

**ORDINANCE NO. 21-003**

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING **CHAPTER 28, ARTICLE II** OF THE CODE OF ORDINANCES ENTITLED "PARKS AND RECREATION"; AMENDING **SECTION 28-31(26) – PROHIBITED ACTIVITIES**; AMENDING SECTION 28-36 TO ADD **SPECIAL USE PERMIT REQUIRED**; AMENDING SECTION 28-37 – APPLICATION FOR SPECIAL USE PERMIT; AMENDING SECTION 28-38 – STANDARDS FOR ISSUANCE OF SPECIAL USE PERMIT; AMENDING SECTION 28-39 – ADMINISTRATION OF SPECIAL USE PERMIT APPLICATION; AMENDING SECTION 28-40 – APPEAL OF DENIAL OF SPECIAL USE PERMIT; AMENDING SECTION 28-41 – DUTIES OF PERMITTEE; AMENDING SECTION 28-42 – INTERFERENCE; AMENDING SECTION 28-43 – REVOCATION OF PERMIT; AMENDING SECTION 28-44 – DISCRIMINATION PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City and St. Lucie County have a strong history of marketing ourselves as an eco-tourism, water front destination, including FortPierceTours.com and our partnership with Visit Florida; and

**WHEREAS**, many of the eco-tourism types of activities include paddle boards, kayaking, jet skis, boat rentals, fishing, canoeing, surfing and the like. Many of these businesses are home-based, utilizing websites to book tours; and

**WHEREAS**, several businesses have indicated difficulty in successfully operating their business as a result of the prohibition of delivery and demonstration within a city park; and

**WHEREAS**, at the conference agenda on December 10, 2018, the City Commission accepted the Parks Committee recommendation of a Special Use Permit to manage vendor use of City Parks to balance being “business friendly” with having parks that are relaxing, welcoming, recreational, and safe for ALL citizens to enjoy; and

**WHEREAS**, at the conference agenda on April 8, 2019, the City Commission accepted the Parks Committee recommendation for the following forms: (1) Special Use Permit Application, (2) Approval Decisions for Special Use Permit, (3) Applicant Agreement for the Special Use Permit, and (3) the Special Use Permit.

**NOW, THEREFORE, BE IT ORDAINED** by City Commission of the City of Fort Pierce, Florida:

**SECTION 1.** Chapter 28, Article II, Section 28-31(26), of the Code of Ordinances, is hereby amended to read as follows:

(26) Engage in the sale, rental, delivery, demonstration, display, or offering as a business promotion any item or service for any non-city-sponsored functions, except as otherwise permitted for special events or special use as provided by this chapter or administrative rule;

**SECTION 2.** Chapter 28, Article II, Section 28-36 – 28-58 of the Code of Ordinances, is hereby amended to read as follows:

**Secs. 28-36 28-45 —28-58. - Reserved.**

**SECTION 3.** Chapter 28, Article II, Section 28-36 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-36 – Special Use Permit required.

No vendor shall engage in, participate in, or commence any delivery or demonstration of products in any City of Fort Pierce public facility, unless a limited special use permit shall have been obtained from the city manager, or designee. The City Commission shall determine the maximum number of special use permits available for issuance, which shall be established by resolution.

**SECTION 4.** Chapter 28, Article II, Section 28-37 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-37 - Application for Special Use Permit.

- (a) A person seeking issuance of a special use permit shall file an application with the city manager on forms provided by the city.
- (b) For a special use permit, a complete application for or renewal of a permit shall be filed allowing 30 business days for processing from the date of a fully completed application. The application shall be signed by the applicant under oath.
- (c) Special use permits are for either 3, 6, or 12-month periods and are not automatically renewed. They are for limited delivery and demonstration only and do in no way offer permission to engage in the sale, rental, display, or business promotion at any City of Fort Pierce public facility.
- (d) The application for a special use permit shall include the following information:
  - (1) The name/organization, responsible person and title, mailing address, physical address (if different from mailing address), telephone number(s), email address, business website, description of business, and number of employees;
  - (2) Insurance information including liability showing the City of Fort Pierce as an additional insured in the minimum amount of \$500,000, insurance company, policy number, and expiration date. If the business has 4 or more employees, workers' compensation insurance is also required by the State including insurance company, policy number, and expiration date. A copy of all policies is required in addition to a certificate signed by an authorized agent of the insurance company.
  - (3) A description of the requested activities, location requested along with reason for chosen location, description of the delivery and pickup process, the time required for delivery and pickup, and vehicle information for the vehicle used for delivery including description, size, parking requirements, and license plate number.
  - (4) A copy of a valid Business Tax Receipt if appropriate.
  - (5) A description of the demonstration/training process, the time required for demonstration/training, the equipment/setup required for delivery and pickup and/or demonstration.
  - (6) The time of day requested along with the days of the week requested.
  - (7) The requested length for the special use permit: 3, 6, or 12 months.
  - (8) The applicant signature, date, and title.

