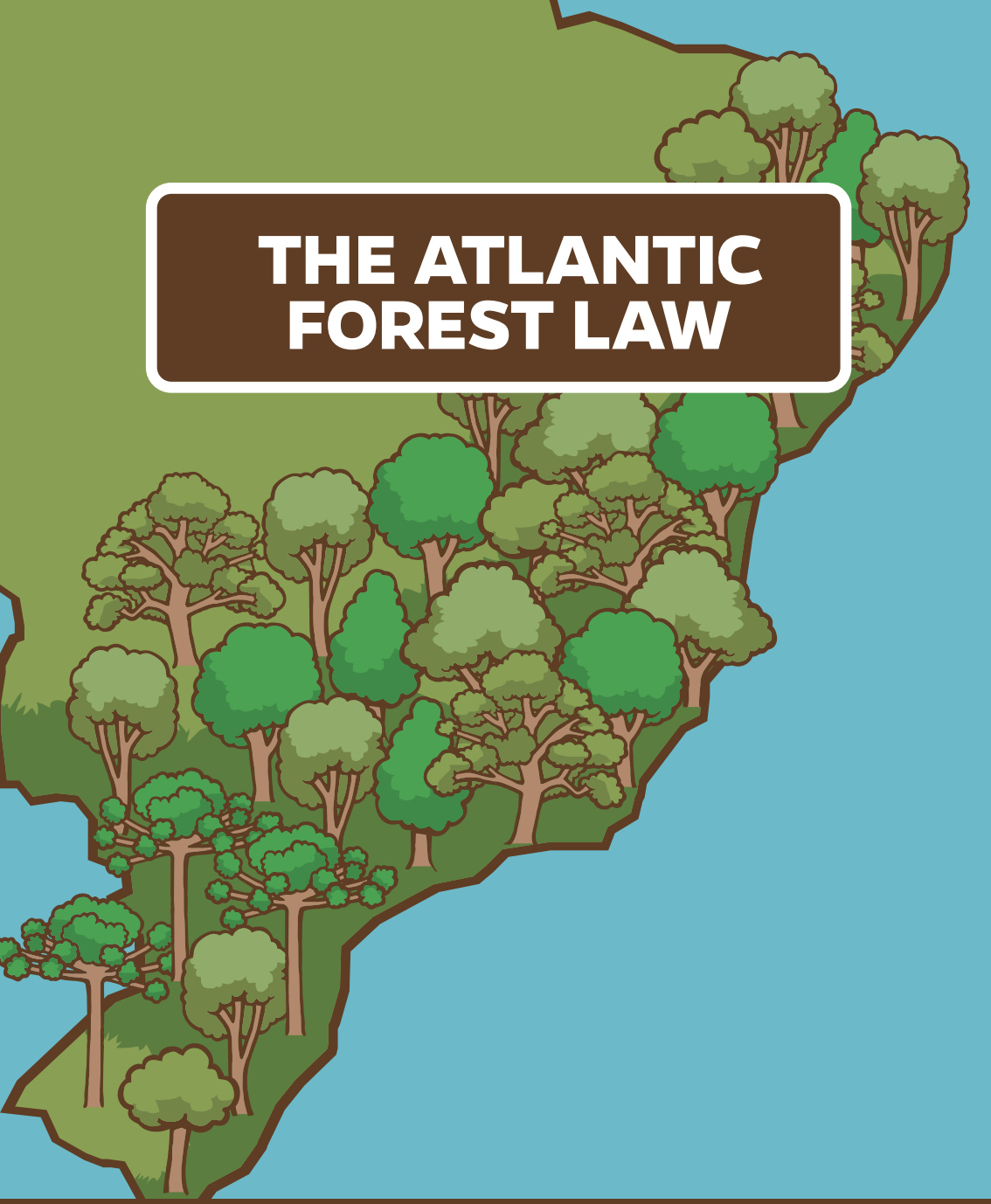

THE ATLANTIC FOREST LAW

MAIN REGULATIONS FROM FEDERAL LAW **11.428/06**

This material has been developed by the Center for the Defense of the Atlantic Forest (NUMA), Public Prosecutor's Office of Bahia State

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Acknowledgment
During its 10-year history, NUMA's staff has always included excellent officers from the Public Prosecutor's Office of Bahia State (MP/BA) and Public Prosecutors, acting in various regions of the state. Through wise dialogue, NUMA has established important partnerships with public institutions, private and third-sector entities, which allowed it to make outstanding interventions in the defense and recovery of the Atlantic Forest biome. At this time of celebration, it is our duty to pay a deserved tribute to NUMA's creator and first coordinator, **Dr. Antonio Sérgio dos Anjos Mendes**. Possessing an immense ability to aggregate and motivate, along with an enviable knowledge of the law, he managed to seed, within the institution, the idea of a specialized, regional-level, and proactive legal practice. Thanks to his efforts, NUMA has become a benchmark and a source of pride for all defenders of the Atlantic Forest.

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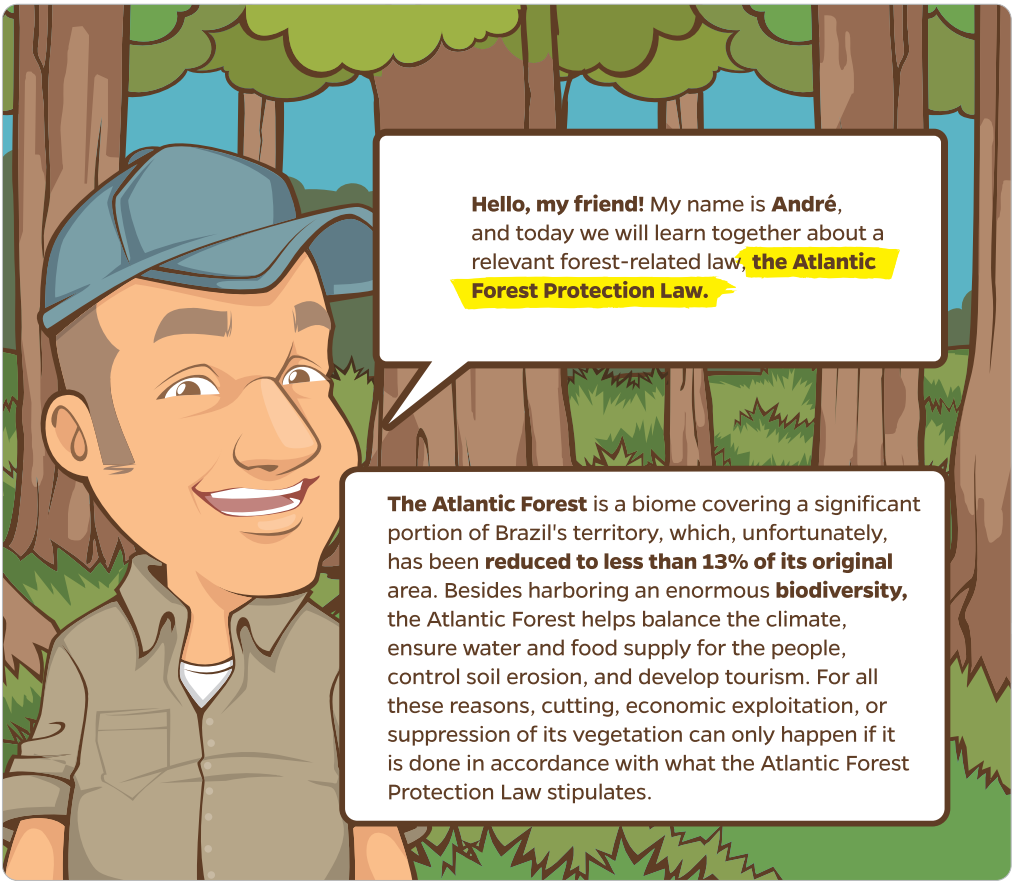

Hello, my friend! My name is André, and today we will learn together about a relevant forest-related law, the Atlantic Forest Protection Law.
The Atlantic Forest is a biome covering a significant portion of Brazil's territory, which, unfortunately, has been reduced to less than 13% of its original area. Besides harboring an enormous biodiversity, the Atlantic Forest helps balance the climate, ensure water and food supply for the people, control soil erosion, and develop tourism. For all these reasons, cutting, economic exploitation, or suppression of its vegetation can only happen if it is done in accordance with what the Atlantic Forest Protection Law stipulates.


Specific protection for the Atlantic Forest has been in place since 1993, when Decree 750 was issued, and currently the allowed uses of its resources are defined in Federal Law 11.428/06. Did you know that the Atlantic Forest is the only Brazilian biome which is protected by a specific Law? This shows how important it is!
1
1st Place

You probably have heard about **the New Forest Code** (Federal Law 12.651/12), which defines a series of rules related to certain environmentally protected spaces, such as Permanent Preservation Areas **(APP)** and Legal Reserve **(RL)** areas.

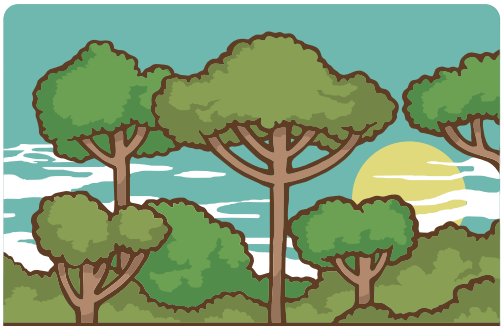
However, as long as we are in the Atlantic Forest, first of all we must observe the **restrictions on the use and exploitation of the native** vegetation, defined by Federal Law 11.428/06. Only after determining that the intended activity in the Atlantic Forest is permissible according to this law, are we allowed to proceed to check if other legal requisites, such as those from the New Forest Code, must be observed and fulfilled.

