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ORDINANCE NO. 2021-27

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 2 IN ITS ENTIRETY AS CONTAINED HEREIN TO SIMPLIFY THE CODE, REMOVE UNNECESSARY AND OBSOLETE PROVISIONS, PROVIDE USAGE STANDARDS FOR VILLAGE PROPERTY, ADOPT THE PALM BEACH COUNTY CODE OF ETHICS, PRESERVE SOVEREIGN IMMUNITY, CLARIFY REIMBURSEMENT FOR SUCCESSFUL DEFENSE OF ETHICS COMPLAINTS, REVISE CODE COMPLIANCE PROCEDURES, REMEDIES AND APPOINTMENT OF SPECIAL MAGISTRATES, ADDRESS PURCHASE AND DISPOSAL OF REAL AND PERSONAL PROPERTY, PROVIDE FOR BOARDS AND COMMITTEES, PROVIDE FOR EMERGENCY MANAGEMENT, PRESERVE THE RIGHTS OF INDIVIDUALS AND BUSINESSES DURING DECLARED EMERGENCIES; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the Wellington Village Council, as the governing body of Wellington has the authority, pursuant to Article VIII, section 2 of the Florida Constitution, and Chapters 162 and 166 of the Florida Statutes, is authorized and empowered to adopt legislation to govern the affairs of its citizens; and

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WHEREAS, Wellington adopted its first Code of Ordinances in 1997, shortly after incorporation, and since that time has adopted revisions as necessary to protect the health, safety and welfare of its citizens; and

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WHEREAS, Wellington believes that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.

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

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SECTION 1: Chapter 2 of Wellington's Code of Ordinances is hereby repealed in its entirety and Chapter 2 titled "Administration" is hereby adopted as specifically provided in Exhibit A attached to this Ordinance.

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SECTION 2: 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

47 this Ordinance shall prevail to the extent of such conflict.

48
49 **SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby
50 repealed.

51
52 **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this
53 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision
54 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,
55 other than the part so declared to be invalid.

56
57 **SECTION 5:** This Ordinance shall become effective immediately upon adoption
58 of the Wellington Council following second reading.

59
60 **PASSED** this _____ day of _____, 2021 upon first reading.

61
62 **PASSED AND ADOPTED** this _____ day of _____, 20__ on second and
63 final reading.

64
65 **WELLINGTON**

	FOR	AGAINST
66 BY: _____	_____	_____
67 Anne Gerwig, Mayor		
68		
69 _____	_____	_____
70 John McGovern, Vice Mayor		
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72 _____	_____	_____
73 Michael Drahos, Councilman		
74		
75 _____	_____	_____
76 Michael Napoleone, Councilman		
77		
78 _____	_____	_____
79 Tanya Siskind, Councilwoman		
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82 **ATTEST:**

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85 BY: _____
86 Chevelle D. Addie Village Clerk
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**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie S. Cohen, Village Attorney

EXHIBIT "A"

~~Chapter 2—ADMINISTRATION^[1]~~

Footnotes:

~~—(1)—~~

Charter reference—Municipal powers, § 5; elections, § 9.

Cross reference—Any administrative ordinance of the village not in conflict or inconsistent with the provisions of this Code saved from repeal, § 1-8(3); planning, ch. 42; special districts, ch. 50; taxation, ch. 58; utilities, ch. 66.

State Law reference—Public records, F.S. ch. 119; municipal code enforcement, F.S. ch. 162; intergovernmental programs, F.S. ch. 163; municipal powers generally, F.S. ch. 166.

~~ARTICLE I.—IN GENERAL~~

~~Sec. 2-1.—Village seal.~~

- (a) ~~The following emblem, shown in any color, or any part thereof, with or without the legend "A Great Hometown, Let us Show You", or any combination of any of the components of the emblem, is hereby designated as the official seal of the Village of Wellington:~~



- (b) ~~The village manager is hereby authorized to adopt administrative standards and rules for the unofficial use of the village seal and may impose fees for such use upon a finding that the collection of such fees serves a public purpose.~~

~~(Ord. No. 98-13, § 1, 12-17-96; Ord. No. 2014-05, § 1, 2-25-14)~~

~~Secs. 2-2—2-30.—Reserved.~~

~~ARTICLE II.—COUNCIL^[2]~~

Footnotes:

~~—(2)—~~

Charter reference—Village council, § 6.

~~Sec. 2-31.—Regular meetings.~~

The regular meetings of the village council shall be established by resolution as required by the Charter.

(Ord. No. 96-02, § 1, 4-30-96)

~~Sec. 2-32. Workshop meetings.~~

The village council may schedule as many workshop meetings as it may determine are necessary, together with the date, time and place for such meetings being approved at any regular or special session of the village council.

(Ord. No. 96-02, § 2, 4-30-96)

~~Sec. 2-33. Notice of meetings.~~

The village clerk shall post written notice of all special and workshop village council meetings in the village hall as soon as practicable upon scheduling of such meetings by the village council. Regular meetings of the village council shall begin on or about 7:30 p.m., unless changed by vote of the village council.

(Ord. No. 96-02, § 3, 4-30-96)

~~Sec. 2-34. Adjournment of regular meetings.~~

Regular meetings of the village council shall be adjourned no later than on or about 11:00 p.m. on the date when a meeting is convened, unless changed by vote of the village council. If there is pending business on the floor at 11:00 p.m. during any such meeting, then such business may be continued to the next regular village council meeting and shall be the first item on the agenda, unless changed by vote of the village council. The required adjournment time of 11:00 p.m. shall be strictly enforced.

(Ord. No. 96-02, § 4, 4-30-96)

~~Sec. 2-35. Chairperson to conduct meetings.~~

The mayor, as chairperson of the council, shall take the chair at the hour appointed for any village council meeting, and shall immediately call all members to order, and with the appearance of a quorum, shall proceed to conduct the meeting.

(Ord. No. 96-02, § 5, 4-30-96)

~~Sec. 2-36. Addressing the chair; recognition.~~

No member, while the council is in session, shall offer any motion or make any remarks, or speak on any subject under discussion, without addressing and being recognized by the chairperson. When more than one member shall seek recognition by the chairperson at or near the same time, the chairperson shall decide in favor of the member who shall first attract the chairperson's attention, and no member shall interrupt another while speaking except to call such member to order.

(Ord. No. 96-02, § 6, 4-30-96)

~~Sec. 2-37. Questions of order; appeal.~~

~~The chairperson shall decide all questions of order, but any member dissatisfied with any decision by the chairperson shall have the right of appeal to the council. The decision of the council shall be final and binding.~~

~~(Ord. No. 96-02, § 7, 4-30-96)~~

~~Sec. 2-38.—Motions to reconsider.~~

~~A motion to reconsider any of the proceedings of the village council will not be entertained unless it is made by a member who previously voted in the majority; nor shall it be entertained at any meeting other than the one at which the proceedings were had or the meeting immediately succeeding.~~

~~(Ord. No. 96-02, § 8, 4-30-96)~~

~~Sec. 2-39.—Address of council by public.~~

~~(a) No person other than a member shall be allowed to address the council unless permitted by the chairperson.~~

~~(b) All members of the public addressing the village council shall do so at the lectern provided.~~

~~(Ord. No. 96-02, § 9, 4-30-96)~~

~~Sec. 2-40.—Parliamentary rules; enforcement; suspension.~~

~~(a) The chairperson, when the village council is in session, shall enforce parliamentary rules for its government in accordance with Robert's Rules of Order, Newly Revised.~~

~~(b) Any of the parliamentary rules may be suspended by the vote of four members of the village council for the meeting then in session.~~

~~(Ord. No. 96-02, § 10, 4-30-96)~~

~~Sec. 2-41.—Voting; recordkeeping.~~

~~All votes shall be cast by ayes (affirmative or negative) of the village council, and the village clerk shall record the vote of each member.~~

~~(Ord. No. 96-02, § 11, 4-30-96)~~

~~Sec. 2-42.—Record of ordinances, resolutions, rules and policies.~~

~~The clerk shall keep a permanent separate book, in which shall be entered all permanent ordinances, resolutions, rules and policies adopted by the village council.~~

~~(Ord. No. 96-02, § 12, 4-30-96)~~

~~Sec. 2-43.—Salary additive of council members effective April 1, 2004.~~

~~In addition of the compensation of \$300.00 provided to the mayor and village council members pursuant to Section 5(e) of the Village Charter, the mayor and village council members shall, effective April 1, 2004, be entitled to the payment of a monthly salary additive ("additive"). The additive shall be~~

~~\$542.00 per month for the mayor and \$500.00 per month for each council member. The intent of this additive is compensation for work performed and to provide a partial offset to the numerous expenses that are incurred by the mayor and council members in their official duties. When engaged in travel and training on behalf of the village, the mayor and council members shall be entitled to reimbursement for their expenses above and beyond the \$542.00 per month for the mayor and \$500.00 per month for council members additive in accordance with division 3, "reimbursement for travel and training", of chapter 2, "administration" of the Village Code of Ordinances.~~

~~(Ord. No. 2003-34, § 1, 12-9-03; Ord. No. 2012-22, § 2, 10-9-2012)~~

~~Secs. 2-44—2-75.—Reserved.~~

~~ARTICLE III.—OFFICERS AND EMPLOYEES^[3]~~

~~Footnotes:~~

~~—(3)—~~

~~Charter reference—Charter officers, § 8.~~

~~DIVISION 1.—GENERALLY~~

~~Secs. 2-76—2-95.—Reserved.~~

~~DIVISION 2.—CODE OF ETHICS^[4]~~

~~Footnotes:~~

~~—(4)—~~

~~Charter reference—Violation of code of ethics by councilmember, § 6(G)(2)(d); establishment of code of ethics, § 13(B).~~

~~Sec. 2-96.—Intent of division.~~

~~It is the intent of this division to establish guidelines for ethical standards of conduct for all village officials and employees, to set forth those acts or actions that conflict with the best interests of the village and conflict with or are incompatible with the proper discharge of duties and required independence of judgment and to direct disclosure by such officials and employees of private financial or personal interests in matters affecting the village.~~

~~(Ord. No. 96-21, § 1, 10-29-96; Ord. No. 2009-11, § 2, 6-9-09)~~

~~Sec. 2-97.—Supplementary nature of division.~~

~~This division, as adopted, shall not conflict with, but shall be in addition to any prohibition and requirement of F.S. §§ 112.311—112.326 or any other general or special law relating to ethical conduct and interest on contracts of village officials and employees. It is the intent of this division to require more stringent standards than those provided under state law.~~

~~(Ord. No. 96-21, § 2, 10-29-96)~~

~~Sec. 2-98.—Definitions.~~

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Agency means any local or municipal governmental entity, any department, division, bureau, commission, authority, council, board or any advisory body.~~

~~Village official or employee means an elected official, officer or employee of the village, whether paid or unpaid, excluding members of any administrative board or advisory body.~~

~~(Ord. No. 96-21, § 3, 10-29-96; Ord. No. 2009-11, § 2, 6-9-09)~~

~~Cross reference—Definitions generally, § 1-2.~~

~~Sec. 2-99.—Prohibited acts or conduct.~~

~~(a)—Solicitation and acceptance of gifts. Solicitation and acceptance of gifts shall be regulated as follows:~~

~~(1)—Village officials and employees are prohibited from soliciting or accepting anything of value, such as a gift, a loan, a reward, a promise of future employment, a favor or a service that is based on an understanding that their vote, official action or judgment would be influenced by such gift.~~

~~(2)—Village officials and employees are prohibited from soliciting any gift, food or beverage for their own benefit from a political committee, a committee of continuous existence, any advocate who appeared before their council, board, advisory body, commission or department, as the case may be, within the past 12 months, or the partner, firm or employer or principal of such advocate.~~

~~(3)—Village officials and employees are prohibited from directly or indirectly accepting a gift worth over \$100.00 from such an advocate described in subsection (a)(2) of this section, from a partner, firm, employer or principal of the advocate, or from a political committee or committee of continuous existence.~~

~~(b)—Unauthorized compensation. Village officials and employees and members of their immediate household are prohibited from accepting any compensation, payment or thing of value when they know or, with the exercise of reasonable care, should know that it is given to influence a vote or other official action.~~

~~(c)—Solicitation or acceptance of honoraria. Solicitation or acceptance of honoraria shall be regulated as follows:~~

~~(1)—Village officials and employees are prohibited from soliciting an honorarium which is related to their public offices or duties.~~

~~(2)—Village officials and employees are prohibited from knowingly accepting an honorarium. However, they may accept the payment of expenses related to an honorarium event, provided that the expenses are disclosed.~~

~~(3)—If the village official or employee knows the amount of the expenses before the event, he must disclose the amount and type of expenses prior to the event.~~

~~(Ord. No. 96-21, § 4, 10-29-96; Ord. No. 2009-11, § 2, 6-9-09)~~

~~State Law reference—Receipt of gifts, F.S. § 112.3148; solicitation and disclosure of honoraria, F.S. § 112.3149.~~

~~Sec. 2-100.—Prohibited employment and business relationships.~~

- (a) ~~Doing business with one's agency.~~ Village officials and employees are prohibited from purchasing; renting or leasing any realty, goods or services for their agency from a business entity in which they own more than five percent interest. Village officials and employees, acting in a private capacity, are prohibited from renting, leasing, or selling any realty, goods, or services to their own agency.
- (b) ~~Exemptions.~~ The prohibitions against doing business with one's agency and having conflicting employment shall not apply:
- (1) ~~When the business is rotated among all qualified suppliers in the village;~~
 - (2) ~~When the business is awarded by sealed, competitive bidding and the village official or employee, or his relative, has not attempted to persuade agency personnel to enter the contract;~~
~~or~~
 - (3) ~~When the aggregate of any such transactions does not exceed \$100.00 in a calendar year.~~
- (c) ~~Lobbying by former village officers and employees.~~ Village officials and employees hired after October 29, 1996, are prohibited from representing another person or entity for compensation before the village for three years following vacation of office or termination of employment with the village. No former village officer or employee shall be held in violation of this section if the officer or employee maintains a relationship with an entity which is a tax-exempt organization under section 501(c) of the Internal Revenue Code and where the officer or employee receives no compensation.

~~(Ord. No. 96-21, § 5, 10-29-96; Ord. No. 2009-11, § 2, 6-9-09)~~

~~Sec. 2-101.—Reserved.~~

Editor's note—Section 1 of Ord. No. 99-09, adopted May 11, 1999, repealed § 2-101 in its entirety. Formerly, § 2-101 pertained to the ethics board and derived from § 6 of Ord. No. 96-21, adopted Oct. 29, 1996.

