TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-008

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING THE TOWN OF LOXAHATCHEE GROVES ENVIRONMENTAL REGULATIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 10, 2006, the voters within Loxahatchee Groves voted to incorporate into the Town of Loxahatchee Groves; and

WHEREAS, Chapter 2006-328, Laws of Florida, the Charter of the Town of Loxahatchee Groves, provides that the Code of Ordinances for Palm Beach County in effect at the time of incorporation shall apply within the Town until such time as the Town adopts its own ordinance on a subject matter; and,

WHEREAS, the Town Council retained the services of a consultant to work with the Town on the development of environmental regulations, and conducted workshops with the community to complete the proposed regulations; and,

WHEREAS, the Town Council, sitting in its capacity as the Town of Loxahatchee Groves Local Planning Agency, conducted its public hearing on September 7, 2010 to review the proposed Environmental Regulations, attached hereto as Exhibit "A", and made a recommendation regarding the proposed regulations to the Town Council, pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Town Council of Town of Loxahatchee Groves, as the governing body of the Town of Loxahatchee Groves, finds that the adoption of the proposed Environmental Regulations is consistent with the effective comprehensive plan and the adopted comprehensive plan, and in the best health and welfare interests of the Town, its property owners and residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Adoption of the Town of Loxahatchee Groves Environmental Regulations. The Town Council hereby adopts the Loxahatchee Groves Environmental Regulations, which is attached hereto as **Exhibit "A"**, and incorporated herein by reference.

Section 3. Repeal of Laws in Conflict. All local laws and ordinances applying to the Town of Loxahatchee Groves in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Section 4. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 5. Codification. It is the intent of the Town Council that at such time as the Town proceeds with codification of the Town's ordinances into a Town of Loxahatchee Groves Code of Ordinances, the Environmental Regulations adopted herein shall be codified, and that the articles, sections and paragraphs of the Environmental Regulations may be renumbered, re-lettered and headings changed in order to accomplish such intention.

Section 5. Effective Date. This ordinance shall become effective as provided by law.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-008

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS __7th_ DAY OF _ September , 2010.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS __5th___ DAY OF ____October _____, 2010.

TOWN OF LOXAHATCHEE GROVES, FLORIDA

ATTEST:

Ann Harper, Town Clerk

Mayor David Browning

Vice Mayor Dennis C. Lipp

Ryan Liang, Council Member

APPROVED AS TO LEGAL FORM:

Michael Cirullo, Town Attorney

Ron Farriel, Council Member

Jim Rockett, Council Member

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CHAPTER A. NATIVE TREE PRESERVATION, SOIL STABILIZATION AND INVASIVE EXOTIC REMOVAL

SECTION 1. GENERAL

(A) Goals. The goals of this Chapter are:

(1) To avoid the unnecessary destruction of native vegetation;
(2) To encourage eradication of invasive non-native vegetation;
(3) To minimize adverse impacts to native vegetation during parcel improvements;
(4) To mitigate the removal of native vegetation; and
(5) To protect exposed and disturbed soils from stormwater or wind forces.

(B) Purpose. This Chapter shall:

(1) Establish a program to preserve and protect native vegetation;
(2) Prohibit unnecessary destruction of native vegetation;
(3) Establish the standards for the eradication of invasive non-native vegetation;
(4) Establish the standards to mitigate for the removal of native trees; and
(5) Encourage procedures to minimize siltation and sedimentation from disturbed and exposed soil surfaces.

(C) Applicability.

(1) This Chapter shall apply within the corporate boundaries of the Town of Loxahatchee Groves, Florida, hereinafter referred to as the "Town".
(2) The Town shall have regulatory authority over the alteration, abuse or removal of non-native and native upland vegetation, and the stabilization of exposed soil surface areas.
(3) No person may conduct land clearing or tree trimming operations unless such operation is exempted by, or expressly approved by this Chapter.
(4) The provisions of this Chapter may be suspended or waived by the Town Manager during a period of officially declared emergency, such as a hurricane, windstorm, tropical storm, flood, wildfire or similar disaster.

(D) Authority. This Chapter is adopted under the authority of Chapter 166, Florida Statutes, as amended. The Town shall administer the requirements of this Chapter.

