

ORDINANCE 2003-10

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN'S CODE TO REFLECT CHANGES TO THE BROWARD COUNTY TREE PRESERVATION AND ABUSE ORDINANCE IN ORDER TO APPLY FOR CERTIFICATION BY BROWARD COUNTY'S DEPARTMENT OF PLANNING AND ENVIRONMENTAL PROTECTION (DPEP) BY SPECIFICALLY AMENDING CHAPTER 27, ARTICLE 1, "POLLUTION CONTROL," SECTION 27-4, "DEFINITIONS," SETTING FORTH THE DEFINITION OF TERMS WITHIN THE CHAPTER; AMENDING ARTICLE XIV, "TREE PRESERVATION AND ABUSE ORDINANCE TO REMOVE REFERENCES TO BROWARD COUNTY AND DPEP, WHERE APPLICABLE, AND TO REPLACE WITH REFERENCES TO THE TOWN OF SOUTHWEST RANCHES; AMENDING SECTION 27-403, "DOCUMENTS INCORPORATED BY REFERENCE," PROVIDING FOR THE INCORPORATION OF DOCUMENTS AND STANDARDS; AMENDING SECTION 27-404, "DEFINITION," SETTING FORTH THE DEFINITION OF TERMS; AMENDING SECTION 27-405, "GENERAL PROHIBITIONS," TO PROHIBIT THE CLEARING OF NATURAL FOREST COMMUNITIES WITHOUT A LICENSE; AMENDING SECTION 27-407, "MUNICIPAL CERTIFICATION," TO ELIMINATE INAPPLICABLE LANGUAGE AND TO CLARIFY COUNTY AUTHORITY; AMENDING SECTION 27-408, "TREE REMOVAL LICENSE REQUIREMENTS AND STANDARDS," PROVIDING THE REQUIREMENTS FOR OBTAINING TREE REMOVAL LICENSES; AMENDING SECTION 27-410, "TREE ABUSE," ESTABLISHING EXEMPTIONS AND REMEDIAL MEASURES FOR TREE ABUSE; CREATING SECTION 27-414 ENTITLED "STOP WORK ORDERS," PROVIDING FOR THE ISSUANCE OF STOP WORK ORDERS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Town of Southwest Ranches wishes to amend its Tree Preservation and Abuse Ordinance to reflect changes to the Broward County Tree Preservation and Abuse Ordinance in order to apply for certification by Broward County's Department of Planning and Environmental Protection (DPEP); and

WHEREAS, it is the intent and policy of the Town of Southwest Ranches, Florida (the "Town"), to protect the residents and the environment of the Town from the adverse effects of the improper management and destruction of trees by establishing standards for preserving, relocating, removing, replacing, and pruning trees to minimize threats to the public health and the environment;

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

Section 1. Section 27-4, "Definitions," is hereby amended to read as follows:

Technical terms used in this chapter and in the rules and regulations adopted pursuant thereto are defined in accordance with *Glossary of Water and Sewage Control Engineering* published jointly by the American Public Health Association, the American Society of Civil Engineers, American Water Works Association and Water Pollution Control Federation, latest edition; *The Condensed Chemical Dictionary*, published by Van Nostrand and Reinhold Co., latest edition; and chapter 403, Florida Statutes. As used in this article the following words and phrases shall have the following meanings unless some other meaning is plainly indicated. However, there are other words, phrases and terms which apply to a particular section, division or article of this chapter; and these definitions for a specific section, division, or article shall control for that specific section, division, or article.

...

- (25) *Natural Resource Enforcement Officer* means an agent or employee of the Town who is authorized by the Town Administrator or applicable statute, law or ordinance to enforce Town codes and ordinances.
- (26) *Notice of violation (NOV)* means a notice alleging a violation of this chapter.
- (27) *Nuisance* means any emission, discharge, release, and/or placement of any substance into the atmosphere, waters or soil, which may cause injury or detriment to the public, to any person or to the environment; which endangers the comfort, repose, health or safety of any person or the public; which endangers the environment or which causes or has a natural tendency to cause injury or damage.
- (28) *Operation license* means the authorization to operate or maintain any facility for a specified period of time.
- (29) *Person* means any natural person, individual, owner, operator, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer,

responsible party or any other entity whatsoever, or combination thereof, of whatever kind.

- (30) *Pollution* means the presence in the air, soil, waters or other natural resources of the Town of any substance, contaminant or combination of one (1) or more substances or contaminants, noise, or any artificially induced alteration of the chemical, physical, biological, or radiological integrity of the air, soil, or water in a quantity or at a level that is or may be potentially harmful or injurious to human health or welfare, animal or plant life, property or the environment or that unreasonably interferes with the enjoyment of life or property, including outdoor recreation.
- (31) *Responsible party* is defined as any person, including any owner, operator, landlord and/or tenant, that allows, causes, suffers, assists in, commits, directs, or is responsible for an activity that results in a violation of this chapter.
- (32) *Serve* means notice by the same procedures as required for code enforcement boards pursuant to section 162.12, Florida Statutes, as amended, or as provided for in this chapter.
- (33) *Source* means the facility from which an effluent or discharge originates.

ARTICLE XIV. TREE PRESERVATION AND ABUSE ORDINANCE

Section 2. Section 27-401, "Declaration of Intent," is hereby amended to read as follows:

In order to protect and preserve the quality of air, water, soil, wildlife habitats and other natural resources of The Town, as well as the health, safety and welfare of its citizens, the Town declares that the preservation of trees is integral to the prevention of air and water pollution and must be regulated. The Town recognizes that tree leaf surfaces trap and filter out ash, dust, and pollution; that tree root systems hold and consolidate soil and other loose earthen materials, thereby helping to prevent erosion, reducing non-point-source water pollution and maintaining the continued vitality of natural habitats for the propagation and protection of wildlife, birds, game, fish and other aquatic life. In addition, the Town recognizes that trees provide canopy and shade which has a cooling effect, reducing the consumption of electricity. The Town finds that

improper tree management and destruction has a cumulative impact that results in or contributes to severe environmental degradation, air and water pollution, land blight and nuisance conditions. It is the intent of the Town to require that tree preservation, relocation, removal, replacement, and maintenance be managed to eliminate deleterious effects upon the quality of air, water, soil and human health. It is also the intent of the Town to encourage citizens to actively participate in the protection and proper selection and placement of trees to build and maintain the Town's urban forest. The Town recognizes that other county agencies have adopted rules for the regulation or management of landscape design and materials which may include trees. This article regulates tree protection and preservation within the Town. The Town is responsible for enforcing the provisions of this article unless otherwise specified.

