

ARTICLE XVIII. - TREES

Sec. 54-581. - Findings of fact and purpose of Article.

- (1) *Findings of fact.* The Board of County Commissioners hereby makes the following findings:
- (a) Trees produce oxygen, a necessary element for the survival of mankind;
 - (b) Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air;
 - (c) Trees play an important role in the hydrologic cycle, transpiring considerable amounts of water each day, and they intercept dust and other particulate airborne pollutants from the air;
 - (d) Trees play an important role in cleaning stormwater runoff that passes from the surface water to groundwater;
 - (e) Trees, through their root systems, stabilize the soil and play an important and effective part in Countywide soil conservation, erosion control and flood control;
 - (f) Mangrove Trees are of special ecological value in stabilizing, building and protecting the shoreline, providing for spawning and breeding grounds for marine organisms and other wildlife, and serving as the basis for most of the estuarine food chains, which are critical to 70 to 90 percent of those species considered important from a recreational and/or commercial standpoint;
 - (g) Trees are an invaluable physical and psychological addition to the County, making life more comfortable by providing shade and cooling both air and land, reducing noise levels and glare, breaking the visual monotony of Development on the land and providing unique visual character and enhancing property values;
 - (h) Trees provide wildlife habitat and play other important ecological roles;
 - (i) The protection of Trees within Sarasota County is not only desirable, but essential to the present and future health, safety and welfare of Sarasota County;
 - (j) Some Tree species are more deserving of special protection due to their status as a native species, their canopy potential, or their niche within a particular ecosystem. It is not necessary to protect each and every species in order to attain the public benefit of a Tree protection due to a species being an invasive/exotic that destroys native habitats and out-competes native Trees for space and nutrients;
 - (k) Some Trees on public and private lands are especially significant due to their character, size, and age;
 - (l) Grand Trees are an important component of Sarasota County's urban forest, and have a unique and intrinsic value to the general public because of their age, size, and ecological value;
 - (m) Trees can serve the function of a bio-utility and have numerous economic benefits to the community;
 - (n) Preservation and maintenance of healthy oaks and other species that comprise Canopy Roads will maintain their historic, aesthetic, cultural and environmental value;
 - (o) Street Rights-of-Way and other public open spaces provide land which is appropriate, accessible, and highly visible for the planting of Trees and other vegetation;
 - (p) It is a matter of public policy that the health, safety, welfare, and economic well-being of the residents and property owners of Sarasota County require that the County adopt a comprehensive program for the installation, maintenance, and preservation of Street Trees and other plantings within Sarasota County;
 - (q) The trimming and alteration of red mangroves (*Rhizophora mangle*), white mangroves (*Laguncularia racemosa*), and black mangroves (*Avicennia germinans*) shall be consistent with the Mangrove Trimming

and Preservation Ordinance, as amended (Chapter 54, Article XXXV, of the Sarasota County Code of Ordinances).

- (r) To provide for greater efficacy in the protection and regulation of trees, three ordinances were consolidated in Ordinance No. 2011-023, including the following: (1) Ordinance No. 88-02, as amended, commonly referred to as the Street Tree Ordinance; (2) Ordinance No. 2001-041, as amended, commonly referred to as the Canopy Road Ordinance; and (3) Ordinance No. 83-44, as amended, commonly referred to as the Tree Protection Ordinance.

(2) *Purpose.* It is the objective of this article to:

- (a) Safeguard the public health, safety, welfare and economy through Tree Protection and to promote the findings of this article by following the provisions contained herein.
- (b) Designate, preserve, promote, and protect Canopy Roads in Sarasota County.
- (c) Effect and accomplish the planting, maintenance and preservation of Trees and other plantings in Street Rights-of-Way and other public open spaces and to assure all plantings conform to the guidelines for landscape design.

(Ord. No. 2011-023, § 2, 5-25-2011; Ord. No. 2016-064, § 1, 10-10-2016)

Sec. 54-582. - Definitions.

The following terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Administrator. The Sarasota County Administrator, or the administrative official of Sarasota County Government designated by the County Administrator to administer and enforce the provisions of this article.

Agriculture. A commercial enterprise using lands classified by the County Property Appraiser under the agricultural assessment provisions of F.S. § 193.461, for the production and marketing of agricultural products.

ANSI. The American National Standards Institute.

Applicant. Any individual, firm, partnership, corporation, association, organization, trust, company, or any other legal entity that has applied for a Tree Permit or County approval.

Article. Chapter 54, Article XVIII, of the Sarasota County Code of Ordinances, as amended by this Ordinance.

ASCA. The American Society of Consulting Arborists.

Board. The Board of County Commissioners of Sarasota County.

Border Trees. Trees that have any part of their trunk (part defined as between 12 inches—54 inches above ground surface), growing on the line established as the outer perimeter of the Canopy Road Zone.

Canopy Road. A Travelway designated by the Board meeting the standards outlined in Section 54-590 of this article.

Canopy Road Protection Zone (CRPZ). A designated section of County Right-of-Way and the adjacent private property extending up to 15 feet laterally from the Right-of-Way onto adjacent Private Property, but in no event extending greater than 15 feet laterally from the edge of the Roadway.

Clear Trunk. The height of the trunk of a palm measured from the ground to the point where the lowest green frond is attached to the trunk.

Clear Zone. The canopy above a Roadway along a Canopy Road trimmed up to 16 feet above road surface for vehicle clearance. It shall also mean the canopy above pedestrian zones trimmed to eight feet above ground surface and two feet laterally from edge of sidewalk.

Comprehensive Plan. The Revised and Updated Sarasota County Comprehensive Plan as adopted under Ordinance No. 89-18, as amended, to comply with the Local Government Comprehensive Planning and Land Development Regulation Act of 1985.

Condition Classification. The rating of a plant based on its current structural integrity and state of health as defined by the "Guide for Plant Appraisal" latest edition, published by the International Society of Arboriculture.

County. Sarasota County, Florida.

Development. The carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels as defined in F.S. §§ 163.3164 and 380.04.

Development Permit. Any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting Development.

Diameter at Breast Height (DBH). The diameter of the trunk measured at breast height, which is 54 inches above the ground. When low branches or stems preclude measuring the trunk at 54 inches, the smallest circumference of the trunk below the lowest branch or stem juncture shall be the measure of DBH.

Drip Line. The circumference around a Tree formed by the outermost branches or portion of the Tree crown to the ground as shown in Figure 1.

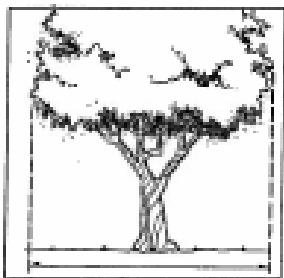


Figure 1.

Emergency. Any manmade or natural disaster that is specifically declared to be an Emergency through a resolution adopted by the Board.