SECTION 2. DEFINITIONS

For the purpose of this Chapter the definitions in this Chapter shall apply unless the context clearly indicates or requires a different meaning. In construing the provisions of this Chapter, if no definition is provided herein and when context will permit, publications recognized as authoritative in the scientific and engineering fields shall apply. Such publications shall include: "*Dig Manual*" by the State of Florida, "*ANSI A300-Trees, Shrubs and Other Woody Plant Maintenance-Standard Practices*" by the American National Standards Institute, "*Grades and Standards for Nursery Plants-Parts I and II*" by the Florida Department of Agriculture, and Chapter 62 of the Florida Administrative Code.

Agriculture, bonafide. Bona fide Agriculture are those uses conducted on lands which are engaged in farming as defined in Florida Statutes chapter 823.14 (3).

Clear Trunk. The distance between the top of the root ball along the vertical trunk or trunks of a tree to the point at which lateral branching or fronds begin.

Champion Tree. A Champion Tree is the largest tree of its species within the state as recognized by the Florida Department of Agriculture's Division of Forestry based on trunk circumference, vertical tree height, and average crown spread.

Crown Spread. The average distance of the diameter of the extent of the upper portion of a tree, consisting of limbs, branches, and leaves.

Diameter Breast Height (DBH). The diameter, in inches, of the trunk of a tree measured at a height of 4½ feet above the natural grade (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 4½ feet of clear trunk shall be measured as the diameter of the largest vertical branch or leader at breast height.

Effectively Destroy. To purposefully 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 year from the date of the act. Destruction by naturally occurring diseases, or acts of nature such as storm events or lighting strikes are not considered purposeful acts of destruction. Examples of such acts may include but are not limited to:

(1) Girdling of trees by improper guying, staking, support, string trimmers, or non-removal of planting materials from root balls and uncontrollable livestock.
(2) Introduction of any type of poison or reactive material for the purpose of causing the tree to die or become diseased.
(3) Placement of excess materials or soils within the tree drip line causing the death or disease of the tree.
(4) Peeling or stripping of 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.
(5) Removal of the majority or near entirety of canopy.

Invasive Non-Native Vegetation. For the purposes of this chapter, only those species included but not limited to those identified in FS 369.251 shall be recognized as invasive non-native vegetation within the Town.

Land Clearing. The removal of trees, shrubs, and/or undergrowth by stripping or any other process, with the intention of preparing real property for development, as defined in Florida Statues 380.04. Land clearing shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed, the removal of dead or nuisance trees; or normal mowing operations.

Mulch. Non-living organic material customarily used in landscape design to retard erosion, retain moisture and control weeds.

Tree. Any living, self-supporting woody perennial plant which at maturity attains a trunk diameter at least 1½ inches or more when measured at a point 4½ feet above ground level and which normally attains an overall height of at least 15 feet, usually with one main stem or trunk and many branches.

Tree, Specimen. A tree recognized as very old, exceptionally beautiful, tall or large.

Wetland ,Jurisdictional. A jurisdictional wetland, is defined in subsection 373.019(25) of the Florida Statutes, as may be amended .

SECTION 3. PERMITTED, EXEMPT AND PROHIBITED ACTIVITIES

(A) General Permit. A General Permit is required for upland land clearing that does not qualify for an exemption under this Chapter. Prior to applying for a permit from the Town, the applicant

must obtain all required permits and authorizations from external agencies having jurisdiction for the proposed work. The Town will maintain a general list of permits that may be required

(1) Tree mitigation, as specified in Section 6 of this Chapter, shall be required for all work conducted under a General Permit.
(2) In conjunction with the construction of any structure, a General permit also requires the removal or eradication of invasive non-native vegetation for the area of the authorized site plan extending out from the structure a distance of 40 feet. The parcel owner shall thereafter maintain this area free of invasive non-native vegetation.

(B)**Vegetative Permit.** A residential landowner may apply for a Vegetative Permit for clearing and control of invasive exotic plant species and the selective relocation of native plant material within the property. A tree survey is not required

(C)Exempt Activities. The following activities do not require a permit under this Chapter.

