

ORDINANCE NO. 2018-05

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL  
AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES BY  
CREATING NEW ARTICLE IX, SECTIONS 2-362 THROUGH 2-363  
PROVIDING FOR POST DISASTER DEBRIS RECOVERY;  
PROVIDING FOR A CONFLICTS CLAUSE; PROVIDING A  
SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE  
DATE.

**WHEREAS**, Chapter 46 of the Wellington Code of Ordinances sets forth the purpose, intent, requirements, service areas, and other applicable provisions for solid waste collection within the Village; and

**WHEREAS**, the Village of Wellington has previously adopted an Emergency Management Plan the purpose of which is to guide Wellington's emergency operations and response prior to, during, and following the declaration of a disaster or a state of emergency; and

**WHEREAS**, the Village of Wellington has previously adopted a Disaster Debris Management Plan the purpose of which is to guide Wellington to quickly, effectively, efficiently, and in the most cost-effective manner possible, collect and dispose of disaster debris that poses an immediate threat to the health, safety, and welfare of Wellington citizens and poses an immediate threat of significant damage to improved public and private property; and

**WHEREAS**, the Federal Emergency Management Agency (FEMA) has established specific guidelines and requirements relating to debris collection, reimbursement opportunities, contracting, and private agreements; and

**WHEREAS**, disaster debris can pose a significant and immediate threat to the health, safety, and welfare of Wellington residents and the public at large, and to public and property, and Wellington must act quickly in the event of an emergency to eliminate these immediate threats by removing debris;

**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA:**

**SECTION 1: TITLE.** This ordinance shall be known as the Village of Wellington Post-Disaster Debris Recovery Ordinance.

**SECTION 2: DECLARATION OF FINDING AND INTENT.** The Council finds that in the event of a disaster occurring in the Village, a public health and safety threat may result from the generation of widespread debris throughout the Village, that such debris constitutes a hazardous environment for all modes of movement and transporting of the residents as well as emergency aid and relief services, endangerment to all properties in the Village, creates an environment conducive to breeding disease and vermin, and greatly increases risk of fire, and that it is in the public interest to collect and remove disaster debris from all properties, whether public lands,

1 public or private roads, gated communities, and public and private water bodies to eliminate an  
2 immediate threat to life, public health and safety, to reduce the threat of additional damage to  
3 improved property, and to promote economic recovery of the community at large.

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5 It is the intent of this Ordinance to promote the health, safety, and welfare of the residents  
6 of the Village by providing for implementation of Wellington's previously approved Disaster  
7 Debris Management Plan in the event of a disaster, and by providing for the collection and  
8 removal of disaster debris throughout the Village's public and private roads, gated communities,  
9 public areas, and public and private water bodies to eliminate an immediate threat to the life,  
10 public health, and safety of Village residents.

### 11 12 **SECTION 3. IMPLEMENTATION OF THE DISASTER DEBRIS MANAGEMENT PLAN.**

13 Whenever a Local State of Emergency is declared by Palm Beach County, the State of Florida,  
14 the United States Federal government, or pursuant to the Wellington Emergency Management  
15 Plan, the Village shall implement the Disaster Debris Management Plan to collect and remove  
16 disaster debris throughout the Village and may enter in and upon the public and private roads,  
17 gated communities, public and private water bodies, and public areas of the Village as  
18 necessary, to eliminate any immediate threat to life, public health, and safety of residents of the  
19 Village, to reduce the threat of additional damage to improved property, and to promote  
20 economic recovery of the community at large,.

21  
22 Furthermore, to the extent required and allowed by Palm Beach County, the State of  
23 Florida, or the Federal Government, the Village shall undertake to recover to the fullest extent  
24 possible any available funds for debris removal, and to require the completion of any necessary  
25 documents before commencing debris collection.

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27 **SECTION 4.** Chapter 2 of Wellington's Code of Ordinances is amended to create Article  
28 IX, Sections 2-362 through 2-363, as follows:

#### 29 30 **Sec. 2-362. - Declaration of state of emergency.**

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32 (a) Natural, technological and manmade emergencies. In the event of a natural,  
33 technological or manmade emergency, as defined in F.S. § 252.34, the mayor is  
34 designated as the Village official empowered to declare that a state of local emergency  
35 exists within the boundaries of the Village and to exercise the emergency powers  
36 conferred in F.S. Ch. 252. In the absence of the Mayor, the Vice Mayor shall be the  
37 designated Village official to exercise the powers to declare that a state of local  
38 emergency exists within the boundaries of the Village. In the absence of the Vice  
39 Mayor, the next senior Councilmember shall be the designated Village official; or in  
40 his absence, the next senior Councilmember, in order of seniority, shall be the  
41 designated Village official to exercise the powers to declare that a state of local  
42 emergency exists within the boundaries of the Village.

