



Thursday
April 18, 2019
7:00 pm

Town of Southwest Ranches Comprehensive Plan Advisory Board Meeting Agenda

Town Hall
13400 Griffin Road
Southwest Ranches, FL 33330-2628

Board Members

Steve Breitzkreuz
Mary Gay Chaples
Josh Dykes
Jason Halberg
George Morris
Robert Sirota

Council Liaison

Bob Hartmann

Staff Liaison

Emily Aceti

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Public Comment: Items relating to the Comprehensive Plan but not on the agenda
5. Old Business
 - A. Approval of minutes for March 2019
 - B. Excuse absences
 - C. Nursery Ordinances
 - I. Landscape Maintenance
 - II. Nursery
 - III. Special Exceptions
6. New Business
7. Board Member / Staff Comments and Suggestions
8. Items for Next Meeting
9. Adjournment

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.



Town of Southwest Ranches Comprehensive Plan Advisory Board Meeting Minutes

March 21, 2019
7:00 PM

Town Hall
13400 Griffin Road

Call to Order

Roll Call

Steve Breitkreuz - Present
Mary Gay Chaples - Present
Josh Dykes - Absent
Jason Halberg - Present
George Morris – Present
Robert Sirota – Present

Also Present: Bob Hartmann, Council Member; Doug McKay, Mayor; Gary Jablonski, Vice Mayor; Dee Schroeder, Council Member; Emily Aceti, Town Staff; Jeff Katims, Town Planner; Jim Laskey; Brad Sonneborn; Stephanie Link; Lesley York; Donna Levy; Jose Hernandez; Newell Hollingsworth; James Starkweather; Luke Hansford; Laurie Morse; Virginia Cullen; Mcbrides; Dena Butler; Sheryl van der Heiden; Aimee Mendez; Guillermo Leon

Pledge of Allegiance

Motion: To elect Mary Gay Chaples as Recording Secretary.

Result	1 st	2 nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>								

Motion: To approve the February minutes.

Result	1 st	2 nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>	<i>GM</i>	<i>JH</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: To excuse Josh Dykes.

Result	1 st	2 nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>	<i>JH</i>	<i>GM</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: To move New Business "Nursery Ordinance Minimum Lot Size" to the beginning of the agenda.

Result	1st	2nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>	<i>GM</i>	<i>SB</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: Return the "Nursery Ordinance Minimum Lot Size" to the Town Council with the recommendation to decline.

Result	1st	2nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>	<i>JH</i>	<i>GM</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: To adjourn.

Result	1st	2nd	SB	MC	JD	JH	GM	RS
<i>Passed</i>	<i>GM</i>	<i>RS</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Meeting Adjourned at 9:00 PM

Nursery / Landscaping Guidelines

April 2019

- 1) Residential Farming
 - a. Legal Today?
 - i. Yes
 - b. Certificate of Use
 - i. No
 - c. Agricultural Exemption
 - i. Yes or No
 - d. Vehicles used for business off site
 - i. 1 vehicle for properties under 2 acres and 2 vehicles for larger properties ~~One~~ per current code
 - e. Office Space
 - i. In home or external shed
 - f. Property Size
 - i. Any
 - g. Special Restrictions
 - i. Agricultural use is secondary use to the primary residential use
- 2) Wholesale Nurseries
 - a. Legal Today?
 - i. Yes
 - b. Certificate of Use
 - i. Yes
 - c. Agricultural Exemption
 - i. Yes
 - d. Vehicles used for business off site
 - i. 1 vehicle for every 3 acres or portion thereof
 - e. Office Space
 - i. Separate structure allowed
 - ii. Is this a non-agricultural building that needs permitting? **yes**
 - f. Property Size
 - i. Any
 - g. Special Restrictions
 - i. Primary ingress and egress must be on an arterial roadway
 - ii. Need safeguards to prevent fuel and oil seepage into the ground
 - h.
- 3) Retail Nurseries
 - a. Legal Today?
 - i. TBD
 1. Keith has indicated no; This would provide a pathway to being legal
 2. Jeff indicates that they are currently legal
 - b. Certificate of Use
 - i. Yes
 - c. Agricultural Exemption
 - i. Yes
 - d. Vehicles used for business off site

Commented [SB1]: This document is a combination of the current code and the direction where I think that the committee is going. It would probably be good to indicate which of these are part of the current code and which are not. I will highlight what I think are the new ideas and if you could check my work, that would be appreciated.

Commented [JK2]: Agriculture does not need to be secondary to residential. It can coexist as a separate principal use.

Commented [SB3R2]: Makes sense

Commented [JK4]: Where did this come from?!

Commented [SB5R4]: This is my proposal, for the board to discuss.

Commented [JK6]: Where did this come from? This has not been something we've required in any version of any of the ordinances.

Commented [SB7R6]: This is my proposal, for the board to discuss.

Commented [JK8]:

Commented [JK9R8]: They are and have been legal. This is not debatable.

Commented [SB10R8]: Understood. I am looking for Keith's confirmation to ensure that we are all on the same page.

- i. 1 vehicle for every 3 acres or portion thereof
 - e. Office / Customer Space
 - i. Separate structure allowed
 - ii. [This non-agricultural building that needs permitting](#)
 - ~~ii. Is this a non-agricultural building that needs permitting?~~
 - f. Property Size
 - i. Any
 - g. Special Restrictions
 - i. Primary ingress and egress must be on an arterial roadway
 - ii. Need safeguards to prevent fuel and oil seepage into the ground
- 4) Landscape Maintenance Companies
 - a. Legal Today?
 - i. No
 - b. Certificate of Use
 - i. ~~Yes~~ No
 - c. Agricultural Exemption
 - i. ~~Yes~~ No
 - d. Vehicles used for business off site
 - i. 1 vehicle for every 3 acres or portion thereof
 - e. Office Space
 - i. Separate structure allowed
 - ii. [This non-agricultural building that needs permitting](#)
 - ~~ii. Is this a non-agricultural building that needs permitting? **Yes**~~
 - f. Property Size
 - i. Any
 - g. Special Restrictions
 - i. Primary ingress and egress must be on an arterial roadway
 - ii. Need safeguards to prevent fuel and oil seepage into the ground

Commented [JK11]: Where did this come from?