Final Construction Plan. An approval granted pursuant to Chapter 74, of the Sarasota County Code, the Land Development Regulations.

Grand Tree. Any Tree that has been determined by the Administrator to have the characteristics as outlined in this article or any Tree designated a Florida State Champion, United States Champion, or World Champion by the American Forestry Association.

Highway, Street, or Road. A dedicated public way for purposes of vehicular traffic, including the entire area within the Right-of-Way. The term "Street" is generally used for urban and/or suburban areas.

Invasive Plant. Any nonindigenous plant that grows aggressively enough to crowd out Native Plants.

Irreparable Injury. Any action less than Tree Removal that results in irreversible or incurable harm so as to cause the unnatural decline of the Tree. Actions that are Irreparable Injury may include, but are not limited to: inflicting damage upon the root system by heavy machinery, changing the natural grade above the root system or around the trunk, inflicting damage that provides a pathway for infection or pest infestation, application of herbicides or other harmful chemical agents, infliction of trunk wounds, or improper removal of canopy that is generally inconsistent with ANSI A300 standards for Tree care.

ISA. The International Society of Arboriculture.

Land Development Regulations. Sarasota County Ordinance No. 81-12, as amended, or its successor (Chapter 74 of the Sarasota County Code of Ordinances).

Listed Species. Any plant or animal afforded protection pursuant to the Florida Administrative Code, including, but not limited to, species categorized as endangered, threatened, and species of special concern; or any plant or animal categorized as endangered or threatened pursuant to the U.S. Endangered Species Act, or bald eagles protected pursuant to the Bald and Golden Eagle Protection Act or other bird species protected pursuant to the U.S. Migratory Bird Treaty Act.

Lot. Includes "tract" or "parcel" and means the least fractional part of subdivided lands having fixed limited boundaries and an assigned number, letter, or other name through which it may be identified.

Master Tree List. A list maintained by the Administrator of Tree species, suitable and desirable for planting, and recommended according to site location, specifications, use and constraints.

Myakka River Area. The corridor of land beneath and surrounding the Myakka River from river mile 7.5 to river mile 41.5, contained in F.S. pt. III, ch. 258, together with a corridor of land including the maximum upland extent of wetland vegetation as determined by the Department of Environmental Protection pursuant to F.S. ch. 403, and Chapter 62-340, Florida Administrative Code.

Myakka River Protection Zone. The upland buffer that extends 220 feet on each side of the Wild and Scenic segment of the Myakka River (from river mile 7.5 to river mile 41.5), measured from the landward edge of the Myakka River Area.

Natural Regeneration. The regeneration of a stand of timber by leaving a minimum of 15 mature healthy trees per acre appropriately spaced to act as seed trees.

Native Plant. An indigenous plant.

Naturalized Plant means a plant that is not native to an area but has colonized without being invasive.

Person. Any individual, government, corporation, partnership, association, firm, trust, or other entity.

Private Property. Any property not owned by the Government including all agricultural, residential, commercial, industrial, office, professional, institutional, or recreational property in unincorporated Sarasota County.

Private Street. Any street that has not been dedicated for public use or not accepted for ownership or maintenance by the Board.

Prune, Pruning, Trim, or Trimming. The act of cutting or sawing to remove a dangerous hazard in a Tree, or to maintain or improve the form or health of a Tree, in a manner generally consistent with the American National Standards Institute (ANSI) A300 standards for Tree care operations by doing one of the following: (a) cleaning by removing dead, diseased, or broken branches; (b) thinning by removing density of branches, including for the purpose of creating a vista; (c) raising the crown by removing lower branches to provide for vertical clearance; (d) reducing to decrease height and/or spread of

branches; (e) restoration by reshaping the crown after it has been damaged by improper pruning or by a storm. The term does not include those activities that do not specifically improve the form or health of a Tree, including those that constitute Tree Removal or cause Irreparable Injury to a Tree.

Public Places. All lands and Rights-of-Way owned by the County, excluding park lands and lands managed by other County agencies.

Residential Street Tree Program. The County's program to plant, maintain, and protect Trees within the transportation rights-of-way, owned by the County in fee simple, within or surrounding neighborhoods, subdivisions or an area represented by a homeowners' association or council. These Trees are County property and are protected under the provisions of this article.

Right-of-Way. The land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes. Specifically, land owned fee-simple or dedicated by easement to the State, the County and/or municipality devoted to or required for use as a public Roadway.

Right-of-Way Use Permit. Any authorization given to a Person to work in County-maintained Rights-of-Way as defined in Ordinance 81-12 (Chapter 74 of the Sarasota Code of Ordinances).

Roadway. The portion of a Highway, Street, or Road, including the shoulders, for the intended use of Vehicles.

Silviculture. A commercial enterprise controlling the establishment, growth, composition, health, and quality of forests and woodlands of desired characteristics with the intent to produce, reproduce or manage a stand of pines (*Pinus* spp.) for the eventual sale to a timber company as pulp, paper or other timber products. This includes site preparation activities, prescribed burning and harvesting of Trees for sale.

Stipulation. A statement or a condition issued with a Tree Permit or with an approved plan, with which compliance is necessary for continued validity of the Tree Permit or other approval.

Street Tree. Any Tree that has any part of its trunk located in County transportation rights-of-way, including those Trees planted under the County Street Tree program, or cooperative Residential Street Tree Program. Trees naturally occurring within the transportation rights-of-way, and Trees planted in and around retention ponds and features created solely for the purpose of stormwater management in a road construction or enhancement project.

Topping. Internodal removal of woody branches containing heartwood or cutting back to a lateral branch too small to assume the terminal role as shown in Figure 2.

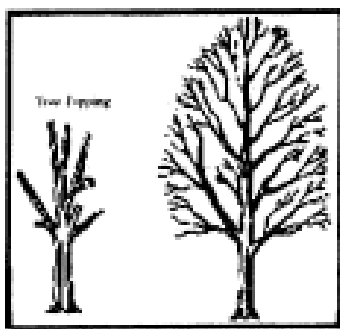


Figure 2.

Travelway. The portion of the Right-of-Way for the movement of Vehicles, exclusive of the shoulders, bike lanes, or gutters.

Tree. A living, woody, self-supporting plant, which when mature will reach ten feet or more in height, having a main stem or cluster of main stems, and any one stem measuring four and one-half inches DBH. Further, for the purpose of this article, all rooted species of mangrove or two-inch DBH scrub oak, including red mangrove (*Rhizophora mangle*), white mangrove (*Laguncularia racemosa*), black mangrove (*Avicennia germinans*), buttonwood (*Conocarpus erecta*), sand live oak (*Quercus geminata*), myrtle oak (*Quercus myrtifolia*), Bluejack Oak (*Quercus incana*), and chapman oak (*Quercus chapmanii*) are hereby declared to be Trees, and are hereby protected by the provisions of this article. In addition, all palms with more than four and one-half feet of Clear Trunk are declared to be Trees and are protected by the provisions of this article. This definition includes any tree planted, relocated or replaced pursuant to this article.