Section 3. Section 27-402, "Applicability," is hereby amended to read as follows:

This article applies to all persons within the geographic boundaries of the Town and shall be enforceable on a Town-wide basis unless otherwise provided herein.

Section 4. Section 27-403, "Documents Incorporated by Reference," is hereby amended to read as follows:

The following documents, as amended, are adopted as standards and are incorporated into this article by reference: The American National Standards Institute A-300, *Tree, Shrub and Other Woody Plant Maintenance-Standard Practices*, latest edition; and Z-133.1, *Pruning, Repairing, Maintaining, and Removing Tress*, latest edition, and *Cutting Brush-Safety Requirements*, latest edition; Florida Department of Agriculture Division of Plant Industry, *Grades and Standards for Nursery Plants*, latest edition; Jim Clark and Nelda Matheny, *Trees and Development*, latest edition; Council of Tree and Landscape Appraisers, *Guide for Plant Appraisal*, latest edition,; Richard Harris, *Arboriculture Integrated Management of Landscape Trees, Shrubs and Vines*, latest edition; Gary W. Watson and E.B. Himelick, *Principles and Practices of Planting Trees and Shrubs*, latest edition; Florida Urban Forestry Council, *Selecting and Planting Trees for the South Florida Urban Forest*, latest edition; and Florida Power and Light's *Plant*

the Right Tree in the Right Place brochure, latest edition, as all of the aforementioned may be amended from time to time.

Section 5. Section 27-404, "Definitions," is hereby amended to read as follows:

When a word, term, or phrase is not defined herein, the definitions set forth in Chapter 27, Article I, Section 4 of the Code and publications recognized as authoritative in the scientific and engineering fields, as applicable, shall apply. Such publications shall include the latest edition of *Trees Native to Tropical Florida* by Tomlinson; *500 Plants of South Florida* by Julia Morton; *Dig Manual* by the State of Florida; *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers; *Trees and Development* by Jim Clark and Nelda Matheny; *Tree, Shrub and Other Woody Plant Maintenance-Standard Practices* by the American National Standards Institute (ANSI A-300); *Grades and Standards for Nursery Plants* by the Florida Department of Agriculture and Consumer Services. These publications, as amended, are adopted and incorporated into this article by reference.

The following words, phrases, and terms when used in this article shall have the indicated meanings:

Breast height means a height of four and one-half (4 1/2) feet above the natural grade.

Canopy coverage means the areal extent of ground within the drip line of the tree.

Conservation easement means a right or interest in real property as defined in Section 704.06 of the Florida Statutes, as amended.

Destruction of the natural habit of growth means pruning that causes irreparable damage and permanent disfigurement to a tree such that, even with regrowth, the tree will never regain the original characteristics of its tree species; or pruning which amounts to tree abuse as defined herein that results in the death of the tree.

Diameter breast height (DBH) means the diameter of the trunk of a tree measured at breast height. The DBH of trees with multiple trunks shall be the sum of the individual trunk diameters at breast height. Trees with less than four and one-half (4 1/2) feet of clear trunk shall be measured as the diameter of the largest vertical branch or leader at breast height.

Drip line means the peripheral limits of the horizontal crown of a tree spread vertically to the ground; provided, however, that the same shall not be less than a circle with a five-foot radius measured from the center of the tree.

Effectively destroy means to cause, suffer, allow or permit any act which will cause a tree to die or go into a period of unnatural decline within a period of one (1) year from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents or intentional fire damage to the tree permitting infection or pest infestation, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

Environmentally sensitive land means a land designation as defined in the Town's Land Use Plan.

Hatrack shall mean to sever the leader or leaders, or to prune a tree by stubbing of mature wood.

Historical tree means a particular tree or group of trees which has historical value because of its unique relationship to the history of the region, state, nation or world as designated by the State, the Board of County Commissioners, or the Town Council of the Town of Southwest Ranches.

Horizontal plane shall mean an imaginary line that begins at the base of the live frond petioles.

Land clearing means the clearing of vegetation and soils for the purpose of land development activities. This includes, but is not limited to, construction for buildings, rights-of-way, utility easements, access or drainage ways, parking lots and other structures, rock mining, the control of weeds or the initial clearing of vegetation to enhance property value or agricultural activities that involve the removal of trees as defined by this article.

Local area of particular concern means an area designated on the Natural Resource Map Series of the Broward County Land Use Plan which has been declared to be environmentally sensitive. Those areas are subject to environmental impact report

provisions of the Broward County Land Development Code and policies under Objective 9.01.00. The criteria for Local Areas of Particular Concern are contained in the Plan Implementation Requirements of the Broward County Land Use Plan.

Mitigation means to compensate for impacts to tree(s).

Modification has the meaning given it in Chapter 27, Article I, Section 1 of the Code, as amended.

Natural Forest Community means a vegetated area generally comprised of a canopy, subcanopy and groundcover, and which meets the criteria for the classification of an area as a Natural Forest Community under Chapter 27, Article XIV, Section 411 of the Code.

Natural Resource Area means a land designation as defined in Article IX, Section 5-280 of the Broward County Land Development Code, as amended.

Nuisance has the meaning given it in Chapter 27, Article I, Section 4 of the Code, as amended.

