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AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING ARTICLE 6 OF THE LAND DEVELOPMENT REGULATIONS RELATED TO VACATION RENTALS BY REVISING THE USE REGULATIONS FOR VACATION RENTALS IN TABLE 6.2-1 FROM A PERMITTED USE TO A SPECIAL USE; AMENDING THE SUPPLEMENTARY USE REGULATIONS FOR VACATION RENTALS FOUND IN SEC.6.2.2.A; CREATING SUSPENSION AND REVOCATION PROVISIONS AND ESTABLISHING A SPECIAL USE PERMIT REQUIREMENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Section 509.032, Florida Statutes, restricts local governments from enacting regulations that prohibit vacation rentals or regulate the duration or frequency of rentals, but otherwise allows local governments to enact new regulations governing vacation rentals that protect the health, safety, and welfare of its residents; and

WHEREAS, Wellington acknowledges the potential negative impacts of transitory uses of residential properties on the character and quality of its neighborhoods and, has determined that to protect the public health, safety, and welfare, it is necessary to adopt certain regulations and impose certain remedies and penalties appropriate to said uses to prevent and/or mitigate impacts created by such transitory uses of residential property; and

WHEREAS, these regulations are designed to protect the character of the residential neighborhoods and provide the public with the opportunity to offer and use vacation rentals in a manner that is consistent with state and local regulations while preserving the quiet nature and atmosphere of residential uses; and

41 **WHEREAS**, the Wellington Council, as the governing body, pursuant to the
42 authority vested in it by Chapters 163 and 166 of the Florida Statutes, is authorized and
43 empowered to consider changes to its Land Development Regulations (LDR); and
44

45 **WHEREAS**, the Planning, Zoning and Adjustment Board, as the Local Planning
46 Agency, after notice and public hearing held on September 28, 2023, recommended
47 approval of the Zoning Text Amendment with changes with a 5-1 vote (Herman
48 dissenting); and
49

50 **WHEREAS**, the Council has taken the recommendations of the Planning, Zoning
51 and Adjustment Board, Wellington staff, and the comments from the public into
52 consideration in adopting the amendments to the LDR that are the subject of this
53 ordinance.
54

55 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**
56 **FLORIDA, THAT:**
57

58 **SECTION 1:** Table 6.2-1: Use Regulations Schedule of the LDR is hereby
59 amended as set forth in Exhibit A attached hereto [~~strike-through~~ formatted text is to be
60 deleted; underline formatted text is to be added].
61

62 **SECTION 2:** Sec.6.2.2. titled "Supplementary Standards for Principal Uses",
63 subsection A.5 "Vacation Rentals" is hereby amended as follows [~~strike-through~~ formatted
64 text is to be deleted; underline formatted text is to be added]:
65

66 5. Vacation Rentals:
67

68 a. As used in this section, the following definitions apply:
69

70 i. Third-Party Platform Entity means any person, service, business,
71 company, marketplace, or other entity that, for a fee or other
72 consideration, provides property owners and responsible parties a
73 platform or means to offer vacation rentals to transient occupants,
74 whether through the internet or other means.
75

76 ii. Responsible Party means the owner of the property and any person or
77 entity authorized by the property owner to obtain all necessary
78 licensing for a vacation rental and who will be responsible for ensuring
79 compliance with all regulations related to vacation rentals. Further, the
80 Responsible Party must be available to respond 24 hours per day,

81 seven (7) days per week to any issue that arises related to the vacation
82 rental.

83
84 iii. Transient Occupant means any person who rents or occupies any
85 dwelling unit or part thereof for less than 30 days or one calendar
86 month, whichever is less, and any guest or invitee of such person.

87
88 iv. Vacation Rental, also called a short-term rental, means any dwelling
89 unit or residence, including, but not limited to, any single family or any
90 unit or group of units in a condominium, cooperative, or apartment
91 building, that is rented in whole or in part, to a transient occupant,
92 which is advertised or held out to the public as a place that may be
93 rented to a transient occupant, but shall not include a hotel, motel, or
94 bed and breakfast as defined or referenced in the LDR, more than
95 three (3) times in a calendar year for periods of less than 30 days or
96 (1) calendar month. ~~For the purpose of this section, Vacation Rental is~~
97 ~~synonymous with the term short-term residential rental.~~

98
99 b. Vacation Rentals property owners shall comply with all requirements of the
100 Code of Ordinances (CO) and the LDR ~~pertaining to the applicable zoning~~
101 ~~district~~, along with the following ~~general~~ standards for operation of a
102 Vacation Rental:

103
104 i. The Responsible Party shall maintain a register with the names and
105 dates of stay of all guests, including but not limited to, all Transient
106 Occupants and their invitees.

