

ORDINANCE NO. 2023-13

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 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
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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.
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55 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**
56 **FLORIDA, THAT:**
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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].
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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]:
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66 5. Vacation Rentals:
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68 a. As used in this section, the following definitions apply:
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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 Guests~~transient~~
74 ~~occupants~~, 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 host, co-host, manage,
78 operate, or to obtain all necessary licensing for a vacation rental and
79 who will be responsible for ensuring compliance with all regulations
80 related to vacation rentals. ~~Further, the Responsible Party must be~~

81 ~~available to respond 24 hours per day, seven (7) days per week to any~~
82 ~~issue that arises related to the vacation rental.~~

83
84 iii. Guest means any patron, customer, tenant, lodger, boarder, or
85 occupant of a transient public lodging establishment, as defined in
86 Chapter 509, Florida Statutes. ~~Transient Occupant means any person~~
87 ~~who rents or occupies any dwelling unit or part thereof for less than 30~~
88 ~~days or one calendar month, whichever is less, and any guest or~~
89 ~~invitee of such person.~~

90
91 iv. Vacation Rental, also called a short-term rental, means any dwelling
92 unit or residence, including, but not limited to, any single family or any
93 unit or group of units in a condominium, cooperative, or apartment
94 building, that is rented in whole or in part, to ~~Guests~~ transient occupant,
95 which is advertised or held out to the public as a place that may be
96 rented to guests ~~Guests~~ transient occupant, but shall not include a
97 hotel, motel, or bed and breakfast as defined or referenced in the LDR,
98 more than three (3) times in a calendar year for periods of less than
99 30 days or (1) calendar month, whichever is less. ~~For the purpose of~~
100 ~~this section, Vacation Rental is synonymous with the term short-term~~
101 ~~residential rental.~~

102
103 b. Vacation Rentals property owners, co-hosts, managers, agents, and
104 assigns, shall comply with all requirements of the Code of Ordinances (CO)
105 and the LDR pertaining to the applicable zoning district, along with the
106 following general standards for operation of a Vacation Rental:

107
108 i. The Responsible Party shall be available to respond 24 hours per day,
109 seven (7) days per week to any issue that arises related to the vacation
110 rental~~maintain a register with the names and dates of stay of all guests,~~
111 ~~including but not limited to, all Transient Occupants and their invitees.~~

112
113 ii. Maximum occupancy for Vacation Rentals shall be limited to two (2)
114 persons per bedroom, excluding children under the age of three (3),
115 for overnight use. At all other times, the maximum occupancy for
116 vacation rentals shall not exceed the maximum overnight occupancy
117 of the rental, plus four (4), excluding children under the age of three
118 (3). For the purpose of this section “overnight” means 11:00 p.m. until
119 6:00 a.m. the following day.

- iii. Overnight parking for Vacation Rentals shall be limited to, not including vehicles fully parked in garages, one (1) vehicle per bedroom, with a maximum of four (4) vehicles. Vacation Rentals with more than four (4) bedrooms and on a parcel that is one (1) acre in size or greater 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 Guest(s) ~~Transient Occupant(s)~~ is/are not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense. If the Third-Party Platform Entity used by the Responsible Party conducts the search, the Responsible Party may rely upon that search to satisfy this requirement. 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. If requested by Wellington, the Responsible Party shall provide proof of search(es). At booking, guests must be informed, in the listing, that all adult Guests must register with the Third-Party Platform Entity for the purpose of allowing said entities to do background checks and screenings. If the Responsible Party books direct, they must perform a background check of all adult Guests to ensure that the Guests do not have a felony criminal record and do not appear on the Megan's Law list, as maintained by the Florida Department of Law Enforcement. If the Third-Party Platform Entity does not register all adult Guests, said registration will be incumbent on the Responsible Party. Within 24 hours of check-in, the Responsible Party must visit the property and check that all of the IDs

of adult Guests staying at the property match the Guest record of the booking.