Commented [SB12R11]: This is my proposal, for the board to discuss.

Commented [JK13]: Desirable but not required.

Commented [SB14R13]: This is my proposal, for the board to discuss.

Commented [JK15]: Same comment as previous.

1 **ORDINANCE NO. 2019 -**

2 **"LANDSCAPE MAINTENANCE BUSINESS ORDINANCE"**

3 **AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES,**
4 **FLORIDA PERTAINING TO THE REGULATION OF LANDSCAPE**
5 **MAINTENANCE BUSINESSES AS A SPECIAL EXCEPTION**
6 **ACCESSORY USE TO PLANT NURSERIES; AMENDING THE TOWN**
7 **OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE**
8 **("ULDC") BY AMENDING SECTION 10-30, "TERMS DEFINED;"**
9 **AMENDING ARTICLE 45, "AGRICULTURAL AND RURAL**
10 **DISTRICTS," SECTIONS 045-030, "GENERAL PROVISIONS" AND**
11 **045-050, "PERMITTED AND PROHIBITED USES;" AMENDING**
12 **ARTICLE 60, "COMMUNITY FACILITY DISTRICT," SECTION 060-**
13 **030, "PERMITTED AND PROHIBITED USES;" AMENDING CHAPTER**
14 **8, "EMERGENCY MANAGEMENT" OF THE CODE OF ORDINANCES;**
15 **PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT;**
16 **PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN**
17 **EFFECTIVE DATE.**

18
19 **WHEREAS,** the Town of Southwest Ranches ("Town") was founded to preserve
20 its rural character and the rural lifestyle of its residents; and

21 **WHEREAS,** the Town recognizes the community's need for construction trade
22 businesses that provide services to the public for the installation, removal and
23 maintenance of nursery stock; and

24 **WHEREAS,** plant nurseries may seek to diversify their existing bona fide
25 agricultural operations on their property by adding land uses not recognized or protected
26 as bona fide agriculture such as commercial landscape maintenance operations; and

27 **WHEREAS,** existing plant nurseries that wish to use a portion of their property for
28 commercial landscape maintenance operations should be afforded an opportunity to use
29 their property for this accessory use, provided that the zoning district allows for the

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New text is underlined and deleted text is ~~stricken~~

1 accessory use, and that the property owner obtains a certificate of use and a special use
2 exception permit for such use; and

3 **WHEREAS**, the Town Council finds it necessary to establish a definition for
4 commercial landscape maintenance operations and to establish regulations to ensure that
5 such use is located and operated in a manner that is compatible with the surrounding
6 neighborhood and avoids the creation of a nuisance; and

7 **WHEREAS**, the Town Council, sitting as the Local Planning Agency, has reviewed
8 the contents of this Ordinance at a duly noticed public hearing on _____ and has issued
9 its recommendation to the Town Council, finding that the Ordinance is consistent with
10 the adopted comprehensive plan.

11 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
12 **TOWN OF SOUTHWEST RANCHES, FLORIDA:**

13 **Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed
14 as being true and correct, and are hereby incorporated herein and made a part hereof.

15 **Section 2.** Section 10-30, "Terms Defined" is hereby amended as follows:

16 * * *

17 Commercial Landscape Maintenance Operation. The term "commercial
18 landscape maintenance operation" means a person engaged in the installation,
19 removal and maintenance of plants and plant products on other properties.

20 * * *

21 Yard trash means vegetative matter resulting from landscaping maintenance,
22 land clearing operations and any other offsite source, and includes materials such
23 as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps,
24 and associated rocks and soils.

25
26 **Section 3.** Article 45, "Agricultural and Rural Districts," Section 045-030,
27 "General Provisions" is hereby amended by creating subsection (V), as follows:

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New text is underlined and deleted text is ~~stricken~~

1 * * *

2 (V) Commercial landscape maintenance operations.

3 (1) Commercial landscape maintenance operations are permitted as an accessory
4 use to a plant nursery provided that the owner obtains a special use permit
5 and that the use is incidental to the plant nursery's primary use of the
6 premises for the cultivation of plants.

7 (2) The following are requirements of all special exception use permits for
8 commercial landscape maintenance operations incidental to plant nurseries.

9 a. The landscape maintenance business must be located on the same
10 premises as the plant nursery to which it is an accessory use. The
11 nursery must possess an active agricultural classification from the
12 Property Appraiser pursuant to Chapter 193.461, Florida Statutes, as
13 may be amended from time to time, and a valid certificate of registration
14 from the Florida Department of Agriculture and Consumer Services.

15 b. The applicant shall make an application for a special exception use
16 permit using the form prescribed by the Town and shall provide the
17 following information to demonstrate how the incidental commercial
18 landscape maintenance operation will be conducted in a manner that is
19 consistent with the character of the surrounding neighborhood and will
20 not create a nuisance, cause premature wear of Town streets or create
21 traffic congestion during times of fleet ingress and egress through the
22 neighborhood where the nursery is located; hours of operation; the
23 number of landscape maintenance trucks that will operate from the
24 property; the method of fueling the trucks; detailed site plan that
25 addresses building size, location, screening and adequate provision of
26 parking for employees, including the number of employee vehicles to be
27 parked, handicapped parking, restrooms, ingress and egress of vehicular
28 traffic, setbacks from the street and adjacent properties, fuel storage,
29 the location and screening of areas for the storage of outdoor
30 equipment, trucks, and materials such that the storage is undetectable
31 from abutting residential properties and streets.

32 b. The applicant must obtain all local, state and federal permits and
33 insurance for the on-site storage of fuel for the trucks or equipment
34 used in the commercial landscape maintenance operation.

35 c. Storage, recycling or processing yard trash on the property is prohibited.

36 d. Mulching or grinding of yard trash is not permitted.

- e. The parking and storage of equipment, machinery and trucks that are not owned or leased by the applicant or are not used solely in the commercial landscape maintenance operation is prohibited.
- g. Fueling is prohibited within any public or private street right-of-way. All fueling tanks must have all required licenses from Broward County.
- h. Paved driveway aprons deemed suitable by the town engineer are required to prevent degradation of adjacent street surfaces.
- i. The property shall adequately buffer abutting residential uses and street lines to the satisfaction of the Town Council from the vehicular use areas and portions of the property associated with the commercial landscape maintenance operation, including but not limited to worker parking and commercial vehicle and equipment parking.
- j. The property shall comply with the outdoor lighting regulations in Article 95, and the sign regulations in Article 70.
- k. All special exception use permits granted in whole or in part for commercial landscape maintenance operations shall establish a specific limit as to the number of commercial vehicles that may be used for the commercial landscape maintenance operation.