Nuisance tree means any of the following tree species:

- (a) *Schinus terebinthifolius* (Brazilian pepper tree/Florida holly).
- (b) *Metopium toxiferum* (poison wood).
- (c) *Melaleuca quinquenervia* (cajeput tree/melaleuca).
- (d) *Casuarina* spp. (Australian pine, all species).
- (e) *Bischofia javanica* (bischofia, bishopwood).
- (f) *Acacia auriculaeformis* (earleaf acacia).
- (g) *Araucaria excelsia* (Norfolk Island pine).
- (h) *Brassia actinophylla* (schefflera).
- (i) *Leucaena leucocephala* (lead tree).
- (j) *Cupaniopsis anacardiopsis* (carrotwood).

Owner-occupied means a dwelling in a habitable condition occupied by the owner of record, as the owner's primary residence, and holding a valid Certificate of Occupancy.

Overlift means the removal of the majority of the inner lateral branches and foliage thereby displacing weight and mass to the ends of the branches. The alteration of the tree's live crown ratio may be considered as evidence of overlifting.

Person means any natural person, individual, owner, operator, public or private corporation, firm, association, joint venture, partnership, municipality, governmental

agency, political subdivision, public or private utilities, public officer, responsible party or any other entity whatsoever, or combination thereof, of whatever kind.

Preservation area means the portion of a Natural Forest Community which shall be preserved in perpetuity, pursuant to a tree removal permit.

Protective barrier means conspicuously colored fences or like structures constructed of sturdy materials that are at least four (4) feet in height which prevent or obstruct passage.

Prune or trim means to cut away, remove, cut off or cut back parts of a tree.

Remedial action means a corrective action required to offset the impacts of Tree Abuse, as defined herein.

Removal means to cut down, dig up, destroy, effectively destroy, or the unpermitted relocation of any tree.

Resource Management Plan means a plan which will enhance a preservation area of a Natural Forest Community to compensate for the development of a portion of the Natural Forest Community.

Shape means the regular and frequent shearing of outer tree branches, making pruning cuts of one inch in diameter or less, for the purpose of controlling the size and shape of the tree canopy.

Shearing means the cutting of many small diameter stems of one (1) inch in diameter or less.

Specimen tree means any tree which has a DBH of eighteen (18) inches or greater; with the exception of the following:

- (a) Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to: mangos, avocados, or citrus.
- (b) Species of the genus *Ficus* except *F. aurea* (strangler fig), *F. laevigata* (short leaf fig), *F. rubiginosa* (rusty fig or rusty leaf fig), *F. jacquinifolia*;
- (c) All multi-trunk palms.
- (d) Trees that are in poor condition or form as determined by the Town.

Structure means anything built or constructed. Examples include, but are not limited to, buildings, trailers, fences, billboards, swimming pools, poles, pipelines, ditches, roads, utility installation, transmission lines, track and advertising signs.

Subcanopy means an intermediate level of trees and other vegetation within a Natural Forest Community.

Substantial deviation means any proposed modification or modification to a development, a permit or a permit application which, either individually or cumulatively with other changes, creates a reasonable likelihood of additional environmental impact, as covered by the scope of this article, or any change or proposed change that may result in any impacts on trees or Natural Forest Communities not previously reviewed by the Town as covered by the scope of this article.

Topiary pruning means the practice of pruning a tree into an ornamental shape by pruning branches one inch in diameter or less.

Tree means any living, self-supporting, dicotyledonous or monocotyledonous woody perennial plant which has a DBH of no less than three (3) inches and which normally grows to an overall height of no less than ten (10) feet in Southeast Florida.

Tree abuse means:

- (1) Hatracking a tree; or
- (2) Destroying the natural habit of tree growth; or
- (3) Pruning which leaves stubs or results in a flush cut; or splitting of limb ends; or
- (4) Removing tree bark to the extent that if a line is drawn at any height around the circumference of the tree, over one-third of the length of the line falls on portions of the tree where bark no longer remains; or
- (5) Using climbing spikes, nails or hooks, except for purposes of total tree removal or as specifically permitted by standards set by the American National Standards Institute, as amended; or
- (6) Pruning that does not conform to standards or recommendations set by the American National Standards Institute, as amended; or
- (7) Pruning of live palm fronds which initiate above the horizontal plane; or
- (8) Overlifting a tree; or
- (9) Shaping a tree.

Tree canopy means the upper portion of the tree consisting of limbs, branches, and leaves.

Tree removal permit means a written authorization with conditions issued by the Town to remove or relocate a tree.

Tree survey means a document signed and sealed by a professional who is qualified to identify trees, meeting the requirements of Florida Statutes, Section 472.025, as amended, which must provide, at a minimum, the following information:

- (a) The location, plotted by accurate techniques, of all existing non-nuisance trees;
- (b) The common and scientific name of each tree;
- (c) The DBH of each tree, or if a multiple-trunk tree, the sum DBH for all trunks;
and
- (d) Canopy coverage, if required by the Town.

Urban Wilderness Inventory Area means a land designation as specified Chapter 25-1/2 of the Broward County Code, as may be amended from time to time.

Wildlife utilization means an area used by wildlife for habitat/feeding.

Section 6. Section 27-405, "General Prohibitions," is hereby amended to read as follows:

Unless otherwise authorized by this article, no person shall cause, suffer, permit or allow:

- (a) The removal of any Historical tree without first obtaining approval from Broward County and the Town to conduct the removal.
- (b) The removal of any tree without first obtaining a tree removal permit from the Town as herein provided.
- (c) Tree abuse as defined by this article.
- (d) Any encroachments, excavations, or change of the natural grade within the drip line of a tree unless it can be demonstrated to the Town prior to the commencement of said activity, that the activity will not negatively impact any tree.
- (e) Land clearing or the operation of heavy equipment in the vicinity of a tree without placing and maintaining a protective barrier around the drip line of the tree. The protective barrier shall be conspicuous enough and high enough to be seen easily by operators of trucks and other equipment.
- (f) The storage or use of materials or equipment within the drip line of any tree, or attachments, other than those of a protective and non-damaging nature, to any tree.