Regardless of whether the **environmental licensing** of an activity or enterprise is made by the Federal Government, by the State, or by the Municipality, the suppression of the Atlantic Forest's native vegetation may only **be authorized by the competent environmental institution specified in Law 11.428/06.**

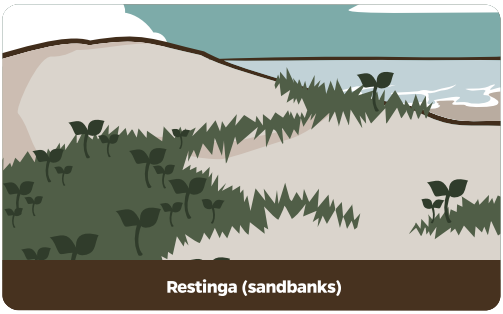
You must be asking yourself, where is Federal Law 11.428/06 applicable? The map to the left shows the areas where the Atlantic Forest can be found. Note that there are various **forest formations and associated ecosystems** which are part of this biome*. Let's see some examples:

States: Alagoas (AL), Bahia (BA), Ceará (CE), Espírito Santo (ES), Piauí (PI), Goiás (GO), Mato Grosso do Sul (MS), Minas Gerais (MG), Rio de Janeiro (RJ), São Paulo (SP), Paraíba (PB), Pernambuco (PE), Paraná (PR), Santa Catarina (SC), Sergipe (SE), Rio Grande do Norte (RN), and Rio Grande do Sul (RS).

Deciduous Seasonal Forest



Mixed Ombrophilous Forest (Araucaria Forest)



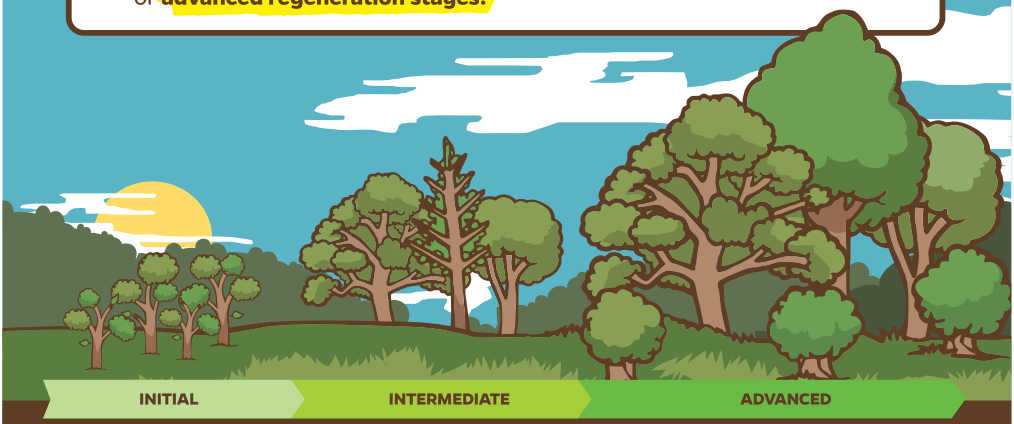
Restinga (sandbanks)

Mangrove

*The following vegetation types are considered integral parts of the Atlantic Forest biome, with their geographic delimitations for legal purposes being defined by a map produced by the Brazilian Institute of Geography and Statistics (IBGE): Dense Ombrophilous Forest, Mixed Ombrophilous Forest (Araucaria Forest), Open Ombrophilous Forest, Semideciduous Seasonal Forest, Deciduous Seasonal Forest, Mangroves, Restinga (sandbank) vegetation, Highland Fields, Inland Swamps and Forest Enclaves of Northeastern Brazil.

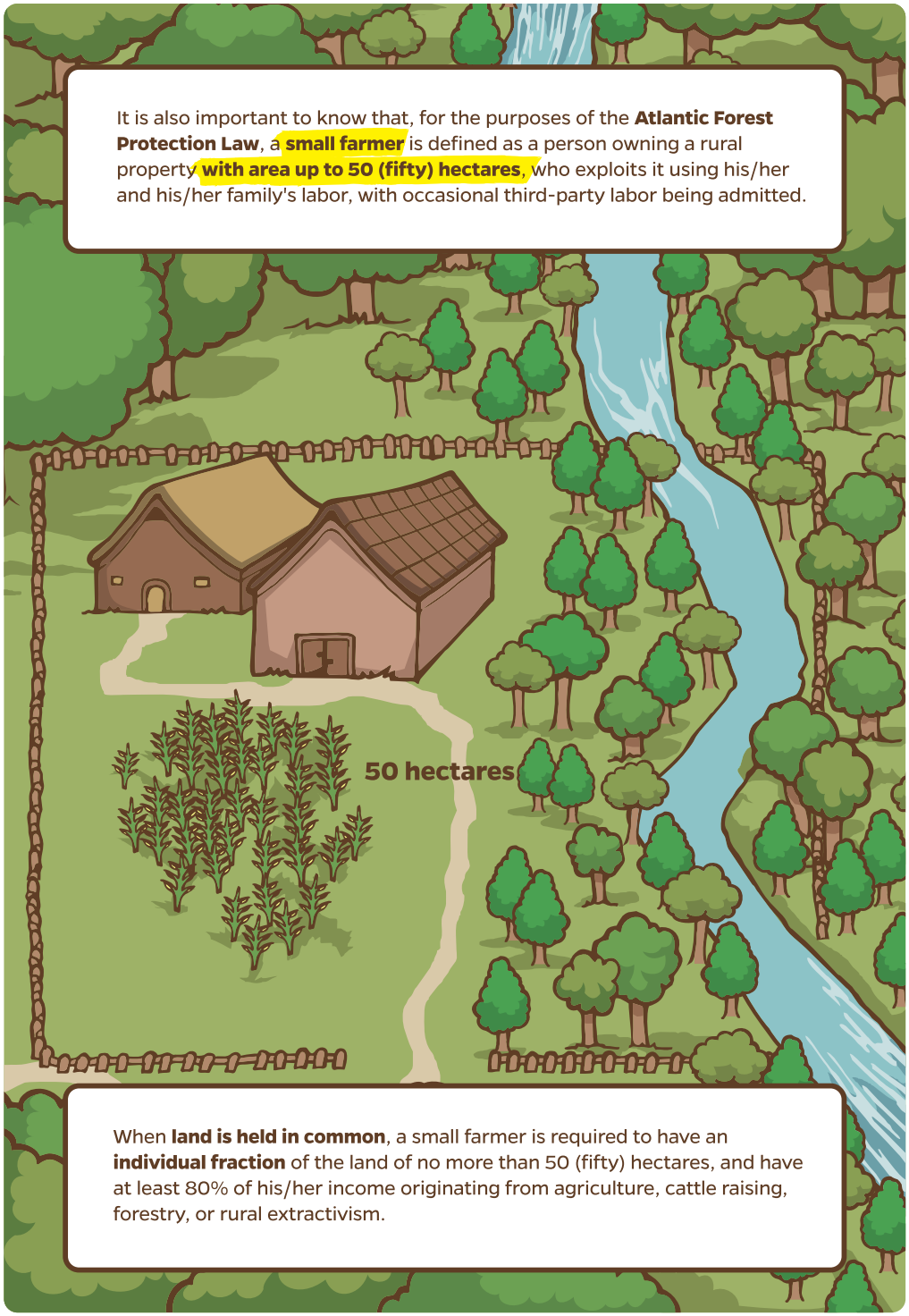
In order to understand what the Law permits or forbids, you need to be familiar with the concept of **primary vegetation**, that is, vegetation which suffered minimal human intervention, which did not affect its original characteristics (structure and species composition).

Another key concept is that of secondary vegetation, or vegetation in process of regeneration. This vegetation type results from natural ecological succession processes, after an area has been completely or partially deforested. Secondary vegetation may be in **the initial**, **intermediate**, or **advanced regeneration stages.**



Vegetation will **not lose its classification** into one of the above types in case of **fire, deforestation, or any other kind of unauthorized intervention!**

