

ORDINANCE NO. 12-2013

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE VI, SECTION 78-184 OF THE TOWN'S CODE OF ORDINANCES, CREATING CERTAIN REQUIREMENTS FOR THE SUBMISSION OF SPECIAL EXCEPTION USE APPLICATIONS; PROVIDING FOR A REQUIREMENT FOR CERTIFIED MAIL COURTESY NOTICES TO OWNERS OF PROPERTY WITHIN 300 FEET OF A PROPOSED SPECIAL EXCEPTION USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such powers and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to land development and zoning, which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, the Town's Community Development Department has recommended amendments to Section 78-184 of the Code of Ordinances; and

WHEREAS, the amendments to the Zoning Code add a certified mail courtesy notice requirement and certain requirements regarding the submission of applications for special exception uses; and

WHEREAS, the Town's Planning and Zoning Board has reviewed the proposed amendments to the Town Code of Ordinances and has provided its recommendations to the Town Commission; and

WHEREAS, the Town Commission has determined that the recommended amendments would further the public's health, safety and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

Section 2. Chapter 78, Article VI, Section 78-184 is hereby amended as follows:

Section 78-184. Application requirements and criteria for the evaluation of special exception uses.

A. Application requirements

The applicant shall be required to submit the following as part of a special exception use application:

- (1) In accordance with Section 67-38 of the Code submit a location map identifying the general area of the proposed special exception use, including the area within a 300 foot radius of the subject property.
- (2) A Site Plan which identifies the site characteristics of the property upon which the proposed special exception use is located. The Site Plan shall be inclusive of both interior and exterior activity notations. The Site Plan shall identify all proposed uses, provide square footage information, and demarcate the required parking spaces, including handicap parking for the property.
- (3) Aerial photographs of the subject property and abutting properties showing existing structures, terrain and vegetation as viewed from all lot lines and street lines of the application property. The photographs shall be clearly dated and labeled as to the location and direction from which the photographs were taken. The use of digital photography is preferred, in which case a disk containing those digital photographs shall also be provided.
- (4) Upon the determination of the Director of Community Development, the applicant may be required to submit additional data, studies, or site characteristics depending upon the type of use proposed.
- (5) A Statement of Use which explains the use that is proposed for the property, including any accessory uses.

(a)B. Criteria for the evaluation of special exception uses. A special exception use shall not be approved unless an applicant establishes that all of the following criteria are met:

- (1) The proposed special exception use is consistent with the goals, objectives, and policies of the Town's Comprehensive Plan.
- (2) The proposed special exception is consistent with the land development and zoning regulations and all other portions of this Code.
- (3) The proposed special exception use is compatible with the character and use (existing and future) of the surrounding properties in its function; hours of operation; type and amount of traffic to be generated; building location, mass, height and setback; and other relevant factors peculiar to the proposed special exception use and the surrounding property.
- (4) The establishment of the proposed special exception use in the identified location does not create a concentration or proliferation of the same or similar type of special exception use, which may be deemed detrimental to the development or redevelopment of the area in which the special exception use is proposed to be developed.
- (5) The proposed special exception use does not have a detrimental impact on surrounding properties based on:
 - a. The number of persons anticipated to be using, residing, or working on the property as a result of the special exception use;
 - b. The degree of noise, odor, visual, or other potential nuisance factors generated by the special exception use; and
 - c. The effect on the amount and flow of traffic within the vicinity of the proposed special exception use.
- (6) That the proposed special exception use:
 - a. Does not significantly reduce light and air to adjacent properties.
 - b. Does not adversely affect property values in adjacent areas.
 - c. Would not be a deterrent to the improvement, development or redevelopment of surrounding properties in accord with existing regulations.
 - d. Does not negatively impact adjacent natural systems or public facilities, including parks and open spaces.
 - e. Provides pedestrian amenities, including, but not limited to, benches, trash receptacles, and/or bicycle parking.

C. Procedural requirements for special exception use applications.

- (1) Upon the determination of the Community Development Department that the special exception use application and the accompanying Site Plan are complete, it shall prepare a Staff Report evaluating the anticipated impacts of the proposed special exception use. Thereafter, the Community Development Department shall schedule a public hearing of the Planning and

Zoning Board for its consideration of the application. It shall be the applicant's responsibility to provide a courtesy notice pursuant to Section 55-64 of the Code which notifies owners of property within 300 feet of the property which is the subject of the application for special exception use of the date and time that a public hearing of the Planning and Zoning Board and Commission's consideration of the proposed special exception use application.

