

TOWN OF SEWALL'S POINT



PAMELA MAC'KIE WALKER
Town Manager

TO: Town of Sewall's Point Commission
FROM: Pamela Mac'Kie Walker, Town Manager
SUBJECT: Agenda Item 7
Tree Trimming Ordinance
Town Commission Meeting, April 28, 2015

Background: At the Workshop on March 10, 2015, staff was directed to prepare an ordinance requiring the issuance of a permit for certain tree trimming activities in order to protect the Town's significant oak tree canopy. The attached ordinance requires registered certified arborists be retained to prune an oak tree with a caliper of 24" or greater when one of the following conditions exist:

- more than 10% of the live tissue of the tree is being pruned; or
- a branch with a diameter greater than 6" is being removed; or
- a root with a diameter greater than 1" is being removed.

These limitations were made in consultation with a certified arborist, and they reflect the standards of ANSI A300 Tree Care Standards which are incorporated into the ordinance by reference. ANSI (American National Standards Institute) A300 standards are the generally accepted industry standards for tree care practices. They are voluntary industry consensus standards developed by TCIA and written by a committee called the Accredited Standards Committee (ASC) A300, whose mission is to develop consensus performance standards based on current research and sound practice for writing specifications to manage trees, shrubs, and other woody plants.

Recommendation: Staff recommends acceptance of the draft ordinance and adoption at second reading at the next regular meeting of the Town Commission.

ORDINANCE NO. 405

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 22 "ENVIRONMENT", ARTICLE I "PROPERTY MAINTENANCE CODE", SECTION 22-1 "DEFINITIONS" TO DEFINE "CERTIFIED ARBORIST"; AMENDING SECTION 22-2 "PROPERTY MAINTENANCE STANDARDS; GENERAL" TO REGULATE THE TRIMMING OF CERTAIN OAK TREES; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Sewall's Point, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has provisions in its Code of Ordinances at section 22-2 that provide, in pertinent part, for the maintenance of landscaping on all private property within the Town; and

WHEREAS, the Town recognizes the benefits of having trees in the town, such as the reduction of air and noise pollution, soil erosion prevention, surface drainage improvement, provision of energy-saving shade and cooling, furnishing habitats for wildlife, and enhancing the aesthetics and property values in the community; and

WHEREAS, the Town wishes to preserve these types of benefits provided by the larger oak trees currently existing in the Town and to avoid any significant negative impacts to the Town's ecosystem; and

WHEREAS, the Town Commission believes that all oak trees in the Town that have a caliper of twenty-four (24) inches or greater should be protected against hatracking, topping, other severe pruning methods and other actions that threaten the health of the tree; and

WHEREAS, the Town believes that the preservation of these oak trees enhances the quality of life of the Town and enhances its unique character and aesthetic environment; and

WHEREAS, the Town believes that requiring a tree trimming permit and the services of a certified arborist for any extensive tree trimming will significantly help to protect the health of such trees and is a reasonable regulation; and

WHEREAS, the Town Commission has reviewed the amendments and finds that such amendments to the Town Code furthers the public health, safety and general welfare of the residents and citizens of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, 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 22 "Environment", Article I "Property Maintenance Code", section 22-1 "Definitions" is hereby amended to read as follows:

Sec. 22-1. - Definitions.

Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article the most reasonable application.

The following words and terms, when used in this article, have the meanings specified herein:

Caliper means a trunk measurement for diameter measured 6 inches from the ground for trees up to 4 inches caliper and 12 inches from ground for larger trees.

Canopy means the upper part of a tree, measured from the lowest branch, including all branches and foliage.

Certified arborist means an arborist who has a current certification by the International Society of Arboriculture.

* * *

Hattracking or Topping means the reduction of tree size using inter-nodal cuts without regard to tree health or structural integrity.

* * *

Tree abuse shall include the following:

- a. Damage inflicted to any part of a tree, including the root system, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application/spillage or change to the natural grade;

- b. Hatracking or topping;
- c. Girdling, spiking or bark removal of the trunk;
- d. Trimming or pruning techniques not in accordance with the current American National Standards Institute (ANSI) A300 Tree Care Standards;
- e. Excessive root cutting.

Trimming or pruning means the selective cutting of tree parts done to encourage new growth or better flowering; to remove old stems or deadwood; or to shape trees.

* * *

Section 3. Chapter 22 “Environment”, Article I “Property Maintenance Code”, section 22-2 “Property maintenance standards; general” is hereby amended to read as follows:

Sec. 22-2. – Property maintenance standards; general.