- v. The Responsible Party and all ~~Guests~~ ~~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, human trafficking, 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 ~~Guests~~ ~~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 Guests, 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 Guests.
- x. The Vacation Rental shall be rented as a whole unit to a Guest, however, Transient Occupant or Transient Occupant party. In no event may individual sleeping rooms may be offered for rent if the unit is the primary residence of the Property Owner and the Property Owner is on-site, nor may the unit be offered for rent to multiple Transient Occupant parties.

xi. The Responsible Party shall provide Wellington with valid, up-to-date contact information for both the Property Owner and any and all co-hosts, property managers, or anyone who has been granted operational authority over the property.

xii. The Responsible Party shall take proper training, and receive certification in Human Trafficking prevention. The Responsible Party should be able to show proof of certification upon request.

xiii. The Responsible Party agrees to maintain non-invasive monitoring systems for ambient noise, or the presence of an abnormally high number of wi-fi capable devices, both inside, and outdoors, that can immediately notify them, by email, SMS, or other means, that there are issues at the property that require their immediate attention.

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 Special Use Permit is not required to be renewed. 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 N~~ 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 licensed with:
1. The Department of Business and Professional Regulation (DBPR), and registered with the Florida Department of Revenue, or successor agency, for the purposes of collecting and remitting applicable state taxes and that all such state taxes have been, or will be are paid in full. If taxes are not filed by a Third-Party Platform Entity, in bulk, or individually, for the Responsible Party, said party must pay, and maintain records for tax payments and make them available for inspection, if requested;
 2. The Palm Beach County Tax Assessor's Office and licensed with Palm Beach County Business Tax Receipt (BTR) and a Tourism Development Tax (TDT) account, and that all such licensure and taxes are paid in full.
- 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;

- 279 x. Acknowledge and provide a copy of the consent from any governing
280 homeowners association, condominium association, or property
281 owners association with the BTR application;
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- 283 xi. Statement acknowledging the Responsible Party will comply at all
284 times with the sexual offender/predator regulations for Vacation
285 Rentals; and
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- 287 xii. Statement that all safety measures and features for swimming pools
288 are, and will be at all times, maintained in compliance with the Vacation
289 Rental regulations;
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291 d. The property owner, Responsible Party and Third-Party Platform Entity
292 information shall be maintained regularly. When there are changes,
293 notification must be submitted to Wellington's Planning Department and
294 Business Tax Official within 15 calendar days of the changes. All
295 documentation must be readily available for inspection by Wellington at any
296 time. A new Special Use Permit shall be required for any change in
297 ownership.
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299 e. Penalties, Suspension, and Appeals:
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301 i. Offenses/violations:
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303 a) Non-compliance with any provision of the
304 supplemental Standards for Vacation Rentals shall
305 constitute a violation of this Article by the property
306 owner and may be enforced as provided by law.
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308 b) Upon a finding of a violation of the Supplemental
309 Standards for a Vacation Rental, each day a violation
310 exists shall constitute a separate and distinct violation,
311 except that violations regarding maximum occupancy
312 shall constitute a single violation for a rental period.
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314 f. A violation of any provision of the Supplemental Standards for a
315 Vacation Rental shall constitute a Class III civil infraction by the
316 property owner. Violations may be enforced by a Code Compliance
317 Officer or a Law Enforcement Officer in accordance with Chapter 2
318 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.

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

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

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

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

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

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

g. Revocation: The approval of a Special Use Permit may be revoked by the Planning Director upon the fifth (5th) violation, as described in the above sections, within a 12-month period. Revocation action may also be imposed

359 by Wellington for a single offense involving a felony or misdemeanor
360 charge, if the action occurred on the subject property, and resulted in injury
361 to a Guest or visitor to the property or involved underage drinking, drug, or
362 prostitution charge(s).
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364 h. Appeals: All appeals of suspensions or revocations shall be made to the
365 Special Magistrate in accordance with Chapter 2, Article IV of the Code of
366 Ordinances.
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368 **SECTION 3:** Should any section, paragraph, sentence, clause, or phrase of this
369 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington
370 Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of
371 this Ordinance shall prevail to the extent of such conflict.
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373 **SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this
374 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision
375 shall not affect the validity of this Ordinance as a whole or any portion or part thereof,
376 other than the part so declared to be invalid.
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378 **SECTION 5:** This Ordinance shall become effective February 1, 2024, upon
379 adoption by the Wellington Council following second reading.
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PASSED this 7 day of November, 2023, upon first reading.

PASSED AND ADOPTED this _____ day of _____, 2024, on second and final reading.

WELLINGTON

	FOR	AGAINST
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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