- (2) The Planning and Zoning Board shall conduct a public hearing to consider the proposed special exception use. At that hearing, the Board shall receive any public comments, testimony and information from the Town staff, any affected third parties, and the public which is relevant to the application. At the conclusion of the hearing, the Planning and Zoning Board shall make a recommendation to the Town Commission.
- (3) Within a reasonable time after the Planning and Zoning Board meeting wherein it makes its recommendation to the Commission, and in accordance with the notice requirements of Section 55-64 of the Code and § 166.041, F.S., the Town shall provide for and publish a notice that a quasi-judicial public hearing will be held to consider the proposed special exception use application in accordance with the procedures set forth in section 2-2 of this Code.

D. Notice requirements.

1. Courtesy certified mail notice required. At the applicant's expense, a courtesy notice of the proposed special exception use and Site Plan shall be mailed by the town return receipt requested to the owners of record of properties within a radius of 300 feet of the property which is the subject of the application, at least ten days prior to the Planning and Zoning Board meeting and shall include the date of the Town Commission meeting. The notice shall state the date, time and place of the Planning and Zoning Board and Commission meetings, the name of the owner of the property, the name of the project and/or applicant, and a general written description of the request and the location, or specific street address of the property. Failure to receive such notice, however, shall not affect any action or proceeding taken thereon, nor is it intended to supplement the required notice provisions of state law for due process or any other purposes. A copy of the notice shall be retained for public inspection during regular business hours in the Town Clerk's office.
2. Newspaper notice. Notice of the meetings wherein the proposed special exception use application will be considered shall be published in a newspaper of general circulation in the Town at least ten days prior to the Planning and Zoning Board and Town Commission hearings. The notice of the proposed public meetings wherein the special exception use application and Site Plan will be considered shall state the date, time, and place of the meetings and general description of the special exception being proposed, as well as the place or places within the Town where the proposed special exception use application may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed special exception use application.

(b) E. Conditions. The Town Commission may impose such conditions of approval as it deems necessary to mitigate the adverse impacts of the proposed special exception use. The conditions may require the applicant to exceed the minimum zoning or land development regulations established by this Code. Conditions of approval may include, but are not limited to, the following Should the Town Commission determine that the proposed special exception use is not consistent with the criteria outlined hereinabove, it may either deny the application or impose

~~such conditions of approval as it deems necessary to mitigate the adverse impacts of the proposed special exception use. The condition of approval may require the applicant to exceed the minimum zoning or land development regulations established by this Code. Conditions of approval may include, but are not limited to, the following:~~

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place and/or restraints to minimize such effects as noise, vibration, air pollution, glare and/or odor.
- (2) Establish a special setback, open space requirement, and/or lot area or dimension.
- (3) Limit the height, size, and/or location of a building or other structure.
- (4) Designate the size, number, location and/or nature of access points (vehicle and pedestrian).
- (5) Designate the size, location, screening, drainage, type of surfacing material and/or other improvement of a parking and/or loading area.
- (6) Limit or otherwise designate the number, size, location, height and/or lighting of signs.
- (7) Require the use of, and designate the size, height, location and/or landscaping materials which may be necessary to screen, buffer, or protect adjacent properties from the potential adverse impacts of the special exception use. This may include designating standards for installation and/or maintenance of the facilities.
- (8) Require the protection and/or relocation of additional trees, shrubs, hedges, or other vegetation, water resources, wildlife habitat and/or other appropriate natural resources.
- (9) Require specific architectural details and/or design to produce a physical development which is compatible in appearance with the uses permitted by right in the zoning district.
- (10) Specify other conditions of approval to permit development of the special exception use in conformity with the intent and purpose of this Code and the Town's Comprehensive Plan.

(e) F. Enforcement. The violation of any conditions, when made a part of the terms under which the special exception use is approved, shall be deemed a violation of this chapter subject to enforcement under the provisions of this Code.

