

Pembroke Pines Bald Eagle Sanctuary Steering Committee

DRAFT Eagle Ordinance Agenda Item, June 1, 2009 Revised for July 20, 2009 Meeting

These issues may require formal action by City government:

- Designation of **PEMBROKE PINES BALD EAGLE SANCTUARY**
- Ordinance to assure protection of Bald Eagles nesting within the City
- **Regulation of disturbances on utility easements (requires interagency coordination & agreements rather than legal action)**

PEMBROKE PINES BALD EAGLE SANCTUARY (Revised July 20, 2009)

1 Establish Bald Eagle Sanctuary

- **Enactment: Proclamation (no conveyance of property)**
- Rationale for designating sanctuary (see appended draft “WHERAS” List))
- Describe the location and property parcels
A rectangular area of approximately 24 acres, consisting of two adjacent undeveloped City-owned parcels, at the southwest corner of Pines Boulevard and 208th Avenue, occupying approximately 880 foot frontage westward along the south side of Pines Boulevard, and extending approximately 1200 feet to the south.
- Eastern portion: 649960 SF (14.9 acres).
FOLIO: 513915070011 OWNER: CITY OF PEMBROKE PINES; LEGAL: CHAMBERS PLAT II 147-29 B PART OF PARCEL A INC'D IN FOL DESC'D PROP, COMM AT NW COR OF PARCEL A OF CHAMBERS PLAT I, ELY
- Western portion: 395,480 SF (9.0 acres)
FOLIO: 513915060021 OWNER: CITY OF PEMBROKE PINES; LEGAL: CHAMBERS PLAT I 147-28 B THAT PT OF PARCELS B & C INC'D IN FOLLOWING DESC'D PROP, TO WIT COMM AT NW COR OF PARCEL A, E ALG
- Goals: Protection, Security, Public Safety
- Duration of Designation /Termination: May be Indefinite, for a fixed term, or (preferably):
Designation as a Sanctuary may be terminated after the property has not contained an “Active” or “Alternate Nest” for six or more consecutive nesting seasons, and there is no evidence of an “Active Territory” within 2 miles of the Sanctuary.

2. Modification of property deeds/easements and designations **not necessary?**

3. Amend existing City Planning and land use instruments

4. Specify City agency responsibilities

- Planning
- Construction
- Maintenance
- Enforcement

DRAFT PEMBROKE PINES BALD EAGLE HABITAT PROTECTION ORDINANCE

(Adapted from Chris Hrabovsky's City of Tarpon Springs DRAFT)

(A) Purpose and Findings

In order to preserve the habitat and maintain a stable or increasing population of the bald eagle (*Haliaeetus leucocephalus*) in the City of Pembroke Pines, it is necessary and appropriate to protect the immediate area surrounding bald eagle nests. The purpose of this ordinance is to exercise the City's zoning powers to limit the nature and timing of certain disturbances in the immediate environs of bald eagle nests and thereby promote national, state and county pride and esteem by allowing the national symbol to flourish within the City limits. Therefore, the City of Pembroke Pines finds it necessary to adopt this ordinance.

(B) Provisions of Ordinance Supplemental

This ordinance does not replace or modify the federal Migratory Bird Treaty Act (16 U.S.C. 703-712), the federal Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c), the state rule F.A.C. 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*), the state's Bald Eagle Management Plan, or any other state or federal laws which afford protection to the bald eagle. It is intended to supplement those laws and plans, and shall apply apart from and regardless of those laws and plans. This ordinance does not purport to protect or regulate eagles, their nests or their eggs, but rather only to protect certain limited areas of bald eagle habitat within the City of Pembroke Pines.

(C) Bald Eagle Habitat Protection Regulations

(1) Any submission for site plan approval shall include a map of the site and surrounding areas, showing the locations of all confirmed or suspected bald eagle nests located on the proposed development site or within 660 feet of any site boundary. This map must be based upon the results of a comprehensive site survey conducted during the most recent bald eagle Nesting Season, and must also show the locations of any Active, Inactive, Alternate and/or Abandoned bald eagle nests included in the list of such nests maintained by the Florida Fish and Wildlife Conservation Commission.

