

**ORDINANCE NO. 2004 - 07**

**AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHWEST RANCHES, TO PROTECT THE DELIVERY OF UTILITY SERVICES; ESTABLISHING A VIOLATION FOR INTERFERENCE WITH A UTILITY SERVICE; ESTABLISHING A REMEDY TO ADDRESS A SITUATION WHEREIN A PROPERTY OWNER(S), THEIR TENANT AND/OR AGENT(S) INTERFERES WITH OR IMPEDES THE RIGHT OR ABILITY OF A UTILITY TO ENTER PRIVATE PROPERTY FOR THE PURPOSE OF PRUNING OR REMOVING PLANTS/TREES WHICH ARE INTERFERING WITH THE DELIVERY OF UTILITY SERVICES, WHEN DEEMED NECESSARY TO DO SO TO ENSURE THE SAFE AND RELIABLE DELIVERY OF UTILITY SERVICES; PROVIDING FOR INCLUSION IN THE TOWN'S CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town has entered into numerous franchise agreements to provide for the delivery of utility services to its residents; and

**WHEREAS**, as a general rule, when a tree/plant which has been planted by a resident, or is growing naturally, interferes with or impedes the delivery of utility services, the utility company is able to gain access to public and/or private property for the purpose of removing or pruning the offending tree or plant; and

**WHEREAS**, occasionally, the property owner(s), his/her/their tenant(s), or agents, preclude the right or ability of the utility company to enter private property for the purpose of removing or pruning the plant/tree which is interfering with or impeding the ability to deliver utility services; and

**WHEREAS**, in order to protect the health, safety, and welfare of its residents the Town desires to avoid the unnecessary interference with and disruption of utility services.

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

**Section 1: Recitals Adopted.** 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: Code Amendment.** The Code of Ordinances for the Town of Southwest Ranches shall be amended as follows:

## **I. INTERFERENCE WITH A UTILITY SERVICE**

### **A. Violation**

It shall be unlawful to interfere with, to disrupt, to impede, to prevent, or to alter the flow of a utility. No individual shall deny the right, or impede the ability of a utility company to enter private property for the purpose of entering a utility easement to remove or prune a plant/tree which is interfering with or impeding the utility company's ability to deliver safe and reliable utility services, nor shall an individual refuse to permit a utility company to remove or prune, when on private property, a plant/tree which is interfering with or impeding the utility company's ability to deliver safe and reliable utility services, when it is determined by the utility company that the condition caused by the offending plant/tree constitutes a "hazardous condition."

### **B. A "Hazardous Condition" is deemed to exist when:**

- a. the affected utility company has determined that a particular plant/tree on private property is interfering with, disrupting, impeding, altering, or preventing the delivery of utility services; and
- b. the utility company has given the property owner(s) and the Town written notice that a particular plant/tree is interfering with, disrupting, impeding, altering, or preventing the delivery of utility services; and
- c. the property owner refuses to allow entry to or otherwise impedes the ability of the utility company to prune or remove the offending plant/tree, when deemed necessary for the safe and reliable delivery of utility services.

### **C. Remedy For Violation**

A violation of any provision of this Chapter shall be deemed a violation of the Town's Code of Ordinances and shall be prosecuted, at the Town's discretion, in accordance with Section 162, Florida Statutes, or through a court of competent jurisdiction as hereinafter provided.

In accordance with Section 39-10 (c) of the Town's Code, the provisions of this section may be enforced by the Town's law enforcement as a violation of a Town Ordinance and, as such, shall be punishable in accordance with Section 125.69, Florida Statutes, as may be amended from time to time.

Furthermore, in accordance with Section 39-10 (d) of the Town's Code, the Town Council may direct the Town Attorney to bring an action for injunctive relief in appropriate circumstances.

**Section 3: Inclusion.** 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 of Ordinances, 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 4: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith 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.

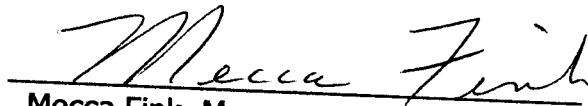
**Section 6: Effective Date.** This Ordinance shall be effective immediately upon its adoption.

**PASSED ON FIRST READING** this 8<sup>th</sup> day of July 2004 on a motion made by Vice Mayor Aster Knight and seconded by Council Member Don Maines.

**PASSED AND ADOPTED ON SECOND READING** this 28<sup>th</sup> day of July 2004, on a motion made by Vice Mayor Aster Knight and seconded by Council Member Don Maines.

|         |          |
|---------|----------|
| Fink    | <u>Y</u> |
| Knight  | <u>Y</u> |
| Blanton | <u>Y</u> |
| Maines  | <u>Y</u> |
| Nelson  | <u>Y</u> |


|                      |          |
|----------------------|----------|
| Ayes                 | <u>5</u> |
| Nays                 | <u>0</u> |
| Absent or Abstaining | <u>0</u> |

  
Mecca Fink, Mayor

Attest:

  
Shari Canada, Town Clerk

Approved as to Form and Correctness:

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