Tree Location Survey. A survey that provides the following information: location of all Trees, plotted by accurate techniques, common name of all Trees, and Diameter at Breast Height (DBH), printed on the proposed site plan as described in this article. A site plan printed on an aerial photograph may only be substituted if it is approved by the Administrator prior to submittal and if it is a recent, legible aerial photograph that reflects existing site conditions (scale: one inch equals 200 feet or less).

Tree Permit. The legal authorization for Tree Removal, Irreparable Injury to a Tree, Tree Relocation, and/or the requirement for Tree Protection and/or Tree plantings on a Lot, Right-of-Way, or easement, or within the CRPZ, pursuant to the provisions of this article. For the purposes of this article, a Tree Permit also includes the legal authorization to remove, disturb, or install shrubs, plants or other vegetation within a Right-of-Way.

Tree Protection. Avoiding direct and indirect damage to Trees.

Tree Relocation. To transplant, reestablish or move a tree to another place within a site or off site.

Tree Removal. To cut down, poison, or in any other manner destroy, or cause to be destroyed, a Tree as defined in this article.

Vehicle. Every device in, upon, or by which any Person or property is or may be transported or drawn upon a Right-of-Way, excepting devices used exclusively upon stationary rails or tracks.

(Ord. No. 2011-023, § 3, 5-25-2011)

Sec. 54-583. - Administration.

- (1) *Administration.* The Administrator shall be responsible for carrying out the provisions of this article.
- (2) *Fees.* The Board is authorized to set reasonable fees and charges for the implementation of this article. Such fees shall be set by resolution. Fees charged will substantially finance the expenditures of administering this article. Any Person who conducts an activity that requires a Tree Permit, without first obtaining a Tree Permit, shall be required to obtain an after-the-fact Tree Permit and/or mitigate the impact in accordance with this article. Payment shall not preclude nor be deemed a substitute for prosecution of violations of the provisions of this article.
- (3) *Applicability and Interpretation.*
 - (a) In the application and interpretation of this article, all provisions shall be considered minimal requirements and construed liberally to effectuate the purposes of this article.
 - (b) This Article is not intended to repeal, abrogate, or impair any existing statutes, laws, ordinances, easements, covenants, or deed restrictions that impose more stringent restrictions on the protection or removal of Trees.
 - (c) Where this article conflicts with or overlaps another ordinance or statute, whichever imposes the more

stringent restrictions for the protection of Trees shall prevail.

- (d) Where any provision of this article refers to or incorporates another provision, ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any renumbering thereof or amendments thereto.
- (e) This Article shall be applicable to private and public properties, easements, and Rights-of-Way, as set forth in the provisions of this article.
- (4) *Simultaneous Reviews.* In the event that an Applicant seeks authorization to conduct activities that are subject to overlapping code provisions from different Articles of Chapter 54 of the Sarasota County Code, County staff shall perform simultaneous natural resource reviews to the greatest extent practicable.
- (5) *Listed Species.* In cases where impacts to Listed Species may occur, Applicants shall be required to consult with the appropriate Federal and State wildlife agencies, to use recognized sampling techniques as defined by accepted methodology of the agency to identify listed species, and to provide documentation of such coordination and compliance prior to County approval to conduct any activities that could disturb listed species or the habitat.
- (6) *Jurisdiction.* The provisions of this article shall be effective throughout the unincorporated area of Sarasota County, Florida. It shall be effective within the incorporated municipalities to the extent that those municipalities adopt the same provisions and provide by interlocal agreement for enforcement by the County. The Board may provide for enforcement within any municipality through an interlocal agreement.
- (7) *Annexation.* Where any property permitted under the provisions of this article is annexed into an incorporated area, the governmental body for the incorporated area will enforce any lawful conditions imposed by the County in conjunction with the issuance of land use and development permits unless and until such conditions are modified, changed and/or deleted through the municipality's comprehensive plan and land development regulations. Trees protected pursuant to County-issued permits shall remain protected as part of a municipal-issued development permit or development order, unless modified, changed and/or deleted by the municipality through the municipality's comprehensive plan and land development regulations.

(Ord. No. 2011-023, § 4, 5-25-2011)

Sec. 54-584. - Prohibitions.

- (1) Unless otherwise exempted or authorized in a Tree Permit in accordance with this article, no Person shall:
 - (a) Engage in Tree Removal;
 - (b) Engage in Tree Relocation;
 - (c) Initiate Development when a Tree exists on a property;
 - (d) Cause Irreparable Injury to a Tree or Grand Tree;
 - (e) Cause Irreparable Injury to or Prune a Tree within a Canopy Road Protection Zone or Right-of-Way;
 - (f) Cause Irreparable Injury to or Prune other vegetation within a Right-of-Way; or
 - (g) Plant a Tree or other vegetation within a Right-of-Way.
- (2) Any Person violating any provision within this article or a Stipulation contained in a Tree Permit or a Development Permit that results in a prohibited activity shall constitute a violation of this article.
- (3) No person shall physically impede County staff who are engaged in the planting, maintaining, Pruning, treating, or removing of any Tree or portion of Tree in any public Right-of-Way.

(Ord. No. 2011-023, § 5, 5-25-2011)

Sec. 54-585. - Exemptions.

(l) *Exemptions.* The following exemptions exist from the provisions of this article:

- (a) *Exotics.* The prohibitions in Section 54-584(1) shall not apply to any Tree species on the most recent Florida Exotic Pest Plant Council Category I list of invasive species. In addition, the prohibitions in Section 54-584(1) shall not apply to any one of the following Tree species: Brazilian Pepper (*Schinus terebinthifolius*), Punk or Melaleuca (*Melaleuca quinquenervia*), Australian Pines (*Casuarina* spp.), Carrotwood (*Cupaniopsis anacardioides*), Chinaberry (*Melia azedarach*), Chinese Tallow (*Sapium sebiferum*), or any Tree species prohibited by the Invasive Plant Species Ordinance No. 90-01, as amended (Chapter 54, Article XIX of the Sarasota County Code of Ordinances).
- (b) *Emergencies.* The prohibitions in Section 54-584(1) shall not apply during Emergencies as described herein:
 - 1. No Tree Permit shall be required for governmental personnel or agencies in the performance of their official duties during an Emergency declared by the Board as provided herein.
 - 2. No Tree Permit shall be required when necessary to reestablish electric service during or immediately after a severe weather event or other electrical Emergency situation.
 - 3. When it is necessary to expedite the removal of damaged or destroyed Trees in the interest of public safety, health, and general welfare following high winds, storms, hurricanes, tornadoes, floods, freezes, fires or other manmade or natural disasters, the Board may by resolution declare an Emergency, and suspend the requirements of this article for a period of up to 30 days in the affected areas.
- (c) *Agricultural Activities.* The prohibitions in Section 54-584(1) shall not apply to a Lot or portion thereof that is classified by the County Property Appraiser prior to any Tree removal as bona fide agricultural land under the agricultural assessment provisions of the Florida Right to Farm Act, F.S. § 193.461, where Tree Removal is undertaken or Irreparable Injury is caused solely for Agricultural or Silvicultural purposes. This exemption shall not apply to any Tree Removal or Irreparable Injury in preparation for, or in anticipation of, any Development or any construction of nonagricultural improvements. For the purposes of this article, evidence of such preparation or anticipation includes submittal of an application for a building permit for nonagricultural use, a special exception, a rezone, a Development of Regional Impact, a site and development plan, a preliminary subdivision plan, a conceptual Development plan, or other Development approval. Other than for properties that are sold to settle an estate, submittal of plans listed in this section within six years of the date of Tree Removal or Irreparable Injury would invalidate this exemption and require an after-the-fact Tree Permit and/or mitigation in accordance with the provisions of this article. Additionally, no Development Permit application shall be reviewed or a Development Permit issued for the property until such corrective action is taken.
 - 1. Nothing herein shall be construed to affect the right of any Person engaged in the commercial enterprise of Agriculture or Silviculture. Any stand of timber that is harvested in the Myakka River Protection Zone shall be regenerated either by replanting, natural regeneration or by leaving a sufficient number of young Trees to replace the stand of timber.
 - 2. This exemption does not apply within a wetland or watercourse buffer required by the County.
 - 3. The Administrator may grant a limited exemption for Tree Removal associated with a property owner restoring a previous Agricultural exemption from the Sarasota County Property Appraiser.
- (d) *Nurseries.* The prohibitions in Section 54-584(1) shall not apply to plant or Tree nurseries for those Trees grown on the premises specifically for sale to the general public in the ordinary course of such plant or

Tree nurseries' businesses.

- (e) *Certain Residential Lots.* The prohibitions in Section 54-584(1) shall not apply to owner-occupied residential Lots of five acres or smaller, after a certificate of occupancy has been issued for the residential dwelling(s) on that Lot. For owner-occupied residential Lots larger than five acres, no Tree Permit is required where the Tree is located within 150 feet of the residential dwelling after the certificate of occupancy is issued for the residential dwelling(s) on that Lot. This exemption shall not apply in conservation or preservation areas, or to Trees planted or relocated pursuant to a Tree Permit, or where the residential dwelling is to be demolished and reconstructed. This exemption does not apply to any Grand Tree on all properties. This exemption shall not apply within the Myakka River Protection Zone, except on lots that are a minimum of 2,200 feet from the bank of the main stem of the Myakka River. On those lots, no Tree Permit is required for Tree Removal or Irreparable Injury landward of the watercourse buffer. This exemption does not apply to Trees within a CRPZ.
- (f) *Roads, Utilities, and Stormwater Construction.* Tree Removal and Tree Relocation necessary for the construction of Sarasota County, State, and federal roads, utilities, or stormwater facilities. This exemption does not apply to any Grand Tree and this exemption shall not apply within the Myakka River Protection Zone or a CRPZ.
- (g) *Roads, Utilities, and Stormwater Maintenance.* Tree Removal and Tree Relocation necessary for the maintenance of existing roads, utilities, landscaping, or stormwater facilities within rights-of-way and easements, or to comply with state technical specifications (e.g., for sight clearance), performed or contracted by a duly constituted communication, water, sewerage, stormwater, electrical, other utility or government entity or pursuant to an approved Sarasota County Neighborhood Initiative Grant for work within a public right-of-way. This exemption does not apply to any Grand Tree and this exemption shall not apply within the Myakka River Protection Zone or a CRPZ.
- (h) *Pruning and Maintenance.* The prohibitions in Section 54-584(1) shall not apply to Government personnel conducting Pruning and maintenance activities. No Tree Permit is required for the Pruning and maintenance of any Tree on a private Lot, except when the Tree is located within a CRPZ or Right-of-Way, or if the Pruning of a Grand Tree does not meet the standards provided in Section 54-588.
- (i) *Tree Planting.* Except in a Right-of-Way, no Tree Permit shall be required for the planting of any Tree.
- (j) *Habitat Management and Restoration.* Tree Removal and Tree Relocation necessary for native habitat management and environmental restoration activities conducted by a governmental agency. This exemption does not apply to Grand Trees.

(Ord. No. 2011-023, § 6, 5-25-2011; Ord. No. 2015-093, § 2, 1-26-2016)

Sec. 54-586. - Permitting criteria and procedures.

- (1) *Tree Permits Required.* All Persons must obtain a Tree Permit before conducting any of the activities listed in Section 54-584(1) of this article, unless the activity qualifies for an exemption under Section 54-585 in this article.
- (2) *Criteria for Tree Permits.* The Administrator and Board shall apply the following criteria in deciding whether to issue a permit, and on any appeal of an Administrator's decision denying a permit, respectively.
 - (a) No Tree Permit shall be granted where the Applicant has failed to implement the principles of avoidance and then minimization of adverse impacts to Trees. For example purposes, avoidance and minimization may include, but not be limited to: alternative site designs, stem walls, root pruning, bio-barriers, other techniques to divert root systems, etc.

- (b) No Tree Permit shall be granted unless the Development application or proposed activity is consistent with use of the property under the County Zoning Ordinance, as amended, or municipal zoning ordinance, if applicable.
 - (c) Development applications first submitted after October 30, 2002, shall be designed to protect Grand Trees. Exceptions may only be made for one of the following:
 - 1. Safety reasons; or
 - 2. If the Applicant can clearly demonstrate to the satisfaction of the Administrator during permit review, or the Board on appeal, respectively, that setting aside the space necessary to protect a Grand Tree would unreasonably prevent the Development of a Lot.
 - (d) Tree Permits must be consistent with the Environment Chapter of the Comprehensive Plan and shall be issued only where:
 - 1. Trees pose a safety hazard to pedestrian or vehicular traffic or unmanageably threaten to cause disruption to utility services;
 - 2. Trees pose a safety hazard to people, buildings, structures, Vehicles or other improvements;
 - 3. Trees completely prevent access to a Lot;
 - 4. Trees unreasonably prevent Development of a Lot or the physical use thereof;
 - 5. State or local regulations require fill to the extent that Trees cannot be saved and the required elevations are certified by the project engineer; or
 - 6. Trees are diseased or are weakened by age, storm, fire, or other injury, or as a result of suppression by other Trees or vines, or site conditions, to the extent that they have lost most of their function and value, or pose a danger to Persons, property, utilities, sidewalks, streets, sewers, other facilities, improvements or other Trees, if so determined by the Administrator, or by the Board on appeal, respectively. No permit shall be granted for the removal of any Tree if the hazard can be abated by any other reasonable means.
- (3) *Procedure.* When a Tree Permit is required, an application meeting the requirements of this subsection and Appendix I shall be submitted for review by the Administrator. The written application shall constitute authorization for County staff to enter the Lot to conduct inspections to determine if the Applicant is in compliance with the provisions of this article.
- (a) *Tree Permits Associated with Development and Right-of-Way Use Applications.* A Tree Permit is required before any construction activity and/or the removal of native vegetation within the Drip Line of a Tree on any Lot where Development will take place or in any Right-of-Way. An application shall be submitted to the Administrator prior to or concurrent with the submission of preliminary subdivision plans, or a site and development plan, or an application for a building permit, or a Right-of-Way Use Permit, whichever is first required. Where Development requires approval under the Land Development Regulations, a Tree Permit shall not be issued until after Final Construction Plan approval is granted through the Land Development Regulations process.
 - (b) *Preapplication inspection service.* The Administrator shall be available for preapplication conferences or inspections of the site involved.
 - (c) *Time frames.* Upon receipt of an application, the Administrator will conduct a sufficiency review including a field inspection to determine if the application is complete, and if the proposed plan is in compliance with the provisions of this article. If the application is not complete, the Administrator may request additional information, to be completed by the Applicant within a time frame specified in the request. The application review for single- and two-family Lots will be made within four working days of receiving

