wellington shall be consistent with the LDRs and Comprehensive Plan.
- B. The LDRs shall be consistent with land uses, densities, intensities, capacity, review procedures, timing, and all required and optional elements of the Comprehensive Plan.

Sec. 1.1.3 – Purpose and Intent

- A. The purpose and intent of the LDRs is to encourage appropriate uses of land, water, natural resources, public utilities, drainage, solid waste, open space/conservation, public facilities and efficient level of service related to transportation, education, parks, fire and police facilities.
- B. The purpose and intent of the LDRs is to provide standards and procedures for growth and development patterns that will protect public interest, community character, housing needs, ensure intergovernmental coordination and encourage economic development.
- C. The purpose and intent of the LDRs is to implement the components of Comprehensive Plan in order to ensure public health, safety and welfare of the community.
- D. The purpose and intent of Article 1 of the LDRs is to provide policies for in-process and approved development orders related to the effective date of these LDRs, nonconforming lots, uses and/or structures, eminent domain procedures, and the formal interpretation of the LDRs.

CHAPTER 2 – PREVIOUSLY APPROVED AND IN-PROCESS DEVELOPMENT ORDERS

Sec. 1.2.1 – Previously Approved Development Orders

- A. Development orders that were approved prior to the effective date of these LDRs shall be permitted to apply for subsequent development orders, engineering permits and/or building permits subject to the standards and conditions of approval that were in effect at the time of the approval.
- B. Amendments to the previously approved development orders that propose to modify the density or intensity of a development shall comply with the standards and regulations of this Code, unless

otherwise determined by the PZB Director that the modification would not be permitted under this Code and the project has a vested right or entitlement under the previous code, in which case the amendment shall comply with the previous code.

- C. All previously approved development orders shall comply with the development review procedures set forth in Article 5 of the LDRs, except where conditions of approval in an approved development order provide for different timelines or standards, then the development order shall control.
- D. Any previous conditions of approval in a valid development order shall continue to govern project development and/or site design in the event they exceed this code.

Sec. 1.2.2 – Development Orders In-Process on the Effective Date of this Code

Applications filed before the effective date of these LDRs shall be processed to completion based on the development standards in effect at the time of submittal provided the application(s) was/were deemed sufficient at an in-take meeting. If a pending application is no longer required after the effective date of these LDRs, staff shall notify the applicant and the application shall be withdrawn. If an applicant desires to process the request subject to these LDRs, the application shall be modified to reflect the changes and a resubmittal fee shall be required.

Sec. 1.2.3 – Existing Lots, Uses and/or Structures

All lots, uses or structures legally existing on the effective date of these LDRs that do not comply with these LDRs shall be considered legal nonconforming lots/uses/structures and Chapter 3 of this article shall apply.

Sec. 1.2.4 – Invalid Development Orders

Any development order or approval that is revoked or has expired prior to implementation as set forth in Table 5.2.4-1 of Article 5 shall be subject to these LDRs if the request is submitted for reconsideration.

CHAPTER 3 – NONCOMFORMITIES

Legal nonconforming lots, uses, and/or structures shall be permitted to continue to exist with the limitations set forth in the LDRs. Where possible, the applicant shall take action to bring the nonconformity into compliance with the LDRs. Subsequent development application may require compliance with the LDR as part of the development order.

Sec. 1.3.1 – Determination

Nonconforming status of a lot, use, and/or structure shall be determined based on the following:

- A. Nonconforming status shall only be permissible to those lots, uses, or structures that were legally established prior to the effective date of this code and maintained continuous operation as originally established.
- B. The nonconforming status was created due to an eminent domain action as provided for in Chapter 4 of this article.
- C. Evidence (i.e. permits, development order, recordation of lot, etc.) may be required to determine legal nonconforming status. Affidavits alone shall not be considered sufficient to establish nonconforming status.

Sec. 1.3.2 – Residential and Non-residential Development on Nonconforming Lots

- A. A non-conforming lot may be developed if all of the following are met:
1. The use was permissible under the applicable code at the time the lot was created.
 2. The lot is identified as a legal lot of record by one of the following means:
 - a. The lot was the subject of a recorded agreement for deed or other recorded instrument of conveyance prior to February 5, 1973, which was the initial creation of the Palm Beach County Subdivision Regulations. Lots created by conveyance after this date shall be reviewed by the Village Engineer for Compliance with Article 8 – Subdivision, Platting, and Required Improvements;
 - b. The lot was shown on a recorded map, plat, drawing or survey or was legally subdivided prior to the effective date of the LDRs; or
 - c. The lot is part of an antiquated subdivision as determined by the Comprehensive Plan and is not subject to Article 8 – Subdivision, Platting, and Required Improvements.
 3. The proposed use is permissible under these LDRs.
 4. A variance from the development regulations was granted in accordance with Article 5 of the LDRs.
- B. Residential lots that cannot conform to minimum setbacks, maximum lot coverage or maximum total floor area regulations of the Zoning district are subject to the following requirements:

