

Chapter 5

ZONING REGULATIONS

An ordinance which regulates and defines the application of zoning within the City of Wellington, including conditional uses and home occupations.

Updated August 27, 2008

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Section 5-1 APPLICATION OF ZONING REGULATIONS.

The regulations set by this ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land and; particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - a. to exceed the height or bulk;
 - b. to accommodate or house a
 - c. greater number of families;
 - d. to occupy a greater percentage of lot area;
 - e. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the

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effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

5. All territory which may hereafter be annexed to the city shall be considered to be in the Agricultural Zone (A-5) until otherwise classified. Decisions for the zoning of annexed properties should be guided by the Wellington City General Plan.

Section 5-2 DEFINITIONS AND TERMS.

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

1. Usage.
 - a. The word "shall" is mandatory, the word "may" is permissive.
 - b. The word "lot" includes the words "plot" or "parcel".
 - c. For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
 - d. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".
 - e. A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; the word "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

2. Words and Terms Defined. Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this Ordinance.

"Administrative Assistant to the Planning and Zoning Commission" - an officer as appointed by the City Council to administer these regulation and to assist administratively other Boards and Commissioners.

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"Accessory Use or Structure" - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

"Alley" - a public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.

"Animal Hospital" – a structure or building used to provide medical attention for animals and may include temporary boarding of animals for care and treatment.

"Applicant" - the owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

"Basement" - a partly underground story and having at least one-half (1/2) its height above the average level of the adjoining ground.

"Block" - a tract of land bounded by streets, or by combination of streets and public parks, cemeteries, railroad right-of-ways, shorelines of waterways, or boundary lines of municipalities.

"Boarding House" - a private home in which sleeping rooms are rented and meals are served on a weekly or monthly basis to guests for compensation; not a café or hotel.

"Bond" - any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council whenever a bond is required by these regulations.

"Building" - any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

"Building, Height Of" - the vertical distance from the average grade elevation to the square of the wall or top of the column of the building.

"Building, Public" - a building owned and operated, or owned and intended to be operated by the City of Wellington, the County of Carbon, the State of Utah, the United States of America, or any of their political subdivisions, agencies or departments.

"Building and Zoning Inspector" - the person(s) designated by the local government to enforce the Zoning Ordinance. If no administrative assistance to the Planning and Zoning Commission is

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appointed to administer these regulations, the Building and Zoning Inspector shall administer these regulations.

"Capital Improvement Program" - a proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

"Car Wash, Laundry Type" - a structure or portion thereof containing facilities for washing passenger automobiles, using production-line methods such as, but not limited to, chain conveyor, movable or revolving cleaning brushes, blower, steam cleaning, or similar mechanical devices.

"Car Wash, Manual Spray" - a structure of portion thereof containing facilities for washing automobiles, limited to using only hand operated manual spray cleaning equipment and techniques.

"Cellar" - a story having more than one-half ($\frac{1}{2}$) its height below the average level of the adjoining ground.

"Central Sewage System" - a community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

"Central Water System" - a private water company formed by a developer to serve a new community development in an outlying area. It includes water treatment and distribution facilities.

"City Attorney" - the licensed attorney designated by the Governing Body to furnish legal assistance for the administration of these regulations.

"City Engineer" - the licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of these regulations.

"Collector Roads" - a road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

"Common Open Space" - the land area in a Planned Unit

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Development (PUD) reserved and set aside for recreational uses, landscaping, open green areas, parking and driveway areas for the common use and enjoyment of the residents of the PUD.

"Common Open Space Easement" - a required right-of-use granted to the City of Wellington by the owner of a Planned Unit Development, on and over land in a Planned Unit Development designated as common open space, which easement guarantees to the City of Wellington that the designated common open space and recreation land is permanently reserved for access, parking and recreation, and open green space purposes in accordance with the plans and specifications approved by the Planning and Zoning Commission and City Council at the time of approval of the PUD or as such plans are amended from time to time.

"Concept Plat" - a concept preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the sub-divider to save time and expenses in reaching general agreement with the Planning and Zoning Commission as to the form of the plat and the objectives of these regulations.

