

ORDINANCE NO. 2004 - 05

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN CODE BY PROVIDING FOR A SECTION ENTITLED "COMMERCIAL VEHICLE WEIGHT AND LOAD RESTRICTIONS"; INCLUDING DEFINITIONS FOR "AXLE LOAD" AND "SCALE TOLERANCE"; PROVIDING FOR REGULATIONS ON WHEEL AND AXLE LOADS AND VEHICLE WEIGHTS TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE UPON THE TOWN'S ROADWAYS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, numerous vehicles have been utilizing the Town's rural roadways as a bypass to reach other destinations; and

WHEREAS, overweight vehicles pose a danger to the Town's residents and the Town's roadways; and

WHEREAS, for the general welfare and safety of the public, the Town desires to amend the Town Code by providing for regulations on wheel and axle loads and gross vehicle weight of certain vehicles traveling upon the Town's roadways; and

WHEREAS, this Ordinance is intended to give additional authority to the Town's law enforcement officers to regulate overweight vehicles traveling within the Town; and

WHEREAS, it is in the best interest of the Town's residents to adopt the following amendment to the Town's Code.

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

Section 1. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2. The Code of the Town of Southwest Ranches, is amended to include a section entitled "Commercial Vehicle Weight and Load Restrictions" to read as follows:

COMMERCIAL VEHICLE WEIGHT AND LOAD RESTRICTIONS

§ 1.00 PURPOSE.

The purpose of this section is to promote the public health, safety and general welfare upon the streets, roadways and highways of the Town by regulating the wheel and axle loads and gross vehicle weights of certain vehicles; to provide for the assessment of fees; and to provide penalties for the violation of this chapter.

§ 2.00 ADOPTION.

Except as otherwise provided in this section, the Town expressly adopts the weight and load restrictions and enforcement procedures for commercial vehicles as promulgated in Florida Statutes, Chapter 316, Rules and Regulations contained in Chapter 49 Code of Federal Regulations 390-397 and North American Driver Out-of-Service Criteria, as amended from time to time.

§ 3.00 JURISDICTION.

The jurisdiction for determining restrictions as to oversize/overweight vehicles is given to the Town by the State through the provisions of Florida Statutes, Chapter 316, specifically § 316.006 and § 316.555.

§ 4.00 VIOLATION.

It is a violation of this chapter for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any street, roadway, or highway in the Town, any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter.

§ 5.00 DEFINITIONS

AXLE LOAD. The total load transmitted to the road by all wheels whose centers are included between two (2) parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.

SCALE TOLERANCE. The allowable deviation from legal weights as established in § 6.00 below.

§ 6.00 MAXIMUM WEIGHTS.

(A) The gross weight imposed on the street, roadway or highway by the wheels of any one axle of a vehicle shall not exceed twenty thousand (20,000) pounds.

(B) Subject to the limit upon the weight imposed upon the streets, roadways and highways through any one axle as set forth herein, the total weight with load imposed upon the street, roadway or highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

Distance in Feet Between First and Last Axles of Vehicles or Combination of Vehicles	Maximum Load in Pounds on all Axles
4	40,000
5	40,000
6	40,000
7	40,000
8	40,000
9	44,140
10	44,980
11	45,810
12	46,640
13	47,480
14	48,310
15	49,150
16	49,980
17	50,810
18	51,640
19	52,480
20	53,310
21	54,140
22	54,980
23	55,810
24	56,640
25	57,470
26	58,310
27	59,140
28	59,970
29	60,810

30	61,640
31	62,470
32	63,310
33	64,140
34	64,970
35	65,800
36	66,610

(C) With respect to those highways not in the Interstate Highway System, in all cases in which it exceeds state law in effect on January 4, 1975, the overall gross weight on the vehicle or combination of vehicles, including all enforcement tolerances, shall be as determined by the following formula:

$$W = 500(LN + 12N + 36)$$

$$N = 1$$

Where W = overall gross weight of the vehicle to the nearest five hundred (500) pounds; L = distance in feet between, the extreme of the external axles; and N = number of axles on the vehicle. However, such overall gross weight of any vehicle or combination of vehicles may not exceed eighty thousand (80,000) pounds including all enforcement tolerances.

