BEFORE THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA

ORDINANCE No. 2389-2018

AN ORDINANCE OF THE CITY OF STUART, FLORIDA; AMENDING THE CODE OF ORDINANCES AT ARTICLE III, SEC. 36, 61-74 SPECIAL EVENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, the City Code of Ordinances, Section 36, prohibits certain activities as described therein from occurring without first obtaining a Special Event permit/Public Assembly permit from the city; and

WHEREAS, the City Commission desires to amend the City Code

WHEREAS, the City Commission finds that it is in the interest of the health, safety and welfare of city residents to establish reasonable regulations for Special Events to provide safeguards for the health, safety and welfare of the community.

NOW THEREFORE, be it ordained by the City Commission of the City of Stuart, as follows:

SECTION 1. Article III, Chapter 36, Section(s) 61-74 Special Events, of the Code of Ordinances, City of Stuart, Florida, is hereby amended as follows:

Sec. 36, Sections(s) 61-74-62. Special Events

(a) See Exhibit A

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any section, sentence, clause, phrase or word of this ordinance is for any reason declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance and the remaining portions shall be deemed and held to be valid.

SECTION 4: The provisions of Section 1 of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect immediately upon adoption.

Passed on First Reading the 22nd day of October 2018.

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
KELLI GLASS LEIGHTON, MAYOR				
BECKY BRUNER, VICE MAYOR				
MERRITT MATHESON, COMMISSIONER				
EULA R. CLARKE, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
KELLI GLASS LEIGHTON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL MORTELL
CITY ATTORNEY

Ordinance 2389-2018
Article III Section 36, 61-74, Special Event

EXHIBIT A

ARTICLE III. - SPECIAL EVENTS

Sec. 36-61. - Definitions.

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

Applicant means any person who applies for, obtains a permit for, and sponsors or co-sponsors a special event.

Assembly means a gathering of 25 or more persons in one place for a common purpose.

City event means any event where the city is a sponsor or co-sponsor of an event, and the city manager has sanctioned or designated an event as open to the general public.

Person means a natural person; or any business entity, including but not limited to a corporation, partnership, limited liability company, joint venture, or sole proprietorship; or any "for-profit" or "not-for-profit" agency, association, foundation, or business entity, whether or not qualified as a charitable organization under the laws of the state or the Internal Revenue Service.

Private property means the outdoor portion of any parcel or parcels of land that is owned by any person for commercial or multifamily use, but not including single-family dwellings or uses, unless specifically cited in this article.

Peaceful Assembly means to walk, stand or otherwise be present upon any public street, public sidewalk, public right-of-way or other public property of the purpose of presenting or advocating a cause or grievance to the public at large in an exercise of First Amendment rights of free speech.

Public property means any indoor or outdoor city park, city recreation facility, or other public property or right of way.

Special event means an assembly which will take place upon private or public property, including but not limited to an art show, block party, craft show, ethnic or holiday celebration or festival, fireworks, musical concert, theatrical presentation, political demonstration, parade, speech, or social party. The term "special event" does not include any gathering of persons on real property used for single-family purposes unless any portion will limit or restrict public access to any public property.

(Code 1995, § 70-31; Ord. No. 2180-09, § 2(70-31), 5-11-2009; Ord. No. 2293-14, § 1, 09-10-2014)

Sec. 36-62. - Permit required.

(a) It shall be unlawful for any person to sponsor, conduct or participate in a special event unless a special event permit has first been issued therefor by the city manager or designee as provided in this article.

(b) It shall be unlawful for any person to violate the terms of a special event permit. Failure to comply with this section shall be subject to the fine as set forth in appendix A to this Code.

(d) No permit for a special event shall be issued by the city at which there is a clear and present danger of riot, disorder, or other immediate threat to public health, safety or welfare.

(Code 1995, § 70-32; Ord. No. 2180-09, § 2(70-32), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Ordinance 2389-2018
Article III Section 36, 61-74, Special Event

Sec. 36-63. - Application; requirements.