**SECTION 5.** Chapter 28, Article II, Section 28-38 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-38. - Standards for issuance of special use permit.

The city manager, or designee may issue a permit as provided for hereunder when, from a consideration of the application and from other information as may otherwise be obtained, it appears that:

- (a) The requested length of time is reasonable for the activity requested and either 3, 6, or 12 months;

- (b) The time of day and days of the week are acceptable for the activity;
- (c) The fee was paid. A fee schedule shall be adopted by Resolution of the City Commission and maintained in the City Clerk's office;
- (d) The liability and workers' compensation insurance are verified and acceptable.
- (e) The public facility requested balances a "business friendly" City with having public facilities that are relaxing, welcoming, recreational, and safe for all citizens to enjoy. If the facility requested does not meet these requirements, an alternate facility will be offered; examples include but are not limited to: not congruent with or competes with other activities within the facility, insufficient space and/or parking for the activity, safety concerns, or the activity would block citizens from using attributes of the facility;
- (f) Delivery and pickup conditions including time limits meet the requirements of having public facilities that are relaxing, welcoming, recreational, and safe for all citizens to enjoy;
- (g) There is sufficient parking to meet requirements. Parking requirements will be specified as needed to ensure having public facilities that are relaxing, welcoming, recreational, and safe for all citizens to enjoy;
- (h) The applicant agrees to follow parking rules and regulations;
- (i) Demonstration/training process and time limits meet the requirements of having public facilities that are relaxing, welcoming, recreational, and safe for all citizens to enjoy;
- (j) The applicant agrees to follow all safety rules and procedures, and, if applicable, to provide an attendant age 18 or older for all apparatuses or equipment when supervision is recommended by the manufacturer;
- (k) The applicant agrees that this permit in no way provides permission to engage in the sale, rental, display, or offering a business promotion;
- (l) The applicant agrees to make sure all litter and debris is cleared and disposed of properly, leaving the area as it was found;
- (m) The activity will not cause disturbance due to noise per City code;
- (n) The applicant agrees that they have received a copy of and will follow the City of Fort Pierce Code of Ordinances Section 28-31;
- (o) The applicant has all required licenses and tax receipts for businesses in the City of Fort Pierce, including but not limited to a Fort Pierce Business Tax Receipt and all St. Lucie County and State of Florida requirements;
- (p) The applicant is in good standing with the City and has no outstanding citations or unpaid fines related to the business, its owner, or its employees;
- (q) The City Manager may establish standards and specifications for services and equipment required in this article by administrative rule.

**SECTION 6.** Chapter 28, Article II, Section 28-39 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-39. - Administration of special use permit application.

- (a) Staff designated by the city manager to process applications shall route the permit application to appropriate departments or agencies including the public works department, police department, marina department and the St. Lucie County Fire District for review and then to the city manager for approval.
- (b) Within thirty (30) days of the filing of the application for a permit, the city manager shall provide the applicant written notice of the action taken on the application. This notice shall be provided by personal delivery or through first class United States Postal Service mail delivery. The permit for the special use may be granted unless one or more of the following conditions is found to exist:
  - (1) The application is incomplete in a material respect;
  - (2) The application has been fraudulently completed;
  - (3) The application is not for a public facility;
  - (4) The "Applicant Agreement for City of Fort Pierce Special Use Permit" is incomplete or invalid;
  - (5) The standards for issuance of permit in section 28-38 have not been met;
  - (6) Specific standards not met must be provided;
  - (7) The application does not otherwise conform to standards and

requirements imposed by this chapter.