"Conditional Use" - a use which, because of its nature and character, requires review by the Planning and Zoning Commission and approval by the City Council before the Administrative Assistance shall authorize a permit therefor. Generally, those uses which require special consideration in order to carry out the intent and purposes of the zoning plan.

"Condominium Project" – a real estate condominium project where ownership of a single unit in a multi-unit project, together with an undivided interest in common, in the common areas and facilities of the property, is transferred from one owner to another, a plan or project whereby two or more apartments or commercial or industrial buildings or structures are separately offered or proposed to be offered for sale and meeting all requirements of the "Condominium Ownership Act" of the State of Utah.

"Construction Plan" – the maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning and Zoning Commission as a condition of the approval of the plat.

"Cul-de-sac" - a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

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"Corral" - a fenced space, other than a building, less than 10,000 square feet in area in width, used for the confinement of animals.

"Dairy" - a commercial establishment for the manufacture, processing, or sale of dairy products.

"Day Care Center" – a building or structure where six (6) or more children are regularly cared for during the day for compensation.

"Density" – those residential zoning districts in which;

Very Low Density – density is up to 1 dwelling unit per gross acre.

Low Density - density is between 1 and 2 dwelling units per gross acre.

Medium Density – density is between 2 and 5.4 units per acre.

High Density - density is greater than 5.4 units per acre.

"Developer" - the owner of land proposed to be subdivided or his tentative. Consent shall be required from the legal owner of the premises.

"Drive-In Restaurant or Refreshment Stand" – any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

"Dry Cleaner" – an establishment which has as its sole purpose the cleaning of fabrics with substantially non-aqueous organic solvents. Laundry establishments with self-serve, coin operated dry cleaning machines shall not be classified as a dry cleaner.

"Dwelling, Mobile Home" – a detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

"Dwelling, Multiple-Family" - a residential building designed for or occupied by three or more families, with the number of families in

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residence not exceeding the number of dwelling units provided.

"Dwelling, Two Family" – a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

"Dwelling, Single Family" - a detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

"Dwelling Unit" – One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

"Easement" – authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

"Escrow" - a deposit of cash with the local government in lieu of an amount required and shall in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Building and Zoning Inspector in a separate account.

"Family" - one or more persons related by blood, marriage, adoption or other process of law, plus domestic servants employed for service on the premises, living in a dwelling unit. Guests in excess of two (2) who pay for meals or room or both, shall be considered as boarders, and the building shall be considered as a boarding house.

"Family Food Production" - the keeping of not more than two (2) cows, two (2) sheep, two (2) goats, twenty (20) rabbits, fifty (50) chickens, fifty (50) pheasants, ten (10) ducks, ten (10) turkeys, ten (10) geese, and twenty (20) pigeons, provided that an additional number of animals equal to two (2) times the number listed above and an additional number of fowl equal to five (5) times the number listed above may be kept for each one-half (1/2) acres in the lot over and above the minimum number of square feet required for a lot in the zone.

"Fence" - a tangible barrier or obstruction of any material, with the purpose of intent or having the effect of preventing passage or view across the fence line. It includes hedges and decorative masonry walls.

"Fence, Sight-Obscuring" - a fence having a height of at least six (6)

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feet above the grade which permits vision through not more than ten per cent of each square foot more than eight (8) inches above ground.

"Filling Station" - buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:

- (a) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- (b) Tire servicing and repair, but not recapping or re-grooving;
- (c) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (d) Radiator cleaning and flushing;
- (e) Washing and polishing, and sale of automotive washing and polishing materials;
- (f) Greasing and lubrication;
- (g) Providing and repairing fuel pumps, oil pumps, and lines;
- (h) Minor servicing and repair of carburetors;
- (i) Emergency wiring repairs;
- (j) Adjusting and repairing brakes;
- (k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (l) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- (m) Provision of road maps and other informational material to customers; provision of restroom facilities. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in

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operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

"Final Plat" - the map or plan or record of a subdivision and any accompanying material, as described in these regulations.