1. Minimum Setback Requirements:

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|-----------------|------------------|
| Front | 30% of lot depth |
| Side (corner) | 20% of lot width |
| Side (interior) | 15% of lot width |
| Rear | 20% of lot depth |

2. Maximum Lot coverage: 40% of lot area

Sec. 1.3.3 – Non-conforming Uses and Structures

- A. Non-conforming uses and structures may continue to exist in accordance with the following:
1. A non-conforming use/structure shall not be relocated in part, or in full, on a lot unless the non-conformity will be decreased and the development regulations can be met for the zoning district.
 2. A non-conforming use/structure shall not be enlarged or expanded.
 3. A non-conforming use/structure shall not be changed to another non-conforming use/structure. If a non-conforming use/structure is changed to a permitted use/structure, the non-conforming use shall not be re-established at any time.

4. If a non-conforming use is discontinued for more than 180 consecutive calendar days or for fifteen (15) total months during any three (3) consecutive years, then such use may not be re-established. If the discontinuation exceeds this period of time, and can be documented, due to governmental action, the delay period shall not be used to calculate the amount of time a non-conforming use has been discontinued.

B. In addition to section 1.3.3.A, non-conforming structures shall adhere to the following:

1. Maintenance, repair or renovation of structures, inclusive of replacing wiring, plumbing, nonbearing walls and fixtures may be performed to the extent it does not exceed thirty (30) percent of the improvement value of the structure within a twelve (12) month period.
2. Reconstruction due to natural disaster of more than thirty (30) percent of a structure's improvement value at the time of reconstruction must conform with the LDRs. The Planning, Zoning and Adjustment Board (PZAB) shall hear requests for reconstruction, repair or renovation that exceed thirty (30) percent, but is no more than fifty (50) percent of the improvement value of structure. PZAB shall consider the following:
 - a. Compliance of the lot and structure with the LDRs;
 - b. The degree of the non-conformity of the structure;
 - c. Existing impacts of the non-conformity related to parking, access, and other design elements that may affect health, safety and welfare;
 - d. Whether the non-conforming structure will result in health, safety, and welfare hazards; and
 - e. Whether the structure can be reduced or redesigned to mitigate the non-conformity.
3. In determining whether improvements exceed thirty (30) percent of the structure's improvement value, the International Code Council's Building Valuation Data Table shall be used. The Building Official, in his discretion, may use other comparable guidelines accepted in practice to make this determination. The valuation data table is outlined in the Building Safety Journal, as amended periodically, to provide average construction costs per square foot related to natural disaster damage and repair.
4. Any portion of a non-conforming structure that becomes physically unsafe or unlawful due to lack of repair or maintenance shall be declared unsafe or unlawful by Wellington's Building Official. An owner who wishes to restore, repair, or reconstruct shall comply with current LDRs at that time.

CHAPTER 4 – EMINENT DOMAIN

Sec. 1.4.1 – Applicability

Eminent domain action occurs when property is acquired by the Village through an eminent domain proceeding or where property is voluntarily conveyed under the threat of condemnation by the Village, in

accordance with Chapter 166, Florida Statutes and other applicable Florida Statutes. This section shall apply to any conforming or non-conforming properties impacted by eminent domain.

Sec. 1.4.2 – Impacts and Actions for Properties Affected by Eminent Domain

- A. Any portion of property acquired by eminent domain that was previously used to calculate lot area, setbacks, parking, landscaping, sign locations or other development regulations, and results in reduced calculations that do not comply with the LDRs, shall continue to exist and are considered legally conforming. Additionally, the following shall apply:
 - 1. Written Approval from the Village Engineer shall be required for access that is less than ten (10) feet in length, measured from the Right-of-Way line, or Roadway Easement;
 - 2. Access to non-residential sites and residential sites that share a common access shall maintain ingress and egress in a forward vehicular direction. This does not apply to a typical single family residential driveway.
- B. A structure or use on properties reduced by eminent domain may be enlarged or expanded if the modification complies with the current LDRs.
- C. Any vacant lot reduced by eminent domain that falls below the minimum lot size, frontage, depth or width for the zoning district may be developed and shall meet all other development regulations of this code.
- D. Proposed site improvements that do not comply with the LDRs, and are a direct result of eminent domain, may apply for a variance to the development regulations in accordance with Article 5 of this code.
- E. A structure that does not comply with the LDRs as a direct result of the eminent domain and becomes damaged may be reconstructed in the location and manner as it legally existed after the eminent domain.
- F. Any existing legally established free standing sign located on the property acquired by eminent domain may be relocated onto the remnant site and shall comply with the sign code. Any minor deviation from the sign code related to setbacks and location shall obtain written approval from the PZB Director. Any deviation related to the size and height, shall require a technical deviation approval from the Architectural Review Board.