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44 (b) Civil unrest emergency. In the event of an act of violence, riot or general public  
45 disorder, as set forth in F.S. § 870.043, the Mayor is designated as the Village official  
46 empowered to declare that a state of local emergency exists within the boundaries of  
47 the Village. In the absence of the Mayor, the Vice Mayor shall be the designated  
48 Village official to exercise the powers to declare that a state of local emergency exists

1 within the boundaries of the Village. In the absence of the Mayor and Vice Mayor, the  
2 next senior Councilmember, in order of seniority, shall be the designated city official  
3 to exercise the powers to declare that a state of local emergency exists within the  
4 boundaries of the Village.  
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- 6 (c) When a state of local emergency is declared, the Mayor or designated city official  
7 shall, as promptly as practicable, file the written declaration of emergency in the office  
8 of the Village clerk. In the event of an act of violence, riot, or general public disorder,  
9 the declaration of emergency shall be delivered to appropriate news media for  
10 publication and radio and television broadcast thereof, and, if practicable, published  
11 by other means such as by posting and loudspeakers.  
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13 **Sec. 2-363. - Emergency management powers.**  
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15 Upon declaration of a state of local emergency and during the existence of a declared state of  
16 local emergency, the Mayor or designated city official, in addition to any other powers conferred  
17 upon the Mayor or designated city official by F.S. ch. 252, F.S. ch. 870, F.S. ch. 166, or other  
18 law, has the power and authority to:  
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- 20 1. Direct and compel the evacuation of all or part of the population from any stricken  
21 or threatened area within the Village if the Mayor or designated city official deems  
22 this action necessary for the preservation of life or other emergency mitigation,  
23 response, or recovery.  
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- 25 2. Waive the procedures and formalities otherwise required of the Village by law or  
26 ordinance pertaining to:  
27
- 28 a. Performance of public work and taking whatever prudent action is  
29 necessary to ensure the health, safety, and welfare of the community;
  - 30 b. Entering into contracts;
  - 31 c. Incurring obligations;
  - 32 d. Employment of permanent and temporary workers;
  - 33 e. Utilization of volunteer workers;
  - 34 f. Rental of equipment;
  - 35 g. Acquisition and distribution, with or without compensation, of supplies,  
36 materials, and facilities;
  - 37 h. Appropriation and expenditure of public funds.  
38
- 39 3. Prohibit or regulate travel upon any public street, highway or upon any other public  
40 property. Persons in search of medical assistance, food or other commodity or  
41 service necessary to sustain the well-being of themselves or their families or some  
42 member thereof may be excepted from such prohibition or regulation.  
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- 44 4. Impose a curfew upon all or any portion of the Village thereby prohibiting persons  
45 from being on public streets, highways, parks or other public places during the  
46 hours which the curfew is in effect. The duration and application of the curfew shall  
47 be tailored to meet the specific emergency.  
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5. Prohibit any person, firm, or corporation from using the fresh water supplied by the Village for any purpose other than cooking, drinking or bathing.
6. Prohibit the sale or distribution of any alcoholic beverage, with or without the payment or a consideration therefor.
7. Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment and any other place of public assembly.
8. Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public rights-of-way or upon any public property.
9. Authorize the right of access to Village staff and Village contracted agents to enter private roads, gated communities that have executed a right of entry and emergency and disaster ingress/egress easement in a form substantially similar to Exhibit A, attached hereto, and private water bodies to remove post-disaster debris as necessary to eliminate any immediate threat to public health and safety, to reduce the threat of additional damage to improved property, and to promote economic recovery of the community at large.
10. The restrictions referenced in subsections (3) through (7) above may exempt, from all or part of such restrictions, physicians, nurses and ambulance operators performing medical services, on-duty employees of hospitals and other medical facilities, on-duty military personnel, bona fide members of the news media, personnel of public utilities maintaining essential public services, city authorized or requested fireman, law enforcement officers and emergency management personnel and such other classes of persons as may be essential to the preservation of public order and immediately necessary to preserve safety, health and welfare needs of the people within the Village

**SECTION 5.** 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 6.** Should any section, paragraph, sentence, clause, or phrase 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 7.** This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2018 on first reading.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2018, on second and final reading.

**WELLINGTON**

**FOR**

**AGAINST**

BY: \_\_\_\_\_

Anne Gerwig, Mayor

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Michael Drahos, Vice Mayor

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John T. McGovern, Councilman

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Michael J. Napoleone Councilman

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Tanya Siskind, Councilwoman

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**ATTEST:**

BY: \_\_\_\_\_

Chevelle D. Nubin, Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_

Laurie Cohen, Village Attorney

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