"Flexible Zoning" – zoning which permits uses of land and density of building and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, planned unit developments, group housing projects, community unit projects, average density or density zoning project.

"Flood Plain" – land adjacent to a body of water which has been or may hereafter covered by flood water as designated the U.S. Army Corps of Engineers.

"Floor Area" - the sum of the gross horizontal area of the floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed terraces. All dimensions shall be measured from the exterior faces of the exterior walls.

"Frontage" - that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

"Frontage Street" – any street to be constructed by the developer or any existing street in which development shall take place on both sides.

"Garage, Carport (Private)" - an accessory building used for the parking or temporary storage of automobiles, but which does not involve commercial repairing. When attached to a dwelling or other main building, a garage or carport shall be considered a part thereof.

"Garage, Public" – a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

"General Plan" – A comprehensive plan for development of the local government, prepared and adopted by the Planning and Zoning Commission, pursuant to State Law, and including any part of such plan separately adopted and any amendment to such plan, or parts

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thereof.

"Governing Body" – the body of the local government, or City Council, having the power to adopt ordinances.

"Grade" - the slope of a road, street, or other public way, specified in percentage (%) terms.

"Guest House" - a separate dwelling structure located on a lot with one or more main dwellings structures and used for housing of guests or serpants and not rented, leased or sold separate from the rental, lease of sale of the main dwelling.

"Health Department and Health Officer" – the agency and person designated by the Governing Body to administer the health regulations of the local government.

"Height of Building" – the vertical distance from the ground level to the square of the building.

"Highway, Limited Access" - a freeway, or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such traffic way.

"Home Occupation" – a business or occupation carried out in a residential dwelling subject to the rules and regulations of Wellington City ordinances.

"Hotel" - any building containing six (6) or more rooms intended or designed to be used for sleeping purposes by transient guests, but in which there is not a kitchen in any individual room or suites.

"Household Pets" – animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, or canaries, but not including a sufficient number of dogs or cats to constitute a kennel.

"Improvements" - see Lot Improvements or Public Improvements.

"Individual Sewage Disposal System" – a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

"Joint Ownership" – joint ownership among persons shall be

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construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

"Junk Yard" - the use of any lot, portion of a lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, or other vehicles, or machinery or parts thereof provided that this definition shall not be deemed to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district.

"Kennel" - the land or building used in the keeping of three (3) or more dogs at least four months old or older.

"Kitchen" - any room used for or intended to be used for cooking and preparing food.

"Laundromat or Launderette" - a self-service laundry establishment where clothes are cleaned in a coin - operated machine. Laundromats or launderettes may include self-service, coin-operated dry cleaning machines.

"Loading Space, Off Street" - space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

"Local Government" – for the purposes of these regulations, any city, town, village, or county authorized by law to enforce subdivision regulations.

"Local Road" - a road intended to provide access to other roads from individual properties and to provided right-of-way beneath it for sewer, water and storm drainage pipes.

"Lot" - for purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved private street, and may consist of:

- (a) A single lot of record;
- (b) A portion of a lot of record;

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- (c) A combination of complete lots or record, of complete lots of record and portions of lots of record;
- (d) A parcel of land described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirement of this ordinance.

"Lot, Corner" - A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

"Lot Frontage" - The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

"Lot Measurements"

- (a) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (b) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. Provided however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 per cent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the 80 percent requirements shall not apply.