a completed application. The application review for all other parcels will be made within seven working days of receiving a completed application. Upon completion of the review, the Administrator will notify the Applicant that the application is either insufficient, or does not comply with the provisions of this article, or that the Tree Permit is approved, or approved with Stipulations.

- (d) *Permit Amendments.* Should an additional Tree or Trees need to be removed after a Tree Permit has been issued, the Applicant must obtain an amended Permit prior to the removal of the Trees. Any Tree Removal or Tree Relocation conducted prior to obtaining an amendment is a violation of this article.
 - (e) *Dead Trees.* If a Tree dies after a Tree Permit has been issued and prior to the issuance of a certificate of occupancy or certificate of completion, the Applicant shall notify the Administrator and request an inspection, prior to the removal of the dead Tree(s). An inspection by County staff will be made within two days of notification by the Applicant. Failure to notify the Administrator prior to the removal of any dead Tree constitutes a violation of this article. If the Tree death can be attributed to anthropogenic (man-caused) activities, as determined by the Administrator, Tree mitigation shall be required.
 - (f) *Final Inspections.* All Tree Permits will require, as a general condition, a final inspection to ensure compliance with the provisions of this article. Final inspections shall be scheduled by the Applicant after the final grade is complete. Final inspections will be completed by County staff within three working days after notification by the Applicant.
- (4) *Grand Tree Designation.* The standards set forth in Schedule A and Schedule B shall provide the parameters for Grand Tree designation in the County. Additionally, all Grand Trees shall have a 70 percent or greater Condition Classification.

Schedule A.

Species	Minimum Points Needed to be a Grand Tree
American Elm (<i>Ulmus americana</i>)	100
Bald Cypress (<i>Taxodium distichum</i>)	100
Hickory (<i>Carya</i> spp.)	100
Live Oak (<i>Quercus virginiana</i>)	100
Pine (<i>Pinus</i> spp.)	100
Redbay (<i>Persea borbonia</i>)	85
Sand Live Oak (<i>Quercus geminata</i>)	80

Southern Magnolia (<i>Magnolia grandiflora</i>)	80
Southern Red Cedar (<i>Juniperus silicicola</i>)	90
Sugarberry (<i>Celtis laevigata</i>)	95
Sweetbay (<i>Magnolia virginiana</i>)	90
Sweetgum (<i>Liquidambar styraciflua</i>)	100

Schedule B.

Measurements	Points
Trunk diameter (DBH)	one point per inch
Height to the nearest foot	one point per foot
Average canopy spread to the nearest foot (measure the longest and shortest diameters of the limb spread or Drip Line and divide by 2)	one point for each four feet

(Ord. No. 2011-023, § 7, 5-25-2011)

Sec. 54-587. - Public Education.

- (1) The Administrator shall develop a process to identify Grand Trees within the jurisdiction of this article and conduct a public relations and education program to recognize, promote, identify, and preserve Grand Trees within the County. This program shall provide the citizens of the County with the awareness and technical assistance necessary to preserve Grand Trees within the County and shall notify the owner of Grand Tree designation as identified on the current annual tax roll by regular U.S. mail.

(Ord. No. 2011-023, § 8, 5-25-2011)

Sec. 54-588. - Best Management Practices.

- (1) *Standard Best Management Practices.* The following Best Management Practices shall be applicable to all Tree Permits, unless specified otherwise herein. These standard Best Management Practices shall also be applicable to all activities that affect Grand Trees, Trees located within a CRPZ, and Trees located within public Rights-of-Way, regardless of whether a Tree Permit is required for the proposed activity.
 - (a) Prior to commencing work and throughout the duration of the authorized activity, the owner, developer, contractor or agent shall clearly mark (with red flagging) all Trees proposed to be removed and shall erect barricades around all Trees to be protected. The barricades must remain in place and be in good

condition throughout the duration of the authorized activity. Barricades may be removed for the final grading. Removal of other vegetation within the protected zone may be accomplished only if authorized by the Administrator and only by mowing or hand clearing. Where unauthorized removal of native vegetation within the protected root zone occurs, the Administrator may require the replanting of understory vegetation. If improvements are to be located within the protected zone of Trees, clearing by machinery will be allowed, but only in the area and to the extent necessary to install the improvements. The Applicant, owner, developer, contractor or agent shall not cause or permit the movement of equipment, or the storage of equipment, material, debris, or the placement or grading of fill to be placed within the required protective barrier.

