ORDINANCE NO. 22-05C

AN ORDINANCE TO AMEND SECTIONS 168.12(4) AND 168.12(5) OF THE ZONING SUPPLEMENTARY DISTRICT REGULATIONS.

BE IT THEREFORE ORDAINED by the City Council of the City of Stuart:

SECTION 1. SECTION MODIFIED. Chapter 168.12(4) and 168.12(5) of the Code of Ordinances of the City of Stuart, is hereby repealed and the following adopted in lieu thereof:

> **168.12(4) Accessory Buildings and Structures**. No accessory building shall be erected in any required court or in any yard other than a rear yard. Accessory buildings shall meet the appropriate bulk regulations for the zoning district listed in Chapter 168. Only one (1) detached garage and one (1) yard shed shall be allowed in a rear yard (this is not to be construed as not allowing gazebos, greenhouses, shelters and "children's playhouses," as long as the total aggregate building area does not exceed 30% of the rear yard). In RS, RM, MH, Zoned Districts accessory garages shall be no larger than 1,000 square feet and yard sheds shall not be larger than 160 square feet. In AG, CN, AC, BC, DBC, LI, and HI Zoned Districts accessory buildings will be permitted upon request and approval from the City Council; said request shall be submitted at City Hall by the property owner and approved or denied by the City Council at a regularly scheduled City Council meeting. Accessory buildings shall be distant at least three (3) feet from alley lines, and/or lot lines of adjoining lots. However, in no case shall any eave or overhang extend closer than twelve (12) inches to a rear or side yard line and no accessory structure(s), except those permitted pursuant to the provisions of Ordinance Section 168.12(5) (Fences, Walls, and Hedges), shall be permitted to be constructed, placed, located or built in and/or on any flowage easement. Accessory buildings may be built in utility easements; however, the property owner will be responsible for any additional costs incurred by a utility company in working around, removing, relocating, altering or dealing in any way with an accessory building placed in a utility easement. Accessory buildings must be erected separately from and six (6) feet distant (into rear yard) from the principal structure. Any building so connected to the principal building shall be considered a part of the principal building and must meet the space requirements thereof. This regulation shall not be interpreted to prohibit the construction of a minimum two hundred forty (240) square foot, detached garage on a rear yard. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building on the lot is being used. Accessory buildings exceeding 160 square feet in area shall be constructed of materials that are the same or similar to the principal building. Accessory buildings may be connected to the principal building by a breezeway with setbacks for the principal structure. An addition may be made to an existing principal structure which extends past the front of an existing legally established detached accessory structure, provided no connection or attachment is made between the existing detached structure and the addition, unless setbacks can be met as required for a principal structure.

168.12(5) Fences, Walls, and Hedges. Notwithstanding other provisions of the Zoning Code, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that:

A. In a RS, RM, and MH Zoned District, no fence, wall, or hedge in any front yard shall exceed forty-eight (48) inches in height; and no fence, wall or hedge shall exceed forty-eight (48) inches in height, from the front of the principal dwelling, along the street side yard of a corner lot. Except, in the event that a fence in a front yard is an open chain link fence, said open chain link fence shall not exceed forty-eight (48) inches in height.

B. No fence or wall in any rear yard shall exceed six (6) feet in height in a RS, RM and MH Zoned District, or ten (10) feet in height in all other Zoned Districts unless otherwise approved by the Board of Adjustment.

C. Facing: The finished surfaces of any fence hereafter erected shall face toward adjacent properties and street frontage. Every fence hereafter erected shall be done in the following manner: posts, supporting rails and other such supporting elements when located shall be on and face the property on which the fence is located.

D. In all Zoned Districts, over an overland flowage easement, no fence, wall, or hedge shall be constructed unless the fence, wall or hedge is raised at least three (3) inches above the ground.

E. In all Zoned Districts, no fence shall be constructed within four (4) feet of an alley right-of-way.

F. Construction and Maintenance: All fences shall be constructed in a sound and sturdy manner and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance. The Zoning Administrator after ten (10) days' written notice to the owner of the non-conforming fence, may order the removal of any fence that is not maintained in accordance with the provisions of this Code, and the cost of said removal shall be assessed against the property where said fence is located. An extension of time to bring the fence into maintenance conformance by the property owner may be granted to the property owner by the Zoning Administrator, upon the owner filing a verified statement that the delay is not a result of any act of the owner.

G. All fences shall be constructed and maintained with one or more of the following approved material(s): Chain Link, Vinyl coated chain link, Vinyl coated aluminum, wood, metal, or PVC. Fences shall not be constructed utilizing one or more of the following prohibited materials, unless preapproval is applied for at City Hall by the property owner and granted by the City Council at a regularly scheduled City Council meeting: Barbed wire, razor wire, electric fence and any other material not specifically approved under this ordinance. The erection and

use of Snow fences shall be prohibited within the City from the time period of April 1 through October 31 of each year.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provisions or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Roll Call Vote:

Doely:	Aye	Kirkpatrick:	Aye
Renslow:	Aye	Morgan:	Aye
Kalbach:	Aye		

First Reading:	8/8/2022
Second Reading:	8/8/2022
Third Reading:	8/8/2022

Passed by the Council the 8th day of August, 2022, and approved this 8th day of August, 2022.

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Dick Cook, Mayor, City of Stuart

Attest:

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Ashraf Ashour, City Administrator