

# Regulations to Promote the Management of Second Homes

(Supplement to the Construction and Zoning Regulations of the Municipality of Wiler)

Inspected

- the Federal Spatial Planning Act (Bundesgesetz über die Raumplanung) of 22 June 1979;
- the Cantonal Act concerning the Execution of the Federal Spatial Planning Act (kantonales Gesetz zur Ausführung des Bundesgesetzes über die Raumplanung) of 23 January 1987;
- The Federal Second Home Ordinance (Bundesverordnung über Zweitwohnungen) of 22 August 2012;
- the Cantonal Act concerning Administrative Procedures and Administrative Justice (kantonales Gesetz über das Verwaltungsverfahren und die Verwaltungsrechtspflege) of 6 October 1976 (“VVRG”);
- the Cantonal Building Act (kantonales Baugesetz) of 8 February 1996 as well as the associated Building Ordinance (Bauverordnung) of 2 October 1996;
- the Building and Zoning Regulations (Bau- und Zonenreglement) of the Municipality of Wiler of 27 March 1996;

## Preamble

In the past, our region’s attractiveness encouraged the construction of second homes. These second homes were mostly not let to tenants, which is not welcomed by those active in the tourism industry or by the Municipality. Apartments that are unoccupied for most of the time undermine the character of the locality and do little to revive the village. The contribution made by the permanent residential population towards the expansion and operation of this infrastructure is too high relative to the actual benefit. Improved capacity utilisation and the maintenance of the quality of the existing municipal and tourism infrastructure can be achieved only through more intensive use of the existing second homes.

## Art. 1 Scope

The present Regulations are applicable to all existing and new second homes in the territory of the Municipality of Wiler. The municipal territory is subdivided into the following zones; Biel, Fischbiel, Lauchernalp, Wiler Dorf. Excluded from the Regulations are projects of overwhelming public interest and those that have been approved by the local electorate.

## Art. 2 Purpose

The present Regulations are designed to boost the occupancy rates of existing and new second homes (promotion of “hot” beds) as well as to achieve the sensitive use of land and a balanced and harmonious development of the locality.

## Art. 3 First home

First homes within the meaning of the present Regulations are those apartments that are continuously occupied by persons residing permanently within the meaning of Art. 23 of the Swiss Civil Code (Zivilgesetzbuch – “ZGB”) or with tax domicile in the Municipality.

#### **Art. 4 Second home and let second home**

1 Second homes are all apartments that are not used as first homes or as let second homes.

2 Let second homes are those second homes that are let for at least 100 days per annum to guests or to persons who exercise a seasonal economic activity. Owner use, which must be demonstrated, is attributed on the maximum basis of 50 days. This means the annual minimum duration of a third-party tenancy is 50 days. Owner use amounting to 50 days shall be attributed if two or more persons pay an annual flat-rate (tourist tax). An additional 14 days shall be attributed for family members, friends and acquaintances. This is conditional upon settlement of the tourist tax.

3 The Municipal Council may in exceptional cases (e.g. habitability, personal circumstances etc.) grant a corresponding reduction in the minimum duration of the tenancy.

Corresponding requests must be submitted in writing and annually to the municipal administration.

#### **Art. 5 Obligation to let to tenants**

1 If an apartment is not used as a first home, this must be let for at least 100 days (including own use) per annum within the meaning of Art. 4 Para. 2 either for short-term occupancy by guests at standard market conditions or to persons who exercise a seasonal economic activity.

2 The owner guarantees the utilisation of the respective apartment.

3 If the minimum tenancy of 100 days per annum is not achieved, the owner shall owe a compensation levy pursuant to Art. 6.

#### **Art. 6 Compensation levy**

1 The compensation levy amounts to 1.5% of the land register value of the apartment as at 31 December of the previous year.

2 The compensation levy shall be owed each year, and may be reduced by letting out the apartment to tenants. For this purpose, the following scale is applicable:

- a) Let out from the 1<sup>st</sup> day: The levy shall be reduced by 1% per day.
- b) Let out for 100 days (including own use) and more: No levy shall be imposed.