Section 3. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. **Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. **Codification.** The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 21 day of August, 2013, the foregoing Ordinance was offered by Commissioner Flaherty, who moved its approval. The motion was seconded by Commissioner Rapoza and being put to a vote, the result was as follows:


	AYE	NAY
MAYOR JAMES DUBOIS	<u>✓</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>✓</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>✓</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>Absent</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>✓</u>	_____

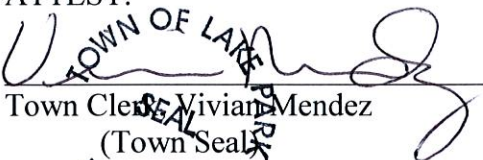
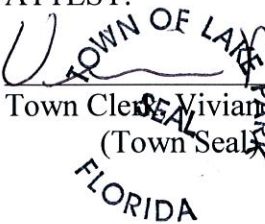
PUBLISHED IN THE PALM BEACH POST THIS 31 DAY OF August, 2013

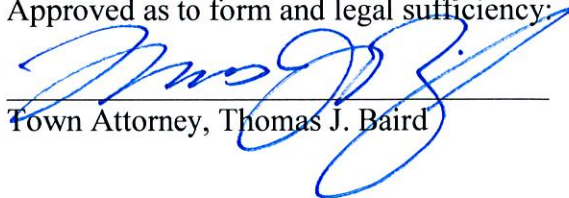
Upon Second Reading this 10 day of September, 2013, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 12-2013** duly passed and adopted this 10 day of September, 2013.

TOWN OF LAKE PARK, FLORIDA
 BY: 
 Mayor, James DuBois

ATTEST:

 Town Clerk, Vivian Mendez
 (Town Seal)


Approved as to form and legal sufficiency:

 Town Attorney, Thomas J. Baird

RECEIPT

Ad Name: 249471A

Ad ID: 249471

Original Ad ID:

Start: 08-31-2013
Stop: 08-31-2013
Issues: 1
Words: 364
Dimension.. 1 X 90
Color:

Editions:
PB Post
PB Post Web

LEGAL NOTICE OF PROPOSED ORDINANCE

TOWN OF LAKE PARK
Please take notice that on Tuesday, September 10, 2013 at 6:30 p.m. or soon thereafter the Town Commission of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 935 Park Avenue, Lake Park, Florida will consider the following Ordinance on second reading and proposed adoption (herein):

ORDINANCE NO. 11-2013
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE IV, SECTION 78.11(1)(D) OF THE TOWN'S CODE OF ORDINANCES, ESTABLISHING STANDARDS FOR THE FENCE HEIGHT OF MULTI-FAMILY STRUCTURES, PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 12-2013
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE V, SECTION 78.18 OF THE TOWN'S CODE OF ORDINANCES, CREATING CERTAIN REQUIREMENTS FOR THE SUBMISSION OF SPECIAL EXCEPTION USE APPLICATIONS, PROVIDING FOR A REQUIREMENT FOR CERTIFIED MAIL COURTESY NOTICES TO OWNERS OF PROPERTY WITHIN 300 FEET OF A PROPOSED SPECIAL EXCEPTION USE, PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 14-2013
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE V, SECTION 78.18 OF THE TOWN'S CODE OF ORDINANCES TO AUTHORIZE AND ENCOURAGE THROUGH INCENTIVES THE PROVISION OF CROSS ACCESS AND JOINT ACCESS EASEMENTS BETWEEN THE OWNERS OF TWO OR MORE PROPERTIES, PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.
If a person desires to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. For additional information, please contact Vivian Hernandez, Town Clerk at 561-881-3311, Vivian.Hernandez@COC, Town Clerk Town of Lake Park, Florida.
PUB: The Palm Beach Post
8/23/2013 #117026

Ad shown is not actual print size.

Town of Lake Park Community Development Department



Meeting Date: September 10, 2013
2nd Reading

Nadia Di Tommaso
Community Development Director

To: Town Commission

Re: **Changes to Section 78-184**
*Noticing and Submittal Requirements
for Special Exception Use Applications*

Town Commission 1st Reading (August 21, 2013): **Approved unanimously (4-0).**

Planning and Zoning Board Recommendation (August 5, 2013): **Approved unanimously (4-0).**