* * *

(i) Tree trimming.

(1) Generally. The trimming or pruning of any tree shall be done in accordance with the standards set forth in the ANSI A300 Tree Care Standards which are incorporated herein by this reference and any applicable local, state, and federal laws and regulations. Hatracking or topping is not permitted and shall be considered a violation of this article. Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this article.

(2) Permit required.

a. List of protected trees. This permit requirement shall only apply to the following trees with a caliper measuring twenty-four (24) inches or greater:

1. Live oak (scientific name, quercus virginiana);
2. Laurel oak (scientific name, quercus laurifolia);
3. Myrtle oak (scientific name, quercus myrtifolia);
4. Water oak (scientific name, quercus nigra); and
5. Any other tree designated by resolution of the city commission (collectively, “Protected Tree”).

b. Applicability. For Protected Trees only, a tree trimming permit is required prior to the following:

1. Trimming more than 10% of the live tissue of the tree;
2. Trimming any branch that has a diameter of six (6) inches or greater; or
3. Removing any root that is one (1) inch in diameter or greater.

The town will not issue more than one permit per year per specific tree unless an emergency or serious safety concern exists.

c. Permit application.

1. In general. An individual seeking to trim a Protected Tree as set forth above shall complete a permit application and pay the permit fee as established by resolution of the city commission.

2. Certified arborist. A certified arborist shall be required to complete or oversee such trimming. The certified arborist shall be registered with the town, have a valid Martin County business tax receipt, and be bonded and insured.

3. Contents of application. The applicant shall submit the following to the town with its application:

A. Current photograph of the tree;

B. Name of species of the tree;

C. The caliper of the tree;

D. A description of the trimming that will be done and a description of the purpose of the trimming;

E. The name of the certified arborist who will be completing or overseeing the trimming, a copy of his or her certification, bonding and insurance; and

F. Any other relevant information requested by the town.

4. Evaluation criteria. In considering the application, the town manager shall consider the following criteria:

A. Whether the selected arborist is certified, registered with the town, licensed, bonded, and insured; and

B. Whether the proposed trimming will threaten the health or aesthetics of the tree.

5. Appeal. An applicant may appeal the denial of a tree permit to the code enforcement board or special magistrate. The applicant must appeal the denial within ten (10) days of the denial of the application.

(3) Enforcement. Violations of this subsection (j) shall be enforced through chapter 18 of this code. A violation of this subsection may be prosecuted as an irreparable or irreversible violation pursuant to chapter 162, part I, Fla. Stat.

Section 4. 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 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of the ordinance may be made a part of the Town Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

Section 7. Effective Date. This ordinance shall take effect immediately upon adoption.

_____ offered the Ordinance for its first, reading and moved its adoption. The motion was seconded by _____, and upon being put to a vote, the vote was:

	<u>AYE</u>	<u>NAY</u>
PAUL LUGER, MAYOR	_____	_____
DAN MORRIS, VICE MAYOR	_____	_____
VINCENT N. BARILE, Commissioner	_____	_____
JAMES W. CAMPO, Commissioner	_____	_____
JACQUI THURLOW-LIPPISCH, Commissioner	_____	_____

Passed second reading at the Regular Meeting of the Town Commission held on the _____ day of _____, 2015. The _____ thereupon declared this Ordinance approved and adopted by the Town Commission on this _____ day of _____, 2015.

TOWN OF SEWALL’S POINT, FLORIDA

PAUL LUGER, MAYOR

ATTEST:

Lakisha Q. Burch, Town Clerk
(TOWN SEAL)

Approved as to form and legal sufficiency:

Glen J. Torcivia, Town Attorney
Florida Bar No. 343374

TOWN OF SEWALL'S POINT



PAMELA MAC'KIE WALKER
Town Manager

TO: Town of Sewall's Point Commission
FROM: Pamela Mac'Kie Walker, Town Manager
SUBJECT: Agenda Item 8
Arborist Registration Ordinance
Town Commission Meeting, April 28, 2015

Background: At the Workshop on March 10, 2015, staff was directed to prepare an ordinance requiring registration of certified arborists who wish to do business within the Town of Sewall's Point. Registration will require proof of appropriate certification and insurances, including a bond payable for code violations relating to tree removal. Registered certified arborists would be required for issuance of a permit to trim certain trees in accordance with town codes.

Recommendation: Staff recommends acceptance of the draft ordinance and adoption at second reading at the next regular meeting of the Town Commission.