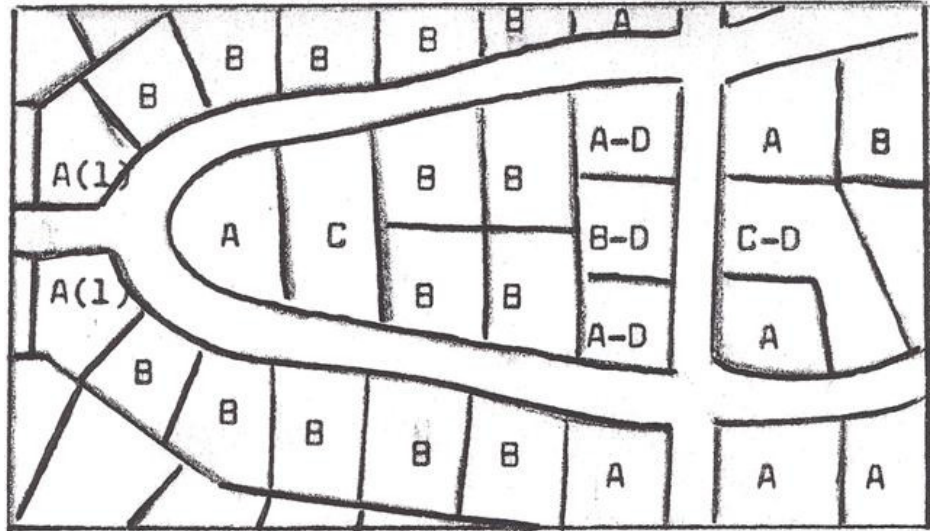
"Lots of Records" - A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

"Lot Types" - The diagram (Figure 1) which follows illustrates terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

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FIGURE 1.



In the diagram;

- A = Corner Lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A (1) in diagram.
- B = Interior Lot, defined as a lot other than a corner lot with only one frontage on a street.
- C = Through Lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- D = Reversed Frontage Lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

"Lot Upgrade or Improvement" - Any building, structure, place, work of art, or other object, or improvement of the land on which they are

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situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

"Major Street Plan" – See Official Land Use Map.

"Major Subdivision" – All subdivisions not classified as minor subdivisions, including but not limited to subdivision of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

"Metropolitan or Regional Planning Commission and Metropolitan or Regional Council of Government" - The agency performing A-95 review of all federal grant-in-aid projects required to be reviewed by regional and State Planning Boards to insure the projects conform to Regional and State needs; the Planning Agency established to carry on regional or metropolitan comprehensive planning.

"Minor Subdivision" – Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely effecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance, or these regulations.

"Model Home" - A dwelling unit used initially for display purposes which typifies the type of unit that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Planning and Zoning Commission, by permitting a portion of a major subdivision involving no more than two (2) lots to be created according to the procedures for minor subdivisions.

"Motel" - Any building or group of buildings containing sleeping rooms, designated for temporary use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit.

"Neighborhood Park and Recreation Improvement Fund"

A special fund established by the Governing Body to retain monies contributed by developers in accordance with the "money in lieu of lands" provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

"Nonconforming" – A building or structure, or portion thereof, or use of building or land existing at the time of the passage of this chapter

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which does not conform to the zoning regulations as set forth herein.

"Non-residential Subdivision" - A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provision of these regulations.

"Off-Site" - Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

"Official Land Use Map" - The map established by the City Council pursuant to law showing the streets, highways, and parks, and drainage systems and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the City Council of additions thereto resulting from the approval of subdivision plats by the Planning and Zoning Commission and the subsequent filing of such approved plats.

"Ordinance" – Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

"Outdoor Advertising Business" - Provisions of outdoor displays or display space on a lease or rental basis only.

"Owner" - Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

"Parking Lot (Private)" - A lot used for the temporary parking of vehicles to accommodate persons residing on the premises.

"Parking Lot (Public)" – A lot used to accommodate the patrons of an establishment without compensation therefor.

"Parking Spaces" – Space within a building, lot or parking lot for parking or storage of one (1) standard sized automobile.

"Parking Space, Off-Street" - For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or

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maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unpacked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the city.

"Perimeter Street" – Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

"Planning and Zoning Commission" – The local government's Planning Commission established in accordance with law.

"Planned Unit Development" - (PUD) An integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waved to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements. (Approximately 14 units per acre).

"Preliminary Plat" – The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning and Zoning Commission for approval.

"Primary Arterial" – A road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas.

"Public Improvement" – Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.

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"Registered Engineer" – An engineer properly licensed and registered in the State.

"Registered Land Surveyor" - A land surveyor properly licensed and registered in the State.

"Re-subdivision" – A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

"Right-of-Way" - A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land-platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separated and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

"Roads, Classification" - For the purpose of providing for the development of the streets, highways, roads, and right-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the local government and classified therein. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the local government and its present and estimated future traffic volume and its relative importance and function as specified in the City General Plan. The required improvements shall be measured as set forth for each street classification on the Official Map.