(a) Any person seeking to conduct a special event in the city shall file an application therefor with the city manager, or such other city official or department as the city manager may designate, from time to time. Each applicant seeking a special event permit under this article shall be accompanied by a permit processing fee in an amount approved by resolution of the city commission from time to time. No permit fee shall be required for political demonstrations.

(b) Applications for special events shall be submitted as follows:

Estimated Total Attendance	Application Deadline Filed with the City
100 or less (Minor Event)	14 days in advance
100—1,000 (Low Impact Event)	30 days in advance
1,000—5,000 (Medium Impact Event)	60 days in advance
5,000 or more (High Impact Event)	90 days in advance

(d) Strict adherence to the time periods required in this section may be waived by the city manager for good cause shown. A late application penalty of $10 per day may be applied for each day beyond the application deadline.

(e) The application shall be on a form provided by the city community services director, and shall clearly describe the special event including whether it is a public event or private event, whether is it is to be held on public property or private property (or a combination), and its date, time, and location, a schedule of activities, and the location of any temporary structures such as signs, booths, tents, barricades, food vending operations, toilet facilities, solid waste and sewage waste removal facilities, and first aid, police and emergency medical facilities, along with any other information that is material to the safe and efficient conduct of the special event. A site plan shall be furnished which shows the location of all planned activities and temporary structures, attendee entrance, exit, and emergency gates, and the anticipated use and location of electrical, telecommunication, gas, water, and sewer hook-ups; and provisions for animals, if any, and solid waste removal.

(f) The applicant for any event permit, which will utilize public property shall provide a certificate of insurance in amounts determined by the city manager to insure the city for damage or loss caused by the event.

(g) When required by the city manager, a refundable cash deposit or other security as provided in section 36-66 shall be provided.

(h) The city shall be prepaid by the applicant or reimbursed by the applicant's deposit for all costs of providing city employees or equipment for the special event.

(i) Applications for special events on private property for commercial uses, including but not limited to "sales," shall be restricted to a maximum of four times per year, and ten days each, per applicant.

(Code 1995, § 70-33; Ord. No. 2180-09, § 2(70-33), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-64. - Written contract may be required.

The city manager or designee may require as a condition to the issuance of a special event permit that the applicant execute a written contract approved by the city attorney describing the special event, and establishing reasonable terms and conditions, in addition to those required by ordinance. The city manager or designee may require that the applicant pay to the city all costs in providing support services for the special event. Payment may be required in advance in the form of an estimate, the unused balance to be returned after the special event.

(Code 1995, § 70-34; Ord. No. 2180-09, § 2(70-34), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-65. - Indemnification and insurance required to protect city.

Each special event applicant shall indemnify and save the city harmless, and shall provide defense for the city, from any and all claims, suits, actions, damages, or causes of action for any personal injury or loss of life, or for damage to or loss of property, arising as a result of the special event or resulting from the condition of the public or private property on which the special event is held, including those conditions arising during the event itself and those conditions arising during the preparation, construction, or de-construction of the special event. The applicant shall insure the above indemnity by providing a comprehensive general liability insurance policy which includes contractual liability in such amounts as shall be established by the city manager. The certificate of insurance shall be filed with the city manager with the special event application.

(Code 1995, § 70-35; Ord. No. 2180-09, § 2(70-35), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-66. - Cash deposit; forfeiture; hearing.

(a) The city manager may require that a special event permit applicant pay to the city a cash deposit or provide other security in a form acceptable to the city attorney to ensure that any permit conditions imposed by the city are observed by the applicant, that additional costs realized by the city are paid, and that public property used for the event is returned to the same or better condition than prior to the special event.

(b) The deposit required herein, or a portion thereof, shall be forfeited to the city in the event of a violation of the requirement that the public property be returned to the same or better condition than prior to the special event; or any other circumstance where the city incurs additional costs because of the event.