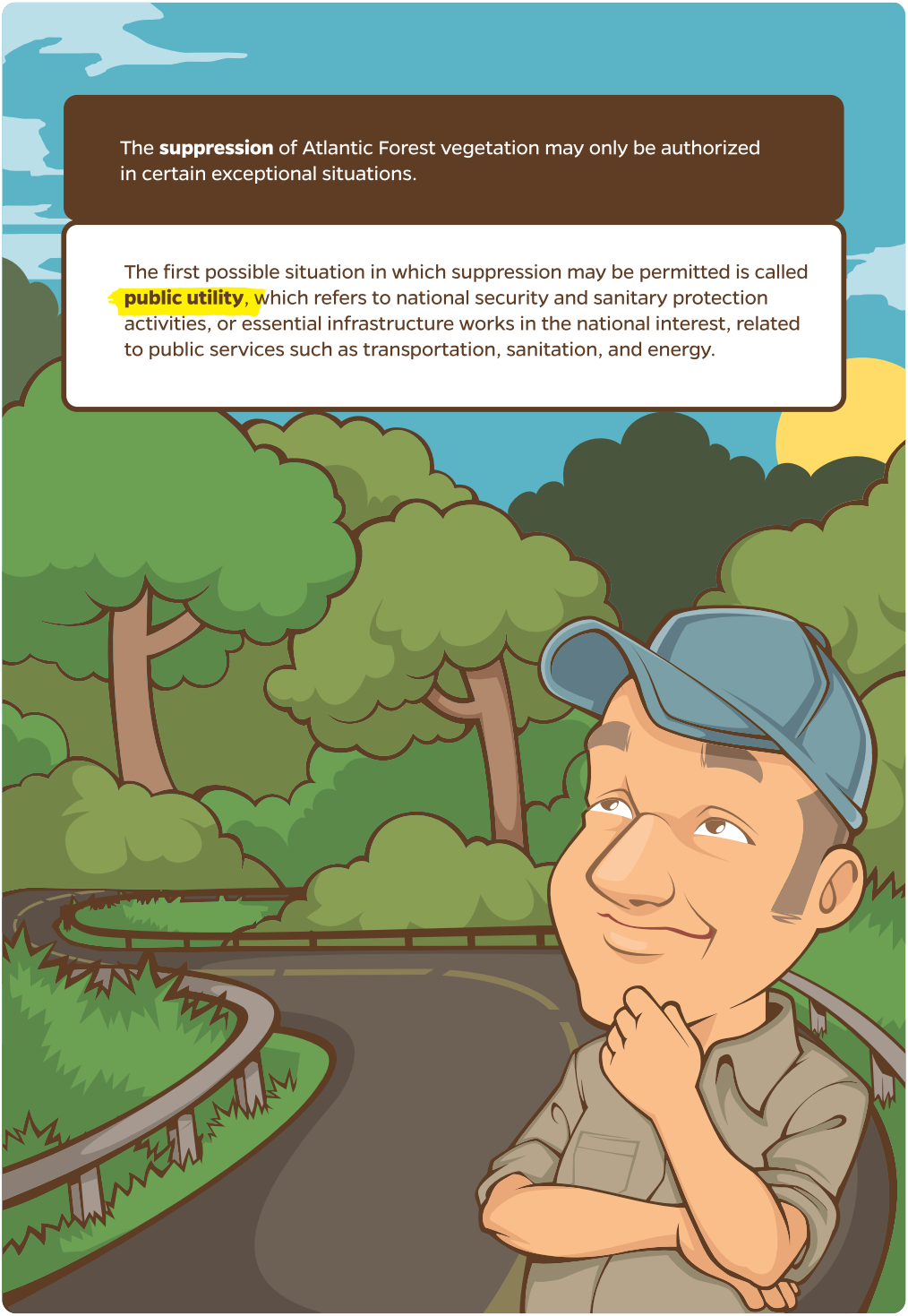
It is also important to know that, for the purposes of the **Atlantic Forest Protection Law**, a **small farmer** is defined as a person owning a rural property **with area up to 50 (fifty) hectares**, who exploits it using his/her and his/her family's labor, with occasional third-party labor being admitted.



When **land is held in common**, a small farmer is required to have an **individual fraction** of the land of no more than 50 (fifty) hectares, and have at least 80% of his/her income originating from agriculture, cattle raising, forestry, or rural extractivism.

The **suppression** of Atlantic Forest vegetation may only be authorized in certain exceptional situations.

The first possible situation in which suppression may be permitted is called **public utility**, which refers to national security and sanitary protection activities, or essential infrastructure works in the national interest, related to public services such as transportation, sanitation, and energy.

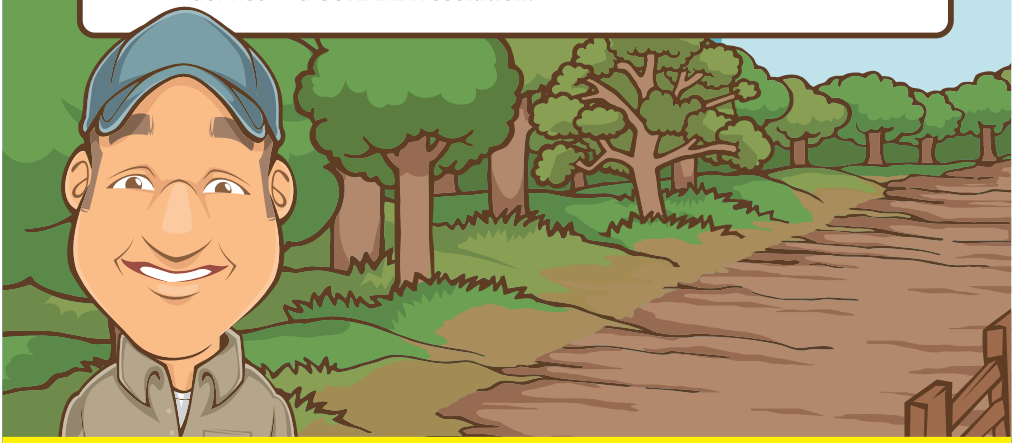


The other situation in which suppression of the native vegetation may be permitted is that of activities of **social interest**, namely:

01 **Essential activities for protecting the integrity of native vegetation,** such as fire prevention, fighting, and control, soil erosion control, eradication of invading plant species, and protection of areas planted with native species, as stipulated in a resolution from the National Environmental Council (CONAMA).

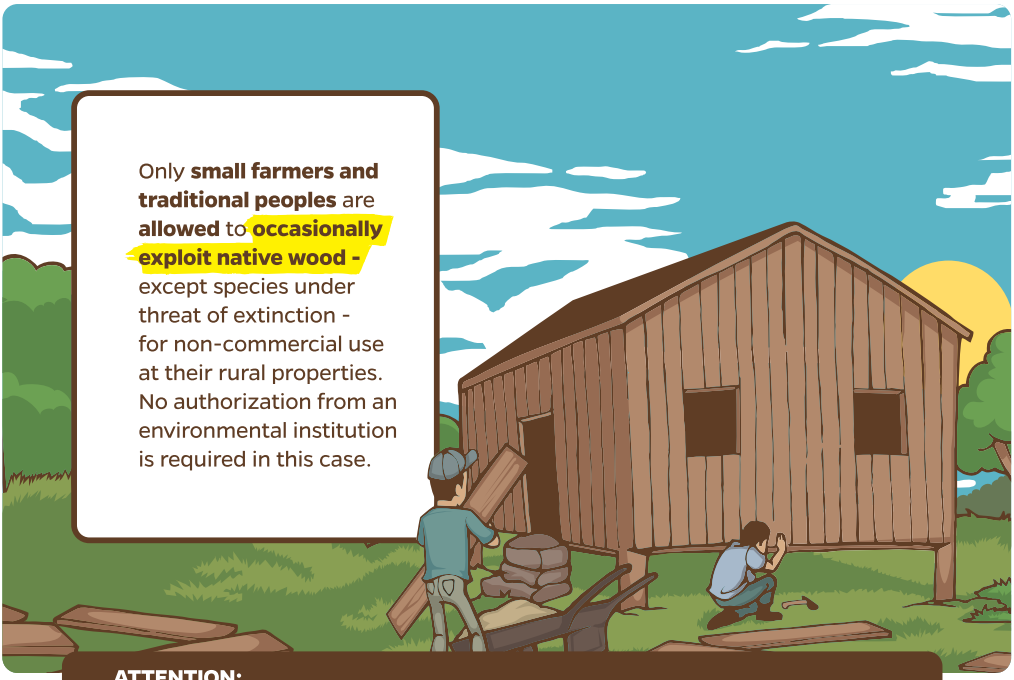
02 **Sustainable agroforestry management** activities performed on a small farm or rural land held in common by a family, as long as they do not disfigure the vegetation cover and do not harm the environmental function of the area.

03 Other works, plans, activities, or projects, as defined in a **CONAMA resolution.**



Firebreak - Suppression of vegetation on a strip along fences and boundaries in order to prevent the propagation of fire.

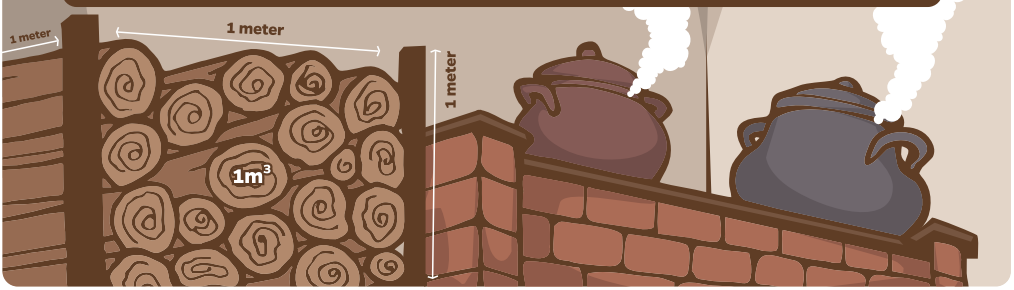
Sustainable agroforestry management.

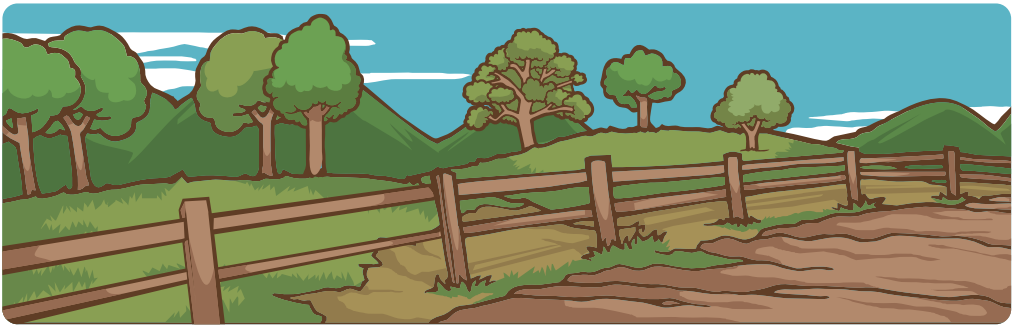


Only **small farmers and traditional peoples** are **allowed** to **occasionally exploit native wood -** except species under threat of extinction - for non-commercial use at their rural properties. No authorization from an environmental institution is required in this case.