~~Sec. 2-102.—Enforcement of division.~~

The village council shall have the primary responsibility for enforcement of this division. The village council shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the village for violation of this division or any applicable civil or criminal law concerning conduct of village officials and employees.

~~(Ord. No. 96-21, § 7(A), 10-29-96; Ord. No. 2009-11, § 2, 6-9-09)~~

~~Secs. 2-103—2-125.—Reserved.~~

~~DIVISION 3.—REIMBURSEMENT FOR TRAVEL AND TRAINING⁽⁵⁾~~

Footnotes:

~~—(5)—~~

Editor's note—Ord. No. 2014-01A, § 1, adopted May 13, 2014, amended Div. 3 in its entirety to read as herein set out. Former Div. 3, §§ 2-126—2-132, pertained to similar subject matter, and derived from Ord. No. 97-01, § 1, adopted Jan. 28, 1997; Ord. No. 2003-29, §§ 1, 2, adopted Oct. 28, 2003; Ord. No. 2006-11, § 1, adopted August 22, 2006.

Charter reference—Expenses of councilmembers, § 6(E).

Cross reference—Any blank form adopted by the council pertaining to travel advances or expenses saved from repeal, § 1-8(14).

State Law reference—Per diem and travel expenses, F.S. § 112.061.

~~Sec. 2-126.—Purpose of division.~~

~~The purpose of this division is to set forth the policy for travel advances and expense reconciliation for the village council and all village staff.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-127.—Scope of division.~~

~~This division establishes guidelines for allowable expenses and the procedure for accurate and timely reconciliation of travel expenses.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-128.—Expense guidelines.~~

~~General guidelines for travel and training expenses are as follows:~~

- ~~(1) —Travel and training expenses shall reflect correct and complete expenditures (registration fees, lodging, transportation, etc.) that were incurred by the requesting party and shall be reported to Financial Services within a reasonable amount of time in order to avoid taxation per the Department of Treasury Internal Revenue Service (IRS) regulations.~~
- ~~(2) —No reimbursement shall be allowed where those costs are incurred and accounted by another person (i.e., two persons traveling in one vehicle cannot claim duplicate mileage/travel costs).~~
- ~~(3) —Subsistence may be reduced for any meals or lodging included in the conference, seminar or meeting registration.~~
- ~~(4) —No reimbursement shall be allowed for the spouse (or any other traveling companion) of the village council or village staff.~~
- ~~(5) —No reimbursement shall be allowed for costs not actually incurred.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-129.—Travel advances.~~

~~The village does provide travel advances for travelers who provide the appropriate documentation to financial services within a reasonable amount of time as outlined by IRS guidelines.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-130.—Sales tax exemption; reasonable expenses for lodging, meals, transportation and services.~~

~~Per diem reimbursement for meals shall be in accordance with the Department of Treasury Internal Revenue Service (IRS) as currently applicable and as these rates are periodically amended, meaning when the rates change, the village rate will automatically change accordingly.~~

- (1) ~~No receipts are required for per diem rates. Meals which exceed these limits by reason of location or type of function will be reimbursed if receipts are provided, and the exception shall be approved by the village manager or designee. Conference or seminar banquets and lunches in excess of the per meal allowance are allowable exceptions; however, these must be noted on the program or agenda.~~
- (2) ~~Traveler may opt out of meals that are included in the conference, seminar or meeting registration, only if documented to serve a business/public purpose. Opting out of an already paid for (included in registration) meal will not be reimbursed. Receipts and proper documentation must be submitted and approved by village manager or designee.~~
- (3) ~~Payments for group meals while traveling require a written explanation attached to the receipt. The village reserves the right to withhold any meal reimbursement not having sufficient proof of actual expenditures and a valid reason of public purpose.~~
- (4) ~~Tips will be reimbursed on a reasonable and customary basis, and include but are not limited to meals, baggage handling, transportation, valet and porter.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-131. Non allowable travel expenditures.~~

- (a) ~~No entertainment or alcoholic beverage expenses shall be reimbursed.~~
- (b) ~~Airline clubs.~~
- (c) ~~Airline upgrades.~~
- (d) ~~Business or first-class airfares.~~
- (e) ~~Books, magazines, newspapers.~~
- (f) ~~Child-care, babysitting, house-sitting, pet-sitting/kennel charges.~~
- (g) ~~Commuting between home and work.~~
- (h) ~~Charge card delinquency assessments.~~
- (i) ~~Costs incurred by traveler's failure to cancel transportation or hotel reservations in a timely fashion.~~
- (j) ~~Evening wear rentals.~~
- (k) ~~Formal wear expenses.~~
- (l) ~~Flowers.~~
- (m) ~~Gifts.~~
- (n) ~~Haircuts and personal grooming.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Sec. 2-132. Transportation.~~

~~All travel must be by a usually traveled route. In case a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. The department head or his or her designee shall designate the most economical method of travel for each trip, keeping in mind the following conditions:~~

- (1) ~~The nature of the business.~~

~~(2) The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation and per diem or subsistence required). When it is more efficient and economical to either the traveler or village, jet service offered by any airline may be used when the cost is within an approved threshold determined by the department head or designee.~~

~~(3) The number of persons making the trip and the amount of equipment or material to be transported.~~

~~(a) Airfare. Take advantage of special rates, when available.~~

~~(b) Mileage. The rate of reimbursement for the use of a personal car will be in accordance with the most current standard mileage rate of Department of Treasury IRS Publication 463 "Travel, Entertainment, Gifts and Car Expense". Reimbursement shall generally not exceed the reasonable cost of commercial airfare, including transportation to and from the airport.~~

~~(c) Village vehicle. Receipts for gasoline purchases for village vehicles must be provided.~~

~~(d) Rental car. A copy of the lease agreement for a rental car must be provided.~~

~~(e) Taxi/limousine service. Receipts must be provided for a taxi/limousine service.~~

~~(f) Tolls, parking facilities. Receipts must be provided for all tolls and parking charges.~~

~~(Ord. No. 2014-01A, § 1, 5-13-14)~~

~~Secs. 2-133—2-155. Reserved.~~

~~DIVISION 4. DEFENSE OF OFFICERS AND EMPLOYEES~~

~~Sec. 2-156. Civil liability; exceptions.~~

~~To the extent permitted by law, the village is hereby authorized to expend from village funds the amount of money necessary as payment on behalf of any officer or employee of the village, that amount of money which such officer or employee becomes obligated to pay by reason of any civil liability imposed by law upon such officer or employee, individually, except as hereinafter set forth, for claims or causes of action arising out of the acts or conduct of such officer or employee performed in good faith within the scope of the duties or employment of such officer or employee, which claims or causes of action were not the result of any willful, wanton, or malicious act of such officer or employee in the discharge of said duties or employment; provided, however, the village shall not be liable to any officer or employee under any circumstances for claims or causes of action where said officer or employee acted in bad faith, with malicious purpose, or in a manner exhibiting wanton or willful disregard of human rights, safety of property, or committed acts involving moral turpitude.~~

~~(Ord. No. 97-08, § 1, 5-13-97; Ord. No. 98-37, § 1, 1-26-99)~~

~~Sec. 2-157. Civil claims, cause of action or litigation.~~

~~To the extent allowed by law, the village shall defend any civil claim, cause of action, or litigation that comes within the terms of this section, either by its legal counsel or by other counsel designated and retained by the village for said purpose, when such defense is not afforded by any policy of insurance carried by the village. In the event the claim, cause of action, or litigation is covered by a policy of insurance of the village, whether said policy covers litigation or suits of defense, it shall be discretionary with the village as to whether its legal counsel or other attorneys retained by it assist in said defense. The assumption of the defense of any said litigation shall not preclude the defense being conducted under a reservation of rights, indemnification, or any other legal rights of the village.~~

~~(Ord. No. 97-08, § 2, 5-13-97; Ord. No. 98-37, § 2, 1-26-99)~~

~~Sec. 2-158.—Applicability of section 2-156.~~

~~The provisions of section 2-156 of this article shall not be applicable in the event the village carries insurance policies covering such acts or omissions, unless a claim or cause of action should result in a judgment in excess of policy limits. In no event shall section 2-156 be applicable in the case of an award of exemplary or punitive damages.~~

~~(Ord. No. 97-08, § 3, 5-13-97; Ord. No. 98-37, § 3, 1-26-99)~~

~~Sec. 2-159.—Payment of reasonable attorney's fees.~~

~~The village council is authorized to expend village funds for the payment of reasonable attorney's fees incurred by any past or present member of the village council or any person appointed by the village council to any village agency, authority, board, or commission when said person is charged with a violation, or violations, of any of the provisions of F.S. § 286.011, when said person is subsequently acquitted or the charge, or charges, against said person are dismissed, or by any person previously appointed but no longer a member of any village agency, authority, board, or commission when said person is charged with a violation, or violations, of any of the provisions of such section when said person is subsequently acquitted or the charge, or charges, against said person are dismissed.~~

~~(Ord. No. 97-08, § 4, 5-13-97; Ord. No. 98-37, § 4, 1-26-99)~~

~~Sec. 2-160.—Sovereign immunity of village.~~

~~Nothing contained herein shall be construed as a waiver of sovereign immunity by the village.~~

~~(Ord. No. 97-08, § 5, 5-13-97; Ord. No. 98-37, § 5, 1-26-99)~~

~~Secs. 2-161—2-174.—Reserved.~~

~~DIVISION 5.—RESERVED^[6]~~

Footnotes:

~~—(6)—~~

~~**Editor's note**—Ord. No. 2012-13, § 2, adopted June 12, 2012, repealed §§ 2-175—2-178, which pertained to lobbyist disclosure and derived from Ord. No. 2010-23, § 1, adopted Nov. 9, 2010.~~

~~Secs. 2-175—2-190.—Reserved.~~

~~ARTICLE IV.—CODE ENFORCEMENT^[7]~~

Footnotes:

~~—(7)—~~

State Law reference—Municipal code enforcement, F.S. ch. 162.

DIVISION 1.—GENERALLY

Sec. 2-191.—Intent of article.

It is the intent of this article to promote, protect, and improve the health, safety, and welfare of the citizens of the village by providing an equitable, expeditious, effective, and inexpensive method of enforcing the codes of the village.

(Ord. No. 96-19, § 1, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06)

Sec. 2-192.—Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code enforcement clerk means any employee of the village so designated by the manager.

Code inspector means those authorized agents or employees of the village whose duty it is to assure code compliance.

Enforcement board or board means the village code enforcement board that was in existence prior to June 11, 2006.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found through the enforcement board or special magistrate or any other quasi-judicial or judicial process to have violated or has admitted violating the same provision within five years prior to the violation, notwithstanding, the violations occur at different locations.

Special magistrate means a person who is appointed by the village council in accordance with section 2-203 of this Code and is authorized to hear and decide cases involving code violations.

Village attorney means the legal counselor for the village.

(Ord. No. 96-19, § 2, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14; Ord. No. 2020-08, § 1, 5-26-20)

Cross reference—Definitions generally, § 1-2.

State Law reference—Definitions, F.S. § 162.04.

Sec. 2-193.—Ex parte communications.

No ex parte communication relative to the merits of any pending action, threat, or offer of reward shall be made to the special magistrate by any employee of the village, or any party to the proceeding, or any person who directly or indirectly would have a material interest in such an action pending before the special magistrate, or the authorized representative or counsel of any such party.

(Ord. No. 96-19, § 3, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

Sec. 2-194.—Village attorney's legal capacity for service.

The village attorney may act as prosecutor for the village in cases brought before the special magistrate.

(Ord. No. 96-19, § 7, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

State Law reference—Similar provisions, F.S. § 162.05(5).

~~Sec. 2-195. Waiver of right to hearing; consent to fine.~~

The alleged violator may, if he so elects, waive his right to a hearing and consent to the imposition of a fine after a stated period of time in which to comply. The waiver shall be in writing on a form provided by the village, signed by all violators named in the notice of violation and witnessed.

(Ord. No. 96-19, § 11, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

~~Sec. 2-196. Duties of code inspector.~~

- ~~(a) Enforcement proceedings; initiation.~~ It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes. No special magistrate shall have the power to initiate such enforcement proceedings.
- ~~(b) Notice of violation; time for correction.~~ If a violation of a code is found, the code inspector shall notify the violator, unless subsection (c) or (d) of this section applies, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the special magistrate and request a hearing pursuant to the procedure set forth in this section. Notice shall be served upon the violator as provided in this article. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for the correction by the code inspector, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.
- ~~(c) Action on violations posing threat to public or irreparable by nature.~~ If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing.
- ~~(d) Repeat violators.~~ If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the special magistrate and request a hearing. The special magistrate, through their clerical staff, shall schedule a hearing and shall provide notice as set forth in this article. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay such costs as determined by the special magistrate.

(Ord. No. 96-19, § 12, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

State Law reference—Similar provisions, F.S. § 162.06.

~~Sec. 2-197. Subpoena of evidence.~~

~~The code inspector, the special magistrate, or the alleged violator may request that witnesses, records (including surveys, plats, and other materials) and other evidence are subpoenaed to any violation hearing. Subpoenas shall be served by the sheriff of the county. These subpoenas shall be available through the clerk of the enforcement division. A nominal administrative fee shall be charged for the preparation and service of the subpoenas, the amount of which administrative fee shall be established by resolution of the village council.~~

~~(Ord. No. 96-19, § 13, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)~~

~~Sec. 2-198. Hearings.~~

- ~~(a) *Conduct.* Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with accepted parliamentary procedures relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings.~~
- ~~(b) *Minutes; provision of clerical and administrative personnel.* Minutes shall be kept of all hearings, and all hearings shall be open to the public. The code enforcement clerk shall provide clerical and administrative personnel as may be reasonably required by the special magistrate for the proper performance of its duties.~~
- ~~(c) *Presentation of case; recovery of costs.* Each case before the special magistrate shall be presented by the village attorney, or by a member of the village staff. If the village prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate, and such costs may be included in a lien authorized by this article and applicable laws.~~
- ~~(d) *Testimony.* The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code inspector and the alleged violator.~~
- ~~(e) *Rights of parties to hearing.* Each party to the hearing shall have the right to:
 - ~~(1) Call and examine witnesses.~~
 - ~~(2) Introduce exhibits.~~
 - ~~(3) Cross-examine opposing witnesses.~~
 - ~~(4) Impeach witnesses.~~
 - ~~(5) Rebut evidence.~~~~
- ~~(f) *Representation of alleged violator.* The alleged violator has the right to be represented by an attorney at all hearings before the special magistrate.~~
- ~~(g) *Evidence.* All relevant evidence shall be admitted if, in the opinion of the special magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in civil actions. The special magistrate may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.~~
- ~~(h) *Findings of fact; issuance of orders.* At the conclusion of the hearing, special magistrate shall issue findings of fact based on evidence of record and conclusions of law, and shall issue an order affording~~

the proper relief consistent with powers granted in this article. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by such date.