(2) "Nesting Season" is herein defined as the period from 1 October to 15 May. "Active Nest" means a nest that shows or showed evidence of breeding by bald eagles, such as an adult attending the nest or in incubating position, a clutch of eggs, or a brood of nestlings, at any time during the current or most recent nesting season. An "Inactive Nest" is a bald eagle nest that was not used during the current or most recent nesting season. An "Alternate Nest" is a bald eagle nest that is intact or partially intact and has been used by bald eagles at any time during the past five nesting seasons, but that was not used during the current or most recent nesting season. An Inactive Nest is considered to be an Alternate Nest until it has been inactive for five consecutive nesting seasons, at which time it becomes an Abandoned Nest. Bald eagles often build multiple nests within their territory, but usually only one will be used for nesting in any given nesting season. An

“Abandoned Nest” is a bald eagle nest that is intact or partially intact but has been inactive through six or more consecutive nesting seasons. While the buffer zone surrounding the nest is no longer protected, the nest itself may not be altered.

(3) The survey identified in subsection (C)(1) shall include any nest(s) which is (are) utilized by bald eagles for the hatching and nurturing of eagle young at the time of any proposed activity within the protected radius around the nest provided for by this ordinance, or which has been so utilized by bald eagles at any time during the five-year breeding season period immediately preceding such proposed activity. Any claim that a nest has not been in use during such a five-year breeding season period must be adequately documented.

(4) All activities which require site plan approval shall be divided into two categories, as follows:

Category A:

- Building construction of one or two stories, and with a project footprint of ≤ 0.5 acre;
- Construction of roads, trails, canals, powerlines, or other linear utilities;
- New or expanded agriculture or aquaculture operations;
- Alteration of shorelines, aquatic habitat, or other wetlands;
- Installation of docks or moorings;
- Water impoundment.

Category B:

- Building construction of one or two stories, and with a project footprint of > 0.5 acre;
- Building construction of three or more stories;
- Installation or expansion of marinas with a capacity of six or more boats;
- Mining;
- Oil or natural gas drilling or refining.

(5) Habitat shall be protected within a specific radius around a bald eagle nest, as identified in the following table. No site plan shall be approved which allows any construction, modification, improvement or other activity of any kind within this protected habitat.

	<i>No Similar Activity Within 1,500 Feet of the Nest</i>	<i>Similar Activity Closer Than 1,500 Feet From the Nest</i>
<i>There is no visual buffer between the nest and the activity.</i>	Categories A and B: 660 feet.	Categories A and B: 660 feet, or as close as existing activities of similar scope.
<i>There is a visual buffer between the nest and the activity.</i>	Category A: 330 feet. Category B: 660 feet.	Categories A and B: 330 feet, or as close as existing activities of similar scope.

(6) Where protected habitat within a radius of 330 feet is required, site work and exterior construction between 330-660 feet should be performed outside the nesting season.

(D) Bald Eagle Nests Discovered After Initial Submission for Site Plan Approval

If any additional bald eagle nests are discovered subsequent to the nesting season during which the initial comprehensive site survey was conducted but prior to building permit issuance, a new comprehensive site survey and map shall be required prior to issuance of a building permit. If any new nests are identified, no building permit shall be issued which does not comply with Section (C) above, regardless of any previously approved site plan.

(E) Conforming Amendments

[Specifies or directs necessary changes to City planning and administrative documents]

DRAFT RATIONALE FOR SANCTUARY AND ORDINANCE

WHEREAS, due to loss of habitat, shooting and adverse effects of pesticide misuse, the Bald Eagle population in the lower 48 States dropped to a low of 417 nesting pairs in 1963, with less than 100 of these in Florida;

WHEREAS, protection under Federal and State laws, regulations and guidelines has resulted in an increase in the number of nesting pairs to over 10,000, with over 1,200 in Florida;

WHEREAS, in 2008, a tract of land owned by the City of Pembroke Pines was discovered to host the first active Bald Eagle nest in Broward County since DDT was abolished in 1978;

WHEREAS, according to the Florida Fish and Wildlife Conservation Commission (FWC) Bald Eagle Management Plan, Bald eagle use of urban areas is a relatively new event, and the long-term stability of urban eagle territories has not been documented fully;

WHEREAS, the Florida Natural Areas Inventory (FNAI), using a ranking system developed by The Nature Conservancy and the Natural Heritage Program Network, classifies the Bald Eagle as "demonstrably secure" statewide, but vulnerable to extinction in some restricted local areas of Florida;

WHEREAS, the Pembroke Pines Bald Eagles again nested successfully in 2009, and may be expected to return to the same breeding locale in subsequent years;