ORDINANCE NO. 406

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, ADOPTING CODE OF ORDINANCES, CHAPTER 14, "BUSINESSES", ARTICLE VI, "ARBORISTS", SECTIONS 14-168 THROUGH 14-170 TO PROVIDE FOR THE REGULATION AND REGISTRATION OF CERTIFIED ARBORISTS DOING BUSINESS WITHIN THE TOWN OF SEWALL'S POINT; PROVIDING FOR AN ANNUAL REGISTRATION FEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Sewall's Point, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to Florida Statutes, section 166.221 "Regulatory fees," the Town Commission is authorized "to levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professionals and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter"; and

WHEREAS, the Town Commission seeks to protect and permissibly preserve the benefits derived from certain larger trees in the Town by requiring property owners to utilize the services of a certified arborist for any extensive trimming of such trees; and

WHEREAS, the Town wishes to require such certified arborists who will be conducting business in the Town to register with the Town; and

WHEREAS, a registration ordinance that requires certified arborists to register with the Town will allow for the closer regulation of these individuals to ensure that arborists who are not certified will not be used to care for these protected trees; and

WHEREAS, the Town Commission only wishes to regulate certified arborists in a manner that is reasonably necessary to protect the public interest; and

WHEREAS, the Town Commission has reviewed these amendments and determined that such amendments furthers the public health, safety and general welfare of the residents and citizens of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
TOWN OF SEWALL'S POINT, 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 14, Article VI "CERTIFIED ARBORISTS", of the Town Code of Ordinances is hereby adopted to read as follows:

ARTICLE VI. CERTIFIED ARBORISTS

Sec. 14-168. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arborist means an individual trained in the art and science of planting, caring for and maintaining individual trees.

Certified arborist means an arborist who has a current certification by the International Society of Arboriculture (the "ISA").

Sec. 14-169. Registration.

(a) It shall be unlawful for any certified arborist to conduct business within the town without first registering with the town as required pursuant to this Article. If the certified arborist is a business entity, it shall only be required to secure one registration for the entity.

(b) All certified arborists shall be bonded and insured prior to conducting business within the town.

(c) All certified arborists under this article shall file with the town clerk a written registration form to be furnished by the town clerk along with the payment of the

registration fee which shall be set, from time to time, by resolution adopted by the town commission. The arborist shall provide the town the following:

1. The name of the arborist and business name, if applicable;
2. Telephone number and mailing address;
3. A copy of his or her Martin County business tax receipt;
4. A copy of his or her ISA certification, bonding and insurance; and
5. Any other relevant information requested by the town.

Upon the town's receipt of the properly completed registration form and the registration fee, the town shall issue to the certified arborist a dashboard sign that indicates the arborist's current registration.

(d) The certified arborist shall be required to display the dashboard sign in his or her vehicle at all times while the arborist is conducting business within the town and said sign shall be fully visible to an individual located outside of the vehicle.

(e) Certified arborists shall be required to pay the registration fee annually for each year that the arborist is doing business within the town, and shall be required to update his or her registration when any required information has changed. A registration fee shall be valid for one year. Arborists who fail to pay an annual registration fee on or before the day of expiration of the current registration shall not be authorized to conduct business within the town until such time that the annual fee is paid in full.

Sec. 14-170. Enforcement. This Article shall be enforced through Chapter 18 procedures. If the arborist is found to have violated any provision of the code of ordinances by a code enforcement board or special magistrate, the board or magistrate may also order the suspension or revocation of the arborist's registration.

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 re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

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

_____ offered the Ordinance for its first, reading and moved its adoption. The motion was seconded by _____, and upon being put to a vote, the vote was:

	<u>AYE</u>	<u>NAY</u>
PAUL LUGER, MAYOR	_____	_____
DAN MORRIS, VICE MAYOR	_____	_____
VINCENT N. BARILE, Commissioner	_____	_____
JAMES W. CAMPO, Commissioner	_____	_____
JACQUI THURLOW-LIPPISCH, Commissioner	_____	_____

Passed second reading at the Regular Meeting of the Town Commission held on the _____ day of _____, 2015. The _____ thereupon declared this Ordinance approved and adopted by the Town Commission on this _____ day of _____, 2015.

TOWN OF SEWALL'S POINT, FLORIDA

PAUL LUGER, MAYOR

ATTEST:

Lakisha Q. Burch, Town Clerk
(TOWN SEAL)

Approved as to form and legal sufficiency:

Glen J. Torcivia, Town Attorney
Florida Bar No. 343374