- (i) ~~Motions for rehearing or reconsideration of orders.~~ Motions for rehearing, motions for reconsideration, or any other motion that seeks to have the special magistrate overturn a previously issued order are not permitted and shall not be considered by a special magistrate.

(Ord. No. 96-19, § 14, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14; Ord. No. 2016-19, § 1, 11-8-16)

State Law reference—Similar provisions, F.S. § 162.07(4).

Sec. 2-199.—Fines; imposition of liens.

- (a) ~~The special magistrate, upon notification by the code inspector that a previous order of the enforcement board or special magistrate has not been complied with by the set time, may order the violator to pay a fine not to exceed \$250.00 for each day that the violation continues past the date set for compliance for a first violation, or in the case of a repeat violation may order the violator to pay a fine not to exceed \$500.00 for each day the violation continues beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the special magistrate shall notify the village council, which may make all repairs which are required to bring the property into compliance and charge the violator with the cost of the repairs as part of the fine imposed pursuant to this article. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.~~
- (b) ~~A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. It may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property. A fine imposed pursuant to this article shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to F.S. § 162.09, whichever occurs first. Once a violator comes into compliance, the violator may request a reduction of the fine from the special magistrate. In making the determination on whether to reduce a fine, following compliance, the special magistrate may take into consideration the gravity of the violation, any actions taken by the violator to correct the violation, any previous or subsequent violations committed by the violator, whether there was intervening matters that prevented or obstructed the violator from timely complying with the order to correct the violation, and/or the financial ability of the violator to pay the full amount of the fine. A lien arising from a fine imposed pursuant to this article runs in favor of the village council, and the village council may execute a satisfaction or release of lien entered pursuant to this article. After three months from the filing of any such lien which remains unpaid, the special magistrate may authorize the village attorney to foreclose on the lien, or to sue to recover a money judgment for the amount of the lien, plus accrued interest. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under section 4, article X of the state constitution.~~

(Ord. No. 96-19, § 15, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

State Law reference—Similar provisions, F.S. § 162.09.

Sec. 2-200.—Duration of lien; action to foreclose; costs collection; continuance of lien.

No lien provided in this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced in a court of competent jurisdiction pursuant to F.S. 162.09(3). In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The village council shall be entitled to collect all costs incurred in recording and satisfying a valid lien.

(Ord. No. 96-19, § 16, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)

State Law reference—Similar provisions, F.S. § 162.10.

Sec. 2-201. ~~Service of notice; methods.~~

(a) ~~All notices required by this part must be provided to the alleged violator by:~~

- ~~(1) Certified mail to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The local government may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If the only notice provided was sent by certified mail and was not signed as received within 30 days after the postmarked date of mailing, additional notice may be provided by posting as described in subsection (b);~~
- ~~(2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;~~
- ~~(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or~~
- ~~(4) In the case of commercial premises, leaving the notice with the manager or other person in charge.~~

(b) ~~In addition to providing notice as set forth in subsection (a), notice may also be served as provided in F.S. § 162.12(2) by publication or posting, as follows:~~

- ~~(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the special magistrate is located. The newspaper shall meet such requirements as are prescribed under chapter 50 of the Florida Statutes for legal and official advertisements.~~
- ~~(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.~~
- ~~(3) In lieu of publication as described in paragraph (b)(1), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be in a conspicuous place at the village municipal complex.~~
- ~~(4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.~~
- ~~(5) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).~~
- ~~(6) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.~~

~~(Ord. No. 96-19, § 17, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14; Ord. No. 2016-19, § 2, 11-8-16)~~

State Law reference—~~Similar provisions, F.S. § 162.12.~~

Sec. 2-202.—~~Appeals of administrative orders.~~

~~An aggrieved party, including the village, may appeal a final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the enforcement board or special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.~~

~~(Ord. No. 96-19, § 18, 7-9-96; Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2014-11, § 2, 5-13-14)~~

State Law reference—~~Similar provisions, F.S. § 162.11.~~

Sec. 2-203.—~~Special magistrate.~~

- ~~(a) One or more persons may be appointed as special magistrate by the village council in accordance with the selection process enumerated in subsection (b)(2). A special magistrate shall serve a two-year term and may be reappointed for an additional two-year term every two years thereafter unless the special magistrate elects not to continue to serve or he or she is removed by the village council. The compensation for special magistrate services may be authorized as specified in the appointing resolution. A special magistrate may be suspended or removed at any time with or without cause by Wellington's Council.~~
- ~~(b) Approximately 120 days prior to the expiration of a special magistrate's two-year term, village staff shall contact the special magistrate to ascertain if the special magistrate wishes to continue to serve and notify the village council of the special magistrate's response. The council may make recommendations for the special magistrate's continued service or removal.~~
 - ~~(1) If the special magistrate wishes to continue to serve and is not removed by the village council, the special magistrate shall commence a new two-year term upon the expiration of his or her prior term.~~
 - ~~(2) If a special magistrate elects not to continue to serve or is removed by the village council, a Request for Letters of Interest (LOI) shall be advertised for the position.~~
 - ~~(i) The request for LOI shall give prospective applicants thirty (30) days from the initial date of publication to submit their LOI to the village.~~
 - ~~(ii) The request for LOI must include the following criteria:~~
 - ~~1. The candidate has been admitted to the Florida Bar for a minimum period of five years and is a member in good standing;~~
 - ~~2. The candidate is willing to serve on a specific rotational schedule; and~~
 - ~~3. The candidate is willing to accept a specific level of compensation.~~
 - ~~(iii) The request for LOI may include one or more of the following criteria:~~
 - ~~1. The candidate has experience as a municipal attorney;~~
 - ~~2. The candidate has experience interpreting and applying municipal codes.~~
 - ~~(iv) Upon the conclusion of the 30 days set forth in subsection (b)(2)(i), a selection committee shall be formed to review the candidate submissions and rank the applications consistent~~

~~with the policies outlined in the Purchasing and Procurement Manual. The selection committee shall submit the five highest ranked candidates to the village council for final selection. Neither the village manager, the village attorney, the code compliance manager, nor the code compliance staff may serve on a selection committee.~~

~~(c) To the extent possible, special magistrates shall serve staggered terms. Accordingly, the village council shall appoint one special magistrate to serve an initial three-year term beginning June 1, 2020 and ending May 31, 2023 and at least one special magistrate to serve a two-year term beginning June 1, 2020 and ending May 31, 2022. Any additional terms shall be limited to two years as described herein.~~

~~(d) The village council shall make every effort to promptly and expeditiously fill any special magistrate vacancy. To the extent a vacancy cannot be filled prior to the expiration of a special magistrate's term, such term shall be extended until the position is filled in accordance with this section.~~

~~(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2006-13, § 3, 6-13-06; Ord. No. 2010-12, § 1, 5-11-10; Ord. No. 2012-18, § 2, 8-14-12; Ord. No. 2014-11, § 2, 5-13-14; Ord. No. 2020-08, § 2, 5-26-20; Ord. No. 2020-15, § 1, 10-27-20)~~

~~Secs. 2-204—2-225. Reserved.~~

~~DIVISION 2. SUPPLEMENTAL CODE ENFORCEMENT PROCEDURES: ENFORCEMENT THROUGH CITATIONS~~

~~Sec. 2-226. Authority.~~

~~This division is authorized and adopted pursuant to [F.S.] pt. II of ch. 162. The provisions of the section are additional and supplemental means of enforcing municipal codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances except as set forth herein above. Nothing contained in this section shall prohibit the village from enforcing its codes or ordinances by any other means.~~

~~(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)~~

~~Sec. 2-227. Authority of code enforcement officers.~~

~~A code enforcement officer is authorized to issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and this citation will be heard by the county court.~~

~~(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)~~

~~Sec. 2-228. Notice.~~

~~Prior to issuing a citation, a code enforcement officer shall provide notice to the person that has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period allowed, the code enforcement officer may issue a citation to the person who has committed the violation. If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, the code enforcement officer is not obligated to provide the person with a reasonable time period within which to correct the violation prior to the issuance of the citation.~~

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)

~~Sec. 2-229. Form of citation.~~

The citation issued by the code enforcement officer shall be in a form prescribed by the village and shall contain the following:

- ~~(1) The name and address of the person to whom this citation is issued.~~
- ~~(2) The date and time the civil infraction was committed for the facts constituting reasonable cause.~~
- ~~(3) The number or section of the code or ordinance violated.~~
- ~~(4) The name and authority of the code enforcement officer.~~
- ~~(5) The procedure for the person to follow in order to pay the civil penalty or contest the citation.~~
- ~~(6) The applicable civil penalty if the person elects to contest the citation.~~
- ~~(7) The applicable civil penalty if the person elects not to contest the citation.~~
- ~~(8) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.~~

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)

~~Sec. 2-230. Violations and penalties.~~

All violations of the Code of Ordinances shall be considered as civil infractions with a maximum civil penalty not to exceed \$500.00. Certain ordinances lend themselves to be enforced by means of a citation method and as such, the village has deemed the following sections of the Code those that may be enforced through the citation method and has provided a schedule of violations and penalties to be assessed as follows:

Class-I \$50.00 Penalty	Class-II \$75.00 Penalty	Class-III \$125.00 Penalty	Class-IV \$250.00 Penalty	Class-V \$500.00 Penalty
Prohibited Signs LDR Section 7.14	Water Restrictions Codes and Ordinances Section 30-144(a) — (e) unless due to drought conditions more stringent penalties are applicable	Failure to obtain Building Permit prior to commencement of construction Building Codes Enforcement Administrative Code Section 104.1.1	Livestock Waste BMP's Section 30-153	Repeat Violations of items listed under Class I, II, III and IV
Noise Codes and Ordinances Sections 36-33 and 36-34	Solid Waste All violations of Codes and Ordinances Sections 36-22(d), 36-23(b), 46-40, 46-41, 46-42	Failure to obtain Local Business Tax Receipt Codes of Ordinances Section 58-61	Vegetation Removal w/o permit LDR Section 7.5	

Property Maintenance Codes and Ordinances-Section 36-22		Failure to Obtain Special Use Permit LDR Article 5 Chapter 5	Transient (Mobile) Sales LDR Section 6.4.4.96	
		Failure to Comply with Article 6 of the LDR (Zoning Districts)		

LDR = Land Development Regulations

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2003-25, § 1, 11-18-03; Ord. No. 2006-26, § 1, 12-12-06; Ord. No. 2014-11, § 2, 5-13-14)

~~Sec. 2-231. Citations not applicable to certain portions of building codes.~~

The provisions of this section shall not apply to the enforcement pursuant to sections 553.79 and 553.80 of the building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the municipality. For the purpose of this subsection, building codes means only those codes adopted pursuant to [F.S.] § 553.73.

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)

~~Sec. 2-232. Processing citations; county court.~~

- (a) ~~Disposition by county court.~~ After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court for further disposition.
- (b) ~~Upon receipt of a citation, the person alleged to have violated the village code may request a court appearance. The county court judge may assess a maximum civil penalty not to exceed \$500.00 if contested. If the citation is not contested, the amount of fine is the face value of the citation plus costs.~~
- (c) ~~Should any person receiving a citation desire to contest same, such person shall have the right to appear in county court in order to present his case and have the determined position made by the court.~~
- (d) ~~Failure to accept citation; misdemeanor.~~ Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 755.082 or 775.083.

(Ord. No. 2001-03, § 1, 2-13-01; Ord. No. 2014-11, § 2, 5-13-14)

~~Secs. 2-233—2-260. Reserved.~~

~~ARTICLE V. FINANCE⁽⁸⁾~~

Footnotes:

~~—(8)—~~

Charter reference—Budget and appropriations, § 7.

Cross reference—Any ordinance or resolution promising or guaranteeing the payment of money for the village, or any evidence of the village's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village saved from repeal, § 1-8(2); any right or franchise granted by any ordinance saved from repeal, § 1-8(4); any appropriation ordinance saved from repeal, § 1-8(6); any ordinance levying or imposing taxes saved from repeal, § 1-8(7); utility fee schedule and other fees established by the village saved from repeal, § 1-8(13); any ordinance, charter or special act provision regulating the special assessment procedures for local improvements saved from repeal, § 1-8(15); special districts, ch. 50; taxation, ch. 58.

~~Sec. 2-261. Adoption of budget.~~

The village council shall adopt a budget in accordance with applicable law, including, but not limited to, F.S. § 200.065 and applicable state department of revenue rules, as amended.

(Ord. No. 96-04, § 1, 4-30-96)

~~Secs. 2-262—2-280. Reserved.~~

ARTICLE VI.—BOARDS AND COMMITTEES⁽⁹⁾

Footnotes:

~~—(9)—~~

Editor's note—Ord. No. 99-09, adopted May 11, 1999, amended art. VI in its entirety, in effect repealing §§ 2-226—2-231, 2-291, 2-292, 2-301—2-309, and 2-321—2-323 and enacting similar new provisions in lieu thereof as herein set out. Formerly, such provisions derived from §§ 1 and 2 of Ord. No. 97-17, adopted Nov. 14, 1997; §§ 1 and 2 of Ord. No. 98-02, adopted Feb. 10, 1998; §§ 1—9 of Ord. No. 98-06, adopted Mar. 31, 1998; and § 1 of Ord. No. 98-14, adopted July 14, 1998.