"Road, Dead-End" - A road or a portion of a street with only one (1) vehicular- traffic outlet.

"Road Right-of-Way Width" - The distance between property lines measured at right angles to the center line of the street.

"Sale or Lease" – Any immediate or future transfer of ownership, or any possessors interest in land, including contract of sale, lease,

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devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

"Same Ownership" - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

"Secondary Arterial" – A road intended to collect and distribute traffic in a manner similar to primary Arterial, except that these roads service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterial.

"Setback" - The distance between a building and the street line nearest thereto.

"Screening" - Either;

- (a) a strip of at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year round dense screen at least six (6) feet high; or
- (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high.

Either (a) or (b) shall be maintained in a good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except the following:

For each entrance, one (1) directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two (2) square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

"Shade Tree" - A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

"Sign" - Any device designed to inform or attract attention of persons not on the premises on which the sign is located, provided however

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that the following shall not be included in the application of the regulations herein:

- (a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or private property, but bearing no advertising matter.

"Signs, Number and Surface Area" - For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form on combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

"Sign, On-Site" - A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

"Sign, Off-Site" - A sign other than an on-site sign.

"Square of Building" – The top of the exterior wall of a building or, in the case of a building having exterior walls which vary in height, the average of the top of the exterior walls.

"Story" - A floor of a structure of which one half or more of the usable area is above the main ground level surrounding the building.

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"Street" - See Road.

"Street Line" - The right- of-way line of a street.

"Structure" – Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

"Sub-divider" - Any person who:

- (a) Having an interest in land, causes it, directly, or indirectly, to be divided into a subdivision or who
- (b) Directly or indirectly, sells, leases, or develops, or who offers to sell, lease, or develops, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision, or who
- (c) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who
- (d) Is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

"Subdivision Agent" – Any person who represents, or acts for or on behalf of, a sub divider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

"Subdivision, Major" – See Major Subdivision.

"Subdivision, Minor" – See Minor Subdivision.

"Subdivision Plat" – The final map or drawing, described in these regulations, on which the sub-divider's plan or subdivision is presented to the Planning and Zoning Commission for approval and which, if approved, may be submitted to the City Council, County Clerk, or Recorder of Deeds for filing.

"Temporary Improvement" - Improvements built and maintained by a sub-divider during construction of the subdivision and prior to release of the performance bond.

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"Travel Trailer" – A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

"Variance" - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of the structure or size of the yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

"Yard" - A required open space other than a court unoccupied and obstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

"Yard, Front" - A yard extending between side lot lines across the front of a lot adjoining a public street.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and 10 feet.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the

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administrative official shall determine the front yard requirements, subject to the following limitations:

- (a) At least one front yard shall be provided having the full depth required generally in the district;
- (b) No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

"Yard, Side" - A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full – and half -depth front yard have been established shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established in a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

"Yard, Rear" - A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

"Yard, Special" - A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

The diagram (Figure 2) below illustrates location and methods of measuring yards on rectangular and non-rectangular lots.