(1) Vegetation alteration associated with Botanical Gardens, Botanical Research Centers, Licensed Commercial Nurseries, or Bona fide Agricultural Operations that is a part of the on-going activities of the existing operation including the maintenance and upkeep of agricultural and pasture lands. Initial clearing of a parcel not previously used for these purposes is not an exempt activity.
(2) The minimal removal of native trees or understory necessary to install a fence, provided that the path cleared for the fence does not exceed five feet in width. Clearing required for building accessory structures on residential property is exempted from requiring a permit. Traversing a jurisdictional wetland requires approval from the applicable agency.
(3) The removal of dead and hazard trees that constitutes a peril to life or property.
(4) Wetland mitigation or enhancement activities conducted pursuant to a permit from the South Florida Water Management District or the Florida Department of Environmental Protection under Chapter 62-312, F.A.C. as amended.
(5) Alteration of vegetation pursuant to an adopted management plan for government maintained parks, recreation areas, wildlife management areas, conservation areas and preserves, excluding new construction or parcel improvement.
(6) Pruning of all trees in accordance with the American National Standards Institute (ANSI) A300, to allow for healthy growth, to promote safety, and to remove dead or hazard trees.
(7) Routine maintenance mowing operations or "bush hog" type mowing operations in areas that are regularly maintained.
(8) Pruning and removal of vegetation within a utility easement, for maintenance and where the vegetation is interfering with services provided by a utility. Including public utility, water control, water management, and road right-of-way activities within utility and drainage easements.
(9) The necessary minimal removal of vegetation by, or at the direction of, a State of Florida licensed professional surveyor and mapper, professional geologist, or professional engineer to conduct a survey or other required test.
(10) Management activities in areas designated by deed restriction, plat, restrictive covenant, or conservation easement dedicated to a public entity or approved private conservation group for preservation provided the activity furthers the natural values and functions of the ecological communities present, such as clearing firebreaks for prescribed burns or construction of fences; and the preserve area has a preserve management plan approved by the Town, or another governmental entity.
(11) Selective tree removal for forest management activities as defined in the current Forest Management Plan as approved by the State of Florida Division of Forestry.

(12) Removal of vegetation certified by the Florida Department of Forestry or PBC Fire Rescue such that a 30 foot buffer should be cleared around designated structures through the Fire Wise program.
(13) Removal or trimming of non-native and invasive vegetation.
(14) Routine landscape maintenance activities such as edging, hedge trimming, and on-going gardening operations.

(D)Prohibited Activities. The purposeful planting or installation and cultivation of vegetation identified as invasive non-native vegetation is prohibited.

SECTION 4. APPLICATION REQUIREMENTS AND FEES

(A) Application Requirements. The following application requirements apply.

(1) Permit applications shall be made on forms provided by the Town.
(2) An application shall not be deemed complete until the application fee and all information necessary to understand the extent, nature and potential impacts of a proposed project are received by the Town. Application information may include, but is not limited to:
   a. A completed application form with the signature of the parcel owner, or authorized agent of the parcel owner with agent authorization letter;
   b. A description of the work to be performed;
   c. Parcel information including legal description and a location map;
   d. Identification of the type, size and location of native trees that are 3 ~~6~~ inches DBH and greater to be removed with representative color photographs; and
   e. A tree replacement or tree relocation table, if applicable.

(B) Fees. Permit application filing fees shall be required, as established by a Resolution of the Town Council. Fees shall be non-refundable and non-transferable. An additional administrative fee may be required where projects require specific detailed site plan assistance by the Town, or where site plans significantly change after initial review pursuant to the Town's cost recovery policies. Application fees paid by check shall be payable to the Town of Loxahatchee Groves.

(C) Inspections. An application for a vegetation removal permit constitutes consent by the property owner and/or applicant for the Town to conduct site inspections in furtherance of this Chapter on the subject property, pursuant to permit requirements.

SECTION 5. STANDARDS AND CONDITIONS

(A) Standards of Permit Issuance.

(1) A Permit will be in effect for up one year after the issuance date. The Town may extend the authorization for one year upon written request submitted at least 30 days prior to expiration of the permit.
(2) Trees authorized for removal during the effective dates of a permit may not be removed after the expiration of the permit without issuance of a new permit based upon a new application.
(3) Any application received that is substantially the same as a previous application that has been denied by the Town subsequent to the effective date of this Chapter shall be denied with a written response provided to the applicant stating the reason for denial.
(4) Any parcel where there is an unresolved violation of any Chapter administered by the Town, shall not be eligible for a permit under this Chapter until such violation has been resolved.
(5) Any application containing false information, or any permit issued based upon false information, may be denied or revoked and may subject the applicant to enforcement proceedings pursuant to the provisions of this Code.

(B) Permit Conditions. The Town may include, but not be limited to the following permit conditions with the approval of a Permit.

(1) Conditions reasonably necessary to protect the environmental integrity of any on-site or adjacent wetlands, mitigation areas and preserve areas, and to prevent potential harm to native plant and animal species.
(2) Conditions for vegetation debris removal.
(3) The use of barriers and flagging during construction to establish appropriate setbacks to protect and preserve existing native vegetation.
(4) Conditions reasonably necessary to stabilize exposed and disturbed land surfaces.
A performance guarantee in an amount equal one hundred and ten (110) percent of the cost of the required tree mitigation for tree removal on vacant lands.