DIVISION 1.—GENERALLY

~~Sec. 2-281. Creation of boards and committees.~~

- ~~(a) *Boards.* The Wellington Council may, by ordinance, create a board in connection with any functions of Wellington. The ordinance creating such board shall specify the powers and duties of the board and the number, qualifications, and terms of office of the members thereof.~~
- ~~(b) *Committees.* The Wellington Council may, by resolution, create a committee whose purpose is to advise Wellington Council on an item of a special nature and whose creation is for a stated period of time, at the end of which time the committee will no longer exist. The resolution creating such committee shall specify its powers and duties, the time for which it shall exist, and the number, qualifications, and terms of office of the members thereof.~~

(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)

~~Sec. 2-282.—Scope.~~

~~The provisions of this article shall apply to all boards and committees of Wellington and shall govern all members thereof. Neither "board" nor "committee" shall be construed to include Wellington's Council.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-283.—List of volunteers.~~

~~Wellington's Clerk shall prepare and maintain a list of volunteers comprising those persons who have indicated an intention and willingness to serve as members of Wellington's Boards and Committees if appointed by Wellington's Council for such purpose. Any preference of the volunteers to serve on a particular board or committee shall be so stated. The list shall be kept current and be available to the members of Wellington's Council as requested.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-284.—Announcement of vacancies.~~

~~All vacancies in the membership of any appointive Wellington Board or Committee shall be announced by the Wellington Clerk by posting a notice of the same at a public place in Wellington's Hall and by publishing a copy thereof in a newspaper of general circulation in Wellington one time, not less than five days prior to the date at which the Wellington Council appoints candidates to fill any such vacancies.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-285.—Procedure for appointment and filling vacancies; qualifications for membership of boards and committees.~~

~~Except as otherwise provided in this Code, appointments on boards and committees shall be made at a regular Wellington Council meeting within 60 days of the certification of results of a regular election of the Wellington Council and/or Mayor in accordance with the following procedures:~~

~~(1) —Regular members.~~

- ~~a. —Unless, otherwise provided by law or ordinance, all of Wellington's Boards and Committees shall consist of seven regular members and the attendance of four members shall constitute a quorum. There shall be no alternate members appointed to boards or committees.~~
- ~~b. —For boards and committees consisting of seven members, each councilmember shall appoint one member, and councilmembers shall nominate two members who shall be appointed by majority vote of the council.~~

~~Councilmembers shall nominate two additional members who shall be appointed by majority vote of the council.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2004-32, § 8, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-286.—Attendance records.~~

~~The Wellington Clerk shall maintain an attendance record of the members of all boards and committees, which shall be furnished by each board or committee.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-287. Compensation of members.~~

~~Board members shall serve without compensation except as may be provided by ordinance or resolution of the Wellington Council.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-288. General provisions.~~

~~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 years prior to the date of their appointment or any time after their appointment.~~
- ~~(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.~~
- ~~(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.~~
- ~~(6) — No board or committee member shall hold any elected office in the government or be a full-time employee of Wellington.~~
- ~~(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.~~
- ~~(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.~~
- ~~(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.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 99-19, § 1, 10-12-99; Ord. No. 2010-15, § 1, 6-22-10; Ord. No. 2011-10, § 1, 12-13-11)~~

~~Sec. 2-289. Terms of members.~~

- ~~(a) — Terms of members shall be established in the ordinance or resolution creating the board or committee and unless otherwise specified begin effective June 1 of even years and end on May 31 of subsequent even years.~~

~~(b) Board members whose terms have expired shall continue to serve until their successors are appointed.~~

~~(c) Vacancies in the board or committee membership shall be filled by appointment by Wellington's Council for the unexpired term of the member affected.~~

~~(d) Board and committee members may be reappointed to successive terms.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2004-32, § 7, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-290. Officers.~~

~~All boards and committees established by the Wellington Council shall, at a meeting during the month of June or the next regularly scheduled meeting held thereafter, elect one of their members as chairperson and elect other such officers as may be necessary. Each board and committee shall adopt rules and regulations to govern its proceedings.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 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. 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 or video tape, recording, or both when available, 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 or video tapes, or both when available, 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.~~

~~(f) Members of Wellington boards and committees are subject to the jurisdiction of the Palm Beach County Commission on Ethics and are responsible for understanding and abiding by the Palm Beach County Code of Ethics in the conduct of their duties as board members. Prior to being seated, all members must complete the mandatory ethics training provided by the Palm Beach County Commission on Ethics. Failure to complete the training will make the member ineligible to take their seat.~~

~~(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10; Ord. No. 2011-10, § 2, 12-13-11; Ord. No. 2014-24, § 1, 6-24-14)~~

~~Sec. 2-292. Removal of board and committee members.~~

~~(a) *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 two consecutive unexcused absences or four absences out of the last six meetings, whether excused or unexcused, from regular meetings shall be automatically removed as a member of the respective board or committee. For purposes of this section, the term "excused absence" shall mean: (i) illness of a board or committee member or other person for whom the member is a caregiver; (ii) death of a board or committee member's relative; (iii) observance of religious holidays; (iv) compliance with a subpoena or other legal process; and (v) absence resulting from events reasonably beyond the control of the board or committee member. The member removed for absenteeism shall be ineligible for reappointment to a board or committee for a period of two years following the effective date of their removal.

(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. Board and committee members appointed by individual Council members may be removed without cause by the Council member who appointed the board or committee member unless otherwise provided by the Charter or Florida Statutes. No vote by the Wellington Council shall be required for such removal. At large board and committee members may be removed by a majority vote of the Council, unless otherwise provided by the Charter or Florida Statutes. Any member so removed shall have no right to request a hearing before the Wellington Council.

(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.

(2) ~~[Effective date of removal.]~~ 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.

(Ord. No. 99-09, § 3, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10; Ord. No. 2011-10, § 3, 12-13-11; Ord. No. 2014-24, § 1, 6-24-14; Ord. No. 2016-06, § 2, 7-12-16; Ord. No. 2016-22, § 1, 11-8-16)

Sec. 2-293. ~~Resignation of members.~~

Members of boards or committees may resign at any time. A member who resigns will not be eligible for appointment to the same board or committee for a period of time equal to a full term of that board or committee.

(Ord. No. 99-09, § 3, 5-11-99)

~~Secs. 2-294—2-298.—Reserved.~~

~~DIVISION 2.—TREE BOARD~~

~~Sec. 2-299.—Powers and duties.~~

The tree board shall have the following powers and duties:

- ~~(1)—Develop an annual work plan in accordance with the Tree City USA guidelines. Such work plan shall include tree-related projects and tasks, as well as an implementation schedule for such projects and tasks.~~
- ~~(2)—Submit to the Wellington Council not later than April of each year a list of estimated expenses for the following calendar year.~~
- ~~(3)—Review and comment to the public works director on all Wellington planting projects prior to installation.~~
- ~~(4)—Assist the public works director to study, investigate, counsel, and develop and/or update annually, and administer a written care guide for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas.~~
- ~~(5)—Assist Wellington in preparing plans for Wellington's Annual Arbor Day ceremony for approval by the Wellington Council.~~
- ~~(6)—Review, upon referral by the Wellington Council proposed ordinances which relate to landscaping regulations and make recommendations to the council regarding such ordinances.~~
- ~~(7)—To hears and decide appeals of administrative decisions of the planning, zoning, and building department pertaining to natural resource protection regulations.~~
- ~~(8)—Such powers and duties as may be assigned by ordinance or resolution.~~

~~(Ord. No. 99-09, § 4, 5-11-99; Ord. No. 2002-06, § 7, 6-25-02; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-300.—Creation.~~

~~The tree board shall consist of seven regular members. Appointments of regular members shall be for a term of two years.~~

~~(Ord. No. 99-09, § 4, 5-11-99; Ord. No. 00-08, § 1, 3-20-00; Ord. No. 2004-32, § 1, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-301.—Meetings, quorum, and required vote.~~

- ~~(a)—A quorum for the transaction of business shall consist of four members.~~
- ~~(b)—The affirmative vote of a majority of those present shall be necessary to take official action. If any motion fails to achieve the affirmative vote of a majority of those present, then such petition or other matter shall be deemed denied.~~

~~(Ord. No. 99-09, § 4, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Secs. 2-302—2-305.—Reserved.~~

~~DIVISION 3.—PARKS AND RECREATION ADVISORY BOARD^[40]~~

Footnotes:

~~—(10)—~~

Cross reference—Parks and recreation, ch. 38.

~~Sec. 2-306. Powers and duties.~~

- ~~(a) The purposes of the parks and recreation advisory board shall be to provide constructive advice and counsel to the Wellington's Parks and Recreation Department, Wellington's Manager, and Wellington's Council with a broad outlook towards improving present recreational facilities, increasing their utilization and use by the public generally, and evaluating and recommending future community needs as to recreational projects and facilities.~~
- ~~(b) The parks and recreation advisory board shall have the following powers and duties:~~
 - ~~(1) To study and make recommendations concerning the visioning and strategic planning for the development of parks, parkways, playgrounds, and other recreational facilities in Wellington.~~
 - ~~(2) To study and recommend the establishment of rules and regulations for the operation of Wellington's Parks, Playgrounds, and Public Recreational Facilities and the fees to be charged for the public for the use and enjoyment thereof.~~
 - ~~(3) Such powers and duties as may be assigned by ordinance or resolution.~~

~~(Ord. No. 99-09, § 5, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-307. Creation.~~

- ~~(a) The parks and recreation advisory board shall consist of seven regular members. Appointments of regular members shall be for a term of two years.~~
- ~~(b) Members of the board shall be knowledgeable and concerned with recreational events and park facilities in the community. Membership of the board may be composed of persons from all walks of life, including, but not limited to, retired persons, students, active sport participants, and persons whose interests are confined to spectator participation with a view towards obtaining a committee which is representative of the community in regard to recreational programs and needs.~~

~~(Ord. No. 99-09, § 5, 5-11-99; Ord. No. 00-08, § 2, 3-20-00; Ord. No. 2004-32, § 2, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-308. Meetings, quorum, and required vote.~~

- ~~(a) A quorum for the transaction of business shall consist of four members.~~
- ~~(b) The affirmative vote of a majority of those present shall be necessary to take official action. If any motion fails to achieve the affirmative vote of a majority of those present, then such petition or other matter shall be deemed denied.~~

~~(Ord. No. 99-09, § 5, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Secs. 2-309, 2-310. Reserved.~~

~~DIVISION 4.—ARCHITECTURAL REVIEW BOARD~~

~~Sec. 2-311.—Powers and duties.~~

~~The architectural review board shall have the following powers and duties:~~

- ~~(1) —To adopt by resolution various schedules of approved materials, designs, and charts of approved colors.~~
- ~~(2) —To hear and decide appeals of administrative decisions of the planning, zoning, and building department pertaining to approved materials, designs, and charts of approved colors.~~
- ~~(3) —To hear and approve alternatives to the development and design criteria established by ordinance or resolution.~~
- ~~(4) —To review and approve plans for multi-family and nonresidential development.~~
- ~~(5) —Such powers and duties as may be assigned by ordinance or resolution.~~

~~(Ord. No. 99-09, § 6, 5-11-99)~~

~~Sec. 2-312.—Creation; qualifications.~~

- ~~(a) —The board shall consist of seven regular members. Appointments of regular members shall be for a term of two years.~~
- ~~(b) —Appointments shall be made by the Wellington Council based on experience or interest in the businesses and professions involved in building and development.~~

~~(Ord. No. 99-09, § 6, 5-11-99; Ord. No. 00-08, § 3, 3-20-00; Ord. No. 2004-32, § 3, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-313.—Meetings, quorum, and required vote.~~

- ~~(a) —A quorum for the transaction of business shall consist of four members.~~
- ~~(b) —The affirmative vote of four members shall be necessary to take official action. If any motion fails to achieve the affirmative vote of four members, then such petition or other matter shall be deemed denied.~~

~~(Ord. No. 99-09, § 6, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Secs. 2-314—2-320.—Reserved.~~

Editor's note—Ord. No. 2006-13, § 1, adopted June 13, 2006, repealed Div. 5, §§ 2-317—2-319, which pertained to code enforcement board and derived from Ord. No. 99-09, § 7, adopted May 11, 1999; Ord. No. 2004-32, § 4, adopted May 25, 2004.

~~DIVISION 5.—PLANNING, ZONING, AND ADJUSTMENT BOARD⁽¹⁾⁽¹⁾~~

Footnotes:

Cross reference—Planning, ch. 42.

Sec. 2-321. ~~Powers and duties.~~

The planning, zoning, and adjustment board shall have the following powers and duties:

- (1) ~~Conduct hearings and make recommendations to the Wellington Council regarding:~~
 - a. ~~Proposed amendments to the comprehensive plan or elements or portions thereof, and other matters as may be required by law or ordinance.~~
 - b. ~~Proposed amendments to the land development regulations.~~
 - c. ~~Applications for the rezoning of property.~~
 - d. ~~Applications for development permits for class A, B conditional uses, requested uses, and development order amendments.~~
- (2) ~~Perform the functions, duties, powers, and responsibilities of a local planning agency as set forth and established in the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.~~
- (3) ~~Hear and approve, approve with conditions, or deny variances to the terms of sections of the land development regulations.~~
- (4) ~~Hear and approve or reverse decisions of the director of planning, zoning, and building on zoning matters.~~
- (5) ~~Hear and approve or reverse decisions of the Wellington's Engineer on subdivision requirements.~~
- (6) ~~Conduct review hearings pursuant to the provisions of the Wellington's Impact Fee Ordinance.~~

~~(Ord. No. 99-09, § 8, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

Sec. 2-322. ~~Membership; terms; transition; vacancies; removal.~~

- (a) ~~The board shall consist of seven regular members. Appointments of regular members shall be for a term of two years.~~
- (b) ~~Appointments shall be made by the Wellington Council based on experience or interest in the businesses and professions involved in building and development.~~

~~(Ord. No. 99-09, § 8, 5-11-99; Ord. No. 00-08, § 4, 3-20-00; Ord. No. 2004-32, § 5, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10)~~

Sec. 2-323. ~~Meetings, quorum and required vote.~~

- (a) ~~A quorum for the transaction of business shall consist of four members.~~
- (b) ~~The affirmative vote of four members shall be necessary to take official action. If any motion fails to achieve the affirmative vote of four members, then such petition or other matter shall be deemed denied.~~

~~(Ord. No. 99-09, § 8, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10; Ord. No. 2016-04, § 1, 3-22-16)~~

Secs. 2-324—2-326. ~~Reserved.~~

~~DIVISION 6.—CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS⁽¹²⁾~~

Footnotes:

~~—(12)—~~

Cross reference—Buildings and building regulations, ch. 18.