(3) The following are minimum guidelines for commercial landscape maintenance operations accessory to a plant nursery. The Town Council may grant a Special Exception Use Permit that does not follow one or more of the guidelines based upon unique operational, locational or other circumstances pertaining to the proposed use.

- a. The property should front and exclusive access an arterial roadway.
- b. The property should have a minimum plot size of five (5) acres.

* * *

Section 4. Article 45, "Agricultural and Rural Districts," Section 045-050, "Permitted and Prohibited Uses" is hereby amended as follows:

Sec. 045-050. – Permitted, accessory, conditional, special exception and prohibited uses.

1 Plots in rural and agricultural districts may be used for one (1) or more of
 2 the uses that are specified below as being permitted or conditionally permitted
 3 uses. Special exception uses require town council approval pursuant to article
 4 112:

Key to abbreviations:						
P=Permitted use	NP=Not permitted	C=Conditional use	SE=Special exception use			
Permitted Principal Uses			A-1	A-2	RE	RR
* * *						
<u>Commercial landscape maintenance operations incidental to a plant nursery (subject to section 045-030(V))</u>			<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>
* * *						

6 **Section 5.** Article 60, "Community Facility District," Section 060-030, "Permitted
 7 and Prohibited Uses" is hereby amended as follows:

8 Sec. 060-030. – Permitted, accessory, conditional, special exception and prohibited
 9 uses.

10 Permitted uses in the community facility district shall be limited to those uses
 11 specified as permitted or conditionally permitted uses in the master use list. Special
 12 exception uses require town council approval pursuant to article 112. All permitted uses
 13 shall be governmentally owned (public) or operated, or not-for-profit, unless otherwise
 14 specified. Uses are subject to applicable provisions of section 060-090, "Limitations of
 15 uses." Specific subsection references are included in the following master use list:
 16

17
 18 Master Use List

P=Permitted use	C=Conditional use	A=Accessory use only	SE=Special exception use	NP=Not permitted
Use				
* * *				

19 Ordinance No. 2019-___

New text is underlined and deleted text is ~~stricken~~

<u>Commercial landscape maintenance operations incidental to a plant nursery</u>	<u>SE</u>
* * *	

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Section 6. Chapter 8, Emergency Management, of the Code of Ordinances is hereby amended as follows:

Sec. 8-1. - Authority of town administrator.

- (a) The town administrator is hereby designated as the town's emergency coordinator, and is hereby granted the authority to create and implement a disaster plan for the town and to declare a "state of local emergency" in the event of an emergency affecting the limits of the town, when the administrator, in his sole judgment, determines that the magnitude and extent of damages will necessitate outside assistance.
- (b) The town administrator is granted such authority as may be necessary to direct and coordinate the development of the emergency management mitigation, preparedness and response operations, as well as the performance of public work and to take such other actions as may be deemed necessary and appropriate to protect the safety, health and welfare of the residents of the town.
- (c) As part of the authority granted herein, the Town Administrator may permit the use of air curtain incinerators on plant nurseries with five (5) or more acres of property after a Presidential or Gubernatorial state of emergency declaration resulting from a tropical cyclone. Such approval shall be contingent upon Broward County's authorization pursuant to its code of ordinances, which provides for the use of air curtain incinerators under declared emergencies.

Section 7: Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC during the next codification update cycle.

Section 8: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

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New text is underlined and deleted text is ~~stricken~~

1 **Section 9: Severability.** If any word, phrase, clause, sentence or section of
2 this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof
3 shall not affect the validity of any remaining portions of this Ordinance.

4 **Section 10: Effective Date.** This Ordinance shall take effect immediately upon
5 passage and adoption.

6 **PASSED ON FIRST READING** this ____ day of _____, 2019 on a motion made
7 by _____ and seconded by _____.

8 **PASSED AND ADOPTED ON SECOND READING** this ____ day of _____,
9 2019, on a motion made by _____ and seconded by
10 _____.

11

12	McKay	_____	Ayes	_____
13	Fisikelli	_____	Nays	_____
14	Jablonski	_____		
15	Schroeder	_____	Absent	_____
16	Hartman	_____	Abstaining	_____
17				

18

19

20

21

Doug McKay, Mayor

22 ATTEST:

23

24 _____

25 Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

26

Ordinance No. 2019-____
New text is underlined and deleted text is ~~stricken~~

1 Approved as to Form and Correctness:

2

3 _____

4 Keith Poliakoff, J.D., Town Attorney

5 [115100125.1](#)

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ORDINANCE NO. 2019 -

"PLANT NURSERIES ORDINANCE"

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA PERTAINING TO THE REGULATION OF COMMERCIAL PLANT NURSERIES AS A SPECIAL EXCEPTION USE; AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC") BY AMENDING SECTION 10-30, "TERMS DEFINED;" AMENDING ARTICLE 45, "AGRICULTURAL AND RURAL DISTRICTS," SECTIONS 045-030, "GENERAL PROVISIONS" AND 045-050, "PERMITTED AND PROHIBITED USES;" AMENDING ARTICLE 60, "COMMUNITY FACILITY DISTRICT;" PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches ("Town") was founded to preserve its rural character and the rural lifestyle of its residents; and

WHEREAS, property owners using their property for bona fide agricultural uses may seek to diversify their farm income through the production and retail sale of cottage foods on their property; and

WHEREAS, the Town recognizes the need to provide a definition for cottage foods and to modify Section 045-050 of the zoning code to allow for the retail sale of cottage foods produced from farm products grown on the property as an accessory use provided that the property owner obtains a certificate of use for the retail sale of cottage foods; and

WHEREAS, plant nurseries may seek to diversify their existing bona fide agricultural operations on their property by adding land uses not recognized or protected as bona fide agriculture such as retail sales; and