CHAPTER 5 – DEVELOPMENT ELIGIBILITY FOR VESTED LOTS

The following provisions shall apply to the development of any lot that is not depicted on a plat or record, affidavit of exemption, or affidavit of plat waiver that is valid and in effect.

Sec. 1.5.1 – Eligibility Criteria

A lot, as originally conveyed, may be considered eligible for building permits if a determination of compliance is issued by the PZB Director and the determination is based on the following criteria:

- A. The lot was conveyed into ownership separate from abutting lands pursuant to a recorded deed, recorded agreement for deed or other recorded instrument prior to February 5, 1973;

- B. The lot created by conveyance complied with the density requirements of the Comprehensive Plan in effect at the time of creation;
- C. The lot complied with all other development standards in effect at the time it was conveyed and recorded; and
- D. The lot has legal access that was established at the time of recordation.

Sec. 1.5.2 – Determinations

- A. The owner shall submit a determination request, in the form of a letter, to the PZB Director prior to applying for a building permit. The PZB Director shall respond within ten (10) working days.
- B. Based on the proposed development, the PZB Director or the Village Engineer may determine that a Plat or other instrument be recorded prior to obtaining permits, in accordance with Article 8 of this code.

CHAPTER 6 – INTERPRETATION OF THE LAND DEVELOPMENT REGULATIONS

Sec. 1.6.1 – Formal Interpretation Request

- A. Interpretations of the LDRs shall be made as follows:
 - 1. The PZB Director shall be principally responsible for implementation, interpretations and enforcement of all articles, sections, and provisions of the LDRs and the Comprehensive Plan.
 - 2. Village Engineer shall make interpretations related to driveways and access, Traffic Performance Standards, and Subdivision, Platting, and Required Improvements found in Articles 7 and 8 of this code and provide the interpretation to the PZB Director for approval prior to issuance.
 - 3. The Village Attorney shall make interpretations related to required Maintenance and Use documents.
- B. A request for an interpretation shall be submitted, in the form of a letter, along with the applicable fee to the PZB Director.
- C. A request for an interpretation of the LDRs shall be processed in accordance with the following timeframe:
 - 1. The PZB Director, or designee, shall determine if the request is sufficient or insufficient and notify the applicant within five (5) working days from the date of submittal.
 - 2. Sufficient requests shall be processed and the written interpretation shall be issued to the applicant within fifteen (15) working days from the date of sufficiency notification.
 - 3. The applicant shall be given ten (10) working days from the date of the insufficient request to remedy any specified deficiencies. If the applicant fails to correct the deficiencies, the request shall be considered withdrawn.

- D. The PZB Director shall maintain a record of all interpretations in the Planning and Zoning Division records.
- E. No appeal of an interpretation may be made without first obtaining a formal interpretation of the LDRs. The appeal shall be submitted within thirty (30) calendar days of the issuance of the formal interpretation and in accordance with Article 5 of the LDRs.

Sec. 1.6.2 – Representations by Staff

Any assistance given or any representation made by a member of the staff during consultation shall not constitute approval, and shall not bind the staff, departments, the Village Manager, or the Council. Further, assistance or representation shall not relieve any person of the requirements of the LDRs or other federal, state, or local ordinances. If a conflict exists between staff representation and the laws, rules, LDRs, codes, or ordinances, then such laws, rules, LDRs, codes, or ordinances shall control.

CHAPTER 7 – ENFORCEMENT OF THE LAND DEVELOPMENT REGULATIONS

Sec.1.7.1 – Enforcement Authority

The LDRs shall be enforced in accordance with the following:

- A. Wellington's Council shall appoint Special Magistrates. The Special Magistrates shall have jurisdiction to hear and decide alleged violations of the LDRs and ordinances enacted by Wellington in accordance with Chapter 2 of the Code of Ordinances and in accordance with Chapter 162, Florida Statutes, as amended from time to time.
- B. Wellington's Council, Boards and Committees, and Wellington Departments or Staff shall have the authority to enforce the LDRs in accordance with authority granted within the LDRs and/or Code of Ordinances.

Sec. 1.7.2 – Administrative Remedies

The Planning, Zoning and Building Department, including Code Compliance, shall have the authority to issue cease and desist orders, in the form of written official notices given to the owner, owner's agent, lessee, tenant, contractor or any person using the land, buildings or premises where a violation has been committed or exists.

Sec. 1.7.3 – Legal Remedies

In addition to the penalties and enforcement procedures provided for in Chapter 2 of the Code of Ordinances, Wellington's Council may take lawful civil action or proceeding to prevent, restrain or abate violations of the LDRs and/or Code of Ordinances.