~~Sec. 2-327.—Powers and duties.~~

~~The construction board of adjustment and appeals shall have the power to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.~~

~~(Ord. No. 99-09, § 9, 5-11-99)~~

~~Sec. 2-328.—Creation; qualifications.~~

~~(a) The board shall consist of seven regular members. Appointments of members of the board shall be for a term of two years.~~

~~(b) Such board should be composed of individuals who agree to apply the technical codes, with preference given to those with knowledge and experience in the fields of architecture, engineering, construction, and building permitting and contracting.~~

~~(Ord. No. 99-09, § 9, 5-11-99; Ord. No. 00-08, § 5, 3-20-00; Ord. No. 2004-32, § 6, 5-25-04; Ord. No. 2010-15, § 1, 6-22-10; Ord. No. 2020-03, § 1, 2-25-20)~~

~~Sec. 2-329.—Meetings, quorum, and required vote.~~

~~(a) A quorum for the transaction of business shall consist of four members.~~

~~(b) The affirmative vote of four members shall be necessary to take official action. If any motion fails to achieve the affirmative vote of four members, then such petition or other matter shall be deemed denied.~~

~~(Ord. No. 99-09, § 9, 5-11-99; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-330.—Reserved.~~

~~DIVISION 7.—PUBLIC ART ADVISORY PANEL⁽¹³⁾~~

Footnotes:

~~—(13)—~~

Editor's note—Ord. No. 2004-15, § 2, adopted Sept. 28, 2004, set out provisions intended for use as §§ 2-332—2-324. For purposes of classification and to preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 2-330.5—2-330.7.

~~Sec. 2-330.5.— Powers and duties.~~

~~The public art advisory panel shall have the following powers and duties:~~

- ~~(1) — To prepare implementation guidelines, selection procedures and organizational policies to facilitate this section, subject to the approval of the Wellington's Council.~~
- ~~(2) — To prepare an annual plan for the expenditure of the public and private monies in the public art trust fund, subject to approval of the Wellington's Council.~~
- ~~(3) — Related to private construction projects, to work with property owners to designate sites for the art; approve the art project scope and budget; manage the artist or artwork selection process; approve design, execution and placement of the art; inspect the artworks and relay maintenance deficiencies to the owner.~~
- ~~(4) — To coordinate, investigate, review and recommend to the Wellington's Council other means by which artwork may be obtained, including donations to the public art trust fund, gifts of artwork, and grant applications for public art projects.~~
- ~~(5) — To encourage public art throughout the village and educate and stimulate the participation of all citizens in a joint public and private effort to promote public art.~~
- ~~(6) — To enter into agreement with artists that shall also be accepted by Wellington.~~

~~(Ord. No. 2004-15, § 2, 9-28-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-330.6.— Creation; qualifications.~~

- ~~(a) — The public art advisory panel shall be administered by the department of community services.~~
- ~~(b) — Wellington's Manager shall designate panel members.~~

~~(Ord. No. 2004-15, § 2, 9-28-04; Ord. No. 2010-15, § 1, 6-22-10)~~

~~Sec. 2-330.7.— Meetings, quorum and required vote.~~

- ~~(a) — A quorum for the transaction of business shall consist of half the membership plus one.~~
- ~~(b) — The affirmative vote of a majority of those present shall be necessary to take official action. If any motion fails to achieve the affirmative vote of a majority of those present, then such petition or other matter shall be deemed denies.~~

~~(Ord. No. 2004-15, § 2, 9-28-04)~~

~~ARTICLE VII.— PURCHASING, CONTRACTS, AND PROPERTY MANAGEMENT POLICIES⁽¹⁴⁾~~

Footnotes:

~~—(14)—~~

Editor's note— Ord. No. 2005-05, §§ 1—4, adopted Feb. 22, 2005, repealed the former Art. VII, §§ 2-331—2-334, and enacted a new Art. VII as set out herein. The former Art. VII pertained to similar subject matter and derived from Ord. No. 989-34, §§ 1(A)—1(D), adopted Nov. 24, 1998.

~~Sec. 2-331.— Purchasing, procurement and disposal.~~

The village's purchases and acquisitions of personal property and services, management of contracts and property management and disposal of property shall be in accordance with the procedures and policies set forth in the purchasing and procurement manual adopted by resolution, which as needed may be amended from time to time. Unsuccessful bidders may file protests to awards, where appropriate and applicable, in accordance with the procedure set forth in section 2-335 below.

(Ord. No. 2005-05, § 5, 2-22-05)

~~Sec. 2-332. Purchase and disposition of real property.~~

- ~~(a) The village may purchase real property utilizing the procedure set forth in F.S. (2004) § 166.045, as same may be amended from time to time, when it wishes to temporarily except certain records from the public records law's disclosure requirement or it may utilize the provisions set forth in this section.~~
- ~~(b) For each purchase of real property in an amount of \$100,000.00 or less, no written appraisal or comparables must be obtained or reviewed as part of the village's negotiation process. For each purchase greater than \$100,000 and less than or equal to \$500,000.00, the village shall receive comparable information and may receive one written appraisal by a state certified real estate appraiser to consider as part of the purchase process. For each purchase between \$500,000.00 and less than or equal to \$5,000,000.00, the village shall obtain at least one written appraisal by a state-certified real estate appraiser to consider as part of the negotiation process. For each purchase of real property in an amount in excess of \$5,000,000.00, the village shall obtain at least two written appraisals by appraisers independent of each other who are state-certified real estate appraisers. The administration shall be responsible to negotiate the essential terms of the purchase and same shall be presented to the village council. The village administration need not obtain the comparable or appraisal information provided in this section until immediately prior to the time the contract to purchase is presented to the village council, the time the applicable due diligence period expires, or the time of closing, whichever is later. A failure to obtain such appraisals or comparables shall not be cause to set aside a closed real estate transaction or affect the village's title derived by the deed delivered at closing.~~
- ~~(c) The village may contract to purchase real property pursuant to any terms if finds acceptable. All purchases shall be presented to the village council for approval, after they have been approved by the administration and legal departments and signed by the seller(s). A village resolution approving the closing of the contract shall be required prior to the city being obligated to purchase any property.~~
- ~~(d) No particular form advertising shall be required prior to the village considering and approving such purchase; however, the matter must be placed on an agenda for a village council meeting.~~
- ~~(e) The village may dispose of surplus real property in any manner the village council deems appropriate, so long as there is a public purpose in the sale, transfer, gift or other disposition of surplus property. The village council does not have to sell property through a bidding process, but may choose to negotiate a price for the property and/or offer the property for sale through any means the village council determines to be commercially viable. In appropriate circumstances, the village council may decide to limit the potential buyers and sell or transfer to property for less than the full market value in order to put the property back on the tax rolls and/or insure that appropriate use of the property will be made.~~

(Ord. No. 2005-05, § 5, 2-22-05)

~~Secs. 2-333, 2-334. Reserved.~~

~~Sec. 2-335. Reserved.~~

Editor's note—Ord. No. 2014-18, § 1, adopted March 11, 2014, repealed § 2-335, which pertained to protests and derived from Ord. No. 98-36, § 2, adopted Jan. 12, 1999.

~~Secs. 2-336—2-360. Reserved.~~

~~ARTICLE VIII. RECOVERY OF COSTS OF ADMINISTRATIVE REVIEW AND PROCESSING~~

~~Sec. 2-361. Development application fees.~~

- ~~(a) There is hereby imposed an administrative fee to cover all costs associated with the processing submissions, or requests concerning proposed matters of planning and zoning applications, including but not limited to site plans, master plans, special permits, and development permits excluding building permits. The fee shall cover all staff costs. Additional escrow shall be collected for outside consultant's fees and required public noticing costs.~~
- ~~(b) A fee structure shall be established, and from time to time amended, by resolution of the village council. The fee structure is intended to function by collecting a flat, up-front, fee for planning and zoning applications to cover the cost of review by village staff. An escrow amount will also be collected, if necessary, to pay for any required outside consultants, advertising, or other costs associated with the project. A financial account will be opened and maintained throughout the review process to manage the escrow for the project. This may include requiring additional funds to replenish the escrow account should it be necessary. At such time that the project is finished and closed, any remaining escrow will be refunded to the applicant no later than two months from the project's closing date. If the account is in the negative and the applicant does not reconcile the deficiency, the applicant will not be able process future development applications on the subject property.~~
- ~~(c) This program shall not apply to review requests which are originally initiated by or on behalf of the Village of Wellington or another governmental entity acting in its governmental capacity; such as, but not limited to, department of transportation highway proposal commentary, reviews of Palm Beach County transportation improvements, review of proposed amendments to the Palm Beach County or local land use plans, and review of developments of regional impact; provided however, that the initiating governmental entity does not charge the Village of Wellington for its review, processing, and comment upon Wellington's review requests of a similar type or nature.~~
- ~~(d) The preceding subsection (c) shall not apply to review requests which are initiated by another governmental entity or agency acting in a corporate or proprietary capacity, such action including, but not limited to, a governmental entity's review requests incident to the erection of buildings or structures within Wellington (such as post offices, libraries, or governmental office buildings).~~

~~(Ord. No. 2017-12, § 2(Exh. A), 9-12-17)~~

Editor's note—Ord. No. 2017-12, § 1, adopted Sept. 12, 2017, repealed the former § 2-361. Section 2(Exh. A) of said ordinance enacted a new § 2-361 as set out herein. The former § 2-361 pertained to cost recovery and derived from Ord. No. 2007-17, § 1, adopted Jan. 8, 2008.

~~ARTICLE IX. POST-DISASTER DEBRIS RECOVERY~~

~~Sec. 2-362. Declaration of state of emergency.~~

- ~~(a) Natural, technological and manmade emergencies. In the event of a natural, technological or manmade emergency, as defined in F.S. § 252.34, the mayor is designated as the village official empowered to declare that a state of local emergency exists within the boundaries of the village and to exercise the emergency powers conferred in F.S. ch. 252. In the absence of the mayor, the vice mayor shall be the designated village official to exercise the powers to declare that a state of local emergency exists within the boundaries of the village. In the absence of the vice mayor, the next senior councilmember shall be the designated village official; or in his absence, the next senior councilmember, in order of seniority, shall be the designated village official to exercise the powers to declare that a state of local emergency exists within the boundaries of the village.~~

- (b) ~~Civil-unrest emergency. In the event of an act of violence, riot or general public disorder, as set forth in F.S. § 870.043, the mayor is designated as the village official empowered to declare that a state of local emergency exists within the boundaries of the village. In the absence of the mayor, the vice mayor shall be the designated village official to exercise the powers to declare that a state of local emergency exists within the boundaries of the village. In the absence of the mayor and vice mayor, the next senior councilmember, in order of seniority, shall be the designated city official to exercise the powers to declare that a state of local emergency exists within the boundaries of the village.~~
- (c) ~~When a state of local emergency is declared, the mayor or designated city official shall, as promptly as practicable, file the written declaration of emergency in the office of the village clerk. In the event of an act of violence, riot, or general public disorder, the declaration of emergency shall be delivered to appropriate news media for publication and radio and television broadcast thereof, and, if practicable, published by other means such as by posting and loudspeakers.~~

(Ord. No. 2018-05, § 4, 6-12-18)

~~Sec. 2-363. Emergency management powers.~~

~~Upon declaration of a state of local emergency and during the existence of a declared state of local emergency, the mayor or designated city official, in addition to any other powers conferred upon the mayor or designated city official by F.S. ch. 252, F.S. ch. 870, F.S. ch. 166, or other law, has the power and authority to:~~

- ~~(1) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the village if the mayor or designated city official deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery.~~
- ~~(2) Waive the procedures and formalities otherwise required of the village by law or ordinance pertaining to:
 - ~~a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;~~
 - ~~b. Entering into contracts;~~
 - ~~c. Incurring obligations;~~
 - ~~d. Employment of permanent and temporary workers;~~
 - ~~e. Utilization of volunteer workers;~~
 - ~~f. Rental of equipment;~~
 - ~~g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities;~~
 - ~~h. Appropriation and expenditure of public funds.~~~~
- ~~(3) Prohibit or regulate travel upon any public street, highway or upon any other public property. Persons in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof may be excepted from such prohibition or regulation.~~
- ~~(4) Impose a curfew upon all or any portion of the village thereby prohibiting persons from being on public streets, highways, parks or other public places during the hours which the curfew is in effect. The duration and application of the curfew shall be tailored to meet the specific emergency.~~
- ~~(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, as amended from time to time, 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.~~

~~(Ord. No. 2018-05, § 4, 6-12-18; Ord. No. 2019-11, § 1, 8-30-19)~~

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Sec. 2-1. - Village seal.

- (a) The following emblem, shown in any color, or any part thereof, with or without the legend "A Great Hometown, Let us Show You", or any combination of any of the components of the emblem, is hereby designated as the official seal of the Village of Wellington:



A Great Hometown, Let us Show You

- (b) The village manager is hereby authorized to adopt administrative standards and rules for the unofficial use of the village seal and may impose fees for such use upon a finding that the collection of such fees serves a public purpose.

Sec. 2-2. – Usage/occupancy standards for village property and buildings.

- (a) The village manager is hereby authorized to establish the usage of village buildings and to adopt rules reasonably necessary to protect the health, safety and welfare of the public with respect to public health issues on village property, including but not limited to:

- (1) requiring the wearing of facial coverings or masks in all village buildings;
- (2) establishing social distancing requirements for village buildings;
- (3) requiring village employees to be vaccinated, if available, against epidemics, pandemics and other highly contagious viruses; and

(4) prohibiting those with known infection of highly contagious viruses from entering village buildings without presenting proof of a negative test for such virus.

(b) The village manager or his designee shall have the authority to order those who fail or refuse to comply with such rules to leave all village buildings or be subject to arrest for trespass.

(c) Village employees who fail or refuse to comply after warning with rules adopted pursuant to this section are subject to discipline, including suspension and termination, in accordance with Wellington's employment policies.

ARTICLE II. - COUNCIL

Sec. 2-3. - Regular meetings.

The regular meetings of the village council shall be established by resolution as required by the Charter.

Sec. 2-4. - Workshop meetings.

The village council may schedule as many workshop meetings as it may determine are necessary.

Sec. 2-5. - Notice of meetings.

The village clerk shall post written notice of all special and workshop village council meetings in the village hall and, as a courtesy, on the village website as soon as practicable upon scheduling of such meetings by the village council. Regular meetings of the village council shall begin at or about 7:00 p.m., unless changed by resolution of the village council.

Sec. 2-6. - Adjournment of regular meetings.