(D) Dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work or use, when operated as a single unit, shall be subject to all safety and operational requirements of law, except that any such vehicle need not conform to the axle spacing requirements of this section provided that such vehicle shall be limited to a total gross load, including the weight of the vehicle, of twenty thousand (20,000) pounds per axle plus scale tolerances and shall not exceed five hundred fifty (550) pounds per inch width tire surface plus scale tolerances. No vehicle operating pursuant to this section shall exceed a gross weight, including the weight of the vehicle and scale tolerances, of seventy thousand (70,000) pounds. Any vehicle violating the weight provisions of this section shall be penalized as provided in § 7.00, below.

(E) The Town shall adopt rules consistent with the Department of Transportation to implement this section, shall enforce this section and the rules adopted hereunder, and shall publish and distribute tables and other publications as deemed necessary to inform the public.

(F) Except as hereinafter provided, no vehicle or combination of vehicles exceeding the gross weights specified in sections (B), (C) and (D) shall

be permitted to travel on the public streets, roadways or highways within the Town of Southwest Ranches.

§ 7.00 WEIGHT AND LOAD UNLAWFUL; SPECIAL FUEL AND MOTOR FUEL TAX ENFORCEMENT; INSPECTION; PENALTY; REVIEW.

(A) Any designated officer in the Town of Southwest Ranches or of the Department of Transportation having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or fixed scales and may require that such vehicle be driven to the nearest weigh station or public scales, provided such a facility is within five (5) miles. Upon a request by the vehicle operator, the officer shall weigh the vehicle at fixed scales rather than by portable scales if such a facility is available within five (5) miles. Anyone who refuses to submit to such weighing obstructs an officer pursuant to Florida Statutes § 843.02, and is guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes § 775.082 or § 775.083. Anyone who knowingly and willfully resists, obstructs or opposes an officer while refusing to submit to such weighing by resisting the officer with violence to the officer's person pursuant to Florida Statutes § 843.01, is guilty of a felony of the third degree, punishable as provided in Florida Statutes § 775.082, § 775.083 or § 775.084.

(B) (1) Whenever an officer, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond six thousand (6,000) pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided for in Florida Statutes, Chapter 316, to facilitate compliance with and enforcement of the weight limits established in § 6.00, weight tables published pursuant to Florida Statutes § 316.535(7) shall include a ten (10) percent scale tolerance and shall reflect the maximum scaled weights allowed any vehicle or combination of vehicles. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in § 6.00 and the driver of such vehicle or combination of vehicles can comply with the requirements of Florida Statutes, Chapter 316 by shifting or equalizing the load on all wheels or axles, and does so when requested by the proper authority, the driver shall not be held to be operating in violation of the weight limits.

(2) The officer shall inspect the license plate or registration certificate of the commercial vehicle, as defined in Florida Statutes § 316.003(66), to determine if its gross weight is in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be five cents (\$0.05) per pound on the difference between such weights. In those cases when the commercial vehicle, as defined in Florida Statutes § 316.003(66), is being operated over the streets, roadways or highways of the Town with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of Florida Statutes, Chapter 320, the penalty herein shall apply on the basis of five cents (\$0.05) per pound on that scaled weight which exceeds thirty five thousand (35,000) pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, ten thousand (10,000) pounds on laden straight trucks or straight truck-trailer combinations, or ten thousand (10,000) pounds on any unladen commercial motor vehicle. If the license plate or registration has not been expired for more than ninety (90) days, the penalty imposed under this section may not exceed one thousand dollars (\$1,000.00). In the case of special mobile equipment as defined in Florida Statutes § 316.003(48), which qualifies for the license tax provided for in Florida Statutes § 320.08(5)(b), being operated on the streets, roadways, or highways of the Town with an expired registration or otherwise not properly registered under the applicable provisions of Florida Statutes, Chapter 320, a penalty of seventy five dollars (\$75.00) shall apply in addition to any other penalty which may apply in accordance with Florida Statutes, Chapter 316. A vehicle found in violation of this section may be detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of Florida Statutes, Chapter 320, is not subject to the delinquent fee authorized in Florida Statutes § 320.07, if such person obtains a valid registration certificate within ten (10) working days after such penalty was assessed.