ATTENTION:

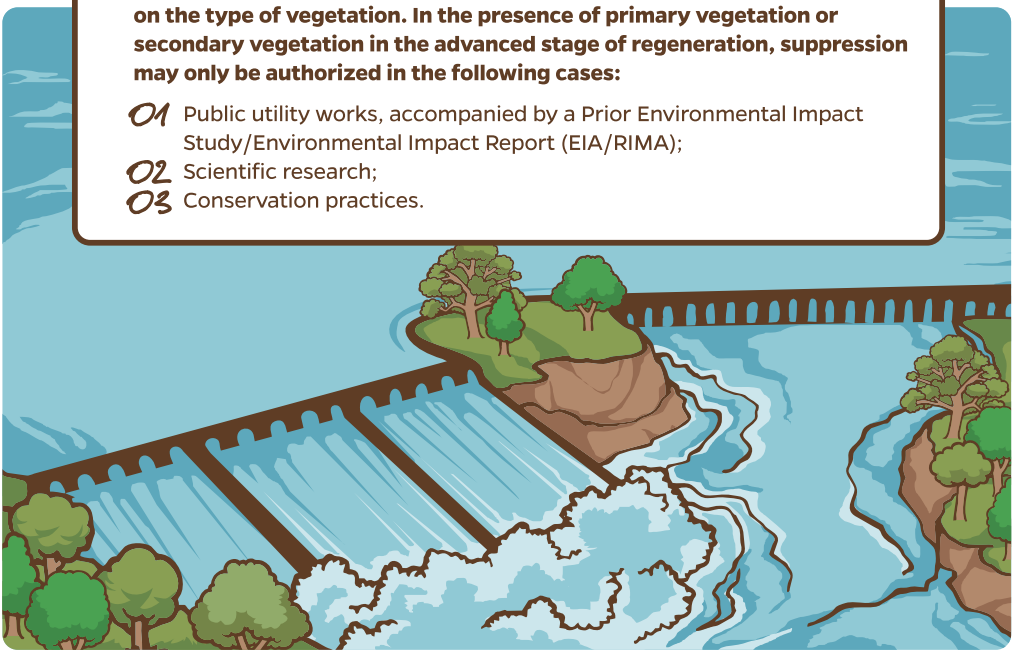
The extraction of **firewood** for domestic use cannot exceed **15 cubic meters** per year. The extraction of wood for **construction of improvements and utensils** in one's rural property cannot exceed **20 cubic meters every 3 years.**





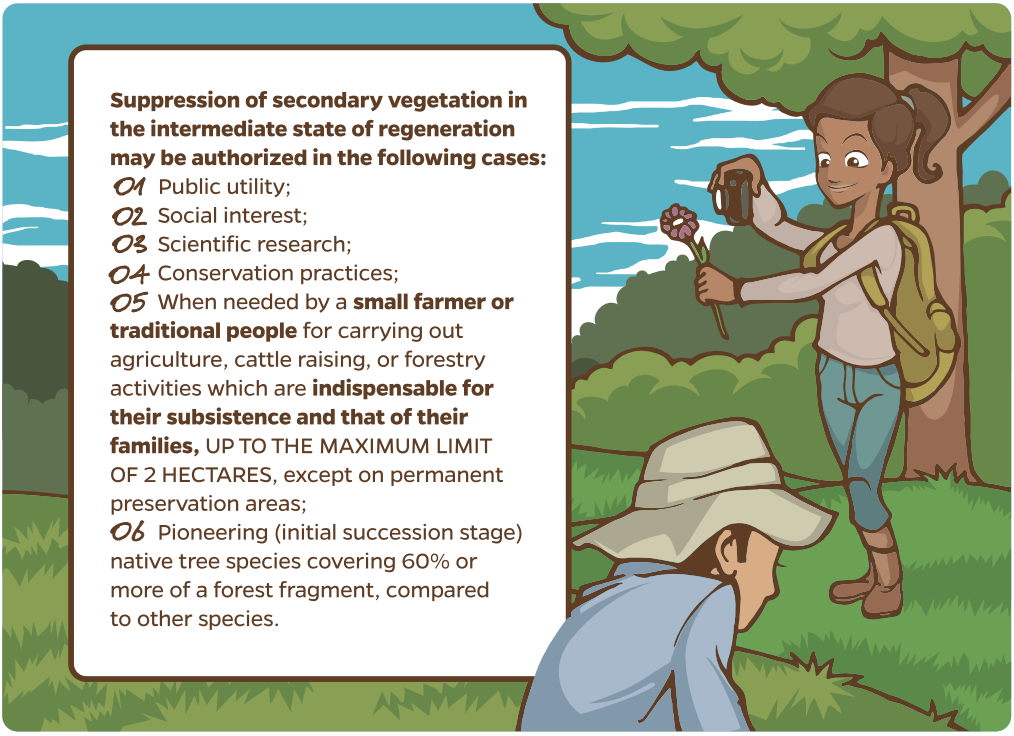
The general rules about the suppression of native vegetation depend on the type of vegetation. In the presence of primary vegetation or secondary vegetation in the advanced stage of regeneration, suppression may only be authorized in the following cases:

01 Public utility works, accompanied by a Prior Environmental Impact Study/Environmental Impact Report (EIA/RIMA);
02 Scientific research;
03 Conservation practices.

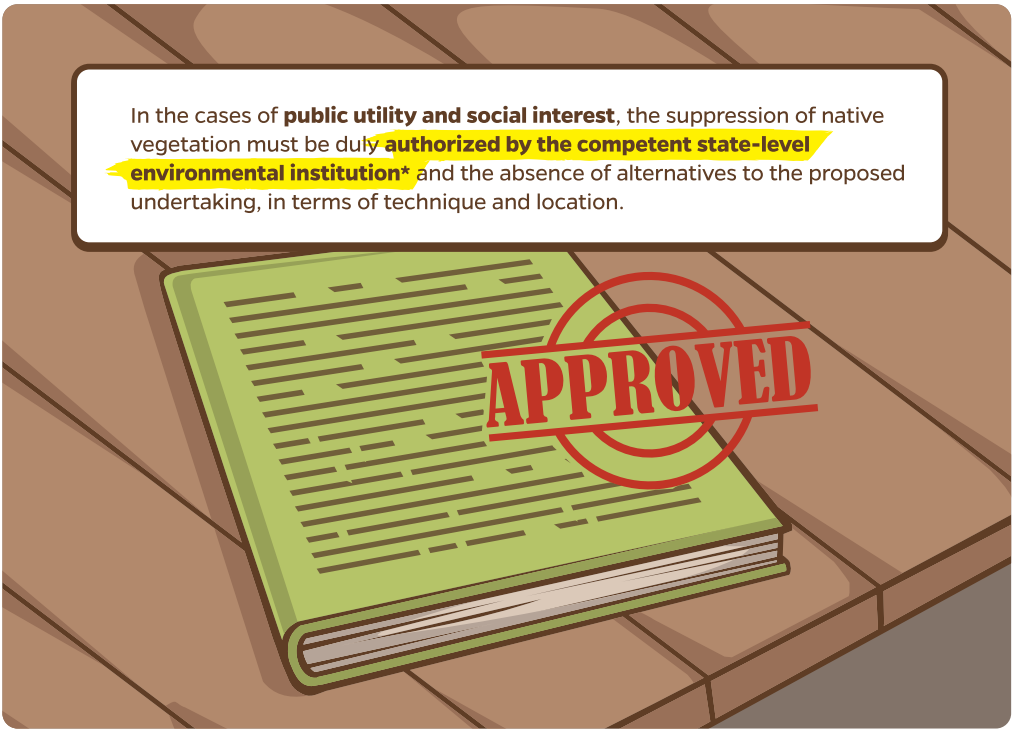


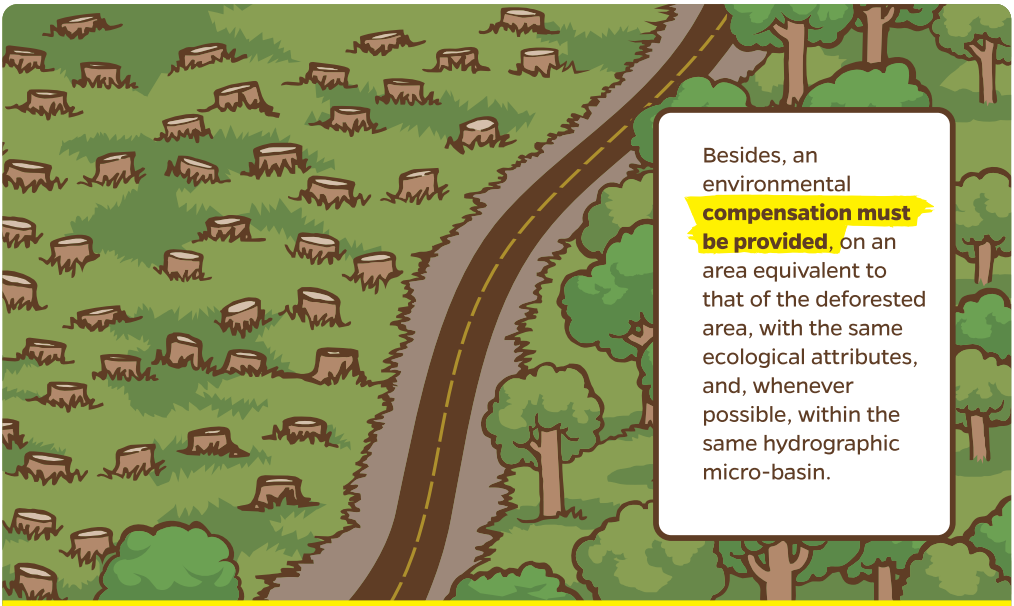
Suppression of secondary vegetation in the intermediate state of regeneration may be authorized in the following cases:

01 Public utility;
02 Social interest;
03 Scientific research;
04 Conservation practices;
05 When needed by a **small farmer or traditional people** for carrying out agriculture, cattle raising, or forestry activities which are **indispensable for their subsistence and that of their families,** UP TO THE MAXIMUM LIMIT OF 2 HECTARES, except on permanent preservation areas;
06 Pioneering (initial succession stage) native tree species covering 60% or more of a forest fragment, compared to other species.