Regular meetings of the village council shall be adjourned no later than at or about 11:00 p.m. on the date when a meeting is convened, unless changed by vote of the village council. If there is pending business on the floor at 11:00 p.m. during any such meeting, then such business may be continued to the next regular village council meeting and shall be the first item on the agenda, unless changed by vote of the village council. The required adjournment time of 11:00 p.m. shall be strictly enforced.

Sec. 2-7. - Chairperson to conduct meetings.

The mayor, as chairperson of the council, shall take the chair at the hour appointed for any village council meeting, and shall immediately call all members to order, and with the appearance of a quorum, shall proceed to conduct the meeting.

Sec. 2-8. - Addressing the chairperson; recognition.

No member, while the council is in session, shall offer any motion or make any remarks, or speak on any subject under discussion, without addressing and being recognized by the

chairperson. When more than one member shall seek recognition by the chairperson at or near the same time, the chairperson shall decide in favor of the member who shall first attract the chairperson's attention, and no member shall interrupt another while speaking except to call such member to order.

Sec. 2-9. - Questions of order; appeal.

The chairperson shall decide all questions of order, but any member dissatisfied with any decision by the chairperson shall have the right of appeal to the council. The decision of the council shall be final and binding.

Sec. 2-10. - Motions to reconsider.

A motion to reconsider any of the proceedings of the village council will not be entertained unless it is made by a member who previously voted in the majority; nor shall it be entertained at any meeting other than the one at which the proceedings were had or the meeting immediately succeeding.

Sec. 2-11. - Address of council by public.

- (a) No person other than a member shall be allowed to address the council unless permitted by the chairperson.
- (b) All members of the public addressing the village council shall do so at the lectern provided.

Sec. 2-12. - Rules of procedure.

The village council may, by resolution, adopt rules of procedure for the conduct of council meetings, which may replace, modify or supplement Robert's Rules of Order, Newly Revised, 12th edition. The village's adopted rules of procedure shall apply to all village boards and committees and shall govern in the case of a conflict with Robert's Rules of Order.

Sec. 2-13 Parliamentary rules; enforcement; suspension.

- (a) The chairperson, when the village council is in session, shall enforce parliamentary rules for its government in accordance with Robert's Rules of Order, Newly Revised, 12th edition, or rules of procedure adopted by the village council.
- (b) Any of the parliamentary rules may be suspended by the vote of four members of the village council for the meeting then in session.

Sec. 2-14. - Voting; recordkeeping.

All votes shall be cast by ayes (affirmative or negative) of the village council, and the village clerk shall record the vote of each member. In the event of a tie, the motion fails.

Sec. 2-15. - Record of ordinances, resolutions, rules and policies.

The clerk shall keep a permanent separate book in which shall be entered all permanent ordinances, resolutions, rules and policies adopted by the village council.

Sec. 2-16. - Salary additive of council members effective April 1, 2004.

In addition of the compensation of \$300.00 provided to the mayor and village council members pursuant to Section 5(e) of the Village Charter, the mayor and village council members shall, effective April 1, 2004, be entitled to the payment of a monthly salary additive ("additive"). The additive shall be \$542.00 per month for the mayor and \$500.00 per month for each council member. The intent of this additive is compensation for work performed and to provide a partial offset to the numerous expenses that are incurred by the mayor and council members in their official duties. When engaged in travel and training on behalf of the village, the mayor and council members shall be entitled to reimbursement for their expenses above and beyond the \$542.00 per month for the mayor and \$500.00 per month for council members additive in accordance with division 3, "reimbursement for travel and training", of chapter 2, "administration" of the Village Code of Ordinances.

ARTICLE III. - OFFICERS AND EMPLOYEES

Sec. 2-17. – Code of Ethics generally.

Village officials and employees shall be governed by ethical restrictions of state statutes and the Palm Beach County Code of Ethics, as may be supplemented by this Code.

Sec. 2-18. -Lobbying by former village officers and employees.

- (a) Village officials and employees are prohibited from representing another person or entity for compensation before the village for three years following vacation of office or termination of employment with the village. No former village officer or employee shall be held in violation of this section if the officer or employee maintains a relationship with an entity that is a tax-exempt organization under section 501(c) of the Internal Revenue Code and where the officer or employee receives no compensation.
- (b) The village council shall have the primary responsibility for enforcement of the Code of Ethics. The village council shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the village for violation of this section.

Sec. 2-19. Reimbursement for travel and training; purpose.

The purpose of sections 2-19 through 2-24 is to set forth the policy for travel advances and expense reconciliation for the village council and all village staff.

Sec. 2-20. - Expense guidelines.

General guidelines for travel and training expenses are as follows:

- (1) Travel and training expenses shall reflect correct and complete expenditures (registration fees, lodging, transportation, etc.) that were incurred by the requesting party and shall be reported to the village department of financial services within a reasonable amount of time in order to avoid taxation per the Department of the Treasury Internal Revenue Service (IRS) regulations.

- (2) No reimbursement shall be allowed where those costs are incurred and accounted by another person (i.e., two persons traveling in one vehicle cannot claim duplicate mileage/travel costs).
- (3) Subsistence may be reduced for any meals or lodging included in the conference, seminar or meeting registration.
- (4) No reimbursement shall be allowed for the spouse (or any other traveling companion) of the village council or village staff.
- (5) No reimbursement shall be allowed for costs not actually incurred.

Sec. 2-21. - Travel advances.

The village does provide travel advances for travelers who provide the appropriate documentation to the village department of financial services within a reasonable amount of time as outlined by IRS guidelines.

Sec. 2-22. - Sales tax exemption; reasonable expenses for lodging, meals, transportation and services.

Per diem reimbursement for meals shall be in accordance with the Department of Treasury Internal Revenue Service (IRS) as currently applicable and as periodically amended, meaning when the rates change, the village rate will automatically change accordingly.

- (1) No receipts are required for per diem rates. Meals that exceed these limits by reason of location or type of function will be reimbursed if receipts are provided, and the exception shall be approved by the village manager or designee. Conference or seminar banquets and lunches in excess of the per meal allowance are allowable exceptions; however, these must be noted on the program or agenda.
- (2) Traveler may opt out of meals that are included in the conference, seminar or meeting registration, only if documented to serve a business/public purpose. If the traveler opts out, any meal that is part of the registration cost shall not be separately reimbursed.
- (3) Payments for group meals while traveling require a written explanation attached to the receipt. The village reserves the right to withhold any meal reimbursement not having sufficient proof of actual expenditures and a valid reason of public purpose.
- (4) Tips will be reimbursed on a reasonable and customary basis, and include but are not limited to meals, baggage handling, transportation, valet and porter.

Sec. 2-23. - Non allowable travel expenditures.

- (a) No entertainment or alcoholic beverage expenses shall be reimbursed.
- (b) Airline clubs.
- (c) Airline upgrades.
- (d) Business or first-class fares.
- (e) Books, magazines, newspapers.
- (f) Child-care, babysitting, house-sitting, pet-sitting/kennel charges.
- (g) Commuting between home and work.
- (h) Charge card delinquency assessments.

- (i) Costs incurred by traveler's failure to cancel transportation or hotel reservations in a timely fashion.
- (j) Evening wear rentals.
- (k) Formal wear expenses.
- (l) Flowers.
- (m) Gifts.
- (n) Haircuts and personal grooming.

Sec. 2-24. - Transportation.

- (a) All travel must be by a usually traveled route. In case a person travels by an indirect route for the traveler's own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. The department head or their designee shall designate the most economical method of travel for each trip, keeping in mind the following conditions:
 - (1) The nature of the business.
 - (2) The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation and per diem or subsistence required). When it is more efficient and economical to either the traveler or village, jet service offered by any airline may be used when the cost is within an approved threshold determined by the department head or designee.
 - (3) The number of persons making the trip and the amount of equipment or material to be transported.
- (b) Airfare. Take advantage of special rates, when available.
- (c) Mileage. The rate of reimbursement for the use of a personal car will be in accordance with the most current standard mileage rate of Department of Treasury IRS Publication 463 "Travel, Entertainment, Gifts and Car Expense". Reimbursement shall generally not exceed the reasonable cost of commercial airfare, including transportation to and from the airport.
- (d) Village vehicle. Receipts for gasoline purchases for village vehicles must be provided.
- (e) Rental car. A copy of the lease agreement for a rental car must be provided.
- (f) Taxi/limousine service. Receipts must be provided for a taxi/limousine service.
- (g) Tolls, parking facilities. Receipts must be provided for all tolls and parking charges.

Sec. 2-25. - Civil liability of officers and employees; exceptions.

To the extent permitted by law, the village is hereby authorized to expend from village funds the amount of money necessary as payment on behalf of any officer or employee of the village, that amount of money such officer or employee becomes obligated to pay by reason of any civil liability imposed by law upon such officer or employee, individually, except as hereinafter set forth, for claims or causes of action arising out of the acts or conduct of such officer or employee performed in good faith within the scope of the duties or employment of such officer or employee, which claims or causes of action were not the result of any willful, wanton, or malicious act of such officer or employee in the discharge of said duties or employment; provided, however, the village shall not be liable to any officer or employee under

any circumstances for claims or causes of action where said officer or employee acted in bad faith, with malicious purpose, or in a manner exhibiting wanton or willful disregard of human rights, safety of property, or committed acts involving moral turpitude. In no event shall the cost to the village exceed the insurance policy coverage for such claims or causes, nor shall the village expend any funds awarded as exemplary or punitive damages.

Sec. 2-26. - Civil claims, cause of action or litigation.

To the extent allowed by law, the village shall defend any civil claim, cause of action, or litigation that comes within the terms of this section, either by its legal counsel or by other counsel designated and retained by the village for said purpose, when such defense is not afforded by any policy of insurance carried by the village. In the event the claim, cause of action, or litigation is covered by a policy of insurance of the village, whether said policy covers litigation or suits of defense, it shall be discretionary with the village as to whether its legal counsel or other attorneys retained by it assist in said defense. The assumption of the defense of any said litigation shall not preclude the defense being conducted under a reservation of rights, indemnification, or any other legal rights of the village.

Sec. 2-27. - Payment of reasonable attorney's fees arising from suits under § F.S. 286.011 upon exoneration.

The village council is authorized to expend village funds for the payment of reasonable attorney's fees incurred by any past or present member of the village council or any person appointed by the village council to any village agency, authority, board, or commission when said person is charged with a violation, or violations, of any of the provisions of F.S. § 286.011, when said person is subsequently acquitted or the charge, or charges, against said person are dismissed, or by any person previously appointed but no longer a member of any village agency, authority, board, or commission when said person is charged with a violation, or violations, of any of the provisions of such section when said person is subsequently acquitted or the charge, or charges, against said person are dismissed.

Sec. 2-28. – Reimbursement of attorney's fees and costs expended in successfully defending ethics complaint.

The village council may reimburse present and former village public officials, employees, agents and appointees of advisory boards and committees for costs and attorney's fees incurred in successfully defending or prevailing in an action concerning the Florida Code of Ethics and the Palm Beach County Code of Ethics. Such reimbursement shall be subject to the policy adopted by Resolution 2015-73, as the same may be amended from time to time.

Sec. 2-29- Sovereign immunity of village.

Nothing in sections 2-25 through 2-28 shall be construed to affect in any way the village's rights, privileges, and immunities as set forth in F.S. § 768.28, and shall in no manner constitute a waiver of the village's sovereign immunity.

ARTICLE IV. - CODE COMPLIANCE

Sec. 2-30. - Intent of article.

It is the intent of this article to promote, protect, and improve the health, safety, welfare, property values, and quality of life of the citizens of the village by providing an equitable, expeditious, effective, and inexpensive method of enforcing the codes of the village.

Sec. 2-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code compliance clerk means any employee of the village so designated by the manager.

Code compliance officer means those authorized agents or employees of the village whose duty it is to assure code compliance.

Fine means a monetary amount assessed against a property owner by the special magistrate for Code violations in accordance with section 2-38.

Lien means a claim against the land upon which a violation or unpaid fine exists and upon any other real or personal property owned by the violator that arises upon the recording of a certified copy of an order imposing a fine in the public records in accordance with section 2-38.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found by a special magistrate or any other quasi-judicial or judicial process to have violated or has admitted violating the same provision on the same property within five years prior to the violation, notwithstanding, the violations occur at different locations.

Special magistrate means a person who is appointed by the village council in accordance with section 2-42 of this Code and is authorized to hear and decide cases involving code violations.

Village attorney means the legal counselor for the village.

Sec. 2-32. - Ex parte communications.

No ex parte communication relative to the merits of any pending action, threat, or offer of reward shall be made to the special magistrate by any employee of the village, or any party to the proceeding, or any person who directly or indirectly would have a material interest in such an action pending before the special magistrate, or the authorized representative or counsel of any such party.

Sec. 2-33. - Village attorney as prosecutor for the village.

The village attorney may act as prosecutor for the village in cases brought before the special magistrate.

Sec. 2-34. - Waiver of right to hearing; consent to fine.

The alleged violator may, if they so elect, waive their right to a hearing and consent to the imposition of a fine after a stated period of time within which to comply. The waiver shall be in writing on a form provided by the village, signed by all violators named in the notice of violation and witnessed.

Sec. 2-35. – Compliance duties and procedures.

- (a) *Enforcement proceedings; initiation.* It shall be the duty of the code to initiate enforcement proceedings of the various codes. No special magistrate shall have the power to initiate such enforcement proceedings.
- (b) *Notice of violation; time for correction.* If a violation of a code is found, the code shall notify the violator, unless subsection (c) or (d) of this section applies, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code compliance officer shall notify the special magistrate and request a hearing pursuant to the procedure set forth in this section. Notice shall be served upon the violator as provided in this article. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for the correction by the code compliance officer, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.
- (c) *Repeat violators.* If a repeat violation is found, the code compliance officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code compliance officer, upon notifying the violator of a repeat violation, shall notify the special magistrate and request a hearing. The special magistrate, through the code compliance clerk, shall schedule a hearing and shall provide notice as set forth in this article. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay such costs as determined by the special magistrate.
- (d) *Action on violations posing threat to public health, safety, welfare or that are irreparable by nature.* If the code compliance officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code compliance officer shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing. In addition, the code compliance officer may take action to cause the abatement of the violation in accordance with the provisions of section 162.06(4), Florida Statutes.
- (e) *Transfer of ownership.* If the owner of property that is subject to an enforcement proceeding before the special magistrate or court, transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall comply with the provisions of F.S. 162.06, as amended from time to time.

Sec. 2-36. - Subpoena of evidence.