(3) Weight limits established and posted for a road or bridge pursuant to Florida Statutes § 315.555 and weight limits specified in special permits issued pursuant to Florida Statutes § 316.550 shall be deemed to include all allowable tolerances. In those cases when a vehicle or combination of vehicles exceeds the weight limits established and posted for a road or bridge pursuant to Florida Statutes § 316.555, or exceeds the weight limits permitted in a special permit issued pursuant to Florida Statutes § 316.550, the penalty shall be five cents (\$.05) per pound on the difference between the scale weight of the vehicle and the weight limits for such posted road or bridge or permitted in such special permit. However, if a special permit is declared invalid in accordance with rules promulgated pursuant to Florida Statutes § 316.550, the penalties imposed on

Section (C) below shall apply to those weights which exceed the limits established in § 6.00.

(C) Any person who violates the overloading provisions of this chapter shall be conclusively presumed to have damaged the streets, roadways or highways of this Town by reason of such overloading, which damage is hereby fixed as follows:

(1) When the excess weight is two hundred (200) pounds or less than the maximum herein provided, the penalty shall be ten dollars (\$10.00);

(2) Five cents (\$.05) per pound for each pound of weight in excess of the maximum herein provided when the excess weight exceeds two hundred (200) pounds. However, whenever the gross weight of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first six hundred (600) pounds of unlawful axle weight shall be ten dollars (\$10.00);

(3) An apportioned motor vehicle, as defined in Florida Statutes § 320.01, operating on the streets, roadways or highways of this Town without being properly licensed and registered shall be subject to the penalties as herein provided;

(4) Vehicles operating on the streets, roadways or highways of this Town from nonmember International Registration Plan jurisdictions which are not in compliance with the provisions of Florida Statutes § 316.605, shall be subject to the penalties as herein provided.

(5) The defendant in an action hereunder may seek to rebut the presumption of damage set forth in subsection (C).

(D) (1) No commercial vehicle, as defined in Florida Statutes § 316.003(66) shall be operated over the streets, roadways or highways of this Town unless it has been properly registered under the provisions of Florida Statutes § 207.004. Whenever any law enforcement officer identified in Florida Statutes § 207.023(1), upon inspecting the vehicle or combination of vehicles, determines that the vehicle is in violation of Florida Statutes § 207.004, a penalty in the amount of fifty dollars (\$50.00) shall be assessed, and the vehicle may be detained until payment is collected by the officer.

(2) In addition to the penalty provided for in paragraph (D)(1), the vehicle may be detained until the owner or operator of the vehicle furnishes evidence that the vehicle has been properly registered pursuant to Florida

Statutes § 207.004. Any officer or agent of the Department of Transportation may issue a temporary fuel use permit and collect the appropriate fee as provided for in Florida Statutes § 207.004(4). Notwithstanding the provisions of this section, all permit fees collected pursuant to this paragraph shall be transferred to the Department of Highway Safety and Motor Vehicles to be allocated pursuant to Florida Statutes § 207.026.

(3) Any person aggrieved by the imposition of penalties pursuant to this subsection may apply to the Town's Special Master as provided for in subsection (H), for modification, cancellation, or revocation of the penalty, and the Special Master is authorized to modify, cancel, revoke or sustain such penalty.

(E) In addition to the right to prosecute violations in County Court, whenever any person violates the provisions of this chapter and becomes indebted to the Town because of such violation in the amounts aforesaid and refused to pay said penalty, such penalty shall become a lien upon the motor vehicle, and the same may be foreclosed by the Town in a court of equity. It shall be presumed that the owner of the motor vehicle is liable for the sum. Any person, firm or corporation claiming an interest in the seized motor vehicle may, at any time after the lien of the Town attaches to the motor vehicle, obtain possession of the seized vehicle by filing a good and sufficient forthcoming cash bond with the officer having possession of the vehicle, payable to the Town of Southwest Ranches in twice the amount of the Town's lien. It shall be presumed that the owner of the motor vehicle is liable for the penalty imposed under this section. Upon the posting of such bond with the officer making the seizure, the vehicle shall be released and the bond shall be forwarded to the Town for safekeeping. The lien of the Town against the motor vehicle aforesaid shall be foreclosed in equity, and the ordinary rules of court relative to the proceedings in equity shall control. If it appears that the seized vehicle has been released to the defendant upon defendant's forthcoming bond, the Town shall take judgment of foreclosure against the property itself, and judgment against the defendant for the amount of the lien, including cost of proceedings. After the rendition of the decree, the Town may, at its option, proceed to sue the defendant for the amount recovered as aforesaid or direct the sale of the vehicle under foreclosure.