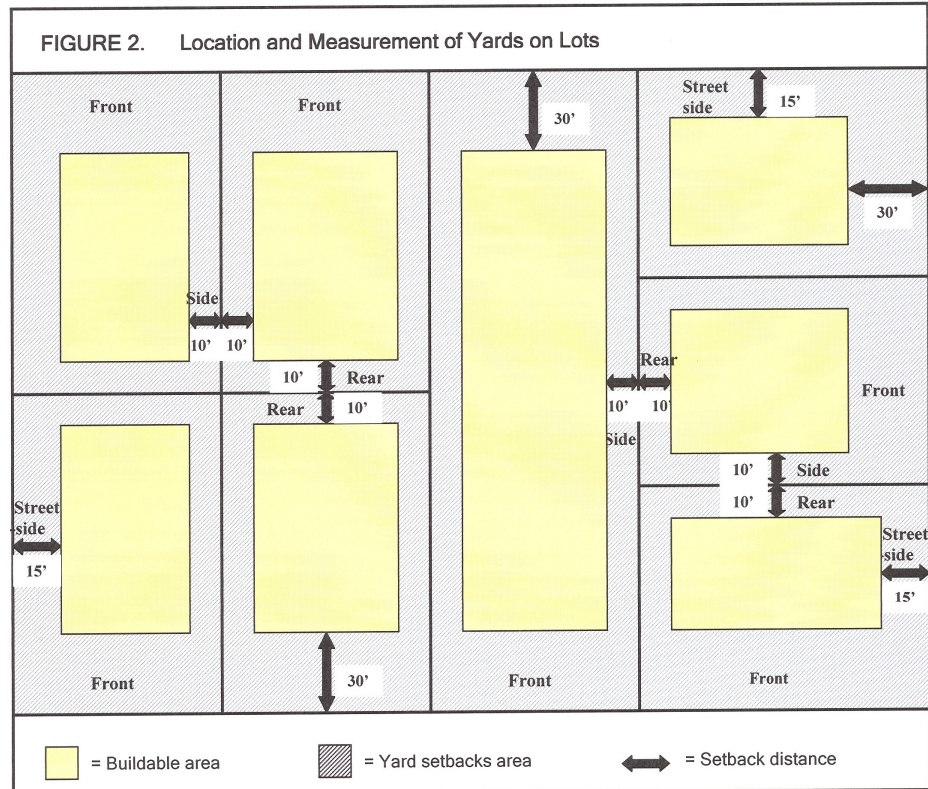
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The City Council may approve conditional uses, imposing conditions and limitations as may be necessary.

Updated August 27, 2008



Section 5-3 CONDITIONAL USES.

The City Council may hear and decide applications for conditional uses, to the extent that such conditional uses are allowed in the particular zoning district under Chapters 12-8, 12-9, 12-10 and 12-11 of this Ordinance. Should the City Council decide to grant an application for a conditional use, it shall impose upon such conditional use such conditions and limitations as may be necessary to protect adjacent properties and the public welfare. Any conditional use permit issued pursuant to this Ordinance may be revoked upon failure of the permit holder to comply with the conditions and limitations made part of the conditional use permit when issued or modified.

1. APPLICATION. An individual desiring a conditional use permit shall submit to the Planning and Zoning Commission a written application for a conditional use permit indicating the section of this Ordinance describing the zoning district in which the conditional use is desired and stating the grounds upon which it is requested. This application shall be accompanied by detailed site plans, and drawn to scale, etc., after being reviewed by the Planning and Zoning Commission, it shall be referred to the City Council for approval.

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2. CRITERIA. The City Council shall not issue a conditional use permit where such proposed use is not allowed as a conditional use in the specific zoning district where sought, as such permissible conditional uses are specified in Chapters 12-8, 12-9, 12-10 and 12-11 of this Ordinance. In addition, the City Council shall not issue conditional use permit unless the substantial evidence presented by the applicant is such as to establish that:
 - a. The proposed use of the property is necessary or desirable to provide a service or a facility which will contribute to the general welfare of the neighborhood and the community.
 - b. Such use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations and conditions specified in this ordinance and in the conditional use permit;
 - d. The proposed use will conform with the letter and intent of the Wellington City General Plan.
3. CONSIDERATIONS. In making the decision as to whether to grant or deny an application for a conditional use permit, the City Council shall consider and make written findings with respect to the following:
 - a. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, visual, audible, or odorous effects of the conditional use on adjacent properties, and properties within the zoning district;
 - c. Refuse and service areas, with particular reference to the items in (a) and (b) above;
 - d. Utilities, with reference to locations, availability, and