Ordinance No. 2019-____
New text is underlined and deleted text is ~~stricken~~

1 WHEREAS, plant nurseries that wish to use a portion of their property for retail
2 sales should be afforded an opportunity to use their property for these accessory uses,
3 provided that the zoning district allows for these accessory uses, and that the property
4 owner obtains a certificate of use and a special exception use permit for such use; and

5 **WHEREAS**, plant nurseries with retail sales existing as of the date of adoption of
6 this Ordinance may continue engaging in retail sales, after first obtaining a certificate of
7 use, until the earlier of [DATE] 2035 or a change of property ownership, after which a
8 special exception use permit is required for continued operation; and

9 **WHEREAS**, the purpose of requiring a special exception use permit is to ensure
10 that the retail component of plant nurseries are compatible with adjacent rural
11 residential uses and neighborhoods; and

12 **WHEREAS**, the Town Council finds that metrics should be established for
13 nonconforming retail operations that continue to operate under the same continuous
14 ownership as a demonstrably “good neighbor” through the year 2035, and that such
15 “good neighbors” should be exempt from the special exception use process; and

16 **WHEREAS**, the Town Council also finds that metrics should be established for
17 nonconforming retail operations that fail to operate in the above manner, and that such
18 retail operations should be required to apply for a special exception use permit prior to
19 the year 2035; and

20 **WHEREAS**, the Town Council, sitting as the Local Planning Agency, has
21 reviewed the contents of this Ordinance at a duly noticed public hearing on _____ and
22 has issued its recommendation to the Town Council, finding that the Ordinance is
23 consistent with the adopted comprehensive plan.

24 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
25 **TOWN OF SOUTHWEST RANCHES, FLORIDA:**

Ordinance No. 2019-____
New text is underlined and deleted text is ~~stricken~~

1 **Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed
2 as being true and correct, and are hereby incorporated herein and made a part hereof.

3 **Section 2.** Section 10-30, "Terms Defined" is hereby amended as
4 follows:

5 * * *

6 Cottage foods. The term "cottage foods" means the preparation of farm
7 products in an unlicensed kitchen that are sold directly to consumers without a
8 permit from the Florida Department of Agriculture and Consumer Services and in
9 compliance with Chapter 500.80, Florida Statutes. The term does not include
10 products sold wholesale.

11 * * *

12 Farm product. The term "farm product" means any plant or animal useful
13 to humans and includes, but is not limited to, any product derived therefrom.

14 * * *

15 Landscape materials. The term "landscape materials" means items sold by a
16 plant nursery at that are accessory to plants and plant products, including
17 stepping stones, river rocks, cap rocks, tree-bracing kits, mulch, top soil, and
18 fertilizer. The term does not include lawn furniture, picnic tables, rocking chairs,
19 outdoor fire pits, grilles, monuments, decorative fountains, hot tubs, Jacuzzis,
20 rugs, statues, gazebos and playground equipment.

21 * * *

22 Plant nursery. The term "nursery" means any grounds or premises on or in
23 which nursery stock is grown, propagated, or held for sale or distribution, except
24 where aquatic plant species are tended for harvest in the natural environment,
25 owned and operated by a person that has a valid certification of registration from
26 the Florida Department of Agriculture and Consumer Services for the sale and
27 distribution of any nursery stock.

28 Nursery stock. The term "nursery stock" means all plants, trees, shrubs,
29 vines, bulbs, cuttings, grafts, scions, or buds grown or kept for or capable of
30 propagation or distribution.

31 * * *

32 Ordinance No. 2019-___

33 New text is underlined and deleted text is ~~stricken~~

1 Plants and plant products. The term “plants and plant products” means
2 trees, shrubs, vines, forage and cereal plants, and all other plants and plant
3 parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs,
4 seeds, wood, lumber, and all products made from them.

5
6 Plant nursery retail sales. The term “plant nursery retail sales” means a
7 plant nursery that sells plants and plant products or landscape materials directly
8 to the public at a specific location with established hours of operation. The term
9 does not include the sale of plants grown on the property for wholesale to a
10 broker or other person for resale.

11 * * *

12 **Section 3.** Article 45, “Agricultural and Rural Districts,” Section 045-030,
13 “General Provisions” is hereby amended as follows:
14

15 * * *

16 (J) ~~Farm, plant and tree nursery on site display and sales (commercial~~
17 ~~and noncommercial). Sale of farm products and incidental plant~~
18 ~~nursery products.~~

19 ~~(1) On premise sales and display for farms and noncommercial farm~~
20 ~~are limited to farm products grown, raised or cultivated on the~~
21 ~~plot where they are being sold.~~

22 ~~(2) On premise sales and display for nurseries that are farms are~~
23 ~~limited to plants grown or cultivated on the plot where they are~~
24 ~~being displayed or sold, and to accessory on premise sales and~~
25 ~~display of related landscaping materials that are customarily~~
26 ~~incidental to such plant sales and display, and that are an~~
27 ~~integral part of the landscape or hardscape, or are tools used to~~
28 ~~install landscaping and hardscaping. The display of incidental~~
29 ~~landscape materials must be screened from the view of~~
30 ~~adjacent streets and properties.~~

31 ~~(1) Farm products grown, raised or cultivated may be sold for~~
32 ~~wholesale on the same plot where grown, raised or cultivated~~
33 ~~for wholesale without a special ~~use~~ exception ~~use~~ permit.~~

34 ~~(2) Farm products may be sold for retail on the same plot where~~
35 ~~grown, raised or cultivated only with a special exception use~~
36 ~~permit.~~

Ordinance No. 2019-__

New text is underlined and deleted text is ~~stricken~~

1 (a) Persons engaged in the sale of cottage foods must
2 comply with Ch. 500.80, Florida Statutes.

3 (32) A plant nursery may sell materials that are customarily
4 incidental to the installation, maintenance, and use of such
5 plant products with a special use exception permit.

6 a. By way of example, the following are classified as
7 incidental materials: stepping stones, river rocks, railroad
8 ties, ponds, mulch, topsoil, fertilizer, and tree-bracing kits.

9 b. By way of example, the following are not incidental
10 materials: lawn furniture, including benches and picnic
11 tables, gazebos, decorative fountains, statues, recreational
12 and playground equipment, pools and hot tubs, household
13 goods, and rugs.