In the cases of **public utility and social interest**, the suppression of native vegetation must be duly **authorized by the competent state-level environmental institution*** and the absence of alternatives to the proposed undertaking, in terms of technique and location.





Besides, an environmental **compensation must be provided**, on an area equivalent to that of the deforested area, with the same ecological attributes, and, whenever possible, within the same hydrographic micro-basin.

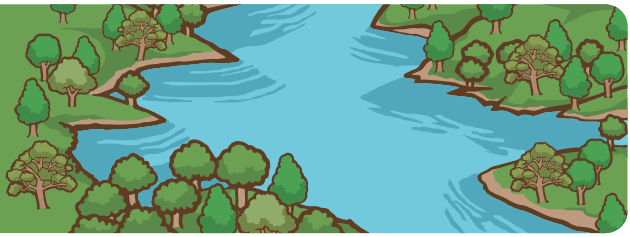
*In addition, approval by the competent federal institution will be required if the suppression of native vegetation will exceed **50 hectares** per enterprise, in **rural areas**, or **3 hectares, in urban or metropolitan areas.** As a rule, other cases involving suppression of native vegetation are authorized by the competent state-level environmental institution.

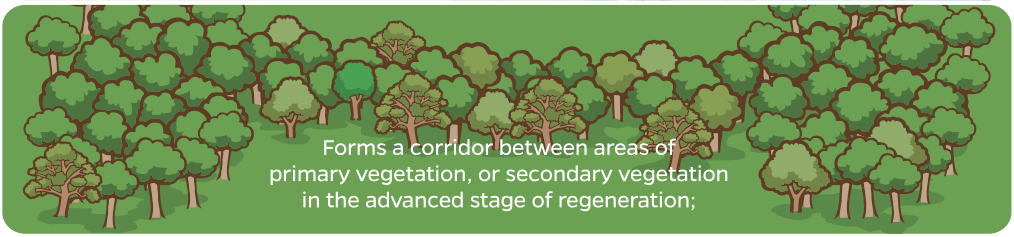
In all cases, **deforestation is forbidden** if the area:

Is part of a rural property which has not respected its Permanent Preservation Areas (APP) and Legal Reserve (RL) areas;

Harbors wild animal and plant species threatened with extinction, and the suppression of vegetation puts their survival at risk;

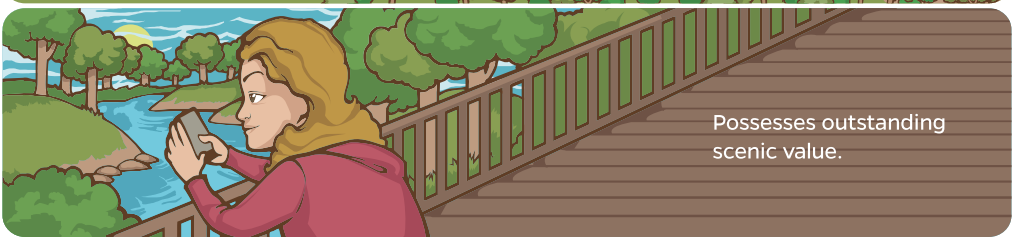
Plays a role in protecting springs or in preventing and controlling soil erosion;





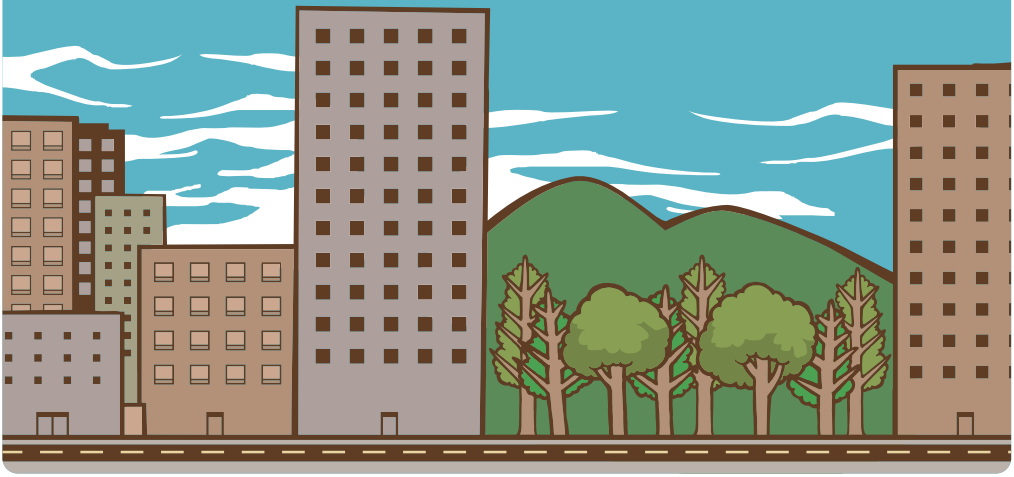
Forms a corridor between areas of primary vegetation, or secondary vegetation in the advanced stage of regeneration;

Protects the vicinity of protected areas;

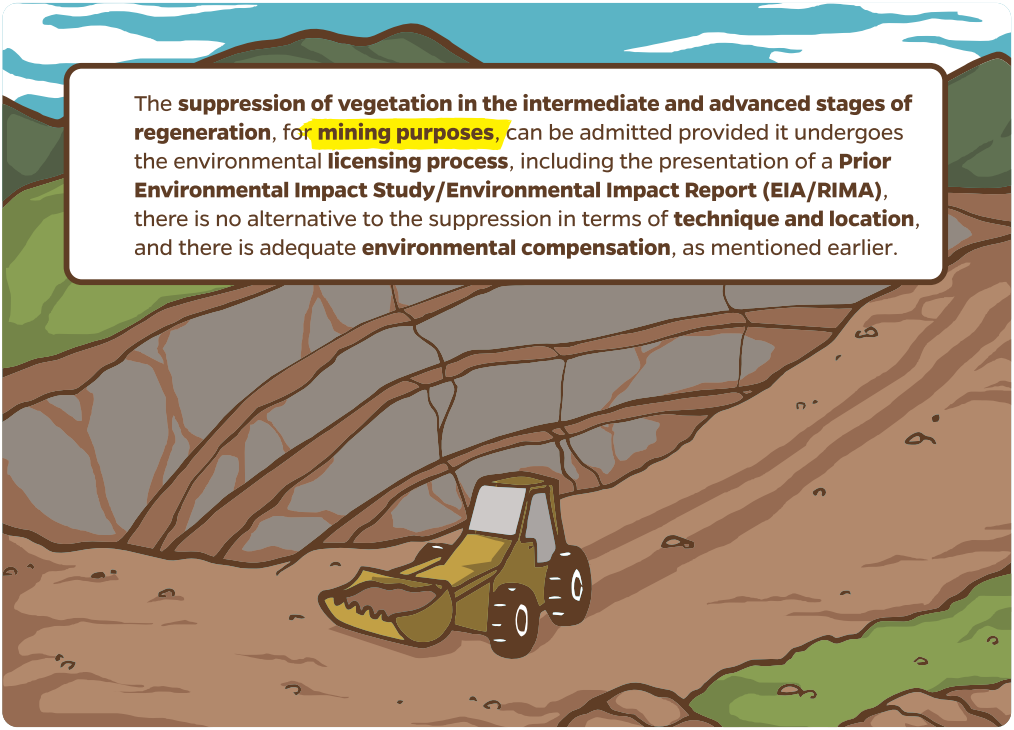


Possesses outstanding scenic value.

The **suppression of vegetation in the intermediate state of regeneration**, located in an **urban area**, requires **authorization by the competent municipal** environmental institution, with previous **approval by the competent state-level institution**, provided the municipality in question has both an **Environmental Council, with deliberative powers, and a Directive Plan**.