The Town Staff and the Commission have discussed the Town Code's noticing requirements (or lack thereof) pertaining to Special Exception Use applications. Section 55-64 of the Code pertaining to development applications of the Planning and Zoning Board, requires a certified mail notice to property owners within 300 feet (commonly referred to as a "courtesy" notice) of a proposed development application. This notice provision requires an Applicant who has made application to the Town for a development application to notify property owners within 300 feet of the property which is the subject of the application of the dates and times that a public hearing will be held to consider the application. Staff has previously determined that this provision does not necessarily apply to applications for a special exception use given that development applications are specifically referenced in the Site Plan criteria of the land development section of the Code. Consequently, Section 78-184 of the Town's Code of Ordinances which is entitled "Criteria for special exception", does not require a certified mail notice to property owners within 300 feet of a proposed special exception use because being that the Code does not currently identify these applications as development applications and lacks submittal requirement criteria. This being said, special exception use applications, because of their nature, often impact properties within 300 feet of the use to an even greater extent than a permitted use. Accordingly, it is appropriate to require a courtesy notice to property owners within 300 feet of a proposed special exception use. To do so, it will be necessary to extend the requirements of Sections 55-64 to Section 78-184 of the Town Code which deals with Special Exception Use applications.

The Town Commission, at prior public meetings, has also discussed the necessity of requiring Site Plans for owners of properties who propose to locate a special exception use on their property. To do so, it will also be necessary to extend Section 67-37 and 67-38 of the Town Code to incorporate this requirement into Section 78-184 which handles Special Exception Use applications. The text of the language to be added at an appropriate location within Section 78-184 is shown below:

Section 78-184. Application requirements and criteria for the evaluation of special exception uses.

A. Application requirements

The applicant shall be required to submit the following as part of a special exception use application:

- (1) In accordance with Section 67-38 of the Code submit a location map identifying the general area of the proposed special exception use, including the area within a 300 foot radius of the subject property.

- (2) A Site Plan which identifies the site characteristics of the property upon which the proposed special exception use is located. The Site Plan shall be inclusive of both interior and exterior activity notations. The Site Plan shall identify all proposed uses, provide square footage information, and demarcate the required parking spaces, including handicap parking for the property.
- (3) Aerial photographs of the subject property and abutting properties showing existing structures, terrain and vegetation as viewed from all lot lines and street lines of the application property. The photographs shall be clearly dated and labeled as to the location and direction from which the photographs were taken. The use of digital photography is preferred, in which case a disk containing those digital photographs shall also be provided.
- (4) Upon the determination of the Director of Community Development, the applicant may be required to submit additional data, studies, or site characteristics depending upon the type of use proposed.
- (5) A Statement of Use which explains the use that is proposed for the property, including any accessory uses.

(a)B. Criteria for the evaluation of special exception uses. A special exception use shall not be approved unless an applicant establishes that all of the following criteria are met:

- (1) The proposed special exception use is consistent with the goals, objectives, and policies of the Town's Comprehensive Plan.
- (2) The proposed special exception is consistent with the land development and zoning regulations and all other portions of this Code.
- (3) The proposed special exception use is compatible with the character and use (existing and future) of the surrounding properties in its function; hours of operation; type and amount of traffic to be generated; building location, mass, height and setback; and other relevant factors peculiar to the proposed special exception use and the surrounding property.
- (4) The establishment of the proposed special exception use in the identified location does not create a concentration or proliferation of the same or similar type of special exception use, which may be deemed detrimental to the development or redevelopment of the area in which the special exception use is proposed to be developed.
- (5) The proposed special exception use does not have a detrimental impact on surrounding properties based on:
 - a. The number of persons anticipated to be using, residing, or working on the property as a result of the special exception use;
 - b. The degree of noise, odor, visual, or other potential nuisance factors generated by the special exception use; and
 - c. The effect on the amount and flow of traffic within the vicinity of the proposed special exception use.
- (6) That the proposed special exception use:
 - a. Does not significantly reduce light and air to adjacent properties.

- b. Does not adversely affect property values in adjacent areas.
- c. Would not be a deterrent to the improvement, development or redevelopment of surrounding properties in accord with existing regulations.
- d. Does not negatively impact adjacent natural systems or public facilities, including parks and open spaces.
- e. Provides pedestrian amenities, including, but not limited to, benches, trash receptacles, and/or bicycle parking.

