

1 12, 2019, and has issued its recommendation to the Town Council, finding that the
2 Ordinance is consistent with the adopted comprehensive plan.

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

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

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

9 * * *

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

16
17 Special exception use permit. The term "special exception use permit" means
18 a resolution of the Town Council authorizing a special exception use on a specific
19 property, including terms and conditions of such authorization.

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21 * * *

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

25 * * *

26 (C) *Traffic study.* Applications for plan amendment, site plan, special exception
27 use, variance, or rezoning that could result in an increase in the density or
28 intensity of permitted uses, specifically excluding any variance for one (1)
29 single-family residence, shall submit to the town a traffic study assessing
30 the proposed development's vehicular, pedestrian and bicycle access; on-
31 site circulation; parking; any proposed roadway or easement vacations or
32 road closures, whether permanent or temporary for construction purposes;
33 and off-site roadway impacts, including net traffic impact and traffic impact

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1 within adjacent neighborhoods. The traffic study shall utilize the most
2 current edition of the Institute of Transportation Engineers' Trip Generation
3 manual and shall use generally accepted methodologies. The town
4 administrator may waive any or all of the traffic study requirements upon
5 consideration of a report issued by the town's zoning department
6 determining that the study or any portion thereof is not necessary based
7 upon the location, intensity of use, and other facts specific to an
8 application.

9
10 **Section 4.** Article 100, "Application Submittal and Notice Procedures,"
11 Section 100-030, "Minimum Required Content For All Public Hearing
12 Notifications," is hereby amended as follows:

13 * * *

14 (C) *Sign notices.* The petitioner shall be responsible for posting a sign along
15 each property line of the subject property with street frontage for the
16 following applications: land use plan amendments, zoning map
17 amendments, variances, special exception uses, and site plans. The notice
18 shall be posted so as to be visible from each public right-of-way abutting
19 the subject property, and shall be at least six (6) square feet in area. The
20 sign shall state the nature of the request and the phone number to call for
21 further information. The town administrator shall provide the applicant with
22 the specific language required to appear on the sign for each application.
23 The petitioner shall provide proof of the sign posting no later than one (1)
24 business day following the posting date required by section 100-040,
25 "Timing of public notice." Proof shall consist of one (1) or more photographs
26 of the sign placed upon the site, as necessary to demonstrate the location
27 of the real property upon which the sign is posted, and the exact location of
28 the sign upon the property. A notarized affidavit, signed by the petitioner or
29 sign company responsible for posting the sign, shall accompany the
30 photographs. Other proof may be provided if acceptable to the town
31 administrator. If the applicant fails to submit the affidavit, processing of the
32 application shall cease until such affidavit is received. The sign shall be
33 removed by the applicant within five (5) working days after the application

1 receives final disposition. The sign shall be exempt from all sign and permit
2 regulations.

3
4 **Section 5.** Article 100, "Application Submittal And Notice Procedures," Section
5 100-060, "Mail Notice Requirements For Public Hearings" is hereby amended as follows:

6 * * *

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

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

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

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1 Sec. 112-020. Applicability.

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

5 Sec. 112-030. - Procedure.

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

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

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

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

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

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

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

34 (H) *Recordation.* The Town Council's decision concerning any special exception
35 use application shall be recorded in the Public Records of Broward County.

1 Sec. 112-040. Review criteria.

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

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

31
32 Sec. 112-050. Effect of approval.

33 (A) A special exception use permit, issued pursuant to the requirements of this
34 article, grants to the applicant the right to develop and/or utilize the subject
35 premises in accordance with the terms and conditions contained in the
36 resolution approving the special exception use, unless otherwise provided in
37 such resolution.

38 (B) Operation of an approved special exception use shall not be commenced
39 until the Town has verified that all conditions of approval applicable to the

1 establishment of the use have been satisfied, and has issued a certificate of
2 use.

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

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

9
10 Sec. 112-060. Expiration of special exception uses.

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

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

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

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

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

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

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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.

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

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1 occupied by the use as of the date the ULDC is amended to designate the
2 use as a special exception use.

3 (B) Reserved.
4

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

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

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

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

15 **PASSED ON FIRST READING** this 12th day of December, 2019 on a motion made
16 by C/m Jablonski and seconded by V/m Schroeder.

17 **PASSED AND ADOPTED ON SECOND READING** this 13 day of February
18 2020, on a motion made by C/m Jablonski and seconded by
19 V/m Schroeder.

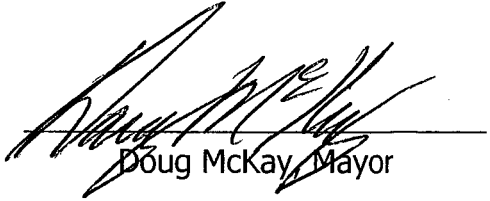
20 **(Signatures on Next Page)**

21
22 McKay Yes Ayes 5
23 Schroeder Yes Nays 0
24 Amundson Yes Absent 0
25 Hartmann Yes Abstaining 0
26 Jablonski Yes
27

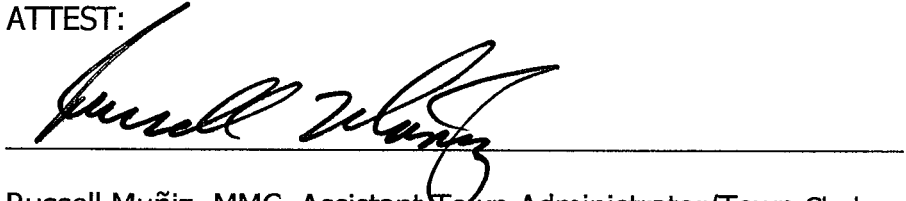
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Doug McKay, Mayor

ATTEST:



Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:



Keith Poliakoff, J.D., Town Attorney

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