107
108 ii. Maximum occupancy for Vacation Rentals shall be limited to two (2)
109 persons per bedroom, excluding children under the age of three (3),
110 for overnight use. At all other times, the maximum occupancy for
111 vacation rentals shall not exceed the maximum overnight occupancy
112 of the rental, plus four (4), excluding children under the age of three
113 (3). For the purpose of this section "overnight" means 11:00 p.m. until
114 6:00 a.m. the following day.

115
116 iii. Overnight parking for Vacation Rentals shall be limited to, not including
117 vehicles fully parked in garages, one (1) vehicle per bedroom, with a
118 maximum of four (4) vehicles. Vacation Rentals with more than four
119 (4) bedrooms and on a parcel that is one (1) acre in size or greater
120 may park one (1) additional vehicle for each bedroom greater than four

(4). Notwithstanding the maximums above, the maximum overnight parking is further limited to the number of vehicles that can be properly parked on a driveway, parking apron, or designated hard surfaced parking area. Vehicle parking which is not in a garage, on a driveway/parking apron, or in a designated parking area is prohibited. At all times, all automobiles shall be parked in an approved off-street parking space or driveway on the property. The parking of automobiles on a swale, lawn, landscape area, within the public right-of-way, or sidewalk is prohibited.

iv. The Responsible Party for all Vacation Rental properties is required to conduct a nationwide search to confirm that the prospective Transient Occupant(s) is/are not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense. The Department of Justice offers a free search for all states on the National Sex Offender Public Website. Further, if a Vacation Rental property is located within 2,500 feet of a school, child care facility, ~~school bus stop~~, or park, or playground, it is a violation of Wellington's CO to allow any person to establish a temporary, permanent, or transient residence with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction.

v. The Responsible Party and all Transient Occupants shall abide by all applicable state and local public nuisance regulations, including but not limited to, regulations that prohibit any place or premise from being used as the site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior ~~that adversely affects the public health, safety, and welfare.~~

vi. If the Responsible Party permits Transient Occupants to have pets at the Vacation Rental, such pets shall, at all times, be secured within the property lines or on a leash, but shall not be tethered. Continual nuisance barking by pets is prohibited.

vii. All swimming pools on-site must have in place at least one (1) pool safety feature listed in section 515.27, Florida Statutes, prior to the use of the property as a Vacation Rental.

viii. The Responsible Party and all Transient Occupants must comply with all applicable local, state, and federal regulations, including but not limited to, applicable laws pertaining to anti-discrimination, disability, and fair housing.

ix. To provide a safety benefit for the neighborhood, and maximize compliance with rules and standards by the Transient Occupants, the owner of the Vacation Rental shall post a notice, as provided by the Village of Wellington, of Wellington's applicable ordinances in a location on the property that is clearly visible to the Transient Occupants.

x. The Vacation Rental shall be rented as a whole unit to a Transient Occupant or Transient Occupant party. In no event may individual sleeping rooms be offered for rent, nor may the unit be offered for rent to multiple Transient Occupant parties.

c. No property owner, Responsible Party, or Third-Party/Platform Entity shall offer a Vacation Rental, or allow any person to rent or occupy any property as a Vacation Rental, ~~, in whole or in part,~~ without first obtaining a Special Use Permit from Wellington and then a Business Tax Receipt (BTR) from Wellington and Palm Beach County. A Special Use Permit shall be required for each unit subject to the requirements of the Vacation Rental supplemental regulations. The Special Use Permit is not transferable. A Special Use Permit application for a Vacation Rental shall be required for all existing and future Vacation Rentals. The property owner and Responsible Party shall both be listed on the Special Use Permit and BTR application. All documentation required by the Florida Department of Business and Professional Regulation shall be provided with the Special Use Permit and BTR application. Additionally, the applicant must submit the Vacation Rental Affidavit for the Special Use Permit, which shall contain:

- i. Address of the Vacation Rental;
- ii. Name, address, phone number and email of the property owner;
- iii. Name, address, phone number and email of the Responsible Party;
- iv. Name and contact information for ~~the~~ all Third-Party/Platform Entity or Entities on which the Vacation Rental is, or will be, listed;