The code compliance officer, the special magistrate, or the alleged violator may request that witnesses, records (including surveys, plats, and other materials) and other evidence are subpoenaed to any violation hearing. Subpoenas shall be served in the manner required by law.

These subpoenas shall be available through the code compliance clerk. An administrative fee may be charged for the preparation and service of the subpoenas.

Sec. 2-37. - Hearings.

- (a) Conduct. Formal rules for the conduct of hearings shall not apply, but fundamental due process shall be observed and shall govern all hearings.
- (b) Minutes; provision of clerical and administrative personnel. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The code compliance clerk shall provide clerical and administrative support as may be reasonably required by the special magistrate for the proper performance of its duties.
- (c) Presentation of case; recovery of costs. Each case before the special magistrate shall be presented by the village attorney or their designee, or by a member of the village staff. If the village prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate, and such costs may be included in a lien authorized by this article and applicable laws.
- (d) Testimony. The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code compliance officer and the alleged violator. Witnesses may be presented by either party.
- (e) Documentary evidence. All exhibits, photographs, memoranda or other documents intended to be introduced at the hearing by the parties shall be provided to the code compliance clerk at least 3 business days prior to the hearing. The special magistrate may allow additional evidence to be introduced at the hearing for good cause shown, and where such evidence does not result in prejudice to either party. Impeachment and rebuttal evidence need not be submitted in advance of the hearing.
- (f) Rights of parties. Each party shall have the right to:
 - (1) Call and examine witnesses.
 - (2) Introduce exhibits.
 - (3) Cross-examine opposing witnesses.
 - (4) Impeach witnesses.
 - (5) Rebut evidence.
- (g) Representation of alleged violator. The alleged violator has the right to be represented by an attorney at all hearings before the special magistrate.
- (h) Admissibility of Evidence. All relevant evidence shall be admitted if, in the opinion of the special magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule that might make such evidence inadmissible over objections in civil actions. The special magistrate may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.
- (i) Findings of fact; issuance of orders. At the conclusion of the hearing, the special magistrate shall issue findings of fact based on evidence of record and conclusions of law, and shall issue

an order affording the proper relief consistent with powers granted in this article. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by such date.

- (j) *Motions for rehearing or reconsideration of orders.* Motions for rehearing, motions for reconsideration, or any other motion that seeks to have the special magistrate overturn a previously issued order are not permitted and shall not be considered by a special magistrate. Nothing herein shall prohibit a motion challenging the jurisdiction of the special magistrate, which may be raised at any time.

Sec. 2-38. - Fines; imposition of liens.

- (a) The special magistrate, upon notification by the code compliance officer that an order of the special magistrate has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in subsection (a)(1) for each day that the violation continues past the date set by the special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code compliance officer. In addition, if the violation is a violation described in section 2-35(d) or F.S. § 162.06(4), as amended from time to time, the special magistrate shall notify the village council, which may make all repairs that are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the village council to make further repairs or to maintain the property and does not create any liability against the village council for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided herein, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (a)(1).

- (1) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and in addition, may include all costs of repairs. However, if the special magistrate finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

- (2) In determining the amount of the fine, if any, the special magistrate shall consider the following factors:

(i) The gravity of the violation;

(ii) Any actions taken by the violator to correct the violation; and

(iii) Any previous violations of the same code section committed by the violator on the same property.

- (b) Once a violator comes into compliance, and prior to the recording of the order imposing a fine, the violator may request a reduction of the fine from the special magistrate. In making the determination on whether to reduce a fine, following compliance, the special magistrate may take into consideration the gravity of the violation, any actions taken by the violator to correct the violation, any previous or subsequent violations committed by the violator, whether there were intervening matters that prevented or obstructed the violator from timely complying with the order to correct the violation, or the financial ability of the violator to pay the full amount of the fine. The ability of a violator to request a fine reduction ceases upon conversion of the fine to a lien by recording the order imposing fine in the public records pursuant to subsection (c).
- (c) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to F.S. § 162.09, whichever occurs first.
- (d) A lien arising from a fine imposed pursuant to this article runs in favor of the village council, and the village council may execute a satisfaction or release of lien entered pursuant to this section. After three (3) months from the recording of any such lien which remains unpaid, the special magistrate may authorize the village attorney to foreclose on the lien, or to sue to recover a money judgment for the amount of the lien, plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, article X of the state constitution.
- (e) Except as delegated by policy by the village council, only the village council is authorized to compromise a lien or to execute a satisfaction or release of an outstanding lien once the property owner has come into compliance.

Sec. 2-39. - Duration of lien; action to foreclose; costs collection; continuance of lien.

The duration of the lien, and action to foreclose upon a lien shall be as governed by F.S. § 162.10.

Sec. 2-40. - Service of notice.

Service of notice shall comply with F.S. § 162.12.

Sec. 2-41. - Appeals of administrative orders.

Appeals shall be governed by F.S. § 162.11.

Sec. 2-42. - Special magistrate.

- (a) One or more persons may be appointed as special magistrate by the village council in accordance with the selection process enumerated in subsection (b)(2). A special magistrate shall serve a two-year term and may be reappointed for an additional two-year term every two years thereafter, unless the special magistrate elects not to continue to serve or is removed by the village council. The compensation for special magistrate services may be authorized as specified in the appointing resolution. A special magistrate may be suspended or removed at any time with or without cause by the village council.
- (b) Approximately 120 days prior to the expiration of a special magistrate's two-year term, village staff shall contact the special magistrate to ascertain if the special magistrate wishes to continue to serve and notify the village council of the special magistrate's response. The council will decide whether to continue the special magistrate's service or remove the special magistrate.
 - (1) If the special magistrate wishes to continue to serve and is not removed by the village council, the special magistrate shall commence a new two-year term upon the expiration of the prior term.
 - (2) If the special magistrate elects not to continue to serve or is removed by the village council, a request for Letters of Interest (LOI) shall be advertised for the position.
 - (i) The request for LOI shall give prospective applicants thirty (30) days from the initial date of publication to submit their LOI to the village.
 - (ii) The request for LOI must include the following criteria:
 - 1. The candidate has been admitted to the Florida Bar for a minimum period of five years and is a member in good standing;
 - 2. The candidate is willing to serve on a specific rotational schedule; and
 - 3. The candidate is willing to accept a specific level of compensation.
 - (iii) The request for LOI may include one or more of the following criteria:
 - 1. The candidate has experience as a municipal attorney;
 - 2. The candidate has experience interpreting and applying municipal codes.
 - (iv) Upon the conclusion of the thirty (30) days set forth in subsection (b)(2)(i), a selection committee shall be formed to review the candidate submissions and rank the applications consistent with the policies outlined in the Purchasing and Procurement Manual. The selection committee shall submit the five (5) highest ranked candidates to the village council for final selection. Neither the village manager, the village attorney, the code compliance manager, nor the code compliance staff may serve on a selection committee.
- (c) To the extent possible, special magistrates shall serve staggered terms. Accordingly, the Village Council shall appoint one Special Magistrate to serve an initial three-year term beginning June 1, 2020 and ending May 31, 2023 and at least one Special Magistrate to serve a two-year term beginning June 1, 2020 and ending May 31, 2022. Any additional terms shall be limited to two years as described herein.
- (d) The Village Council shall make every effort to promptly and expeditiously fill any special magistrate vacancy. To the extent a vacancy cannot be filled prior to the expiration of a

Special Magistrate's term, such term shall be extended until the position is filled in accordance with this section.

Sec. 2-43. - Authority.

The supplemental code enforcement procedures set forth by this code are authorized and adopted pursuant to F.S. ch. 162, Part II. The provisions of these sections are an additional and supplemental means of enforcing village codes and ordinances and may be used for the enforcement of any or all codes or ordinances except as set forth herein. Nothing contained in these sections shall prohibit the village from enforcing its codes or ordinances by any other means.

Sec. 2-44. - Authority of code compliance officers.

A code compliance officer is authorized to issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted village code or ordinance and this citation will be heard by the county court.

Sec. 2-45. - Notice.

Prior to issuing a citation, a code compliance officer shall provide written notice to the person who has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no fewer than 5 days and no more than 30 days. If, upon personal investigation, a code compliance officer finds that the person has not corrected the violation within the time period allowed, the code compliance officer may issue a citation to the person who has committed the violation. A code compliance officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code compliance officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

Sec. 2-46. - Form of citation.

The citation issued by the code enforcement officer shall be in a form prescribed by the village and shall contain the following:

- (1) The date and time of issuance
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed
- (4) The facts constituting reasonable cause.
- (5) The number or section of the code or ordinance violated.
- (6) The name and authority of the code enforcement officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.

- (10) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, the person shall be deemed to have waived their right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

Sec. 2-47. - Violations and penalties.

All violations of the Code shall be considered civil infractions with a maximum civil penalty not to exceed the amounts identified in Section 2-38 of this Code when processed through the Special Magistrate. Certain ordinances lend themselves to be enforced by means of a citation method and as such, the village has determined that the following sections of the Code may be enforced through the citation method and has provided a schedule of violations and penalties to be assessed as follows with a maximum civil penalty not to exceed \$500:

<u>Class I</u> <u>\$50.00 Penalty</u>	<u>Class II</u> <u>\$75.00 Penalty</u>	<u>Class III</u> <u>\$125.00 Penalty</u>	<u>Class IV</u> <u>\$250.00</u> <u>Penalty</u>	<u>Class V</u> <u>\$500.00</u> <u>Penalty</u>
<u>Prohibited</u> <u>Signs</u> <u>LDR Section</u> <u>7.14</u>	<u>Water Restrictions</u> <u>Code of Ordinances</u> <u>Section 9-28(a)–(e)</u> <u>unless due to drought</u> <u>conditions more</u> <u>stringent penalties</u> <u>are applicable</u>	<u>Failure to obtain</u> <u>Building Permit prior</u> <u>to commencement of</u> <u>construction</u> <u>Building Codes</u> <u>Enforcement</u> <u>Administrative Code</u> <u>Section -5.32-105.1</u>	<u>Livestock</u> <u>Waste</u> <u>BMP's*</u> <u>Section 9-35</u>	<u>Repeat</u> <u>Violations of</u> <u>items listed</u> <u>under Class I,</u> <u>II, III and IV</u>
<u>Noise</u> <u>Code of</u> <u>Ordinances</u> <u>Sections 13-5</u> <u>and</u> <u>13-6</u>	<u>Solid Waste</u> <u>All violations of Code</u> <u>of Ordinances</u> <u>Chapter 17</u>	<u>Failure to obtain Local</u> <u>Business Tax Receipt</u> <u>Code of Ordinances</u> <u>Chapter 21, Article III</u>	<u>Vegetation</u> <u>Removal w/o</u> <u>permit</u> <u>LDR** Section</u> <u>7.7.5</u>	
<u>Property</u> <u>Maintenance</u> <u>Code of</u> <u>Ordinances</u> <u>Section 13-2</u>		<u>Failure to Obtain</u> <u>Special Use Permit</u> <u>LDR Article 5, Section</u> <u>5.3.9</u>	<u>Transient</u> <u>(Mobile) Sales</u> <u>LDR Section</u> <u>6.2.2.D.2 and</u> <u>Table 6.2-1</u>	
		<u>Failure to Comply</u> <u>with Article 6 of the</u> <u>LDR (Zoning Districts)</u>	<u>Palm Beach</u> <u>County</u> <u>Emergency</u> <u>Orders***</u>	

*BMP = Best Management Practices for Livestock Waste

**LDR = Land Development Regulations

***Fine amounts or penalties established by County Emergency Order may be greater than Wellington penalties.

The village council may, by ordinance, identify additional violations to be enforced through the citation method, which violations shall be subject to the penalties set forth in the applicable ordinance.

Sec. 2-48. - Citations not applicable to certain portions of building codes.

The provisions of this section shall not apply to the enforcement pursuant to sections 553.79 and 553.80 of the building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the village.

Sec. 2-49. - Processing citations; county court.

- (a) *Disposition by county court.* After issuing a citation to an alleged violator, a code compliance officer shall deposit the original citation and one copy of the citation with the county court for further disposition.
- (b) Upon receipt of a citation, the person alleged to have violated the village code may request a court appearance. The county court judge may assess a maximum civil penalty not to exceed \$500.00 if contested. If the citation is not contested, the amount of the fine is the face value of the citation plus costs.
- (c) Should any person receiving a citation desire to contest same, such person shall have the right to appear in county court in order to present their case and have the matter determined by the court.
- (d) *Failure to accept citation; misdemeanor.* Any person who willfully refuses to sign and accept a citation issued by a code compliance officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 755.082 or 775.083.

ARTICLE V. - FINANCE

Sec. 2-50. - Adoption of budget.

The village council shall adopt a budget in accordance with applicable law, including, but not limited to, F.S. § 200.065 and applicable state department of revenue rules, as amended.

Sec. 2-51. - Purchasing, procurement and disposal.

The village's purchases and acquisitions of personal property and services, management of contracts and property management and disposal of property shall be in accordance with the procedures and policies set forth in the purchasing and procurement manual adopted by resolution, which as needed may be amended from time to time. Unsuccessful bidders may file

protests to awards, where appropriate and applicable, in accordance with the procedure set forth in the manual.

Sec. 2-52. - Purchase and disposition of real property.

- (a) The village may purchase real property utilizing the procedure set forth in F.S. § 166.045, as same may be amended from time to time, when it wishes to temporarily except certain records from the disclosure requirements of the public records law or it may utilize the provisions set forth in this section.
- (b) For each proposed purchase of real property in an amount of \$100,000 or less, no written appraisal or comparables must be obtained or reviewed as part of the village's negotiation process. For each purchase greater than \$100,000 and less than or equal to \$500,000, the village shall receive comparable information and may receive one written appraisal by a state certified real estate appraiser to consider as part of the purchase process. For each purchase between \$500,000 and less than or equal to \$5,000,000, the village shall obtain at least one written appraisal by a state-certified real estate appraiser to consider as part of the negotiation process. For each purchase of real property in an amount in excess of \$5,000,000, the village shall obtain at least two written appraisals by appraisers independent of each other who are state-certified real estate appraisers. The village manager or their designee shall be responsible for negotiating the essential terms of the purchase and such terms shall be presented to the village council for approval. The village manager or designee need not obtain the comparable or appraisal information provided in this section until immediately prior to the time the contract to purchase is presented to the village council. A failure to obtain such appraisals or comparables shall not be cause to set aside a closed real estate transaction or affect the village's title derived by the deed delivered at closing.
- (c) The village may contract to purchase real property pursuant to any terms it finds acceptable. All proposed purchases shall be reviewed by the village manager and village attorney or their designees prior to being presented to the village council for approval. A village resolution approving the closing of the contract shall be required as a condition to the village's obligation to purchase any property.
- (d) No particular form of advertising shall be required prior to the village considering and approving such purchase; however, the matter must be placed on an agenda for a village council meeting.
- (e) The village may dispose of surplus real property in any manner the village council deems appropriate, so long as there is a public purpose in the sale, transfer, gift or other disposition of surplus property. The village council does not have to sell property through a bidding process, but may choose to negotiate a price for the property or offer the property for sale through any means the village council determines to be commercially viable. In appropriate circumstances, the village council may decide to limit the potential buyers and sell or transfer the property for less than the full market value in order to put the property back on the tax rolls or ensure that appropriate use of the property will be made.