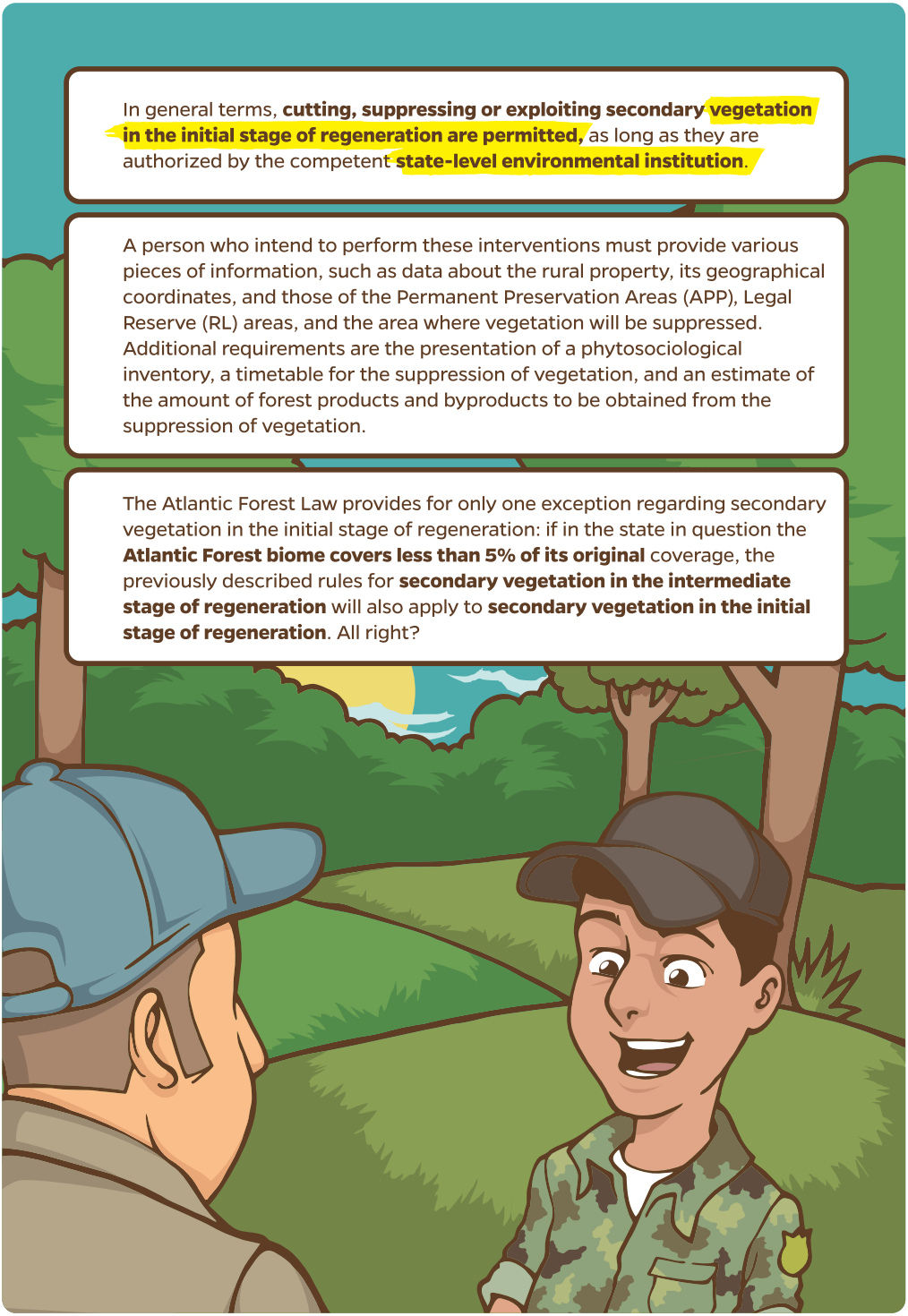
The **suppression of vegetation in the intermediate and advanced stages of regeneration**, for **mining purposes**, can be admitted provided it undergoes the environmental **licensing process**, including the presentation of a **Prior Environmental Impact Study/Environmental Impact Report (EIA/RIMA)**, there is no alternative to the suppression in terms of **technique and location**, and there is adequate **environmental compensation**, as mentioned earlier.



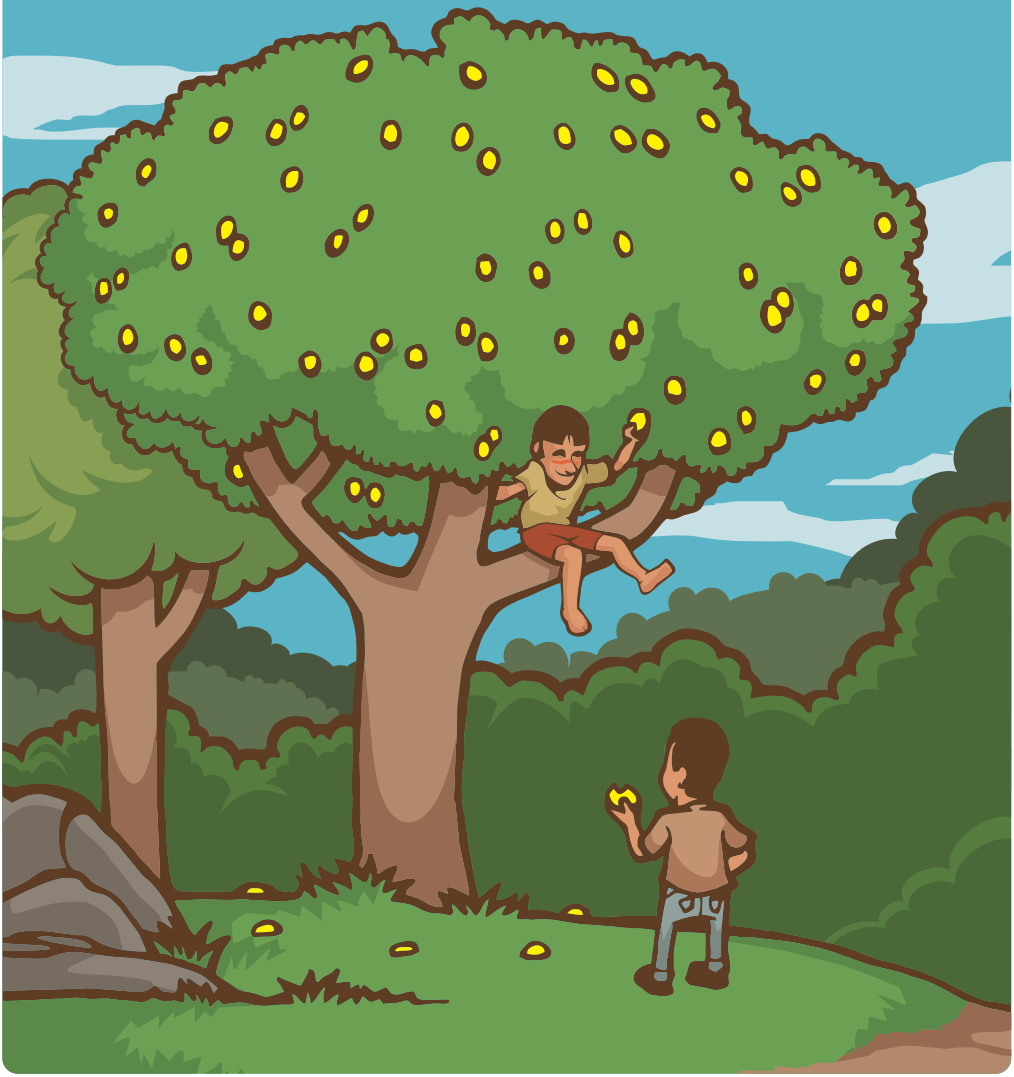
In general terms, **cutting, suppressing or exploiting secondary vegetation in the initial stage of regeneration are permitted,** as long as they are authorized by the competent **state-level environmental institution**.

A person who intend to perform these interventions must provide various pieces of information, such as data about the rural property, its geographical coordinates, and those of the Permanent Preservation Areas (APP), Legal Reserve (RL) areas, and the area where vegetation will be suppressed. Additional requirements are the presentation of a phytosociological inventory, a timetable for the suppression of vegetation, and an estimate of the amount of forest products and byproducts to be obtained from the suppression of vegetation.

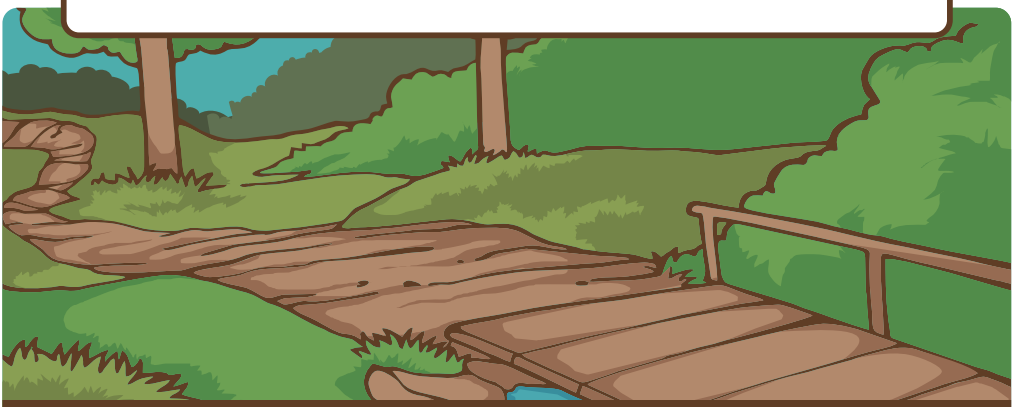
The Atlantic Forest Law provides for only one exception regarding secondary vegetation in the initial stage of regeneration: if in the state in question the **Atlantic Forest biome covers less than 5% of its original** coverage, the previously described rules for **secondary vegetation in the intermediate stage of regeneration** will also apply to **secondary vegetation in the initial stage of regeneration**. All right?



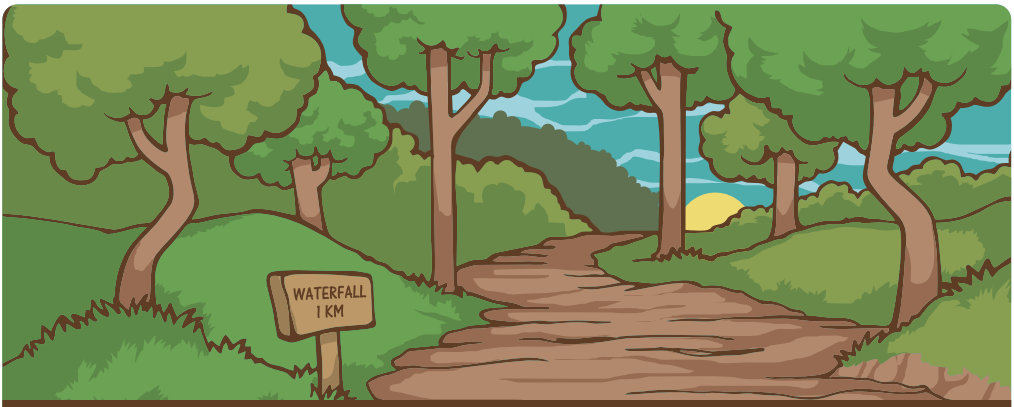
The **collection of forest byproducts (non-timber forest products)**, such as fruit, leaves, and seeds, is **free**, along with the so-called i**ndirect-use activities**, as long as they do not endanger the animal or plant species present in the area.