- v. Statement that the Responsible Party is, or will be, remitting all applicable County business tax and tourist taxes as required by the County and State. If the Third-Party/Platform Entity will be remitting all such taxes associated with the Vacation Rental on behalf of the Responsible Party, then the applicant must disclose this as part of the affidavit;
- vi. Statement that the Responsible Party ~~has the permission~~ is the designated agent of the property owner and has authority to offer the property as a Vacation Rental and act as the Responsible Person consents to Responsible Party accepting civil citations on behalf of the property owner;
- vii. Statement of the Number of rooms and occupancy of the dwelling unit ~~that will be used for a Vacation Rental~~;
- viii. Statement acknowledging that the Vacation Rental must be registered with the Florida Department of Revenue, or successor agency, for the purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
- ix. Statement acknowledging that the property is, and will at all times during which it is used as a Vacation Rental, be, in compliance with the Vacation Rental standards set forth in this section, along with all other applicable CO and LDR regulations, such as noise, vehicle parking, and garbage;
- x. Acknowledge and provide a copy of the consent from any governing homeowners association, condominium association, or property owners association with the BTR application;
- xi. Statement acknowledging the Responsible Party will comply at all times with the sexual offender/predator regulations for Vacation Rentals; and
- xii. Statement that all safety measures and features for swimming pools are, and will be at all times, maintained in compliance with the Vacation Rental regulations;

d. The property owner, Responsible Party and Third-Party/Platform Entity information shall be maintained regularly. When there are changes, notification must be submitted to Wellington's Planning Department and Business Tax Official within 15 calendar days of the changes. All documentation must be readily available for inspection by Wellington at any time. A new Special Use Permit shall be required for any change in ownership.

e. Penalties, Suspension, and Appeals:

i. Offenses/violations:

a) Non-compliance with any provision of the supplemental standards for Vacation Rentals shall constitute a violation of this Article by the property owner and may be enforced as provided by law.

b) Upon a finding of a violation of the Supplemental Regulations for a Vacation Rental, each day a violation exists shall constitute a separate and distinct violation, except that violations regarding maximum occupancy shall constitute a single violation for a rental period.

c) A violation of any provision of the Supplemental Regulations for a Vacation Rental shall constitute a Class III civil infraction by the property owner. Violations may be enforced by a Code Compliance Officer or a Law Enforcement Officer in accordance with Chapter 2 of Wellington's Code of Ordinances and LDR. Further, Wellington finds that violations of this Article present a serious threat to the public health, safety and welfare of its residents or are irreparable and irreversible. Accordingly, a Code Enforcement Officer or Law Enforcement Officer is authorized to issue a citation pursuant to this section without issuing a written warning/notice, as provided in Section 2-45 of the Wellington Code of Ordinances. Service by certified mail to the property owner shall constitute valid service of a civil citation pursuant to Wellington's Code of Ordinances Section 2-45.

281
282 ii. Suspension: In addition to the fines and other penalties
283 described herein, or provided by law, the Planning Director, or
284 designee, may suspend a Special Use Permit in accordance
285 with the following:

286
287 a) Upon a second violation within a 12-month
288 period – up to a period of thirty (30) calendar days.

289
290 b) Upon a third violation within a 12-month period
291 – up to a period of one hundred eighty (180) days.

292
293 c) Upon a fourth violation within a 12-month period
294 – up to a period of three hundred and sixty-five (365)
295 days.

296
297 d) A suspension shall begin immediately following
298 notice of suspension, commencing either at the end of
299 the current lease period or within thirty (30) calendar
300 days, whichever date commences earlier.

301
302 e) Operation during any period of suspension shall
303 be deemed a violation and shall be subject to a daily
304 fine, up to one hundred and twenty-five dollars (\$125)
305 or to the maximum amount as otherwise provided by
306 the Florida Statutes for repeat violations, for each day
307 that the rental operates during a period of violation.

308
309 f. Revocation: The approval of a Special Use Permit may be revoked by the
310 Planning Director upon the fifth (5th) violation, as described in the above
311 sections, within a 12-month period. Revocation action may also be imposed
312 by Wellington for a single offense involving a felony or misdemeanor
313 charge, if the action occurred on the subject property, and resulted in injury
314 to a Transient Occupant or visitor to the property or involved a underage
315 drinking, drug, or prostitution charge.

316
317 g. Appeals: All appeals of suspensions or revocations shall be made to the
318 Special Magistrate in accordance with Chapter 2, Article IV of the Code of
319 Ordinances.

SECTION 3: Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

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

SECTION 5: This Ordinance shall become effective January 1, 2024, upon adoption by the Wellington Council following second reading.

(The remainder of this page left intentionally blank)

PASSED this 7 day of November, 2023, upon first reading.

PASSED AND ADOPTED this _____ day of _____, 2023, on second and final reading.

WELLINGTON

FOR AGAINST

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

ATTEST:

BY: _____
Chevelle D. Addie, MMC, Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie Cohen, Village Attorney