14 c. The outdoor display of incidental landscape materials must
15 be screened from the view of adjacent properties.

16 (3) The following are requirements of all special exception use permits for
17 plant nurseries with incidental retail sales:

18 a. The applicant must possess an active agricultural classification
19 from the Property Appraiser on the plant nursery for which the
20 special exception use permit for incidental retail sales is sought,
21 pursuant to Chapter 193.461, Florida Statutes, as may be
22 amended from time to time.

23 b. The applicant must possess a valid certificate of registration from
24 the Florida Department of Agriculture and Consumer Services.

25 c. The applicant shall make an application for a special use
26 exception permit using the form prescribed by the Town and shall
27 provide the following information to demonstrate how the
28 incidental retail sales will be conducted in a manner that is
29 consistent with the character of the surrounding neighborhood
30 and will not create a nuisance: hours of operation; detailed site
31 plan that addresses building size, location, screening and
32 adequate parking for employees and patrons including
33 handicapped parking, restrooms, ingress and egress of vehicular
34 traffic, setbacks from the street and adjacent properties, outdoor
35 equipment screening or storage, and screening of items for retail
36 sale stored outside.

- d. Paved driveway aprons deemed suitable by the town engineer are required to prevent degradation of adjacent street surfaces.
- e. The applicant shall demonstrate how stormwater will be retained onsite or appropriately conveyed, as applicable, in compliance with the requirements of this chapter and the applicable drainage district standards.
- f. The property shall adequately buffer and screen abutting residential uses and streets, to the satisfaction of the Town Council, from the vehicular use areas and portions of the property associated with retail sales, including any portion of the nursery periphery where retail customers have access.
- g. The property shall comply with the outdoor lighting regulations in Article 95, and the sign regulations in Article 70.

(4) The following are minimum guidelines for plant nurseries with incidental retail sales. The Town Council may grant a special exception use permit that does not follow one or more of the guidelines based upon unique operational, locational or other circumstances pertaining to the proposed use.

- a. The property should front and exclusively access an arterial roadway.
- b. The property should have a minimum plot size of five (5) acres.
- c. Parking of passenger vehicles should be limited to patrons and not more than one (1) personal passenger vehicle for each employee or worker who have driven to the site, and who are engaged in onsite work for the entire time that the vehicle is parked on the plot.
- d. The property should provide at least ten (10) paved off-street parking spaces
- e. No business should be conducted before 7:00 a.m. and after 6:00 p.m.

* * *

Section 4. Article 45, "Agricultural and Rural Districts," Section 045-050, "Permitted and Prohibited Uses" is hereby amended as follows:

Ordinance No. 2019-____
 New text is underlined and deleted text is ~~stricken~~

1 Sec. 045-050. – Permitted, accessory, conditional, special exception and
 2 prohibited uses.

3 Plots in rural and agricultural districts may be used for one (1) or more of
 4 the uses that are specified below as being permitted or conditionally permitted
 5 uses. Special exception uses require town council approval pursuant to article
 6 112:

Key to abbreviations:			
P=Permitted use	NP=Not permitted	C=Conditional use	SE=Special exception use

Permitted Principal Uses	A-1	A-2	RE	RR
One single-family detached dwelling on a lot of record	P	P	P	P
Nonprofit neighborhood social and recreational facilities	P	P	P	P
Cemetery (subject to section 045-030(U))	P	NP	NP	NP
Community residential facilities (subject to section 045-030(S))	P	P	P	P
Crop raising and plant nurseries (commercial and noncommercial, subject to section 045-030(J)) <u>Sale of farm products for wholesale (subject to section 045-030(J))</u>	P	P	P	P
<u>Retail sale of farm products and items incidental to plant product sales (subject to section 045-030(J))</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>
<u>Sale of cottage food products for retail (subject to section 045-030(J))</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Essential services (subject to section 045-030(K))	P	P	P	P
Fish breeding (commercial and noncommercial)	P	P	P	P
Keeping, breeding of animals (subject to section 045-030(F))	P	P	P	P
Commercial equestrian operations	P	P	P	P
Veterinary clinics (no overnight stay or animal runs)	P	P	NP	NP
Veterinary hospitals	NP	P	NP	NP
Kennels, commercial boarding and breeding	NP	P	NP	NP
Cannabis-related uses	NP	NP	NP	NP

Ordinance No. 2019-____
 New text is underlined and deleted text is ~~stricken~~

Wireless communication facilities (subject to article 40, "Telecommunication Towers and Antennas.")	P	P	P	P
<i>Permitted accessory uses to a single-family dwelling</i>				
Detached guesthouse (subject to section 045-030(G))	P	P	P	P
Exhibition of Class I and Class II wildlife (subject to section 035-070 pertaining to conditional uses)	C	C	NP	C
Keeping, breeding of animals (subject to section 045-030(F))	P	P	P	P
Yard sales (subject to section 035-060 pertaining to conditional uses)	C	C	C	C
Home offices (subject to section 035-030 pertaining to conditional uses)	C	C	C	C
Family day care homes	P	P	P	P
Cannabis-related uses	NP	NP	NP	NP
Accessory structures and uses, other	P	P	P	P

1 **Section 5.** Article 60, "Community Facility District," Section 060-030, "Permitted
2 and Prohibited Uses" is hereby amended as follows:

3 Sec. 060-030. – Permitted, accessory, conditional, special exception and prohibited
4 uses.

5
6 Permitted uses in the community facility district shall be limited to those uses
7 specified as permitted or conditionally permitted uses in the master use list. Special
8 exception uses require town council approval pursuant to article 112. All permitted
9 uses shall be governmentally owned (public) or operated, or not-for-profit, unless
10 otherwise specified. Uses are subject to applicable provisions of section 060-090,
11 "Limitations of uses." Specific subsection references are included in the following master
12 use list:

13
14 Master Use List

P=Permitted	C=Conditional	A=Accessory	SP=Special	NP=Not permitted
-------------	---------------	-------------	------------	------------------

Ordinance No. 2019-___

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use	use	use only	exception use	
-----	-----	----------	---------------	--