- (b) Throughout the duration of the authorized activity, the owner, developer, contractor or agent shall not cause or permit the cleaning of equipment or material or the storage or disposal of debris, fill, waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other material within the Drip Line of any Tree or clump of Trees or within any native habitat or buffer.
- (c) No damaging attachment ropes or wires (other than supportive measures for a Tree), signs, posters, handbills, Tree Permits or other things may be fastened to any Tree. No gaseous, liquid, or solid substance which may be harmful to Trees shall come into contact with any portion of the Tree except pursuant to authorization under the provisions of this article or other County regulations.
- (d) Protective barricades for Trees other than Grand Trees shall be installed no closer than the Drip Line of the Tree. Barricades may be placed three feet from the trunk of palms. Barricades shall be constructed in a post and rail configuration. The upright posts shall be a minimum of a two by two-inch (common industry standard) wooden stake, four feet long. Posts shall be implanted deep enough into the ground to be stable and extend a minimum height of three feet above the ground. A minimum of a one by four-inch (common industry standard) wooden board shall be used to connect the upright posts. Silt barriers or snow fencing may be substituted upon approval by the Administrator. The maximum distance allowed between upright posts is eight feet. More protective barricades may be substituted with the approval of the Administrator.
- (e) Silt barriers, hay bales, or similarly effective erosion control barriers will be required in any area where erosion or siltation may cause damage to Trees.
- (f) Where elevation changes are proposed within the protected zone of Trees, the Applicant will be required to justify the need for the elevation change and install retaining walls or drain tiles unless the Applicant demonstrates that such protection would be impractical. The Applicant shall have the choice of the type or design. These root protection measures shall be in place prior to the deposition of fill, or excavation of soil from the protected zone.
- (g) The Administrator shall conduct periodic inspections of the site during land clearing and construction in order to ensure compliance with this article.
- (h) The Administrator may allow certain activities to be conducted within the barricaded Drip Line of a Tree, so long as the County determines that the Tree will not be adversely affected.
- (i) No Person shall deposit, place, store, park, or maintain upon any Tree or within the Drip Line of any Tree, or other plantings, planted in a public Right-of-Way or other Public Places, any Vehicle, stone, brick, concrete, soil, or other materials that may impede the free passage of water, air, and fertilizer to the roots of any Tree growing therein, except by written authorization of the Administrator.
- (j) All Trees located within public Rights-of-Way shall be protected from all digging or trenching activity within the Drip Line of any Tree. The use of tunnels or directional bores shall be required of all Persons

working in a County Right-of-Way unless the Applicant demonstrates the additional cost of the tunnel or bore will exceed the appraised value of the Tree. Tree values shall be established by the most current version the International Society of Arboriculture valuation system. The tunnel or directional bore shall start at one-half the Drip Line area or six feet (whichever is greater) from the basal flare of the Tree and end in the same dimension on the opposite side of the basal flare of the Tree.

(2) *Grand Tree Best Management Practices.*

- (a) *Grand Tree Protection.* During Development all areas within the Drip Line of every Grand Tree shall be protected from activities that may disturb or injure the tree, (such as, but not limited to, cut and fill activities, building pad placements, Travelway construction, construction material storage, driving or parking of equipment, trenching, etc.). The Administrator shall issue written conditions for work within the Drip Line of a Grand Tree only when an arboricultural plan has been approved.
- (b) *Proper Grand Tree Care: Canopy and Root Pruning.* When activities affect a Grand Tree within the Drip Line or when pruning must be performed on the crown of a Grand Tree, the following arboricultural techniques are required:
 - 1. Roots must be severed by clean Pruning cuts. Roots can be pruned by utilizing trenching equipment that is specifically designed for this purpose or by hand digging a trench and pruning roots with a chain saw, Pruning saw or other equipment designed for Tree Pruning. Root pruning shall be to a depth of 12 inches below existing grade or to the depth of the disturbance if greater than 12 inches below the existing grade. When underground utilities are to be installed through the Drip Line, root pruning requirements will be waived if the lines are installed via tunneling or directional boring as opposed to trenching.
 - 2. All Pruning of Grand Trees shall conform to the latest edition of the ANSI (A300 Standards).
 - 3. Neither canopy and/or root pruning can declassify a Tree from Grand Tree status. If Pruning activities have been conducted prior to the Administrator's determination regarding the classification of the Tree and the Tree would have met the requirements to be classified as a Grand Tree, the Administrator may classify it as such.
- (c) *Grand Tree Protection Barrier Requirements.* During Development activities or any other potential disturbance that will impact the area within the Drip Line of any Grand Tree, protective barriers shall be placed around each Grand Tree to prevent the destruction or damaging of roots, stems, or crowns of such Trees. Barriers shall remain in place and intact until the work is completed. Barriers may be removed temporarily to accommodate construction needs, provided that the manner and purpose for such temporary removal will not harm the tree and is approved by the Administrator. The following are the minimum requirements for protective barriers:
 - 1. Protective posts shall be placed at the Drip Line of each Grand Tree, except when a plan has been approved by the Administrator to place the posts closer to the trunk.
 - 2. Posts shall be a minimum of two by four inches or larger wooden post and shall be connected with a minimum of at least a one by four-inch wooden board and shall be clearly flagged. Other similar methods, such as construction fencing, may be permitted if approved in writing by the Administrator in advance of installation. Posts shall be implanted deep enough into the ground to be stable and extend a minimum height of three feet above the ground. Silt barriers and snow fencing may be a substitute at the discretion of the Administrator.
 - 3. Where Development activity is permitted within the Drip Line of a Grand Tree, the Administrator may require additional Tree Protection provisions to be incorporated in the conditions of the Tree

Permit to assure the protection of the Grand Tree.

4. Where elevation changes are proposed within the Drip Line from the trunk of any Grand Tree the applicant will be required to install retaining walls or drain tiles unless the applicant demonstrates such protection would be impractical. The applicant shall have the choice of the type or design. These root protection measures shall be in place prior to the deposition of fill, or excavation of soil within the Drip Line from the trunk.
5. A sign shall be installed at the edge of each Grand Tree barricade stating, "No activities are allowed within barricaded area, unless approved by the County." The text on the sign shall be written in English and Spanish. The Administrator may require a barricade sign for other types of Trees based on the site-specific conditions and when there is a higher potential for adverse impacts to a Tree.

(3) *Canopy Road Best Management Practices.*

- (a) All Pruning of Trees within a CRPZ shall conform to the latest edition of the ANSI A300 Standards and does not compromise the integrity of the canopy to shade the road.
- (b) *Requirements for utility pruning.* Franchised utilities must conform to current ANSI A300 standards when performing line clearing work in CRPZ to balance the requirement to preserve Canopy and maintain safe, reliable electric service.
 1. Franchised utilities must notify the Administrator by e-mail or mail three business days prior to any maintenance utility line clearing work in Canopy Roads.
 2. Franchised utilities must have an ISA certified Arborist directing the pruning of Trees in a Canopy Road.
 3. Utility pruning should only provide minimum safe clearance to protect utility lines with consideration for the combined movement of the conductors near Trees in severe weather, the species of the Tree, and the voltage of the conductor where applicable.

(c) *Proper Tree Care; Canopy and Root Pruning.*

1. When activities affect the Tree so that more than 25 percent of the area within the Drip Line is impacted or when Pruning must be performed on the crown of a Tree, the following arboricultural techniques are required:
 - a. When more than 25 percent of the area within the Drip Line will be impacted, the affected roots must be severed by clean pruning cuts where the activity impacts the roots. Roots can be pruned by utilizing trenching equipment that is specifically designed for this purpose or by hand digging a trench and pruning roots with a chain saw, pruning saw or other equipment designed for Tree Pruning. Roots within the Drip Line must be pruned to a depth of 12 inches below existing grade or to the depth of the disturbance if less than 12 inches from the existing grade. When underground utilities are to be installed through the Drip Line, root pruning requirements may be waived if the lines are installed via tunneling or directional boring as opposed to trenching.
 - b. All Pruning of Trees shall conform to the current ANSI A300 standards and be supervised by an ISA certified arborist. There shall be no flush cuts, stub cuts, or lion's-tailing of the Tree's crown.
 - c. It shall be a violation of this article to perform the techniques of Topping or other Pruning techniques that remove the vertical leader stems or other pruning that result in an unnecessary reduction of shade of Trees in the Tree Permit area.