(C)**Land Clearing Standards.** The landowner shall take all reasonable measures during the land clearing process to avoid damage to trees and other native vegetation designated to remain after construction, and to protect exposed and disturbed soils from stormwater and wind forces.

(1) Best management practices shall be implemented to protect exposed and disturbed soils from stormwater or wind forces during construction.
(2) The design plan shall limit the removal of existing native vegetation only to that area needed to implement the project.
(3) The design plan shall strive to maximize removals from any areas dominated by invasive non-native vegetation.
(4) Native trees in the footprint of the proposed development that can reasonably be transplanted with an anticipated high degree of success should be incorporated into other areas on the parcel to the maximum extent practicable. If movement is not practical, trees should be replaced and by a greater number and on the same property. (See section 6(B) Tree replacement for trees that die within 1 year of relocation.)
(5) All exposed and disturbed surfaces shall be mulched, seeded, sodded, vegetated or otherwise stabilized by the time of Certificate of Occupancy or final inspection. Failure to stabilize disturbed surfaces, as well as the removal of vegetation resulting in on-site or off-site erosion (sedimentation or siltation or both) or the windblown loss of soil shall be deemed a violation of this Chapter.

(D) Vacant Land Standards. The speculative removal of native vegetation in advance of parcel improvement on vacant lands is not consistent with the goals of this Chapter. However, certain conditions can provide assurances that parcel improvement will proceed in good faith. A General Permit will not be issued by the Town in advance of issuance of a Land Development Permit or Building Permit unless the following is provided:

(1) Evidence that the anticipated work for which the land clearing permit is sought shall commence within one year of issuance of the General permit;
(2) A performance guarantee in an amount equal to one-hundred and ten (110) percent of the cost to restore native vegetation on the parcel in the event that improvement of the parcel is abandoned or the permits expired. Deposits should be refunded upon completion of the structure to allow purchaser to buy the trees. CO will be withheld until trees are purchased.
   (a) The performance guarantee shall be executed by a person with a bona fide legal interest in the parcel.
   (b) Two estimates of the cost to restore native vegetation on the parcel may be required for purposes of establishing the applicable amount of the performance guarantee.
   (c) The form of Guarantee shall be:
      i) A cash deposit or certificate of deposit assigned to the Town; or

ii) An escrow agreement for the benefit of the Town, in a form satisfactory to the Town Attorney and approved by the Town Council; or
iii) A performance bond issued by a State of Florida registered guarantee company in a form satisfactory to the Town Attorney and approved by the Town Council; or
iv) An irrevocable letter of credit in a form satisfactory to the Town Attorney and approved by the Town Council.

(3) The performance guarantee shall be kept in full force until authorized site improvements commence on the parcel and any required tree mitigation is installed.
(4) The vacant land standards of this section only apply to General Permit activities.
(5) Parcels of vacant land shall be allowed to remove overgrown herbaceous understory vegetation to preserve tree canopy in areas where natural fire has been suppressed and where a prescribed burn would not be feasible. No healthy trees that have 6 inches DBH or greater are to be removed or damaged.

(E) Off-Site Tree Relocation. Re-locatable native vegetation that cannot be incorporated into the parcel may be relocated off-site. An applicant requesting off-site relocation shall provide reasonable evidence that on-site planting is not feasible.

(1) An applicant conducting tree relocation shall provide a tree relocation management plan which shall include, but not be limited to, the relocation schedule and likelihood of success for each relocated tree, installation location of each relocated tree, identification and size of each relocated tree, and the replacements required pursuant to **Table A-2. Tree Replacement** per this Chapter to be implemented if the relocated material does not survive for a period of at least one year from the date of relocation.
(2) An applicant conducting tree relocation shall provide irrigation, mulch, and other practical means to assist the survival of any relocated tree.
(3) The Town shall retain jurisdiction to ensure compliance with any tree replacement required by this subsection.
(4) All off-site relocation requires approval by the Town Council.
(5) Off-site relocation shall optimally be placed in or adjacent to a public park parcel or a Preserve or Mitigation Area.
(6) All off-site relocation shall be located within the Town or the Town needs to be compensated for tree loss. Exceptions are permitted at the discretion of the Town Council.

(F) Debris Disposal. Every effort shall be made by the landowner to minimize the amount of land clearing debris deposited in a landfill. Mulching or other appropriate utilization should be pursued whenever feasible.