1

Use	
Accessory dwelling (see section 060-090(A))	A
Agricultural uses (subject to section 060-020(I), "Animals")	P
Cannabis-related uses	NP
Cemeteries (see section 060-090(B))	P
Cemeteries accessory to a place of worship (see section 060-090(B))	A, C
Civic center, incl. library, museum, art gallery and other such exhibitions	P
Community residential facilities (see section 060-090(C))	P
Day care or preschool, accessory to place of worship or primary school only	A
Essential services	P
Fire protection facilities	P
Funeral home accessory to a cemetery	A
Governmental administration offices	P
Outdoor events (see section 035-040, "Outdoor event permits")	C
Parks, public	P
Places of worship (see section 060-060, 060-090(D) and 060-090(E))	P
<u>Farm product and plant nursery retail sales (subject to article 45, section 045-030(J))</u>	<u>SE</u>
Police protection facilities	P
School, primary and secondary, public or private (see section 060-090 (D))	C
Wireless communication facilities (see article 40, "Telecommunication Towers and Antennas")	P

2

3 **Section 6.** Article 112, "Special Exception Uses," Section 112-100 is

4 hereby amended as follows:

Ordinance No. 2019-__

New text is underlined and deleted text is ~~stricken~~

1 Sec. 112-100. Status of uses lawfully established prior to designation as a
2 special exception use.

3
4 (A) Generally. Except as may otherwise provided herein, when a use that was
5 established as permitted by right (a permitted use or use indicated by a "P"
6 in a particular zoning district), and the ULDC is later amended to designate
7 the use as a special exception use, that use shall be considered a lawful
8 special exception use. Town Council approval pursuant to this Article is
9 required before any expansion of the use outside of the plot or portion
10 thereof occupied by the use as of the date the ULDC is amended to
11 designate the use as a special exception use.

12 (B) ~~Reserved.~~ Plant nursery retail sales. Retail sales of plant products on
13 plant nurseries, and items incidental to same in compliance with Sec.
14 045-030(J)(3), existing as of [DATE OF ORDINANCE ADOPTION], may
15 continue to operate as a nonconforming use during the transition period
16 ending [MONTH, 2035], provided that the owner of the nursery obtains a
17 certificate of use no later than [DATE 6 MONTHS AFTER ORDINANCE
18 ADOPTION], and further provided that:

19 (1) Failure to obtain the certificate of use by [SAME DATE] shall render
20 the use unlawful, and retail sales shall cease.

21 (2) The nonconforming use status shall run with the owner of the
22 property as of [DATE OF ADOPTION]. A special exception use
23 permit is required for change of ownership.

24 (3) Within the transition period, a third violation of this Code of
25 Ordinances pursuant to Chapter 2, Article XII shall terminate the
26 nonconforming use status, and retail sales shall cease unless the
27 owner obtains a special exception use permit within the timeframe
28 established by the Special Magistrate;

29 (C) At the conclusion of the transition period, a plant nursery with
30 nonconforming retail sales that complied with Subsec. (B)(1) above,
31 remained under the same ownership throughout the transition period and
32 was not subject to (B)(3) above, shall be considered to have a valid
33 special exception use permit for the retail sales, but without the need to
34 follow the application process set forth in this Article. Such special
35 exception use permit shall be subject to the provisions of this Article
36 governing expiration and modification of the use permit.

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Section 7: Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC during the next codification update cycle.

Section 8: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 9: Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 10: Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

PASSED ON FIRST READING this ___ day of _____, 2019 on a motion made by _____ and seconded by _____.

PASSED AND ADOPTED ON SECOND READING this ___ day of _____, 2019, on a motion made by _____ and seconded by _____.

McKay	_____	Ayes	_____
Fisikelli	_____	Nays	_____
Jablonski	_____	Absent	_____
Schroeder	_____	Abstaining	_____
Hartman	_____		

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Doug McKay, Mayor

ATTEST:

Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith Poliakoff, J.D., Town Attorney

[115100125.1](#)

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ORDINANCE NO. 2019 -

"SPECIAL EXCEPTION ORDINANCE"

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC") BY AMENDING SECTION 10-30, "TERMS DEFINED;" AMENDING ARTICLE 100, "APPLICATION SUBMITTAL AND NOTICE PROCEDURES," SECTIONS 100-020, "GENERAL APPLICATION REQUIREMENTS," 100-030, "MINIMUM REQUIRED CONTENT FOR ALL PUBLIC HEARING NOTIFICATIONS," AND 100-060, "MAIL NOTICE REQUIREMENTS FOR PUBLIC HEARINGS;" CREATING ARTICLE 112 ENTITLED, "SPECIAL EXCEPTION USES;" PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches ("Town") was founded to preserve its rural character and the rural lifestyle of its residents; and

WHEREAS, the Town Council recognizes that within certain classifications of land use, there is considerable variation from one instance to another in their ability to harmoniously coexist with rural residential neighborhoods based upon operational characteristics, location, size, layout, intensity, access, and the nature and extent of their accessory uses; and

WHEREAS, the special exception process is a long-established zoning technique for regulating such uses based upon the unique circumstances of each application; and

WHEREAS, the Town Council wishes to have the ability to designate special exception uses from time to time, in order to ensure that such uses are established and maintained in a manner that is compatible with the town's rural neighborhoods; and

Ordinance No. 2019-____
New text is underlined and deleted text is ~~stricken~~

1 **WHEREAS**, the Town Council, sitting as the Local Planning Agency, has reviewed
2 the contents of this Ordinance at a duly noticed public hearing on _____and has issued
3 its recommendation to the Town Council, finding that the Ordinance is consistent with
4 the adopted comprehensive plan.

5 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
6 **TOWN OF SOUTHWEST RANCHES, FLORIDA:**

7 **Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed
8 as being true and correct, and are hereby incorporated herein and made a part hereof.

9 **Section 2.** Section 10-30, "Terms Defined" is hereby amended to add the
10 following definitions:

11 * * *

12 *Special exception use.* The term, "special exception use" means a use with
13 one or more characteristics that may be incompatible with the permitted uses and
14 intended character of a particular zoning district, and which therefore requires
15 special review and consideration to ensure that each instance of the proposed use
16 is appropriately sited, designed and operated within the zoning district.

17
18 *Special exception use permit.* The term "special exception use permit" means
19 a resolution of the Town Council authorizing a special exception use on a specific
20 property, including terms and conditions of such authorization.