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- compatibility with adjacent land uses and land uses within the zoning district;
- e. The desirability or necessity, and availability of reasonable buffer zone, with specific reference to the type, dimensions and character of such a zone;
 - f. Signs, if any and proposed exterior lighting with reference to visual and economic effect, particularly as related to traffic safety, and compatibility and harmony with properties in that district;
 - g. Provisions for required yards, courts or other open spaces.
4. **TIME LIMIT.** A conditional use permit shall expire by limitation and become null and void if the work authorized by such permit has not been substantially commenced within one hundred eight (180) days, or is not completed within one (1) year from the date of issue; except that the City Council may, upon original application or at any time prior to the expiration of the permit, grant an extension of time to fit the reasonable requirements of the project.
5. **FEES.** An applicant for a conditional use permit shall, upon application, pay a non-refundable fee to the City to cover the City's costs for reviewing the application. Should the City Council issue the conditional use permit, the holder thereof shall pay a non-refundable fee the City to cover the City's costs in monitoring the conditions of the permit. Such fees shall be set by the City Council as set forth in Section 12-1-6 of this Ordinance.
6. **VIOLATIONS.** Any conditional use permit holder who violates the provisions of the conditional use permit granted under this Code shall have two (2) weeks from receiving written notice from the City Council within which to remedy that violation. If the holder does not remedy the violation within that time, the City Council may, after a hearing on the matter, revoke the conditional use permit and the use will no longer be allowed. The City may also pursue any remedy under this Code or at law to remedy a violation.

Section 5-4 HOME OCCUPATION REQUIREMENTS.

Home Occupations are permitted in all residential zones and must comply with the following requirements:

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The operation of an occupation within the home must comply with these requirements.

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1. It is an accessory use which:
 - a. Is clearly incidental to or secondary to the residential use of a dwelling unit;
 - b. Is carried on entirely within the dwelling unit by one or more members of the immediate family of such dwelling unit and no more than two (2) non-members;
 - c. Does not change the residential character of the dwelling unit surrounding the neighborhood;
 - d. Does not generate vehicular traffic or parking around the dwelling unit or other external evidence of the home occupation normally associated with a residential use;
 - e. Does not occupy more than twenty-five percent (25%) of the total floor area of such dwelling unit and in no event more than 500 square feet of floor area in said dwelling or accessory storage areas.
 - f. Utilizes the same outside entrances as is used for the dwelling unit, unless a separate entrance is required by State Law.
 - g. For the purpose of this Ordinance a garage, carport, patio, breeze way or any accessory buildings are not considered to be part of the dwelling unit.
 - h. To sell articles produced elsewhere than on the premises shall not be permitted. (Exception to this provision may be granted by the Zoning Administrator if such sales do not destroy the intent of the act, or cause negative impact on the surrounding neighborhood);
 - i. Not have exterior displays or a display of goods visible from the outside, except one non-illuminated window sign not to exceed 6 square feet;
 - j. No outside (in the open) storage of materials or products;
 - k. Not use any power-driven equipment using motors of more than one-half (1/2) horsepower capacity;
 - l. Not use any commercial telephone directory listing,

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- newspaper, radio, or television advertising service;
- m. Not to make external structural alterations which are not customary in residential buildings;
 - n. Not to produce offensive noise, vibration, fumes, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, electrical interference, or other objectionable effects;
2. Home occupation shall not include such uses as:
- a. Automobile and engine repair shops.
 - b. Commercial bakeries.
 - c. Commercial packing or items for reselling.
 - d. Commercial stables or kennels.
 - e. Ophthalmic dispensing.
 - f. Pharmacy.
 - g. Real estate or insurance offices.
 - h. Repair of major appliances such as dryer, washers, refrigerators, and ranges in the dwelling unit.
 - i. Stock broker offices.
 - j. Veterinary medicine.
 - k. Welding.
3. Home occupation includes but not limited to:
- a. Fine art studios.
 - b. Barber shops and beauty parlors.
 - c. Pre-School, Day Care, or kindergarten preparations.
 - d. Home distributorship.
 - e. Teaching.

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4. Items produced on the premises may include but not limited to:
 - a. Arts and crafts.
 - b. Custom dress making.
 - c. Drapery manufacturing.
 - d. Millinery.
 - e. Pottery.
 - f. Rug Weaving.
 - g. Sewing.

Section 5-5 HOME OCCUPATION PERMIT FEE.

To be established by the City Council, a Home Occupation Permit Fee shall be payable to Wellington City at the time such home occupation permit is granted.