(1) The Town may include permit conditions for vegetation debris disposal by open burning, but the conditions shall not be in conflict with required burn permits from jurisdictional agencies.
(2) The burying of rubbish, logs, lumber, underbrush or other organic matter and materials from pruning, clearing or grubbing operations which would decompose or allow the land to thereafter settle is determined to be change or modification of the grade of the land and is not authorized under this Chapter.
(3) All felled materials shall be promptly and carefully removed in such a manner as to avoid potential damage to remaining trees and vegetation, the harboring of insects or promotion of disease, the harboring of rodents or undesirable wildlife, or increases in fire hazards.

(G) Pruning Standards. Trees intended for shade purposes shall be allowed to reach mature canopy. Acts, which effectively destroy a tree exclusive of invasive trees, are a violation of this Chapter.

(H) Champion Tree Standards. Notwithstanding any other provisions of this Chapter, Champion or Co-Champion trees, as recognized by the Florida Department of Agriculture's Division of Forestry, shall not be removed except for extraordinary circumstances and hardships. Removal of any Champion or Co-Champion or specimen tree shall require Town Council approval.

(I) External Agency Standards. The applicant is responsible for obtaining all required permits and authorizations from external agencies having jurisdiction for the proposed work; including, but not limited to:

(1) Prior to applying for a permit from the Town, the applicant must obtain all required permits and authorizations from external agencies having jurisdiction for the proposed work.
(2) The property owner is subject to and must ensure compliance to the water quality rules and standards as set forth in Chapter 62.302, of the Florida Administrative Code (F.A.C.). When applicable, the property owner shall obtain any required environmental resource permit from the South Florida Water Management District or the Florida Department of Environmental Protection.

SECTION 6. TREE MITIGATION

(A) Mitigation. Mitigation, through tree replacement as specified under this section, shall be required for the removal of native trees that are 3 inch DBH or greater. A tree replacement table identifying and quantifying all replacement trees to be installed shall be submitted with the permit application. The tree replacement plan shall also identify the size of each replacement tree and location for installation. The tree replacement plans shall maximize tree and vegetative buffering between properties. Tree replacement can be done by the landowner.

(B) Tree Replacement. Removed native trees shall be mitigated through replacement in accordance with **Table A–2. TREE REPLACEMENT** shown below. For relocated trees which die within one year of relocation, the replacement value shall be that as shown in **Table A–2.** Those trees less than 6 inches DBH shall be replaced with the same size tree as the relocated tree.

Table A – 2. TREE REPLACEMENT	
Tree Height & DBH	**# of Replacement Trees Required**
30ft up or 9" DBH	6
Less than 30 ft or 9" DBH	4
Less than 5 ft or 3" DBH	0

(1) Replacement trees greater than 30 ft tall in Table A-2 shall be at least ten (10) feet in height and two and one-half inches (2½) DBH. Replacement trees less than 30 tall shall be at least 10' in height and one and one-half inches (1½) DBH. Palm replacement trees shall have an overall height of no less than ten (10) feet and approved for zone 10a.
(2) Tree mitigation may be addressed by the use of Florida Friendly Landscaping and/or the introduction of wetlands and upland pines areas and may include mid size and smaller trees.
(3) All replacement trees shall consist of native vegetation indigenous to the area, and have an appropriately sized root ball and be free of disease, defects or damage that will prohibit the tree from attaining its natural growth habit. Pine trees that are selected as replacement trees shall be South Florida Slash Pine trees only. Five-gallon container native trees may be used for mitigation.(4) If the required replacement trees cannot be purchased within sixty (60) miles of the parcel, an
alternate replacement may be approved by the Town.
(5) At least twenty-five (25) percent of the trees planted as mitigation shall be the same species as the trees removed.
(6) All replacement plants specified in the General Permit are required to be accepted prior to the release of the Certificate of Occupancy, unless otherwise approved by the Town.
(7) Monitoring time frames for all replacement plants specified in the General Permit shall be established as permit conditions.

(8) Mitigation vegetation, other than trees, may be approved by the Town providing the vegetation is native and indigenous to the area.

(9) For parcels that have a conservation easement requirement from the SFWMD, where the dedication of upland buffers around a wetland is included as wetland mitigation, any trees installed within the dedication upland buffer may apply to the tree replacements required in **Table A-2**.

(10) All replacement trees must survive at least within 1 year of planting and must be replaced as often as necessary for the replacement to live beyond 1 year.