(c) The applicant may request a hearing before the city commission to appeal a decision of the city manager that a deposit or portion thereof is forfeited. The decision of the city commission shall be final.

(Code 1995, § 70-36; Ord. No. 2180-09, § 2(70-36), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-67. - Sale or consumption of alcoholic beverages restricted.

(a) It shall be unlawful for any person to sell or consume any alcoholic beverage at a special event which has not been specifically approved for such purpose by the city manager prior to the event. A violation of this section shall be grounds for the immediate revocation of a special event permit. No person other than the applicant or other persons designated on the permit shall sell alcoholic beverages at a special event.

(b) An applicant seeking approval herein shall demonstrate to the city manager that adequate safeguards will be taken to avoid service of alcoholic beverages to minors or intoxicated persons. The applicant shall insure the city against all risk or injury, damages or loss attributable to the sale or consumption of alcoholic beverages at the special event in a monetary amount deemed sufficient by the city manager.

(c) The special event applicant shall fully comply with all state liquor laws, as a condition of conducting such event; and each and every invitee attending a special event shall fully comply with state liquor laws regarding the consumption of alcoholic beverages at such special event.

(Code 1995, § 70-37; Ord. No. 2180-09, § 2(70-37), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-68. - Standards for issuance of a special events permit.

A special event permit shall be issued by the city manager or designee only if the following standards are satisfied:

(1) The application is complete in all material respects and all information contained therein is accurate.

(2) The special event will not unreasonably interfere with the provision of routine city services, including but not limited to police, fire-rescue, and emergency medical protection, water and stormwater or sanitary sewer service, and solid waste collection, and is compliant with safe vehicular and pedestrian passage on public and private rights-of-way.

(3) The special event will not eliminate or unduly interfere with access to adjacent private property.

(4) All required deposits and fees must be fully paid to the city.

(5) All required insurance certificates must be received by the city.

(6) The city manager may require the use of city employees or equipment for the reasonable comfort, security and protection of the invitees at any special event.

(7) The city manager may establish reasonable conditions and require the written agreement of the applicant for these services prior to issuing a permit.

(8) All conditions and requirements set forth in this article, and all additional contractual requirements imposed by the city, if any, have been or will be met.

(9) If a written contract is required by the city manager, such contract must be fully executed prior to the issuance of a special event permit.

(10) As an exception to the above standards, city events may temporarily interfere with or usurp the general public's free use of designated public property. Such city event shall not restrict the use of the public property by the general public for more than five days, without the express approval of the city commission.

(Code 1995, § 70-38; Ord. No. 2180-09, § 2(70-38), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-69. – Requirements for Peaceful Assembly

(a) Peaceful Assembly shall be conducted in conformance with all traffic laws, city ordinances, state and federal statutes, and shall not in any manner obstruct vehicular or pedestrian traffic. No person shall conduct or participate in peaceful assembly that breaches the public peace or trespasses upon private property.

(b) Any individual or group of individuals engaging in peaceful assembly, or planning to engage in peaceful assembly, shall notify the Community Services Director of the time and place of the planned activities.

i. These events include a march or parade that does not stay on the sidewalk and other events that require blocking traffic or street closure;
ii. A rally requiring the use of sound amplifying devices;
iii. A rally at certain parks or plazas which are regularly used and occupied by the general public and as a result, the rally will alter the normal operation of the location.
iv. This list is not exhaustive and is intended to provide guidance. The ultimate decision shall be at the discretion of the Community Services Director.

(c) If the Community Services Director anticipates that the event will result in the obstruction or closing of a public street, public sidewalk , public right-of-way or other public property, the requirements for “special events” must be met.

Sec. 36-70. - Denial of permit application; appeal.

(a) The city manager may deny an application for a special event permit upon a finding that any of the standards set forth in this article have not been met. Notice of denial shall be communicated to the applicant in writing, including the reasons for the denial.