WHEREAS, the presence of the Bald Eagles in Pembroke Pines has resulted in greater public knowledge and appreciation of the birds, and led citizens to support actions by the local government to increase their protection;

WHEREAS, the desire of citizens to observe the eagles has created certain issues that may disturb the Bald Eagles during their nesting season (the period 1 October through 15 May, unless the young fledge before or after 15 May), or threaten public safety, such as approaching the nest, trespassing, obstruction of traffic, illegal parking and littering;

WHEREAS, the City of Pembroke Pines has already taken steps such as fencing, posting signs and imposing parking restrictions to improve public safety and protect the site of the nest from undue disturbance;

WHEREAS, the City of Pembroke Pines recognizes the value of the gifts of nature, and desires to participate in State and National efforts to protect the Bald Eagle;

WHEREAS, the City of Pembroke Pines recognizes that the Florida Fish and Wildlife Conservation Commission (FWC) has adopted a Bald Eagle Management Plan and an implementing regulation, Rule 68B-16.002, Florida Administrative Code and desires to work cooperatively with FWC to implement and to achieve consistency with the FWC management plan;

BE IT RESOLVED/ORDAINED/ENACTED [depending upon which instrument is to be used]

that the City of Pembroke Pines hereby designates and dedicates [legal description of the 2 tracts] as "The Pembroke Pines Bald Eagle Sanctuary" and [enacts, amends, acts to..., directs... to preserve, maintain and protect this property for the benefit of the Bald Eagles and the general public]

REFERENCES

*Florida Administrative Code [68A-16.002](#) Bald Eagle (*Haliaeetus leucocephalus*).*

RULE EFFECTIVE DATE: 5/15/2008

(1) No person shall take, feed, disturb, possess, sell, purchase or barter, or attempt to engage in any such conduct, any bald eagle or parts thereof, or their nests or eggs, except:

- (a) As authorized from the executive director by specific permit, which will be issued based upon whether the permit would advance the management plan goal and objectives;
- (b) When such conduct is consistent with the FWC Eagle Management Guidelines;
- (c) When such conduct is consistent with a previously issued permit, exemption, or authorization issued by the FWC under imperiled species regulations (Chapter 68A-27, F.A.C.) or by the USFWS under the Endangered Species Act (U.S.C. 1531 et seq.).

(2) For purposes of this section, the term “disturb” is defined as, “To agitate or bother a bald eagle to the degree that causes, or is likely to cause (a) injury to an eagle, (b) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (c) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”

(3) On public land, it is unlawful for any person to knowingly enter any area posted as closed for the protection of bald eagles, their nests, or their nest trees, except the staff or authorized agents of the managing public entity for that area, or as authorized pursuant to subsection (1).

(4) The section of the Bald Eagle Management Plan entitled “Permitting Framework April 2008,” which includes the FWC Eagle Management Guidelines, is incorporated herein by reference.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.2223 FS. History–New 5-15-08.

GLOSSARY

Abandoned Nest: A bald eagle nest that is intact or partially intact but has been inactive through six or more consecutive nesting seasons. While the buffer zone surrounding the nest is no longer protected, the nest itself may not be altered. Compare with Alternate Nest.

Active Nest: A nest that shows or showed evidence of breeding by bald eagles, such as an adult attending the nest or in incubating position, a clutch of eggs, or a brood of nestlings, at any time during the current or most recent nesting season.

Active Territory: A bald eagle nesting territory that contains or contained an active nest at any time during the current or most recent nesting season.

Alternate Nest: A bald eagle nest that is intact or partially intact and has been used by bald eagles at any time during the past five nesting seasons, but that was not used during

the current or most recent nesting season. An inactive nest is considered to be an alternate nest until it has been inactive for five consecutive nesting seasons, at which time it becomes an Abandoned Nest. Bald eagles often build multiple nests within their territory, but usually only one will be used for nesting in any given nesting season. Compare with Abandoned Nest.

Inactive Nest: A bald eagle nest that was not used during the current or most recent nesting season. See Abandoned Nest and Alternate Nest.

Nest: A structure of sticks created, modified, or used by bald eagles for reproduction, whether or not reproduction was successful. Most nests are in living trees, but some nests are built in snags, on communication towers or other artificial structures, or on the ground. Most eagle territories contain more than one nest; the average across the eagle's range is 1.5 nests/territory. See also Abandoned Nest, Active Nest, and Alternate Nest.

Nesting Season: In Florida, the period 1 October–15 May, unless the young fledge before or after 15 May.