- (c) In the event the city manager denies the application as submitted, the city manager may authorize the special use permit to be approved with changes as specified (i.e.: location, parking requirements, timing, etc.).
- (d) An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the proposed modification, file a written notice of acceptance with the city manager. An alternate permit shall conform to the requirements of, and shall have the effect of, a permit under this article.

**SECTION 7.** Chapter 28, Article II, Section 28-40 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-40 - Appeal of denial of special use permit.

- (a) An applicant shall have the right to appeal the denial of a permit by filing a written notice of appeal with the office of the city manager. Such appeal shall be filed by the applicant within five (5) days after issuance of the notice of denial.
- (b) Such appeal shall be heard and decided by the city commission at its next regularly scheduled meeting following the city manager's receipt of the notice of appeal. The applicant shall be notified at least twenty-four (24) hours prior to the hearing, and the applicant may appear at the hearing in person and may be represented by counsel. Evidence on the applicant's behalf may be presented at such hearing. The city manager shall describe the reasons for denying the permit and shall provide any other evidence supporting such denial. The city commission shall direct the city manager to issue a permit in the event it determines that the applicant has met the criteria set forth in this article for issuance of a permit. In the event the applicant is not satisfied with the decision of the city commission, the applicant may seek judicial review in the manner provided for by law.

**SECTION 8.** Chapter 28, Article II, Section 28-41 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-41 - Duties of permittee.

A permittee hereunder shall comply with all permit directions and conditions, and with all applicable laws and ordinances. The applicant or other person representing the business shall carry the permit upon such individual's person during the conduct of the permitted activities and shall display the permit upon demand by any employee of the city authorized to enforce this chapter.

**SECTION 9.** Chapter 28, Article II, Section 28-42 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-42 - Interference.

No person shall unreasonably hamper, obstruct or impede, or interfere with any duly licensed special use activity, or with any person, vehicle or animal participating or used in such activity.

**SECTION 10.** Chapter 28, Article II, Section 28-43 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-43 - Revocation of permit.

The city manager shall have the authority to revoke a special use permit issued hereunder instantly upon violation of any one or more of the conditions or standards for issuance as herein set forth or when the activity would have an immediate and adverse effect upon the welfare and safety of persons or property.

**SECTION 11.** Chapter 28, Article II, Section 28-44 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 28-44 - Discrimination prohibited.

It shall be unlawful for any permittee, or any agent or employee of the permittee, either directly or indirectly:

- (a) To discriminate against any natural person by refusing, withholding, or denying to such person any of the services, advantages, facilities or privileges offered or available to any other person participating in the activity, or by setting different rates or charges therefore, or by placing or attempting to place any such natural person in a separate and segregated section or area during the activity;
- (b) To publish, circulate, display, post or mail any written or printed communication or notice to the effect that any of the services, advantages, facilities, or privileges of the activity will be refused, withheld or denied to any natural person on account of the person's race, color, religion, natural origin, sex, or that the person's attendance and presence at the activity is unwelcome or objectionable, or that the person will be prohibited from mingling with other persons at the activity because of the person's race, color, religion, natural origin, or sex;
- (c) To aid, abet, incite or coerce the doing of any unlawful act, or to prevent or to attempt to prevent any person from complying with the provisions of this section.

**SECTION 12.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 13.** All ordinances or parts of ordinances in conflict herewith are and the same shall be repealed and shall be of no further course or effect whatsoever.

**SECTION 14.** This ordinance is and the same shall become effective immediately upon final passage.

APPROVED AS TO FORM  
AND CORRECTNESS:

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Peter J. Sweeney  
City Attorney

**STATE OF FLORIDA  
COUNTY OF ST. LUCIE**

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 21-003 was duly advertised by title only in the St. Lucie News Tribune on March 5, 2021; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on March 15, 2021; and was duly introduced, read by title only, and passed on second and final reading on Monday, April 5, 2021, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 5th day of April March, 2021.

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Linda Hudson  
MAYOR COMMISSIONER

ATTEST

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Linda W. Cox  
CITY CLERK

(CITY SEAL)