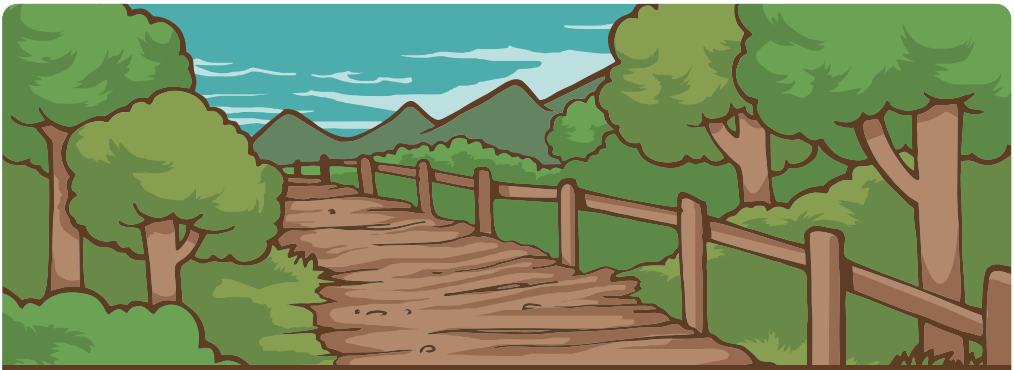
Indirect-use activities include:



Opening small paths and access corridors;

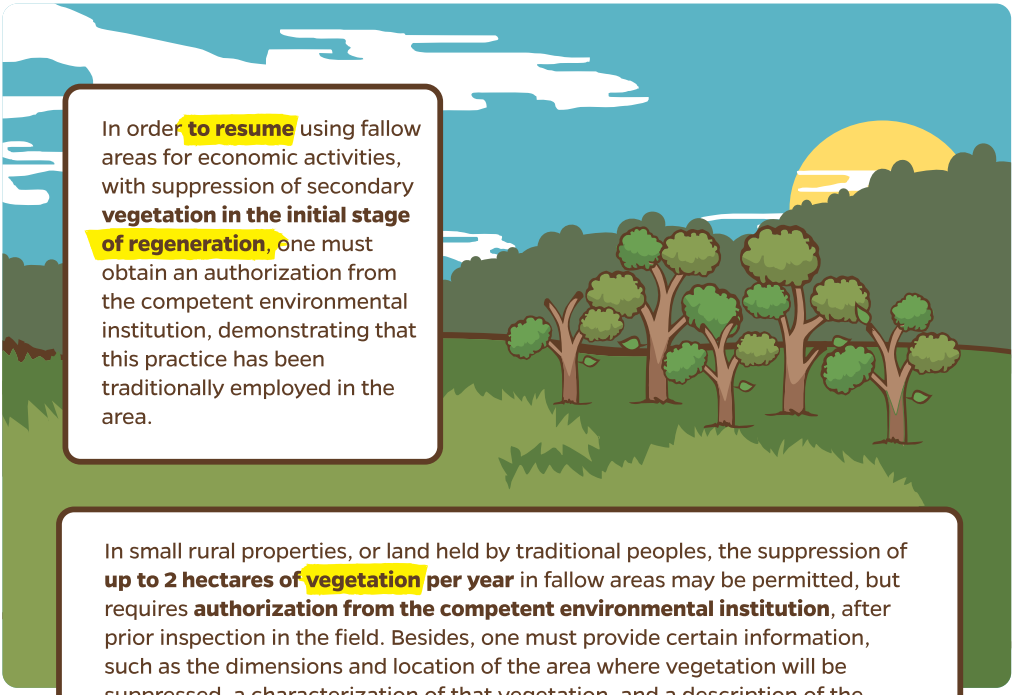


Trails for developing ecotourism activities;



Creating firebreaks for forest fire prevention and fighting; building and maintaining fences at property boundaries.

An important concept is that of **fallow land**, that is, land in which agriculture, cattle raising, exploitation of forest products, and forestry activities are intentionally interrupted for up to **10 years** in order to allow the soil fertility to recover.



In order **to resume** using fallow areas for economic activities, with suppression of secondary **vegetation in the initial stage of regeneration**, one must obtain an authorization from the competent environmental institution, demonstrating that this practice has been traditionally employed in the area.

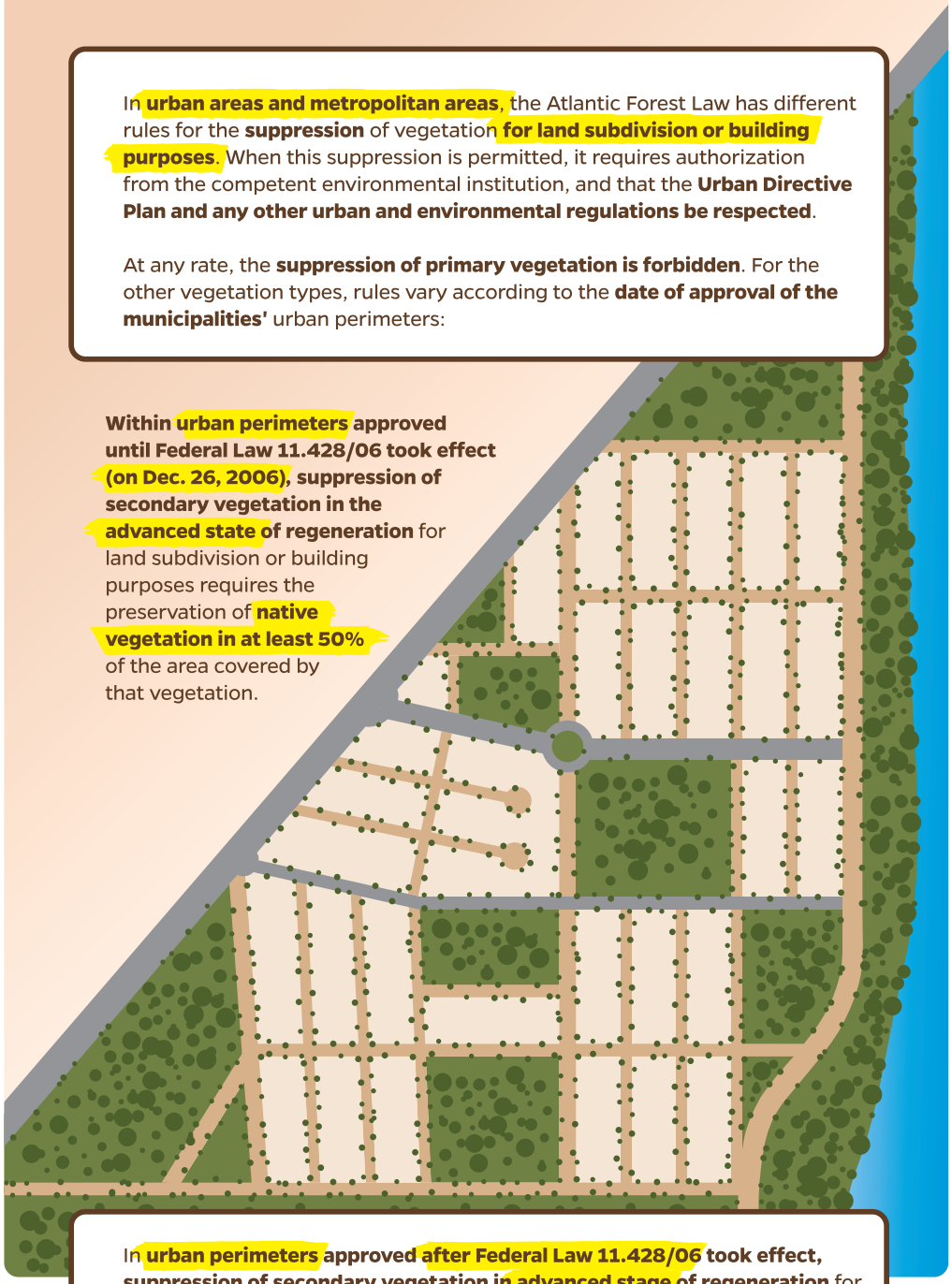
In small rural properties, or land held by traditional peoples, the suppression of **up to 2 hectares of vegetation per year** in fallow areas may be permitted, but requires **authorization from the competent environmental institution**, after prior inspection in the field. Besides, one must provide certain information, such as the dimensions and location of the area where vegetation will be suppressed, a characterization of that vegetation, and a description of the activities to be carried out in the area after the vegetation is suppressed.

The requirements for the suppression of vegetation in more **than 2 hectares** of fallow land are the same as those for the suppression of **secondary vegetation in the initial stage of regeneration**, which we have already described.

In **urban areas and metropolitan areas**, the Atlantic Forest Law has different rules for the **suppression** of vegetation **for land subdivision or building purposes**. When this suppression is permitted, it requires authorization from the competent environmental institution, and that the **Urban Directive Plan and any other urban and environmental regulations be respected**.

