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AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, MODIFYING ARTICLE 6 OF THE LAND DEVELOPMENT REGULATIONS RELATED TO VACATION RENTALS BY ADDING VACATION RENTALS TO TABLE 6.2-1: USE REGULATIONS SCHEDULE; AMENDING SEC.6.2.2.A BY CREATING SUPPLEMENTARY REGULATIONS FOR VACATION RENTALS, PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 509, Florida Statutes, established certain regulations for lodging establishments, including vacation rentals and transient lodging; and

WHEREAS, Florida Statutes provide definitions, including but not limited to, vacation rental, transient lodging, and third-party rental platforms; and

WHEREAS, third-party online platforms have made Vacation Rentals easily available to the general public; and

WHEREAS, Section 509.032, Florida Statutes, restricts local governments from enacting regulations that prohibit Vacation Rentals and regulating the duration or frequency of rentals, but allows local governments to enact new regulations governing Vacation Rentals that do not pertain to duration or frequency; and

WHEREAS, Wellington has determined that regulations that comply with the Florida Statutes are appropriate in the Land Development Regulations (LDR) to address occupancy, licensing, residency requirements, sexual offenders/predators, swimming pool safety, compliance with trash, noise, public nuisance, parking, advertising, pet rules, property association approval (if applicable), and to ensure the health, safety, and welfare of the community; and

WHEREAS, these regulations are designed to protect the character of the residential neighborhoods and provide the public the opportunity to offer and use Vacation Rentals in a manner that is consistent with state and local regulations; and

WHEREAS, the Wellington Council, as the governing body, pursuant to the authority vested in it by Chapters 163, 166 and 177 of the Florida Statutes, is authorized and empowered to consider changes to its Land Development Regulations (LDR); and

WHEREAS, the Planning, Zoning and Adjustment Board, acting as the Local Planning Agency, after notice and public hearing on July 8, 2020, recommended approval of the Zoning Text Amendment with a 5-0 vote; and

44 **WHEREAS**, the Council has taken the recommendations from the Planning, Zoning and
45 Adjustment Board, Wellington staff and the comments from the public into consideration in
46 adopting the amendments to the Land Development Regulations that are the subject of this
47 ordinance.

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

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52 **SECTION 1:** Table 6.2-1: Use Regulations Schedule (Exhibit A) of the LDR is hereby
53 amended as follows [~~strike-through~~ formatted text is to be deleted; underline formatted text is to
54 be added].

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56 **SECTION 2:** Sec.6.2.2.A.5 hereby creates supplementary regulations for vacation rentals
57 as follows [~~strike-through~~ formatted text is to be deleted; underline formatted text is to be added]:

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59 5. Vacation Rentals:

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61 a. As used in this section, the following definitions apply:

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63 i. Third-Party Platform Entity means any person, service, business, company,
64 marketplace, or other entity that, for a fee or other consideration, provides
65 property owners and responsible parties a platform or means to offer
66 vacation rentals to transient occupants, whether through the internet or other
67 means.

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69 ii. Responsible Party means the owner of the property and any person or entity
70 authorized by the property owner to obtain all necessary licensing for a
71 vacation rental and who will be responsible for ensuring compliance with all
72 regulations related to vacation rentals. Further, the Responsible Party must
73 be available to respond 24 hours per day, seven (7) days per week to any
74 issue that arises related to the vacation rental.

75
76 iii. Transient Occupant means any person who rents or occupies any dwelling
77 unit or part thereof for less than 30 days or one calendar month, whichever
78 is less, and any guest or invitee of such person.

79
80 iv. Vacation Rental means any dwelling unit or residence, including, but not
81 limited to, any single family or any unit or group of units in a condominium,
82 cooperative, or apartment building, that is rented in whole or in part, to a
83 transient occupant, which is advertised or held out to the public as a place
84 that may be rented to a transient occupant, but shall not include a hotel,
85 motel, or bed and breakfast as defined or referenced in the LDR. For the
86 purpose of this section, Vacation Rental is synonymous with the term short-
87 term residential rental.

b. General standards for operation of a Vacation Rental:

- i. The Responsible Party shall maintain a register with the names and dates of stay of all guests, including but not limited to, all transient occupants and their invitees.
- ii. Maximum occupancy for Vacation Rentals shall be limited to two (2) persons per bedroom, plus two (2) additional persons per property, excluding children under the age of five (5), for overnight use. At all other times, the maximum occupancy for vacation rentals shall not exceed the maximum overnight occupancy of the rental, plus four (4), excluding children under the age of five (5). For the purpose of this section "overnight" means 11:00 p.m. until 6:00 a.m. the following day.
- iii. In any area designated as single family or multi-family (up to four attached units), the Responsible Party shall reside on the property for more than six (6) months per calendar year. Nothing in the section shall preclude the rental of the property at the same time that the responsible party is residing there. The requirements for the Responsible Party to reside on-site shall not apply to vacation rentals located within any residential district with more than four (4) dwelling units per building.
- iv. Solid waste containers sufficient to handle the maximum occupancy permitted shall be provided and maintained in accordance with the Code of Ordinances (CO) and LDR. This includes screening and collection times.
- v. Signs are allowed to the extent permitted by the regulations in the LDR applicable to the relevant zoning district. Any advertisements or signs pertaining to Vacation Rentals that do not comply with the regulations of the sign code will be considered a violation of the LDR.
- vi. The Responsible Party for all Vacation Rental properties is required to conduct a nationwide search to confirm that the prospective Transient Occupant(s) is/are not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense. The Department of Justice offers a free search for all states on the National Sex Offender Public Website. Further, if a Vacation Rental property is located within 2,500 feet of a school, school bus stop, or park, it is a violation of Wellington's CO, and of Florida Statute sections 775.21 and 775.215, to allow any person to establish a temporary, permanent, or transient residence with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction.