3 In order to take account of the different rentability of the zones, the following factors shall be applied when calculating the overall levy.

Biel: 0.5

Fischbiel: 0.75

Lauchernalp: 1.0

Wiler Dorf: 0.8

4 The maximum compensation levy in each case amounts to CHF 2,500.00

5 The Municipality is responsible for setting and collecting the compensation levy, and this shall be done during the first quarter of the current year in respect of the previous year on the basis of the apartment occupancy rates reported by the owner to the Municipality in writing by the end of

February. At the request of the Municipality, the owner must submit all records documenting the occupancy or letting.

6 A list of the sums paid to the administration shall be maintained. These sums shall be paid into a separate bank account.

7 The levy must be used to promote the tourist infrastructure and to maintain existing general infrastructure on municipal territory that serves tourism. This may be used partially or in part to fund incentive systems.

#### **Art. 7 Hotels**

Changing the purpose of hotels into apartments that are not managed for tourism purposes are subject to the present Regulations.

#### **Art. 8 Monitoring and checking the first homes**

1 The Municipal Administration shall maintain a register of first homes and of the respective plots of land, detailing the owner and the user of the apartment.

2 In close collaboration with the Residents' Control Office, the Municipality is responsible for checking the use of the first homes. Owners are obliged to accept the checks and to provide all requested, necessary information and records.

3 The owner of a first home must report to the Municipality within 30 days any change relating to the person who uses this apartment (owner, tenant, sub-tenant).

4 The owner of a first home who is unable to find a tenant may report his apartment to the Municipal Administration. The Municipality may forward the contact details to new arrivals or other potential tenants, and may publish the information on the public bulletin board and on the website.

#### **Art. 9 Monitoring and checking the second homes**

1 The Municipal Administration shall maintain a register of the let second and of the respective plots of land, detailing the owner.

2 In close cooperation with the institution responsible for settling the tourist taxes, the Municipal Administration is responsible for checking the let second homes. Owners and tenants are obliged to accept the checks and to provide all requested, necessary information and records.

#### **Art. 10 Penalties**

1 If an apartment that has an annotation in the Land Register within the meaning of Article 9 is not used within the meaning of the annotation, the Municipal Council shall impose a reasonable deadline upon the owner or the contravening party within which to rectify this unlawful situation.

2 The Municipal Council may impose a fine of up to CHF 5,000.00 upon whosoever:

- a) permanently uses, lets or sub-lets an apartment that is registered as a first home, without having his permanent place of residence (Art. 4 Fig. 1) on the territory of the Municipality or without intending to settle there permanently;
- b) lets or sub-lets an apartment that is registered as a first home to a person whose permanent place of residence (Art. 4 Fig. 1) is not located on the territory of the Municipality;
- c) provides the public authorities with imprecise information;
- d) contravenes the provisions of the present regulations in another manner.

3 If an order to rectify an unlawful situation has not been complied with by the end of the specified deadline, the Municipal Council may impose a new deadline and impose a higher fine, insofar as the unlawful situation has not been rectified.

4 An appeal against administrative rulings of the Municipal Council may be submitted to the Council of state within 30 days of their having been issued.

5 Administrative criminal proceedings are governed by the Administrative Proceedings and Administration of Justice Act (Gesetz über das Verwaltungsverfahren und die Verwaltungsrechtspflege) (Art 34h et. seq VVRG) as well as by the provisions of the Code of Criminal Procedure (Strafprozessordnung). An appeal against penal orders imposed by the Municipal Council may be brought before the Cantonal Court under the conditions established by the Code of Criminal Procedure within 30 days of their having been issued.

#### **Art. 11            Coming into force**

The present Regulations came into force on 01 January 2016.

This was agreed at the meeting of the Municipal Council of Wiler of 12 November 2013.

Approved by the local electorate of the Municipality of Wiler on 20 June 2014.

Ratified by the Council of State at its meeting of 12 August 2015.

Municipal Administration of Wiler

Hans-Jakob Rieder

Toni Werlen

Municipal Registrar

Municipal Registrar