At any rate, the **suppression of primary vegetation is forbidden**. For the other vegetation types, rules vary according to the **date of approval of the municipalities'** urban perimeters:

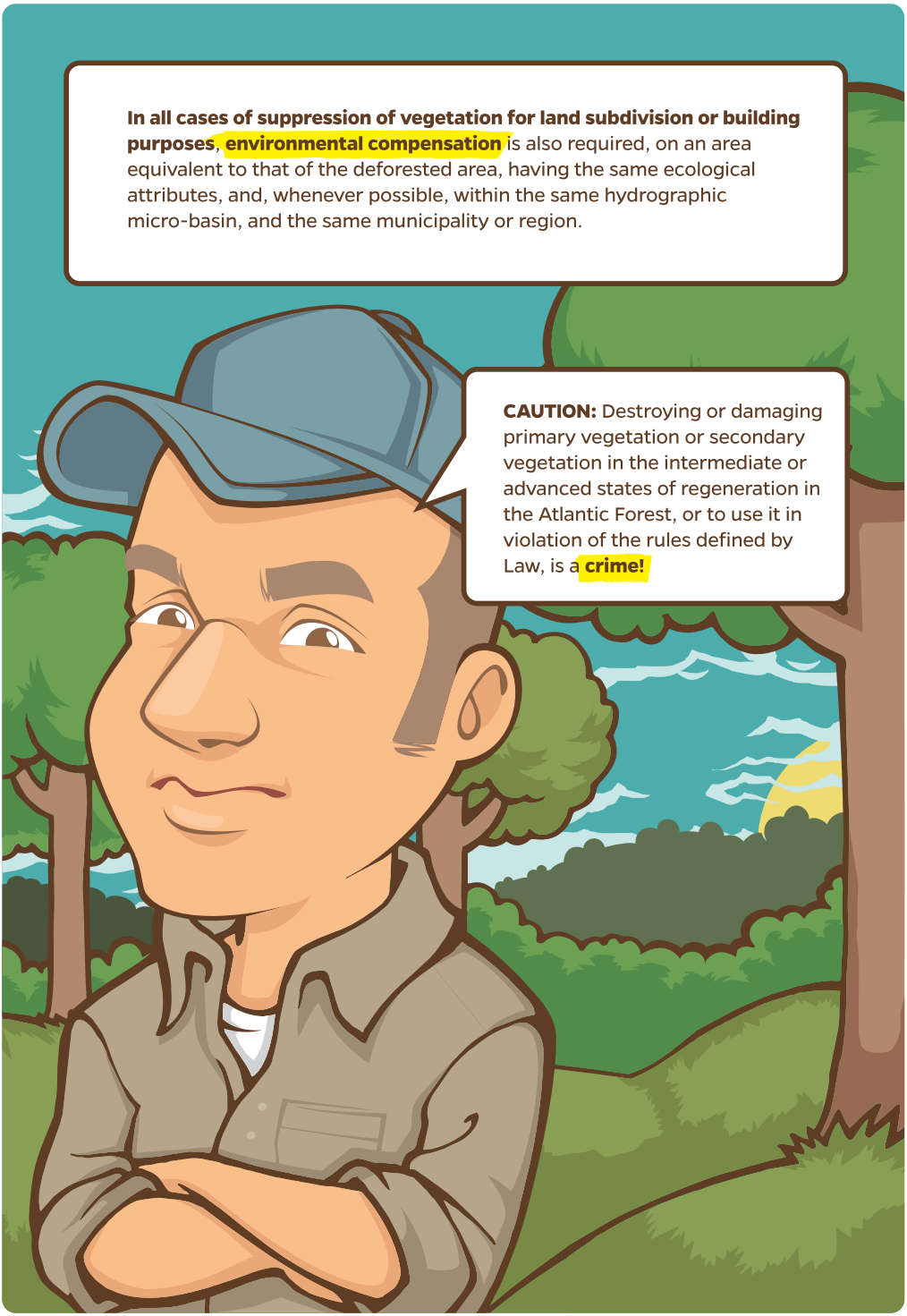
Within urban perimeters approved until Federal Law 11.428/06 took effect (on Dec. 26, 2006), suppression of secondary vegetation in the advanced state of regeneration for land subdivision or building purposes requires the preservation of **native vegetation in at least 50%** of the area covered by that vegetation.



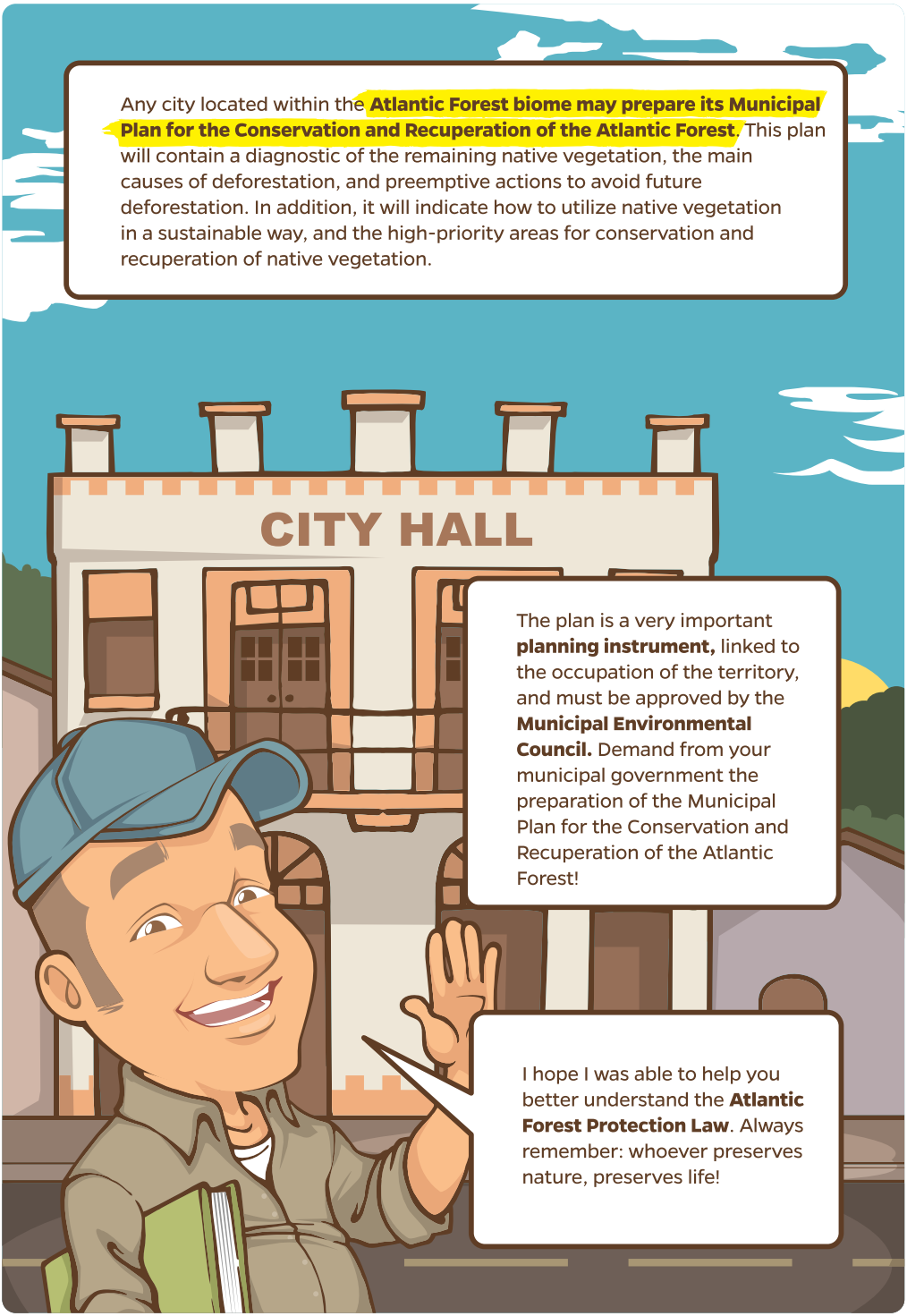
In **urban perimeters approved after Federal Law 11.428/06 took effect, suppression of secondary vegetation in advanced stage of regeneration** for land subdivision or building purposes is forbidden.

Subdivision of urban soil in areas of **secondary vegetation in the intermediate stage of regeneration**, in **urban perimeters approved until Federal Law 11.428/06** took effect, must preserve at **least 30%** of the total area covered by that vegetation type.

If the urban perimeter has been delimited **after the Atlantic Forest Protection** Law took effect, at least **50%** of the vegetation must be preserved.


In all cases of suppression of vegetation for land subdivision or building purposes, **environmental compensation** is also required, on an area equivalent to that of the deforested area, having the same ecological attributes, and, whenever possible, within the same hydrographic micro-basin, and the same municipality or region.
CAUTION: Destroying or damaging primary vegetation or secondary vegetation in the intermediate or advanced states of regeneration in the Atlantic Forest, or to use it in violation of the rules defined by Law, is a **crime!**

Any city located within the **Atlantic Forest biome may prepare its Municipal Plan for the Conservation and Recuperation of the Atlantic Forest**. This plan will contain a diagnostic of the remaining native vegetation, the main causes of deforestation, and preemptive actions to avoid future deforestation. In addition, it will indicate how to utilize native vegetation in a sustainable way, and the high-priority areas for conservation and recuperation of native vegetation.



The plan is a very important **planning instrument,** linked to the occupation of the territory, and must be approved by the **Municipal Environmental Council.** Demand from your municipal government the preparation of the Municipal Plan for the Conservation and Recuperation of the Atlantic Forest!

I hope I was able to help you better understand the **Atlantic Forest Protection Law**. Always remember: whoever preserves nature, preserves life!

MINISTÉRIO PÚBLICO
DO ESTADO DA BAHIA