C. Procedural requirements for special exception use applications.

1. Upon the determination of the Community Development Department that the special exception use application and the accompanying Site Plan are complete, it shall prepare a Staff Report evaluating the anticipated impacts of the proposed special exception use. Thereafter, the Community Development Department shall schedule a public hearing of the Planning and Zoning Board for its consideration of the application. It shall be the applicant's responsibility to provide a courtesy notice pursuant to Section 55-64 of the Code which notifies owners of property within 300 feet of the property which is the subject of the application for special exception use of the date and time that a public hearing of the Planning and Zoning Board and Commission's consideration of the proposed special exception use application.
2. The Planning and Zoning Board shall conduct a public hearing to consider the proposed special exception use. At that hearing, the Board shall receive any public comments, testimony and information from the Town staff, any affected third parties, and the public which is relevant to the application. At the conclusion of the hearing, the Planning and Zoning Board shall make a recommendation to the Town Commission.
3. Within a reasonable time after the Planning and Zoning Board meeting wherein it makes its recommendation to the Commission, and in accordance with the notice requirements of Section 55-64 of the Code and § 166.041, F.S., the Town shall provide for and publish a notice that a quasi-judicial public hearing will be held to consider the proposed special exception use application in accordance with the procedures set forth in section 2-2 of this Code.

D. Notice requirements.

1. Courtesy certified mail notice required. At the applicant's expense, a courtesy notice of the proposed special exception use and Site Plan shall be mailed by the town return receipt requested to the owners of record of properties within a radius of 300 feet of the property which is the subject of the application, at least ten days prior to the Planning and Zoning Board meeting and shall include the date of the Town Commission meeting. The notice shall state the date, time and place of the Planning and Zoning Board and Commission meetings, the name of the owner of the property, the name of the project and/or applicant, and a general written description of the request and the location, or specific street address of the property. Failure to receive such notice, however, shall not affect any action or proceeding taken thereon, nor is it intended to supplement the required notice provisions of state law for due process or any other purposes. A copy of the notice shall be retained for public inspection during regular business hours in the Town Clerk's office.

2. Newspaper notice. Notice of the meetings wherein the proposed special exception use application will be considered shall be published in a newspaper of general circulation in the Town at least ten days prior to the Planning and Zoning Board and Town Commission hearings. The notice of the proposed public meetings wherein the special exception use application and Site Plan will be considered shall state the date, time, and place of the meetings and general description of the special exception being proposed, as well as the place or places within the Town where the proposed special exception use application may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed special exception use application.

(b) E. Conditions. The Town Commission may impose such conditions of approval as it deems necessary to mitigate the adverse impacts of the proposed special exception use. The conditions may require the applicant to exceed the minimum zoning or land development regulations established by this Code. Conditions of approval may include, but are not limited to, the following Should the Town Commission determine that the proposed special exception use is not consistent with the criteria outlined hereinabove, it may either deny the application or impose such conditions of approval as it deems necessary to mitigate the adverse impacts of the proposed special exception use. The condition of approval may require the applicant to exceed the minimum zoning or land development regulations established by this Code. Conditions of approval may include, but are not limited to, the following:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place and/or restraints to minimize such effects as noise, vibration, air pollution, glare and/or odor.
- (2) Establish a special setback, open space requirement, and/or lot area or dimension.
- (3) Limit the height, size, and/or location of a building or other structure.
- (4) Designate the size, number, location and/or nature of access points (vehicle and pedestrian).
- (5) Designate the size, location, screening, drainage, type of surfacing material and/or other improvement of a parking and/or loading area.
- (6) Limit or otherwise designate the number, size, location, height and/or lighting of signs.
- (7) Require the use of, and designate the size, height, location and/or landscaping materials which may be necessary to screen, buffer, or protect adjacent properties from the potential adverse impacts of the special exception use. This may include designating standards for installation and/or maintenance of the facilities.

- (8) Require the protection and/or relocation of additional trees, shrubs, hedges, or other vegetation, water resources, wildlife habitat and/or other appropriate natural resources.
- (9) Require specific architectural details and/or design to produce a physical development which is compatible in appearance with the uses permitted by right in the zoning district.
- (10) Specify other conditions of approval to permit development of the special exception use in conformity with the intent and purpose of this Code and the Town's Comprehensive Plan.

~~(e)~~ **F. Enforcement.** The violation of any conditions, when made a part of the terms under which the special exception use is approved, shall be deemed a violation of this chapter subject to enforcement under the provisions of this Code.

Recommended Motion:

STAFF RECOMMENDATION: I MOVE TO ADOPT ORINANCE NO. 12-2013 on second reading.