- (g) Land clearing, including understory, in an area designated as a Natural Forest Community without first obtaining a Tree Removal Permit from the Town as herein provided.

Section 7. Section 27-406, "General Exemptions," is hereby amended to read as follows:

- (a) During emergency conditions caused by a hurricane or other natural disaster, the provisions of this article may be suspended by the direction of the Town Administrator.
- (b) Nuisance Trees. Nuisance trees as defined by this article are exempt from the prohibitions set forth in Chapter 27, Article XIV, Section 405 provided that no condition is created which poses an imminent threat to public safety or property. In such cases, the nuisance tree shall be removed to alleviate any threat. Failure to remove said tree after warning from the Town shall constitute a violation of this article.

Section 8. Section 27-407, is hereby retitled, "Broward County Authority Retained," and amended to read as follows:

Broward County specifically retains the authority to regulate trees located on the following property:

- (1) Properties owned or controlled by Broward County, including, but not limited to, facilities, road rights-of-way and parks;
- (2) Properties owned or controlled by the Broward County School Board;
- (3) Any site designated by the Board as a Local Area of Particular Concern, Urban Wilderness Inventory Area, Natural Resource Area, or Environmentally Sensitive Land or Historic Tree.

Section 9. Section 27-408, "Tree removal permit requirements and standards," is hereby amended to read as follows:

- (a) Permit Requirements:
 - (1) Unless otherwise exempted by this article, a person shall obtain a tree removal permit prior to relocating or removing a tree.

- (2) Unless otherwise exempted by this article, any person who removes a tree or who negatively impacts a Natural Forest Community in violation of this article shall be required to offset any environmental impacts through mitigation.
- (3) Exemptions from Permitting: Unless otherwise prohibited by the Code, the following activities are exempted from the permitting requirements of this article provided that no nuisance or any condition which adversely affects the environment or public health is created, and provided that the activity does not violate any provisions of the Code, or federal, state, or local government regulations:
 - a. Removal of tree species occurring in regulated waters as defined in Chapter 27, Article XI of the Code, as amended;
 - b. Removal of any tree that is hazardous to the extent that its continued existence creates an imminent threat to public safety or property. In order to claim this exemption, the owner of the property must document by photographs or other evidence that such condition(s) existed prior to the removal of the tree. In the case of Natural Forest Communities specimen trees or historic trees, documentation of the condition must be presented to the Town within forty-eight (48) hours of removal;
 - d. Removal of trees by all county-licensed nurseries, botanical gardens and commercial grove operations, but only in relation to those trees which are planted and grown for the sale or intended sale to the general public in the ordinary course of the licensed business;
 - e. Removal of trees by all governmental and private nurseries with respect to trees which have been planted and grown for future relocation;
 - f. Removal of trees, except historical or specimen trees, by franchised utility companies provided that:
 1. The utility company provides written notice to the Town and the record owner of the property on which the trees proposed to be removed are located of the intent to remove trees; the written notices shall be delivered, at minimum, fifteen (15) days prior to the intended tree removal; and

2. The utility company can demonstrate to the Town prior to tree removal that:
 - a) The tree will cause a continual disruption of service. A specimen palm tree may be removed under this exemption;
 - b) The easement or property was in actual use conveying utilities prior to the effective date of this article; and
 - c) The threat of service interruption cannot be remedied by tree pruning in accordance with standards as set by the American National Standards Institute, as amended;
 - g. Removal of nuisance trees.
- (b) Permit Application Requirements:
- (1) Application forms: A permit application for removing or relocating trees shall be submitted by a property owner or authorized agent of the owner, on the Town approved application form(s).
 - (2) Fees: The permit application must be accompanied by the required fee(s) as established by the Town. Permit application fees are non-refundable and non-transferable.
 - (3) Required application data: The permit application must be accompanied by documents and drawings as required by the Town that describe the proposed activities to be performed in sufficient detail to meet the standards in this article and to clearly identify all potential impacts to the environment and public health. Application data required shall include, but is not limited to:
 - a. A map showing the size and location of the site where the permitted activities are to be conducted;
 - b. A starting date and duration of the proposed activities;
 - c. A brief description of the work to be performed, including a drawing of the proposed work or a certified site plan, as determined by the Town, showing the location of all existing or proposed buildings, structures, and site uses;
 - d. For development on undeveloped property or for redevelopment of property, a certified tree survey and site plan of identical scale designating those trees which are proposed to be preserved, relocated,

or removed is required. All tree survey(s) or site plan(s) must be prepared by a person(s) qualified to do so under the Laws of Florida;

e. The legal description of the site.

(4) Action on permit application shall be in accordance with the provisions in Chapter 27, Article 1 of the Code, as amended.

(c) Permitting Standards for Tree Removal, Relocation and Replacement:

(1) Any person conducting tree removal activities shall only remove a tree or trees from a site as approved for removal in a the Town tree removal permit.

(2) Permits shall be issued or denied in accordance with the provisions in Chapter 27, Article 1 of the Code, as amended.

(3) The term of a tree removal permit shall be in accordance with the provisions of Chapter 27, Article 1 of the Code, as amended.

(4) Damage to any other tree or trees on the site during tree removal activity shall constitute a violation of this article.

(5) An applicant may be eligible to receive a tree removal permit if one of the following considerations are present:

a. Whether a proposed development cannot be located on the site without tree removal;

b. Whether the applicant has made every reasonable effort, to incorporate existing trees in the development project and to minimize the number of trees removed;

c. Whether a tree proposed to be removed is of poor quality and condition;

d. Whether a tree proposed to be removed is obstructing safe vehicular cross visibility;

e. Whether a tree proposed to be removed is damaging existing improvements;

f. Whether a tree proposed to be removed is creating ongoing safety problems for existing development; or

g. Whether a tree proposed to be removed is growing too close in proximity to another tree(s) to permit normal growth and development of the affected tree(s).