(F) Any officer or agent collecting the penalties herein imposed shall give to the owner or driver of the vehicle a receipt for all penalties collected. Such officers or agents shall cooperate with the owners or drivers of motor vehicles so as not to unduly delay the vehicles.

(G) Pursuant to Florida Statutes § 316.302 and § 316.545, penalties and fees are due and payable at the time of issuance and shall be remitted to

the officer who assessed the penalty. Payment shall be made for the amount of the assessment in cash, money order, or cashier's check and shall be made payable to the Town of Southwest Ranches.

(H) Any person aggrieved by the imposition of a civil penalty pursuant to this chapter or Florida Statutes § 316.3025, § 316.550 may apply to the Town's Special Master for a modification, cancellation or revocation of the penalty; and the Special Master is authorized to modify, cancel, revoke or sustain such penalty.

SPECIAL PERMITS.

An oversize or overweight vehicle or load thereon may not enter onto or be operated on a public road in the Town unless the owner or operator of such vehicle has first obtained the special permit pursuant to Florida Statutes § 316.550. Any owner or operator holding such special permit shall be exempt from the limitations established in § 6.00, but must abide by the limitations as described in the special permit.

WEIGHT, LOAD, LIMITS LOWERED.

The Town of Southwest Ranches may prescribe, by notice hereinafter provided for, loads and weights lower than the limits prescribed in this chapter and other laws, whenever in its judgment any road or part thereof or any bridge or culvert shall, by reason of its design, deterioration, rain or other climatic or natural causes be liable to be damaged or destroyed by motor vehicles, trailers, or semitrailers, if the gross weight shall exceed the limits prescribed in said notice. The Town may, by like notice, regulate or prohibit, in whole or in part the operation of any specified class or size of motor vehicles, trailers, or semitrailers on any streets, roadways or highways or specified parts thereof under its jurisdiction, whenever in its judgment, such regulation or prohibition is necessary to provide for the public safety and convenience on the streets, roadways or highways, or parts thereof, by reason of traffic density, intensive use thereof by the traveling public, or other reasons of public safety and convenience. The notice or substance thereof shall be posted at conspicuous places at terminals of all intermediate crossroads and road junctions with the section of street, roadway or highway to which the notice shall apply. After any such notice has been posted, the operation of any motor vehicle or combination contrary to its provisions shall constitute a violation of this chapter.

DAMAGE TO STREETS, ROADWAYS, HIGHWAYS; LIABILITY OF DRIVER AND OWNER.

Any person driving or moving any vehicle or combination of vehicles, object or contrivance upon any street, roadway or highway structure shall be liable for all damages which the highway or structure may sustain as a result of any illegal operating, driving, or moving of such vehicle or combination of vehicles, object, or contrivance, whether or not such damages is a result of operating, driving, or moving any vehicle or combination of vehicles, object, or contrivance weighing in excess of the maximum weights or exceeding the maximum size as provided in this chapter but authorized by special permit issued pursuant to Florida Statutes § 316.550. Whenever the driver is not the owner of the vehicle or combination of vehicles, object or contrivance but is so operating, driving, or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any such damage. Such damage may be recovered in any civil action brought by the authorities in control of the street, roadway, highway or highway structure.

Section 3. Codification. It is the intention of the Town Council that the provisions of this Ordinance become and be made part of the Town Code, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section" or such other appropriate word or phrase to accomplish such intentions.

Section 4. 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 5. Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 6. Effective Date. This Ordinance shall be effective immediately upon its adoption.

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PASSED ON FIRST READING this 8th day of April, 2004
on a motion by made by Vice Mayor Aster Knight and seconded by Council Member Forest Blanton.

Ayes 5
Nays _____
Absent or Abstaining _____

PASSED AND ADOPTED ON SECOND READING this 13th day of May, 2004,
on a motion by made by Council Member Forest Blanton and seconded by Council Member Don Maines.

Ayes 5
Nays _____
Absent or Abstaining _____

Mecca Fink
Mecca Fink, Mayor

Attest:

Shari Canada
Shari Canada, Town Clerk

Approved as to Form and Correctness:

Gary A. Poliakoff
Gary A. Poliakoff, J.D., Town Attorney

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