- vii. All parking must comply with Article 7 of the LDR based on the use or district. In addition, all vehicles associated with the Vacation Rental, whether in the possession or control of the property owner, Responsible Party, or Transient Occupant, shall only be parked within a driveway or in a designated parking area.
- viii. The Responsible Party and all Transient Occupants shall abide by all applicable state and local public nuisance regulations, including but not limited to, regulations that prohibit any place or premise from being used as the site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior that adversely affects the public health, safety, and welfare.
- ix. If the Responsible Party permits Transient Occupants to have pets at the vacation rental, such pets shall, at all times, be secured within the property lines or on a leash, but shall not be tethered. Continual nuisance barking by pets is prohibited.
- x. All swimming pools on-site must have in place at least one (1) pool safety feature listed in section 515.27, Florida Statutes, prior to the use of the property as a Vacation Rental.
- xi. The Responsible Party and all Transient Occupants must comply with all applicable local, state, and federal regulations, including but not limited to, applicable laws pertaining to anti-discrimination, disability, and fair housing.
- c. No property owner, Responsible Party, or Third-Party/Platform Entity shall offer a Vacation Rental, or allow any person to rent or occupy as a Vacation Rental, any property, in whole or in part, without first obtaining a Business Tax Receipt (BTR) from Wellington and Palm Beach County. The property owner and Responsible Party shall both be listed on the BTR application. All documentation required by the Florida Department of Business and Professional Regulation shall be provided with the BTR application. Additionally, the applicant must submit the Vacation Rental Affidavit, which shall contain:
- i. Address of the Vacation Rental;
- ii. Name, address, phone number and email of the property owner;
- iii. Name, address, phone number and email of the Responsible Party;
- iv. Name and contact information for the Third-Party/Platform Entity or Entities on which the Vacation Rental is, or will be, listed;

- v. Statement that the Responsible Party is, or will be, remitting all applicable County business tax and tourist taxes as required by the County and State. If the Third-Party/Platform Entity will be remitting all such taxes associated with the Vacation Rental on behalf of the Responsible Party, then the applicant must disclose this as part of the affidavit;
- vi. Statement that the Responsible Party has the permission of the property owner and authority to offer the property as a Vacation Rental and act as the Responsible Person;
- vii. Number of rooms and occupancy of the dwelling unit that will be used for a Vacation Rental;
- viii. Statement acknowledging that the Vacation Rental must be registered with the Florida Department of Revenue, or successor agency, for the purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
- ix. Statement acknowledging that the property is, and will at all times during which it is used as a Vacation Rental, be in compliance with the Vacation Rental standards set forth in this section;
- x. Acknowledge and provide a copy of the consent from any governing homeowners association, condominium association, or property owners association with the BTR application;
- xi. Statement acknowledging the Responsible Party will comply at all times with the sexual offender/predator regulations for Vacation Rentals; and
- xii. Statement that all safety measures and features for swimming pools are, and will be at all times, maintained in compliance with the Vacation Rental regulations;
- d. The property owner, Responsible Party and Third-Party/Platform Entity information shall be maintained regularly. When there are changes, notification must be submitted to Wellington's Business Tax Official within 15 calendar days of the changes.
- e. All documentation must be readily available for inspection by Wellington at any time. Any violation of the Vacation Rental regulations may result in a citation by Code Compliance.

219 **SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this
220 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington
221 Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of this
222 Ordinance shall prevail to the extent of such conflict.
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224 **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this
225 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not
226 affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part
227 so declared to be invalid.
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229 **SECTION 5:** This Ordinance shall become effective immediately upon adoption by the
230 Wellington Council following second reading.
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PASSED this ____ day of _____, 2020, upon first reading.

PASSED AND ADOPTED this ____ day of _____ 2020, on second and final reading.

WELLINGTON

FOR AGAINST

BY: _____	_____	_____
Anne Gerwig, Mayor		
_____	_____	_____
Tanya Siskind, Vice Mayor		
_____	_____	_____
John McGovern, Councilman		
_____	_____	_____
Michael Drahos, Councilman		
_____	_____	_____
Michael Napoleone, Councilman		

ATTEST:

BY: _____
Chevelle Addie, Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie Cohen, Village Attorney