(11) Specimen or Champion trees are not subject to cutting, relocation or mitigation without approval of the Town Council.

(C) Mitigation Waivers. Mitigation requirements may be waived for residential single family properties for the clearing area of the house pad and attached structures, the septic system, driveway and a fifty foot buffer area around the house. This shall be determined by the Town on a case-by-case basis, after determination that the parcel owner is providing a building location that minimizes impacts to native vegetation to maximum extent practicable.

(D) Mitigation Deferrals. The Town shall provide for a parcel to be cleared for bona fide agriculture use consistent with state requirements without concurrent mitigation. The cost to comply with the requirement to quantify the complete tree mitigation specification or a tree survey may be a deterrent to bona fide agriculture in some cases. The Town may shall require that the parcel owner record a restrictive covenant on a Town approved form limiting the parcel to bona fide agriculture use, and requiring the parcel owner to make a cash donation to the Loxahatchee Groves Tree Mitigation Trust Fund, or to mitigate in accordance with **Table A-2** at the time of a zoning or land use change. The restrictive covenant shall include language quantifying the complete tree mitigation specifications required at the time of conversion. Any restrictions presently in place by county or state must be included.

(E) Alternative Mitigation. Alternative mitigation proposals that meet the purpose and intent of this Chapter may also be submitted and will be reviewed on a case-by-case basis. Alternative mitigation proposals require approval by the Town Council prior to issuance of a General permit. Any alternative mitigation which is proposed must remain within the Town.

(F) Mitigation for Violations. When native trees that are 3 inches DBH or greater are removed or are damaged without a permit, or when trees that were to be preserved in place are damaged or destroyed by activities conducted with a permit, those native trees shall be replaced at double the rate shown in the **Table A–2** and may be subject to additional fines at the discretion of the Town Council.

SECTION 7. APPEALS

(A) Appeal. An applicant for any permit may appeal a final determination made by the Town's permitting authority to the Town Council.

(B) Submittal. A written request for an appeal and the filing fee must be submitted within 45 calendar days of the applicant's receipt of the decision by the Town's permitting authority. The appeal must state with specificity the reasons for the appeal and shall contain such data and documentation upon which the applicant seeks to rely. Failure to file within such time frame shall constitute a waiver of a person's right of review by the Town Council.

(C) Hearing. The appeal shall be reviewed at a hearing by the Town Council no later than 60 calendar days following the Town's receipt of a request and the required filing fee. The hearing

shall be quasi-judicial and shall be conducted pursuant to the procedures set forth within the Town's Unified Land Development Code.

(D) Judicial Relief. An applicant may appeal a final written order of the Town Council to the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, as provided by law.

SECTION 8. VIOLATIONS

(A) Violations. A violation shall be the failure to comply with the requirements of this Chapter or with a condition of a permit issued by the Town pursuant to this Chapter. Each condition or requirement violated and each occurrence of a violation shall constitute as a separate violation.

(B) Enforcement. The Town shall enforce the provisions of this Chapter by any lawful means including, but not limited to, issuing a civil citation, bringing charges before the Town Special Magistrate, and seeking injunctive and equitable relief. To enforce compliance with this Chapter, the Town may issue a cease and desist order or require that a building permit or Certificate of Occupancy be withheld. A violation of this Chapter shall be punishable by one or more of the following:

(1) Up to quadruple permit fees for violations involving activities conducted without a valid permit that may otherwise have been permitted;
(2) Up to quadruple permit modification fees for activities conducted with a valid permit that are inconsistent with the stated permit conditions and result in a need to modify the existing permit;
(3) Any applicable remedies under Chapters 166 and 162, Florida Statutes, as may be amended from time to time, including without limitation daily fines of up to $250 per day for an initial violation and $500 per day for repeat violators;
(4) A fine of up to $5000 per tree when a tree is Effectively Destroyed, and up to $10,000 per tree for Champion Trees that are Effectively Destroyed;
(5) Remedial actions to restore the property to pre-violation conditions;
(6) The Town may take any other appropriate legal action, including, but not limited to, administration action, and the issuance of temporary and permanent injunctions to enforce the provisions of this Chapter;
(7) Costs of enforcement; and,
(8) On-site mitigation pursuant to this Chapter.

(C) Violation Fees. Violation fees may be required as established by Resolution of the Town Council. All monies collected as civil penalties for violations of this Chapter shall be paid to the Town of Loxahatchee Groves for the Loxahatchee Groves Tree Mitigation Trust Fund.