21
22 * * *

23 **Section 3.** Article 100, "Application Submittal and Notice Procedures,"
24 Section 100-020, "General Application Requirements," is hereby amended as
25 follows:

26 * * *

27 (C) *Traffic study.* Applications for plan amendment, site plan, special exception
28 use, variance, or rezoning that could result in an increase in the density or
29 intensity of permitted uses, specifically excluding any variance for one (1)
30 single-family residence, shall submit to the town a traffic study assessing the
31 proposed development's vehicular, pedestrian and bicycle access; on-site

1 circulation; parking; any proposed roadway or easement vacations or road
2 closures, whether permanent or temporary for construction purposes; and
3 off-site roadway impacts, including net traffic impact and traffic impact within
4 adjacent neighborhoods. The traffic study shall utilize the most current
5 edition of the Institute of Transportation Engineers' Trip Generation manual
6 and shall use generally accepted methodologies. The town administrator may
7 waive any or all of the traffic study requirements upon consideration of a
8 report issued by the town's zoning department determining that the study or
9 any portion thereof is not necessary based upon the location, intensity of use.
10 and other facts specific to an application.

11
12 **Section 4.** Article 100, "Application Submittal and Notice Procedures,"
13 Section 100-030, "Minimum Required Content For All Public Hearing Notifications,"
14 is hereby amended as follows:

15 * * *

16 (C) *Sign notices.* The petitioner shall be responsible for posting a sign along each
17 property line of the subject property with street frontage for the following
18 applications: land use plan amendments, zoning map amendments,
19 variances, special exception uses, and site plans. The notice shall be posted
20 so as to be visible from each public right-of-way abutting the subject
21 property, and shall be at least six (6) square feet in area. The sign shall state
22 the nature of the request and the phone number to call for further
23 information. The town administrator shall provide the applicant with the
24 specific language required to appear on the sign for each application. The
25 petitioner shall provide proof of the sign posting no later than one (1)
26 business day following the posting date required by section 100-040, "Timing
27 of public notice." Proof shall consist of one (1) or more photographs of the
28 sign placed upon the site, as necessary to demonstrate the location of the
29 real property upon which the sign is posted, and the exact location of the
30 sign upon the property. A notarized affidavit, signed by the petitioner or sign
31 company responsible for posting the sign, shall accompany the photographs.
32 Other proof may be provided if acceptable to the town administrator. If the
33 applicant fails to submit the affidavit, processing of the application shall cease

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New text is underlined and deleted text is ~~stricken~~

1 until such affidavit is received. The sign shall be removed by the applicant
2 within five (5) working days after the application receives final disposition.
3 The sign shall be exempt from all sign and permit regulations.
4

5 **Section 5.** Article 100, "Application Submittal And Notice Procedures," Section
6 100-060, "Mail Notice Requirements For Public Hearings" is hereby amended as follows:

7 * * *

8 (B) *Prescribed distances for notification.* Properties located within the distances
9 prescribed in subsections (B)(1) through (B)(5) of the section shall be notified
10 by mail of any of the following pending application types:

11 (1) *Variances:* One thousand five hundred (1,500) feet, except that variance
12 requests from minimum distance separations required by the ULDC shall
13 be noticed using the same distance as the request for variance.

14 (2) *Rezoning:* One thousand five hundred (1,500) feet.

15 (3) *Future land use plan map amendments:* One thousand five hundred
16 (1,500) feet.

17 (4) *Site plans:* One thousand five hundred (1,500) feet.

18 (5) *Appeal of administrative decisions:* One thousand five hundred (1,500)
19 feet.

20 (6) *Plats and waiver of plats:* One thousand five hundred (1,500)
21 feet.

22 (7) *Special exception uses:* One thousand five hundred (1,500) feet.

23
24
25 **Section 6.** Article 112, "Special Exception Uses" is hereby created as
26 follows:

27 ARTICLE 112. -SPECIAL EXCEPTION USES.

28 Sec. 112-010. Purpose.

Ordinance No. 2019-___

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1 This Article establishes the procedures and requirements for review of applications
2 to establish special exception uses.

3 Sec. 112-020. Applicability.

4 Uses identified in zoning district regulations as special exception uses shall be
5 established only after submittal of an application for special exception use and approval
6 by the Town Council.

7 Sec. 112-030. - Procedure.

8 (A) *Filing of petition.* Applications for special exception use shall be filed on forms
9 provided by the Town and shall be submitted to the Town Administrator. The
10 property owner must be the applicant for the special exception use. The
11 applicant as owner must be the operator of the use unless otherwise provided
12 in the special exception use permit.

13 (B) *Review and scheduling of petition for public hearing.* Upon receipt of a
14 completed application and processing fee, and upon receipt of any additional
15 documentation that the Town Administrator may request, the Town
16 Administrator shall review the application and prepare a report which, at a
17 minimum, details the facts and circumstances pertaining to the requested
18 special exception use. Upon completion of such report, the application shall
19 be duly advertised and scheduled before the Town Council, at the next
20 available regular council meeting that considers quasi-judicial items.

21 (C) *Notice.* Notice shall be provided pursuant to the requirements in Article 100
22 pertaining to special exception uses.

23 (D) *Application fee.* There shall be an application fee deposit for each application
24 in an amount set by the town administrator. The petitioner shall be
25 responsible for all costs associated with petition processing plus costs
26 incurred by the town.

27 (E) *Public hearing procedure.* The Town Council shall hear the application
28 pursuant to the town's quasi-judicial procedures set forth in Article 105.

29 (F) *Burden of proof under quasi-judicial procedures.* In making a presentation,
30 the petitioner shall bear the burden of demonstrating by competent
31 substantial evidence that the evidence on the record demonstrates that the
32 special exception use should be granted.

33 (G) *The vote.* A special exception may be granted upon receiving five (5)
34 affirmative votes of the Town Council.