(Ord. No. 2011-023, § 9, 5-25-2011)

Sec. 54-589. - Tree planting, relocation, or replacement.

- (1) *Conditions.* As a condition of granting a Tree Permit, the Applicant may be required, where practical, to plant Trees, relocate the Tree(s) being removed or replace the Tree(s). The replacement(s) shall: have at least equal shade potential and other characteristics comparable to those of the Tree(s) removed, be a minimum of eight feet high at time of planting, have the potential of at least a 15-foot crown, be a species protected by this article, and be Florida Department of Agriculture Nursery Grade #1 or better. A Master Tree List of acceptable replacement Trees will be on file in the Administrator's office, and will be attached to Tree Permits that require planting. Alternatives with respect to size and species may be approved if the Applicant demonstrates that such substitutions will be consistent with the purposes of this article. Written approval from the Administrator is required prior to planting any alternative Tree.
- (2) *Tree planting.*
 - (a) *Tree Permits with Tree Removal.* In connection with the removal of any Tree(s) pursuant to a Tree Permit, a minimum number of replacement Trees shall be required based on the following square footage areas. A minimum of one Tree will be required for each 2,000 square feet of the parcel for which a Tree Permit has been issued.
 1. *Trees Within a CRPZ.* For Tree Removal within a CRPZ, the Tree planting ratio contained in Section 54-589(2)(a) may not be applicable. The Administrator shall determine on a case-by-case basis whether replanting is practical and necessary to maintain the value and function of the Canopy Road.
 2. *Trees Within a Right-of-Way.* For Tree Removal within a Right-of-Way, there is no replanting requirement.
 - (b) *Tree Permits on Properties with No Trees.* When Development is proposed on a property with no existing Trees, the following Tree planting requirements shall be applicable:
 1. *Residential Properties.*
 - a. *Less than one-half acre.* One Tree shall be planted for each 2,000 square feet of the property.
 - b. *Greater than one-half acre.* A minimum of 11 Trees shall be planted.
 - c. *Alternative to planting on residential lots.* When subdividing a property, the Administrator may approve a request to plant Trees on a common tract or tracts within the same subdivision in lieu of planting on Lots, or a combination thereof. The total amount of Trees planted for the subdivision, shall be equal to or greater than one Tree planted for each 2,000 square feet for all of the residential Lots combined that are located within the subdivision. If this alternative is proposed, the following criteria shall apply:
 - (i) The planted Trees shall not be located within a preservation area;
 - (ii) The planted Trees shall be located adjacent to a native habitat area or a community park; and
 - (iii) The planted Trees shall be required to be maintained in perpetuity.
 2. *Commercial Properties.* One Tree shall be planted for each 2,000 square feet of the property.
 - (c) *Tree Permits with No Impacts to Trees.* When Development is proposed on a property with existing Trees, but no impacts are proposed, the Applicant shall adhere to the requirements contained in Section 54-589(2)(b). Native Trees in good condition protected as part of a Tree Permit may be counted toward

the total number of Trees required to be planted.

- (d) *Grand Trees.* All Grand Trees shall be replaced on a DBH inch for DBH inch basis. When the Administrator determines that site-specific conditions limit or prevent the replacement of Trees on-site (e.g., exceeding the one Tree for each 2,000 square feet replanting requirement), the applicant shall pay \$200.00 per DBH inch not replanted to the reforestation special revenue fund.
 - (e) *Excavations.* For excavations of greater than 50,000 cubic yards, and for which a minor or major earthmoving permit is issued pursuant to Chapter 54, Article XII of the Sarasota County Code of Ordinances, the replanting requirement shall be reduced to a minimum of five Trees per acre, except that all such excavations that were issued earthmoving permits prior to June 8, 1998, shall not be subject to these replacement requirements. However, any Tree(s) left in good growing condition on the site shall be counted toward these minimum numbers.
 - (f) *Replacement Tree Selection.* Selection of replacement Trees, their number and species shall be determined by analysis of Tree canopy cover, spatial limitations, other characteristics and soil conditions of the Lot.
 - (g) *Tree Planting Requirements.* The following shall be applicable to all Tree plantings required pursuant to this article:
 - 1. Replacement Trees shall be a species of similar height and crown spread, Florida #1 or better quality as per Grades and Standards for Nursery Plants (Florida Department of Agriculture and Consumer Services). All replacement Trees shall be a minimum of eight feet in height when planted, and have a trunk diameter of at least two inches (measured at six inches above the ground). Trees must be a minimum of 25-gallon container size or have a minimum two-foot root ball if field grown.
 - 2. Trees shall be placed so that they will develop freely and at maturity will not crowd utility lines or other structures. The root ball must be planted at the proper height and in accordance with accepted nursery standards. Trees shall have a mulched bed a minimum of three feet in diameter and three inches deep to conserve water and promote growth.
 - 3. If Trees need to be staked, it shall be done in a manner that will not injure the Tree. The straps attached around the trunk shall be a broad, soft material and shall be tied loosely enough to allow movement of the trunk in the wind.
 - 4. If greater than ten Trees are required to be planted on a site, a minimum of three species shall be planted with no one species comprising more than 50 percent of the total numbers of Trees planted.
 - (h) *Single-Family Tree Plantings.* For single-family platted Lots, the Administrator may approve the on-site relocation of a Tree planted pursuant to a Tree Permit. The County may also approve a different species of Tree to be replanted.
 - (i) *Tree planting and other landscaping within a Right-of-Way.* When private installation of Trees or landscaping within a Right-of-Way is proposed, a maintenance agreement will be required in addition to a Right-of-Way Use Permit. The maintenance agreement shall be in a form satisfactory to the Administrator and may include insurance, performance assurances, and other provisions deemed necessary by the Administrator to protect the interests of the public.
- (3) *Tree bank.* Where a Tree(s) is (are) to be removed under the provisions of this article, the County shall have the option, with the Applicant's permission, to relocate the Tree(s) (not being relocated within the property) at the County's expense. If the County does not elect to relocate any such Tree, it may give the School Board or any municipality within the County the right to acquire any such Tree(s) at the School Board's or municipality's

expense for Relocation. The relocation shall be accomplished within 15 working days of the issuance of a Permit, unless it is necessary to root prune the Tree(s) to assure survival, in which case the relocation shall be accomplished within 30 working days of the issuance of a Permit or other suitable schedule as agreed to by the Applicant and Administrator.