(b) A decision of the city manager to deny, or to grant with conditions, an application made pursuant to this article may be appealed by the applicant to the city commission within ten days of the applicant receiving the written denial or grant with conditions.

(c) The applicant's appeal shall be in writing and shall specify the grounds for the appeal, and shall be filed with the city clerk, with a copy to the city manager and a copy to the city attorney. If not resolved to the satisfaction of the applicant by the city manager within five days, or other time period agreed upon by the parties, an appeal hearing shall be placed upon the agenda of a regular city commission meeting, or at a special meeting set for the purpose of conducting a hearing. The only evidence to be considered by the Commission shall be

limited to the application which was reviewed by the City Manager. No additional records shall be submitted by the applicant at the hearing. Following the hearing, the city commission shall affirm, reverse or modify the decision of the city manager, having considered at least the following matters:

(1) Whether the special event will unreasonably conflict with the public's access or use of adjacent private property (including single-family residences), or public property;

(2) Whether the application provided by the applicant was submitted complete in all material respects and information provided therein is accurate; (3) Whether an event that includes the use of public or private property has signed approval from the property owner;

(4) Whether adequate measures will be taken by the applicant to protect the public health, safety and welfare; and

(5) Whether each of the conditions imposed by the city manager are reasonable considering the unique circumstances of the special event.

The decision of the city commission shall be final.

(d) If there is no regular city commission meeting scheduled prior to the event, or if the city commission is unable to obtain a quorum and hear an appeal of the applicant at a special meeting prior to the event, such appeal shall not be heard, and the matter shall be dismissed sua sponte by the city attorney acting on behalf of the city commission. To avoid automatic dismissal, the special event must be at least 15 days following the filing of the appeal. In the case of dismissal, the applicant may continue with the event only if the applicant agrees to observe the special event conditions established by the city manager. If the applicant fails to comply with the specified conditions established by the city manager or if no reasonable conditions could be established by the city manager due to the nature of the event, the event or assembly will not be permitted.

(Code 1995, § 70-39; Ord. No. 2180-09, § 2(70-39), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-71. –Unpermitted activity; penalty.

(a) *Unpermitted activity defined.* Any special event or public assembly activity shall be unlawful when:

(1) Such activity is not explicitly identified on an approved permit application and is generally not permissible otherwise; or

(2) Such activity conflicts with state or federal laws and regulations.

(b) *Penalties for unpermitted activity violations.*

(1) A first violation of this section by unpermitted activity will subject the violator to a fine in conjunction with the schedule of fines in Appendix A.

(2) A repeat violation of this section by unpermitted activity will subject the violator to a MANDATORY appearance before the city magistrate as provided in this code.

Sec. 36-72. – Exemption.

A City Event as defined in this article may be waived by the City Manager or City Commission upon a showing that the waiver requested is in the best interest of the public health, safety, or welfare.

Sec. 36-73. - Revocation of permit.

> A special event permit may be revoked by the city manager or police chief, or their lawful representatives, at any time, upon a finding that the health, safety or welfare of the persons attending the special event or the public is reasonably threatened by an emergency or disorder which has arisen. The city manager, police chief, or their lawful representatives, may also revoke a special event permit at any time, upon finding that any of the special conditions established by the city have not been satisfied. In the event of revocation, the applicant is responsible to close-down the special event, and disperse the invitees. In the event of noncompliance, the city manager, police chief or their lawful representatives may close down the special event and disperse the invitees.

(Code 1995, § 70-40; Ord. No. 2180-09, § 2(70-40), 5-11-2009; Ord. No. 2293-14, § 1, 9-10-2014)

Sec. 36-74. - Designee.

> No special event permit may be approved by a designee of the city manager if the event will inure to the special private gain or loss of the designee; if the event will inure to the special gain or loss of the business associate of the designee; if the event will inure to the special gain or loss of a relative of the designee or to the gain or loss of an entity which has retained the designee.

(Ord. No. 2293-14, § 1, 9-10-2014)

Secs. 36-75—36-100. - Reserved.