1 (H) Recordation. The Town Council's decision concerning any special exception
2 use application shall be recorded in the Public Records of ~~the~~Broward County.
3

4 Sec. 112-040. Review criteria.

5 A special exception use shall be granted only when the Town Council determines
6 that the use together with sufficient safeguards established in the special exception
7 use permit, will be congruous and in harmony with the uses, improvements and
8 character of the surrounding area, such that it will not create or foster
9 undesirable health, safety or aesthetic conditions, or otherwise constitute a
10 disruption that detracts from the peaceful enjoyment or value of surrounding and
11 nearby properties arising from any of the following:

- 12 (a) Density or intensity of use
- 13 (b) Scale of use and improvements
- 14 (c) Placement, design and orientation of functions and improvements
- 15 (d) Hours of operation
- 16 (e) Aesthetics
- 17 (f) Noise
- 18 (g) Vibration
- 19 (h) Dust
- 20 (i) Fumes and emissions
- 21 (j) Odor
- 22 (k) Glare
- 23 (l) Nighttime lighting
- 24 (m) Shadow effect
- 25 (n) Vehicular traffic generation including vehicle type, site access and
26 circulation
- 27 (o) Drainage
- 28 (p) Impact on adjacent properties
- 29 (q) Parking
- 30 (r) Fueling of vehicles and equipment
- 31 (s) Number of employees
- 32 (t) Outdoor storage
- 33 (u) Other conditions, effects or impacts that may be applicable

34
35 Sec. 112-050. Effect of approval.

36 (A) A special exception use permit, issued pursuant to the requirements of this
37 article, grants to the applicant the right to develop and/or utilize the subject

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1 premises in accordance with the terms and conditions contained in the
2 resolution approving the special exception use, unless otherwise provided in
3 such resolution.

4 (B) Operation of an approved special exception use shall not be commenced until
5 the Town has verified that all conditions of approval applicable to the
6 establishment of the use have been satisfied, and has issued a certificate of
7 use.

8 (C) Approval of a special exception use shall run with the property owner once
9 established (i.e., not expired or revoked), and shall not be transferable.

10 (D) Representations made in the application and on the record at the public
11 hearing shall be part of the conditions of approval of such use, whether or
12 not such representations are incorporated into the special exception use
13 permit.

14
15 Sec. 112-060. Expiration of special exception uses.

16 (A) *Expiration.* All special exception use approvals shall expire unless the
17 applicant obtains a certificate of use from the town within one hundred eighty
18 (180) days of the date of approval, unless otherwise provided in the special
19 exception use permit. A certificate of use shall not be issued unless all
20 conditions of special permit use approval pertaining to the establishment of
21 the use have been satisfied.

22 (B) *Due diligence.* It shall be the responsibility of the applicant to ensure that a
23 special exception permit does not expire.

24 (C) *Extensions.* The Town Administrator may grant a single extension of not more
25 than six (6) months upon written request from the applicant, prior to
26 expiration, that includes a demonstration of good cause for the delay. Good
27 cause may include, but shall not be limited to, delay caused by governmental
28 action or inaction or other factors beyond the control of the applicant. The
29 Town Administer may grant subsequent extensions of not more than six (6)
30 months each only upon demonstration of delay caused by governmental
31 action or inaction, or other factors beyond the control of the applicant.

32 (D) *Discontinuance.* If, for any reason, the special exception use ceases or is
33 discontinued for a period of six (6) or more months, the premises shall not
34 thereafter be used for that special exception use without the subsequent
35 approval of a new special exception use application in accordance with this
36 article.

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Sec. 112-070. Modification of approved special exception use.

Applicant-initiated amendments to an approved special exception use shall be processed and reviewed in accordance with the procedures and standards set forth in this article for new special exception uses.

Sec. 112-080. Inspections.

All premises for which the Town has granted a special exception use permit are subject to inspection by the Town on a periodic basis, but not less than annually, to ensure compliance with all requirements of this article and conditions of approval.

Sec. 112-090. Revocation.

(A) The Town council may revoke or modify a special exception use permit or modify its terms of approval after conducting a public hearing that is noticed pursuant to the requirements in Article 100 for special exception uses upon any of the following occurrences:

- (1) Failure to adhere to the representations made in the application and to the terms and conditions of the approval.
- (2) A repeat violation as defined in Sec. 2-149 of this code.
- (3) Code violation that is not remedied within the timeframe the town has allotted.
- (4) Violations of three (3) code provisions within any five (5) year period.

(B) Upon any of the foregoing instances, the Town Administrator shall refer the matter to the Town Council for public hearing, with written notice given to the special exception use permit holder and the general public as provided in Article 100 for special exception uses. At the conclusion of the hearing, the Town Council may modify the terms of the permit or revoke the permit.

(C) Upon revocation of special exception use permit, the Town shall not process any subsequent application for the same property or by the same applicant for twelve (12) months.

Sec. 112-100. Status of uses lawfully established prior to designation as a special exception use.

1 (A) Except as may otherwise provided herein, when a use that was
2 established as permitted by right (a permitted use or use indicated by a "P"
3 in a particular zoning district), and the ULDC is later amended to designate
4 the use as a special exception use, that use shall be considered a lawful
5 special exception use. Town Council approval pursuant to this Article is
6 required before any expansion of the use outside of the plot or portion
7 thereof occupied by the use as of the date the ULDC is amended to designate
8 the use as a special exception use.

9 (B) Reserved.
10

11 **Section 7: Codification.** The Town Clerk shall cause this ordinance to be
12 codified as a part of the ULDC during the next codification update cycle.

13 **Section 8: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts
14 of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of
15 such conflict.

16 **Section 9: Severability.** If any word, phrase, clause, sentence or section of
17 this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof
18 shall not affect the validity of any remaining portions of this Ordinance.

19 **Section 10: Effective Date.** This Ordinance shall take effect immediately upon
20 passage and adoption.

21 **PASSED ON FIRST READING** this ____ day of _____, 2019 on a motion made
22 by _____ and seconded by _____.

23 **PASSED AND ADOPTED ON SECOND READING** this ____ day of _____,
24 2019, on a motion made by _____ and seconded by
25 _____.

26
Ordinance No. 2019-__

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1 McKay _____ Ayes _____
2 Fisikelli _____ Nays _____
3 Jablonski _____
4 Schroeder _____ Absent _____
5 Hartman _____ Abstaining _____
6

7
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9 _____
10 Doug McKay, Mayor

11 ATTEST:

12 _____
13

14 Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

15
16 Approved as to Form and Correctness:

17 _____
18

19 Keith Poliakoff, J.D., Town Attorney

20 [115100125.1](#)