If an application meets the above criteria, the Town will prior to issuing any tree removal permit conduct a tree relocation evaluation pursuant to Chapter 27, Article XIV, Section 408(d).

- (6) Removal or relocation of a tree or trees found in an area designated as a Natural Forest Community shall be conducted pursuant to Chapter 27, Article XIV, Section 411(b) in addition to the requirements of Chapter 27, Article XIV, Section 408.
- (d) Tree Relocation Evaluation:
- (1) For tree relocation, the Town shall make the following evaluations:
 - a. A tree which meets the criteria for removal as specified in Chapter 27, Article XIV, Section 408(c)(5) shall be relocated, unless it is demonstrated that relocation is not a viable alternative for a particular tree. If relocation is not a viable solution, the applicant shall replace a removed tree, pursuant to the requirements set forth in this article; and
 - b. Whether relocation is on the property or off the property, due to lack of available space on the property. Where relocation is to occur onto another property, written authorization from the property owner shall be required.
- (e) Tree Relocation Requirements: Any person conducting tree relocation activities shall:
- (1) Not unnecessarily damage any other tree or trees remaining on-site while relocating a tree;
 - (2) Relocate a tree so that it will not interfere with existing or proposed utilities, either above or below ground. A relocated tree which may reach a height of thirty (30) feet shall not be placed within twenty (20) feet of an overhead powerline or as outlined in *Selecting and Planting Trees for the South Florida Urban Forest*, latest edition;
 - (3) Relocate a tree to an area with adequate space for root and canopy development;
 - (4) Ensure successful relocation and transplanting of trees by adhering to the following guidelines for transplanting a tree:

- a. Any tree being relocated shall not be unnecessarily damaged during removal, transport or replanting of that tree;
 - b. If a tree has a dormant period, it should be transplanted during that time. A tree should not be transplanted during periods of strong, dry winter winds or during droughts;
 - c. Adequate space for root and canopy development shall be provided;
 - d. Prior to transplanting, the tree shall be root and canopy pruned according to sound arboricultural standards. All crown pruning shall be done in accordance with standards set by the American National Standards Institute, as amended;
 - e. During and following transplanting of a tree, the root ball and trunk shall be protected. The root ball must be kept moist at all times;
 - f. A transplanted tree shall be braced for at least one (1) year after its relocation; and
 - g. A transplanted tree shall be fertilized as appropriate and shall be watered sufficiently until tree growth is re-established.
- (f) Tree Relocation Maintenance/Monitoring Requirements: Any person conducting tree relocation activities shall:
- (1) Maintain the health of a relocated tree for a period of one (1) year from the date of planting; and
 - (2) Replace, within sixty (60) days, a relocated tree that dies or is determined by the Town to be effectively destroyed within one year of being relocated. The one (1) year maintenance period shall begin anew whenever a tree is replaced. For projects that include the relocation of ten (10) or more trees, a ten (10) percent mortality allowance will apply. If ninety (90) percent or more of the relocated trees are determined to be viable after a period of one (1) year, the project shall be considered successful and replacement trees will not be required for the remaining ten (10) percent of the trees that die or are in a state of decline.
- (g) Tree Relocation Bond Requirements:
- (1) Unless otherwise exempted by this article, any person conducting tree relocation activities involving specimen trees must post a bond to insure the

survival of specimen trees designated for preservation. Said bond shall meet the approval of the Town Attorney for the Town and may be in the form of a letter of credit drawn upon banks or savings and loan institutions legally doing business in the State of Florida, cash bonds issued by an insurance company legally doing business in Florida or other acceptable means as approved by the Town Attorney's Office. This bond shall be in addition to any other bond that may be required by any other governmental entity.

- (2) Determination of the bond amount shall be computed based upon the most current version of the Guide for Plant Appraisal, published by the International Society of Arboriculture.
- (3) Government entities are exempt from bond requirements.
- (4) Release of Bonds:
 - a. Tree relocation bonds will be released upon successful tree relocation as set forth in Chapter 27, Article XIV, Section 408(f) of this Article and written approval by the Town. Bonds involving specimen trees shall be released upon completion of construction activities, if it is determined by the Town that the tree(s) is/are not effectively destroyed.
 - b. Bonds may be released by The Town when a tree removal permit is transferred. The Town may condition the release of the bond upon the posting of a new bond by the subsequent permittee.
- (5) Drawing on Bonds:
 - a. If a tree is determined by the Town to be effectively destroyed within one year from the date of relocation, the bond shall be drawn upon and funds will be deposited into the Town of Southwest Ranches Tree Preservation Trust Fund. Said funds will be expended pursuant to Chapter 27, Article XIV, Section 413 of the Code.
- (h) Tree Replacement in Lieu of Tree Relocation:
 - (1) When it is determined by the Town that tree relocation cannot be accomplished, an applicant shall replace trees pursuant to Chapter 27, Article XIV, Section 408(i) of this article.
- (i) Tree Replacement Requirements:
 - (1) Tree Replacement Requirements for Non-Specimen Trees:

- a. If the Town determines that a removed tree cannot be successfully relocated, said tree shall be replaced to compensate for lost tree canopy coverage.
- b. The following criteria shall be used by the Town to determine the tree replacement requirements:
 1. The tree canopy coverage of a site shall be determined using any combination of the following methods:
 - a) Review of aerial photography;
 - b) On-site inspection; and/or
 - c) Review of a tree survey.
 2. A tree that is successfully relocated pursuant to Chapter 27, Article XIV, Section 408(f) need not be replaced.
 3. Native trees identified in Appendix 1 of this article must be planted to replace native tree canopy coverage removed.
 4. For tree replacement requirements of one (1) to five (5) trees, a minimum of one (1) species shall be utilized as a replacement tree. For six (6) to ten (10) replacement trees required, a minimum of two (2) species shall be utilized. For eleven (11) to twenty (20) replacement trees required, a minimum of three (3) species shall be utilized. For twenty one (21) to fifty (50) replacement trees required, a minimum of four (4) species shall be utilized. For fifty one (51) or more replacement trees required, a minimum of five (5) species shall be utilized.
 5. For trees removed pursuant to Section 27-408(c)(5)a,b,c, an additional fifty (50) percent tree replacement shall be required.
 6. The number of required replacement trees shall be based upon the size of area of impact and the category of replacement trees selected by the applicant. The canopy of the replacement trees at maturity shall at least equal the canopy removed. The following table shall be used to determine the number of required replacement trees:

Replacement Tree Category (See Appendix 1)	Replacement Canopy Area Credit (In Square Feet)
Category 1 Tree	300
Category 2 Tree	150
Category 3 Tree	100
Category 4 Tree	50

(2) Tree Replacement for Specimen Trees:

- a. A tree appraisal will be performed by the Town to determine the dollar value of any specimen tree approved by the Town for removal pursuant to Chapter 27, Article XIV, Section 408(c)(5) of this article. This appraisal shall be pursuant to the most recent Guide for Plant Appraisal, as amended, by the Council of Tree and Landscape Appraisers.
- b. The Town will then calculate the number of replacement trees required to equal the appraised value of the specimen tree removed. This calculation shall include the purchase price of the replacement tree, plus installation costs. The applicant will be required to compensate the number of replacement trees indicated by the Town for the removal of the specimen tree(s).

(3) Minimum Standards for Replacement Trees:

- a. All replacement trees shall be a minimum quality of Florida No. 1 grade or better, as identified in the most recent addition of Grades and Standards, Florida Department of Agriculture;
- b. Only trees listed in Appendix 1 (Replacement Tree Species) shall be used as replacement trees. The applicant shall have the option of choosing the category of trees for replacement provided at least fifty (50) percent of the replacement trees are from Category 1 or Category 2 with respective size as follows:
 1. Category 1: Minimum of twelve (12) feet in height and two (2) inches DBH at time of planting;
 2. Category 2: Minimum of eight (8) feet in height at time of planting;
 3. Category 3: Minimum of six (6) feet in height at time of planting;

- 4. Category 4: For replacement palm trees, a minimum of six (6) feet clear trunk or greywood at time of planting.
 - c. If the minimum tree size is commercially unavailable, smaller trees may be substituted with the approval of the Town. Additional credit may be given for the installation of larger trees, at the Town's discretion.
- (4) General Requirements for Replaced Trees: Any person conducting tree replacement activities shall:
- a. Refrain from unnecessarily damaging any other tree or trees remaining on site while planting or preparing the site for any replacement tree(s);
 - b. Plant the replacement tree so that it will not interfere with existing or proposed utility lines or cables, either above or below ground. A tree which may reach a height of thirty (30) feet shall not be planted within twenty (20) feet of an overhead powerline;
 - c. Plant replacement tree species and use installation and maintenance methods that follow xeriscape principles, where practicable;
 - d. Plant a replacement tree in an area with adequate space for root and canopy development following Florida Power and Light's *Right Tree in the Right Place* guidelines, latest edition;
 - e. Where practicable, plant a replacement tree within the municipality from which the original tree was removed;
 - f. Complete tree replacement within six (6) months of the issuance of a Town tree removal permit unless granted an extension in writing by the Town.
- (5) Maintenance/Monitoring Requirements for Replaced Trees: Any person conducting tree replacement activities shall:
- a. Maintain the health of a replacement tree for a period of one (1) year from the date of planting;
 - b. Replace within sixty (60) days any replaced tree that dies or is determined to be effectively destroyed within one (1) year of being planted, as determined by the Town. The one (1) year maintenance period shall begin anew whenever a tree is replaced. For projects that include the planting of one hundred (100) or more replacement trees, a

ten (10) percent mortality allowance will apply. If ninety (90) percent or more of the replacement trees are determined to be viable after a period of one (1) year, the project shall be considered successful and replacement trees will not be required for the remaining ten (10) percent of the trees that die or are in a state of decline.

- (6) Remuneration in Lieu of Tree Replacement: If it is determined by the Town that the replacement is not feasible due to lack of available planting space, the following applies:
- a. The person conducting the tree replacement activity shall pay into the Town's Tree Preservation Trust Fund a replacement contribution in lieu of actual tree replacement;
 - b. The replacement contribution will be determined using a schedule for current value of replacement trees plus installation, maintenance, and cost recovery as established by the Town;
 - c. Specimen tree calculations shall be in accordance with Chapter 27, Article XIV, Section 408(i)(2).

Section 10. Section 27-410, "Tree Abuse," is hereby amended to read as follows:

- (a) Exemptions from Tree Abuse: The following are exempt from the prohibition of tree abuse as set forth in Chapter 27, Article XIV, Section 405(c).
- (1) Topiary pruning when:
 - a. The trees are located on owner occupied property developed for detached single family usage, or;
 - b. The trees were not installed to meet minimum landscape requirements and are identified on an approved landscape plan as appropriate for topiary pruning, when a landscape plan is required by code.
 - (2) Tree abuse necessary to alleviate a dangerous condition posing an imminent threat to the public or property provided that the threat cannot be remedied by pruning that is not defined as tree abuse; or

- (3) Shaping of trees to protect property, such as buildings and infrastructure, in which there is adequate evidence accepted by the Town that shaping has occurred historically.
- (b) Remedial Measures for Tree Abuse: Any person that abuses a tree in violation of this article shall:
- (1) Undertake pruning and other remedial action as determined by the Town, not limited to the removal of severely abused trees to protect public safety and property, and corrective pruning to improve the health and form of affected trees. No tree removal permit is required for the removal of severely abused trees that are removed pursuant to the Town's written direction.
 - (2) Plant replacement trees pursuant to Chapter 27, Article XIV, Section 408(i) of the Code, if the natural habit of growth of the abused tree is destroyed.