ARTICLE VI. - BOARDS AND COMMITTEES

Sec. 2-53. - Creation of boards and committees.

Boards. In accordance with Chapter 163 and the Florida Building Code, Wellington hereby creates the Planning, Zoning and Adjustment Board to function as the Local Planning Agency and Zoning Board of Adjustment, and further creates the Construction Board of Adjustments and Appeals, which shall also act as the Local Construction Regulation Board. The village council may, by resolution, establish other boards as it deems appropriate to advise the village council on specific areas of interest or needs. The powers and duties of the various boards, the number, qualifications, and terms of office of the members thereof, shall be established by resolution.

- (b) Committees. The village council may, by resolution, create a committee whose purpose is to advise the village council on an item of a special nature and whose creation is for a stated period of time, at the end of which time the committee will no longer exist. The resolution creating such committee shall specify its powers and duties, the time for which it shall exist, and the number, qualifications, and terms of office of the members thereof.

Sec. 2-54. - Scope.

The provisions of this article shall apply to all boards and committees of Wellington and shall govern all members thereof. Neither "board" nor "committee" shall be construed to include the village council.

Sec. 2-55. - List of volunteers.

The village clerk shall prepare and maintain a list of volunteers who have indicated an intention and willingness to serve as members of the village boards and committees if appointed by the village council for such purpose. Any preference of the volunteers to serve on a particular board or committee shall be so stated. The list shall be kept current and be available to the members of the village council as requested.

Sec. 2-56. - Announcement of vacancies.

All vacancies in the membership of any appointive village board or committee shall be announced by the village clerk by posting a notice of the same at a public place in village hall, and by posting on the village website.

Sec. 2-57. - Procedure for appointment and filling vacancies.

- (a) Except as otherwise provided in this Code, appointments to boards and committees shall be made at a regular Wellington council meeting within 60 days of the certification of results of a regular election of the Wellington council.
- (b) Members. Unless otherwise provided by law or ordinance, all village boards and committees shall consist of seven regular members and the attendance of four members shall constitute a quorum. There shall be no alternate members appointed to boards or committees.
- (c) Council appointment. For boards and committees consisting of seven members, each councilmember shall appoint one member, and councilmembers shall nominate two members who shall be appointed by majority vote of the council.

Sec. 2-58. - Attendance records.

The village clerk shall maintain an attendance record of the members of all boards and committees, which shall be furnished by each board or committee.

Sec. 2-59. - Compensation of members.

Board members shall serve without compensation except as may be provided by ordinance or resolution of the village council.

Sec. 2-60. - General provisions; qualifications.

All members of boards and committees shall:

- (1) Serve at the pleasure of the village 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 reside 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 years prior to the date of their appointment, or any time during their appointment.
- (4) Any member who fails to meet the requirements for appointment to a board or committee shall immediately cease to be a member of the board or committee, and that position shall be deemed vacant.
- (5) All boards and committees shall be part of the village government and shall utilize, insofar as practicable, the services of the regular departments in Wellington.
- (6) No board or committee member shall hold any elected office in the government or be a full-time employee of Wellington.
- (7) If any member of a board or committee shall find that their private or personal interests are involved in the matter coming before the board, the member shall disqualify themselves from all participation in that matter. No member of a board or committee shall appear before that board or committee or the village council as agent or attorney for any person. The foregoing provision does not preclude a board or committee member from representing the village in any pending or anticipated litigation matter, provided however that no such representation shall result in a violation of chapter 112, F.S. or the Palm Beach County Code of Ethics.
- (8) No board or committee member shall have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between the member's private interests and the performance of the member's public duties or that would impede the full and faithful discharge of those public duties.
- (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 the village 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 village council.

Sec. 2-61. - Terms of members.

- (a) Terms of members shall be established in the ordinance or resolution creating the board or committee and unless otherwise specified shall begin effective June 1 of even years and end on May 31 of subsequent even years.
- (b) Board members whose terms have expired shall continue to serve until their successors are appointed.
- (c) Vacancies in the board or committee membership shall be filled by appointment by the village council for the unexpired term of the member affected.
- (d) Board and committee members may be reappointed to successive terms.

Sec. 2-62. - Officers.

All boards and committees established by the village council shall, at a meeting during the month of June or the next regularly scheduled meeting held thereafter, elect one of their members as chairperson and elect other such officers as may be necessary.

Sec. 2-63. - Meetings.

- (a) Unless otherwise provided, meetings shall be held quarterly, or at such times as the village council may provide by resolution, or as otherwise provided by law. Special meetings shall not be held unless requested by the village manager or his designee and at least 72 hours' notice is given to each member, the public and the village council. However, in order to facilitate timely and efficient review of privately submitted development applications, boards and committees assigned responsibility for review of such matters shall meet on a monthly basis when needed.
- (b) Members shall notify the board or committee liaison if they are unable to attend a meeting. If a quorum will not be present, the village clerk shall notify the members that the scheduled meeting will be canceled.
- (c) An audiotape or videotape recording, or both when available, shall be made of all meetings. Additionally, minutes shall be kept of the proceedings and shall record the official actions taken by the board or committee. Audiotapes or videotapes, or both when available, and minutes shall be forwarded to the village clerk.
- (d) All meetings and public hearings of boards and committees shall be open to the public. All meetings shall be governed by the procedures adopted by the village council, as supplemented by Robert's Rules of Order, Newly Revised, 12th edition, and are subject to the requirements of Florida's public meetings law pursuant to F.S. § 286.011.
- (e) Members of village boards and committees are subject to the jurisdiction of the Palm Beach County Commission on Ethics and are responsible for understanding and abiding by the Palm Beach County Code of Ethics in the conduct of their duties as board members. Prior to being seated, all members must complete the mandatory ethics training provided by the Palm Beach County Commission on Ethics. Failure to complete the training will make the member ineligible to take their seat, until the member has complied.

Sec. 2-64. - Removal of board and committee members.

- (a) *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, the village 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 two consecutive unexcused absences or four absences out of the last six meetings, whether excused or unexcused, shall be automatically removed as a member of the respective board or committee. For purposes of this section, the term "excused absence" shall mean: (i) illness of a board or committee member or other person for whom the member is a caregiver; (ii) death of a board or committee member's relative; (iii) observance of religious holidays; (iv) compliance with a subpoena or other legal process; and (v) absence resulting from events reasonably beyond the control of the board or committee member. The member removed for absenteeism shall be ineligible for reappointment to a board or committee for a period of two years following the effective date of their removal.
- (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 village council. Board and committee members appointed by individual council members may be removed without cause by the council member who appointed the board or committee member unless otherwise provided by the Charter or Florida Statutes. No vote by the council shall be required for such removal. At large board and committee members may be removed without cause by a majority vote of the council, unless otherwise provided by the Charter or Florida Statutes
- (c) *Effective date of removal.* The effective date of removal of a member shall be the date of automatic removal under paragraph (a) or, in the case of removal by the village council or individual council member, the date on which the village council or council member provides.

Sec. 2-65. - Resignation of members.

Members of boards or committees may resign at any time. A member who resigns will not be eligible for appointment to the same board or committee for a period of time equal to a full term of that board or committee.

ARTICLE VII. - EMERGENCY MANAGEMENT

Sec. 2-66. – Legislative findings and intent

(a) The village council finds that it and its residents are vulnerable to the occurrence of natural, technological and manmade disasters, including but not limited to hurricanes, floods, tornados, civil unrest, sabotage, hostile actions, hazardous accidents, epidemics, pandemics and other emergency events that threaten the health, safety, welfare and property of its citizens.

(b) It is the intent of the village council to reduce such vulnerability of the people and property of Wellington and to prepare for and implement policies for responding to and recovering from such disasters and emergency events while simultaneously minimizing the negative impacts to the rights and liberties of individuals and businesses within the village.

(c) The village council therefore determines and declares that the provisions of this Article fulfill a compelling village interest.

Sec. 2-67. – Municipal emergency management program

(a) There is hereby created within the village a municipal emergency management program pursuant to s. 252.38, F. S., for the purpose of preparing for, responding to and recovering from all natural, technical, manmade and civil emergencies, as defined in chapters 252 and 381, F.S. The program shall be under the control of the village manager. The village manager, together with the deputy village manager and assistant village manager, shall serve as the executive policy group, shall maintain executive decision-making authority throughout all stages of a disaster and shall ensure implementation of the village's emergency management plan

(b) The village council is responsible for policymaking and legislation on village matters relating to an emergency.

(d) The emergency management function, including the incident commander, is under the auspices of the public safety department and reports directly to the village manager.

Sec. 2-68. – Definitions.

Disaster as referenced in F.S. § 252.34 means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the village, county, the governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(1) Catastrophic disaster means a disaster that will require massive state and federal assistance, including immediate military involvement.

(2) Major disaster means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(3) Minor disaster means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(4) Disaster-generated debris means any material, including vegetation, personal property and construction material on public or private property that is directly deposited by the disaster.

(5) *Emergency management* means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters.

(6) *Imminent* means clear and present danger to life or property rights as a result of an emergency or disaster.

(7) *State declared emergency*. As used in this chapter, a "state declared emergency" or a "state of emergency" shall mean a declaration by the governor of an actual or impending emergency or disaster of natural or human origin, or pandemic emergency, or impending or actual enemy attack, or a public health emergency, within or affecting Florida or against the United States. A declaration of emergency by the governor may enact some or all of the emergency powers, local or otherwise, addressed in this chapter.

(8) *State of local emergency*. As used in this chapter, a "state of local emergency" shall mean a declaration by the mayor of the village, or designee, enacting some or all of the local emergency powers addressed in this chapter.

Sec. 2-69. --Declaration of state of emergency.

(a) *Natural, technological, manmade and civil emergencies*. In the event of a natural, technological or manmade emergency, including public health emergencies, as defined in F.S. § 252.34, or an act of violence, riot or general public disorder, as set forth in F.S. § 870.043, the mayor or their designee shall have the power, duty, and responsibility to declare a state of local emergency within the boundaries of the village and to direct the village manager to implement and exercise the emergency management powers conferred in F.S. ch. 252, including the issuance of emergency orders. Except as otherwise provided herein, a state of local emergency shall continue until the mayor or designee issues a termination of the state of emergency.

(b) During a declared state of local emergency, village council meetings may be called upon two hours' notice. The village council may adopt emergency ordinances pursuant to s. 166.041(3)(b), F. S., upon the affirmative vote of four council members, provided however that no emergency ordinance may be adopted that establishes or amends the actual zoning map designation of a parcel or parcels of land or that change the actual list of permitted, conditional, or prohibited uses within a zoning category.

(c) When a state of local emergency is declared, the mayor or their designee shall, as promptly as practicable, file the written declaration of emergency in the office of the village clerk. In the event of an act of violence, riot, or general public disorder, the declaration of emergency shall be delivered to appropriate news media for publication and radio and television broadcast thereof, and, if practicable, published by other means such as by posting and loudspeakers.

Sec. 2-70. – Effect of emergency declaration.

A declaration of state of local emergency by the mayor, or designee, shall automatically activate all applicable village emergency management plans and shall be the authority for deployment of personnel and use of any forces to which the plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled or

arranged to be made available pursuant F.S. ch. 252, Emergency Management or any other laws applicable to emergencies or disasters.

Sec. 2-71. – Emergency management powers.

Upon declaration of a state of local emergency and during the existence of a declared state of local emergency, the village manager or their designee , in addition to any other powers conferred by F.S. ch. 252, F.S. ch. 381, F.S. ch. 870, F.S. ch. 166, or other law, has the power and authority to issue emergency orders that:

- (1) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the village if the manager or designee deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery.
- (2) Waive the procedures and formalities otherwise required of the village by law or ordinance pertaining to:
 - a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - b. Entering into contracts;
 - c. Incurring obligations;
 - d. Employment of permanent and temporary workers;
 - e. Utilization of volunteer workers;
 - f. Rental of equipment;
 - g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities;
 - h. Appropriation and expenditure of public funds.
- (3) Prohibit or regulate travel upon any public street, highway or upon any other public property. Persons in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof may be excepted from such prohibition or regulation.
- (4) Impose a curfew upon all or any portion of the village thereby prohibiting persons from being on public streets, highways, parks or other public places during the hours which the curfew is in effect except as necessary to travel to and from their place of employment. The duration and application of the curfew shall be tailored to meet the specific emergency.
- (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, as amended from time to time, 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.

Emergency orders issued as provided herein shall have the force and effect of law when filed in the office of the village clerk. Failure to file such order with the village clerk within 3 days after issuance voids the emergency order.

Emergency declarations, ordinances and orders adopted pursuant to the authority of section 252.31-252.90, F.S. must be available on a dedicated web page accessible through a conspicuous link on the village's homepage and must identify the emergency ordinances, declarations and orders currently in effect. Such link must also be provided to the Florida Division of Emergency Management.

Sec. 2-72. – Preservation of rights and liberties of individuals and businesses.

If an emergency order is issued or adopted in response to a non-weather-related emergency pursuant to Chapters 252 or 381, Florida Statutes, which order limits the rights and liberties of individuals or businesses, the following provisions shall apply:

- (1) the order must be narrowly tailored to serve a compelling public health or safety purpose.
- (2) the order must be limited in application, scope and duration to reduce the negative impact such order may have on the rights and liberties of individuals and businesses.
- (3) the order shall expire after 7 days unless extended by a vote of the village council.
- (4) the order may be extended in 7 day increments for a maximum of 42 days.
- (5) upon the expiration of the order and any extension thereof, the village may not issue a substantially similar order.
- (6) the order is subject to invalidation by the Governor of the State of Florida.