Section 11. Section 27-411, "Natural forest communities," is hereby amended to read as follows:

- (a) Criteria and Procedures:
- (1) All sites designated as Natural Forest Communities pursuant to Broward County Ordinance No. 93-10 are considered Natural Forest Communities by this article.
 - (2) Future Designations: Designation of a site as a Natural Forest Community shall be made by the Town Council following the designation procedures as set forth in this article. Before a site is designated as a Natural Forest Community, the Town Council shall first make a finding that:
 - a. The site is at least two (2) acres in size;
 - b. The site is generally comprised of a canopy, subcanopy and groundcover;
 - c. The site is dominated by native vegetation associated with one or more of the following communities:
 1. Beach and dune community: A community composed of unconsolidated sand facing the ocean and shaped by the wind, waves, currents, and tides. Sand may be piled up by the wind forming dunes. Characteristic plant species include sea oats, sea

- grape, beach sunflower, beach star, beach creeper, Spanish bayonet, cocoplum, railroad vine, beach peanut, beach croton, beach bean, saw palmetto, prickly pear and nickerbean;
2. Coastal strand forest community: A community consisting of tropical hardwood hammock found just landward of the beach and dunes. Soils contain limestone substrate, sand and organic material. Characteristic plant species include sea grape, poisonwood, mastic, black ironwood, paradise tree, torchwood, Spanish stopper, silver palm, inkwood, gumbo limbo, sabal palm, live oak, strangler fig, marlberry, white stopper, wild coffee and snowberry;
 3. Mangrove community (saltwater swamp): A community occurring primarily along saltwater shorelines. Soils are very poorly drained peat or fine sand overlaid by sands or clay. The most frequent tree species found in this community are red, black and white mangroves, buttonwood and pond apple. Plants found in mangrove swamp include leather fern, sea oxeye, coin vine and rubber vine;
 4. Scrub community: An inland community that occurs on early level to sloping land. Soils are deep, acid, somewhat poorly to excessively drained and coarse textured. Trees found in such communities include sand pine, Chapman oak, sand live oak and myrtle oak. Shrubs include saw palmetto, scrub palmetto, gopher apple, prickly pear, shiny blueberry, staggerbush, fetterbush and palafoxia. Ground cover is scattered and large areas of light-colored sand are often noticeable;
 5. Pine flatwoods community: This community is identified by flat topography and pine and palmetto vegetation with an understory of grasses and herbs. Trees found in such communities include slash pine and occasional oaks. Shrubs include saw palmetto, shiny blueberry, gallberry, tarflower and wax myrtle. Flatwood communities have a high water table during the rainy season;

6. High hammock community: This community develops slowly as organic materials accumulate creating a favorable land elevation. The presence of a high hammock indicates that the site has been undisturbed for a period of time. High hammocks are among the most diverse systems in South Florida containing more than one hundred (100) species of trees and shrubs. Characteristic tree species include live oak, pigeon plum, paradise tree, gumbo limbo, willow busic, lancewood, mastic, strangler fig, satinleaf, mulberry, Simpson stopper. Shrubs include marlberry and wild coffee and such communities include a variety of ferns;
7. Low hammock community: Low hammocks are areas of dense forest vegetation dominated by tree species, such as laurel oak, strangler fig, cabbage palm, dahoon holly, scattered cypress trees and wax myrtle. Low hammocks develop on land that is of sufficient elevation to be seldom flooded, but in close proximity to water environments, and protected from fire. They frequently occur in transitional areas between drier upland communities and lowland vegetation types, such as marsh, wet prairie, cypress swamp or mangrove;
8. Cypress wetland community (freshwater swamp): Cypress wetlands occupy some portions of the freshwater lowlands of the Atlantic Coastal Plain in Florida. Temperate deciduous trees dominate, and the areas are often seasonally flooded. Soils are nearly level or depressional, poorly drained and have a loamy top layer and sandy subsoils. Characteristic trees include bald cypress, red maple, cocoplum, dahoon holly, strangler fig and pond apple. Leather fern, royal fern and other fern species are found in cypress wetland communities;
9. Everglades community (freshwater marsh): The Everglades is a flat expanse of freshwater wetlands dominated by sawgrass and dotted with tree islands. The dominant plant species include sawgrass, coastal plain willow, wax myrtle, elderberry, cattail,

spike-rush, pickerelweed, waterlily and periphyton. The vegetation found in the tree islands is determined by elevation, fire history and hydric factors, and varies from low willow heads to bay heads to tropical hardwood hammocks.

(3) Designation Procedure:

a. Notice Requirements: The Town Council shall, by resolution, direct the Town Administrator to publish and send by certified mail or hand delivery, a notice of hearing to the property owner(s) to consider designation of a site as a Natural Forest Community. Notice of hearings to be held by the Board to consider designation of a site as a Natural Forest Community shall be published in a newspaper of general circulation in the Town and shall be hand delivered or sent certified mail to the property owners at least fifteen (15) days prior to the hearing date. Such notice shall include:

1. The time, date and place of the hearing;
2. The legal description of the property under consideration for designation as a Natural Forest Community;
3. The ecological community or communities alleged to be included within the property; and
4. The effect of the designation on lands classified as Natural Forest Communities.

For purposes of this notification, an owner of property shall be deemed to be the person who is shown as the property owner on the tax roll of the Broward County Property Appraiser unless the Town has actual notice that a person or entity other than the person or entity shown on the tax roll is the owner. In such case, the notice shall be mailed to the person or entity known to be the owner.

b. Following designation of a Natural Forest Community by the Town Council, notification of such designation shall be sent by certified mail to the property owner(s) by the Town; and such notice shall also be sent to the municipality in which the Natural Forest Community is located.

- (b) Tree Removal, Permitting, Preservation and Mitigation Requirements for a Natural Forest Community:
- (1) Any person conducting tree removal activities shall only remove a tree or trees from a site as approved for removal in a Town tree removal permit. Damage to any other tree or trees on the site shall constitute a violation of this article.
 - (2) Removal of trees in areas designated as a Natural Forest Community shall be pursuant to the following preservation requirements to the extent determined to be practicable by the Town:
 - a. Any areas identified during the review of a tree removal permit application as providing habitat to listed species in the most recent version of Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida by the Florida Game and Freshwater Fish Commission and/or successor agency shall be identified and preserved;
 - b. Areas of high wildlife utilization on-site shall be identified and preserved;
 - c. Areas which contain relatively undisturbed canopy, subcanopy and groundcover shall be identified and preserved;
 - (3) Any proposed development activity which would negatively impact the Natural Forest Community must be mitigated through a resource management plan, approved by the Town, which significantly improves the viability of the remainder of the resource. No tree removal permit shall be issued until a resource management plan has been approved by the Town.
 - (4) In an area designated as a Natural Forest Community where preservation is required, a conservation easement shall be granted by the applicant to the Town Council. The conservation easement shall be duly executed and recorded and shall:
 - a. Prohibit land clearing, development or other harmful activity on the preserved portion of the Natural Forest Community;
 - b. Allow the Town access to the conservation easement area to conduct studies, inspections, and other activities consistent with the purpose of the conservation easement;

- c. Require maintenance of the site in perpetuity.

Section 12. Section 27-412, "Historical trees" is hereby amended to read as follows.

- (a) Standards for Designation: The Town shall only designate as an historical tree, a tree or group of trees that meet the following criteria:
 - (1) The tree is located on historically significant property and is related to an historic event; or
 - (2) The tree is uniquely related to the heritage of the Town; or
 - (3) The tree is at least seventy-five (75) years old.
- (b) Request for Designation:
 - (1) The following entities may request that the Town designate a particular tree or group of trees within its jurisdiction as an historical tree:
 - a. State, county, municipality or any historical preservation society designated by the Board; or
 - b. Any property owner may make a similar request providing the request is for a tree or group of trees located on his/her own property;
 - (2) The request shall be in writing to the Town Administrator and contain:
 - 1. The exact location of the tree or trees to be designated as historical,
 - 2. The name and address of the current owner and affected utilities of the land upon which the tree is located;
 - 3. The reason(s) for requesting the historical designation.
- (c) Consideration by the Town: Pursuant to Section 18.4 of the Broward County Administrative Code, the entity shall request that the Town Administrator place the request on the Town Council Agenda for discussion and vote on the request. When the person requesting this designation is not the property owner, the property owner shall be notified in writing by certified mail of the request and the time, date, and place of the hearing. The Town shall then make a determination based on the standards for designation.

Section 13. Section 27-413, "Tree preservation trust fund" is hereby amended to read as follows.

- (a) Establishment of the Trust Fund: The Town of Southwest Ranches' Tree Preservation Trust Fund has been created in the general trust fund of the Town for the purpose of accepting and disbursing the contributions made to the Town as part of tree removal permits and any other monies deposited with the Town for tree preservation purposes. This fund shall be used to enhance tree canopy coverage in the Town.
- (b) Term of Existence: The trust shall remain in existence unless specifically terminated by the Town.
- (c) Trust Assets: All monies received hereunder from public or private concerns shall be placed in trust for and inure to the use and benefit of the Town and its successors and assigns in interest.
- (d) Trust Expenditures: Trust funds shall be expended, utilized and disbursed for the planting of trees and any other ancillary costs associated with the planting of trees on public lands in the Town. Ancillary costs will be on a cost recovery basis and shall include the cost of the particular tree planting project, landscape design services, irrigation, additional landscaping and any other items or materials necessary for the proper installation and maintenance of tree planting projects. These monies may also be used to cover the expense of relocation of trees to public lands in the Town and the expense of periodically distributing saplings to the public to increase tree canopy coverage in the Town.
- (e) Trust Administration:
 - (1) Trust funds shall be expended, utilized and disbursed only for the purposes designated by the Town in accordance with this section.
 - (2) All monies deposited hereunder shall be deposited in trust, in a separate account established and maintained apart from the general revenue funds and accounts of the Town.
 - (3) Monies obtained hereunder may be accepted on behalf of the Town by the Town Administrator or his or her designee, and upon receipt shall be delivered to the Town, which shall cause the same to be credited to the trust.
 - (4) Contributions received as a condition of a tree removal permit in a particular municipality shall be used within that municipality unless use of said funds is waived by the municipality.

(f) Disbursal or Conversion of Assets:

- (1) Expenditures of Tree Preservation Trust Funds in an amount exceeding fifteen thousand dollars (\$15,0000) shall require Town Council approval.
- (2) The expenditures by the Town of Tree Preservation Trust Funds for the planting of trees shall be made in accordance with the guidelines of the Administrative Code pertaining to contracting, purchasing, and any detailed procedures will be reflected in the internal procedures of the Town. The disbursement of these monies shall be under the control of the Town and, when required, shall be coordinated with other divisions of the Town's government.

Section 14. Section 27-414. "Stop Work Orders," is hereby added as follows.

Whenever any work is being done by a person not in compliance with this article, a Natural Resource Enforcement Officer may order that work be stopped and such persons performing such work shall immediately cease such work. The work may not resume until such time as the person is in compliance with this article.

Section 15. 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 16. SEVERABILITY.

If any portion of this Ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property or circumstance.

Section 17. INCLUSION IN CODE.

It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town of Southwest Ranches Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 18. EFFECTIVE DATE.

This Ordinance shall be effective immediately upon its adoption.

PASSED ON FIRST READING this 10th day of July, 2003.

PASSED AND ADOPTED ON SECOND READING this 10th day of
September, 2003.



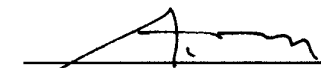
Mecca Fink, Mayor

Attest:



Shari Canada, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney
803424_1.DOC