- (4) *Credit for other plantings.* Trees planted in compliance with the requirements of the Land Development Regulations (Chapter 74 of the Sarasota County Code of Ordinances) and landscaping requirements of the Zoning Regulations (Appendix A to the Sarasota County Code of Ordinances) may be used to help satisfy the requirements of this section.
- (5) *Timing.* Trees required to be planted in accordance with this section shall be in place prior to the issuance of a certificate of occupancy. In the event that Trees have been removed pursuant to a Tree Permit, but Development does not commence within the time frame specified pursuant to the Development Permit, the Administrator may require replanting at a specified time or a mitigation payment in accordance with this article.
- (6) *Location.*
 - (a) Tree plantings shall not be located closer than three feet to any property line, or six feet from any utility line or County easement. Trees shall not be planted underneath or near utility lines unless they are a species that, when mature, will not interfere with the utility line.
 - (b) The planting site must have sufficient root zone and canopy space to reasonably allow the Tree(s) to grow to a mature size.
 - (c) A canopy Tree shall be planted no less than eight feet and no more than 15 feet from the Right-of-Way when determined to be feasible by the Administrator. The Administrator may require an alternative planting location elsewhere on the Lot based on site-specific environmental features.
- (7) *Tree survival.* Consultation with the Administrator is recommended during the entire Tree planting program. All Trees relocated or replaced in accordance with the terms of this article shall be replaced by the current property owner should the Trees expire anytime within seven years after planting, unless a Tree has expired due to a natural fire, lightning event, or hurricane event, as determined by the Administrator.

(Ord. No. 2011-023, § 9, 5-25-2011)

Sec. 54-590. - Canopy Road Designation.

- (1) The Board is authorized to designate roads as Canopy Roads and set standards for the implementation of this article. Such standards shall be set by resolution after an advertised public meeting. Requests for Canopy Roads can be made by property owners residing on a potential Canopy Road, residents of the County, County staff, and the Sarasota Tree Advisory Council or other appropriate Sarasota County Advisory Council. Prior to the advertised public meeting, a written public meeting notice shall be provided to property owners residing on a potential Canopy Road and the appropriate neighborhood associations. The public meeting notice shall detail the Canopy Road standards that would become applicable if the road was designated a Canopy Road. In addition, a public meeting notice shall be posted on the potential Canopy Road a minimum of 15 days prior to the public meeting. Requests will be coordinated and brought to the Board by the Administrator for approval.
- (2) Canopy Roads shall have characteristics as set forth below.
 - (a) A Canopy Road shall have a minimum of 50 percent overhead coverage, per section of Travelway as measured by branching, Drip Line, shadows, and other visual cues. Evaluation shall be based on Tree canopy coverage as a percentage of overall Travelway length, on canopy condition and composition; and

- (b) A Canopy Road shall consist of a minimum of 75 percent Native Plant species and Naturalized Plant species;
- (c) A Canopy Road may be composed of more than one segment of differently named roads providing they are contiguous.

(3) Canopy Roads shall have appropriate signage to delineate the limits of the Canopy Road.

(Ord. No. 2011-023, § 10, 5-25-2011; Ord. No. 2015-079, § 2, 11-17-2015)

Sec. 54-591. - Compliance and enforcement.

Sarasota County has the authority to enforce any permit or stipulation, as well as any provisions of this article per Chapter 2, Article VIII, of the Sarasota County Code of Ordinances and per provisions of the F.S. ch. 162.

(1) *Civil and Administrative.*

- (a) The Administrator may withhold issuance of a permit or deny an application or other authorization if there is an existing unresolved violation of the Sarasota County Code of Ordinances on the subject property.
- (b) The Administrator will issue a stop work order when it has been determined that work at the site:
 - 1. Is proceeding in violation of this article, a Permit or other authorization issued hereunder or proceeding without any required authorization; or
 - 2. Poses an imminent and significant hazard to the public health, safety, or welfare, or to the environment.
- (c) The County may issue an after-the-fact authorization to correct a violation when the following has been determined:
 - 1. The activities can meet all of the standards in this article at the time the Tree(s) was (were) removed.
 - 2. The activities can be authorized without approval by the Board.

(2) *Enforcement and Penalties.*

- (a) A violation of any provision of this article shall be processed according to Chapter II, Article VIII, of the Sarasota County Code of Ordinances and per provisions of the F.S. ch. 162. Each day of any such violation shall constitute a separate and distinct offense.
- (b) The Administrator may require corrective actions through a consent decree, including, but not limited to, restoration of any native habitats impacted as a result of the violation activities. The Administrator may also require monitoring in accordance with the standards established within the Land Development Regulations. If a compliance case ends up in a court of competent jurisdiction, the Administrator may require the violator to pay attorneys' fees.
- (c) *Tree Removal or Irreparable Injury Violations on Private Property.* The Administrator may require a violator to mitigate any Tree removed or Irreparably Injured without authorization by either of the following alternatives:
 - 1. Replanting a Tree of twice the size and type on the property. The Applicant may choose to mitigate the violation by replanting the same type Trees with three-inch diameter or greater, in a sufficient number such that the total number of DBH inches of the replanted Trees equals twice the total number of DBH inches of Trees removed or Irreparably Injured without authorization. Trees shall be Florida #1 or better quality as per Grades and Standards for Nursery Plants (Florida Department of Agriculture and Consumer Services).

- a. In lieu of replanting, or combination thereof, the Applicant may choose to mitigate the violator \$200.00 per diameter inch of the Trees removed or Irreparably Injured without authorization.
2. Any Grand Tree removed or Irreparably Injured in violation of this article or any Tree Permit issued hereunder shall be mitigated by paying a fee equal to \$500.00 per DBH.
- (d) *Tree Pruning Violations.* Any Tree Pruned inconsistent with the requirements of Section 54-588 shall be mitigated by a fine not to exceed \$500.00.
- (e) *Violations in Rights-of-Way and other Public Places.* Any Tree removed or any action which causes the removal or death of a Tree in violation of the provisions of this article, or any Tree Permit issued thereunder, may be mitigated by paying a fee of \$200.00 per diameter inch of the Tree(s) removed.
- (f) Administrative costs, fees and penalties collected as part of enforcement of this article shall be placed in the County's reforestation special revenue fund, as established in Resolution No. 95-031. This fund shall be used only for the purposes of acquiring, planting, and protecting Trees within the County. A maximum of ten percent may be used to recover costs of administration and enforcement of this article. Any mitigation fee imposed by a hearing officer or Special Master shall be deposited into the reforestation special revenue fund. The Fund shall be kept and maintained by the Clerk of the Board.
- (g) In the event that a violator engages in a Tree Removal without a Tree Permit and thereafter clears the land of stumps, the County's calculation of the number of trees removed and estimation of DBH for those trees through aerial photography and other evidence is entitled to a rebuttable presumption of correctness due to spoliation of the evidence of removal.
- (3) *Disbursement of Reforestation Special Revenue Funds.*
 - (a) The County Administrator or designee shall have the authority to disburse funds for projects in accordance with the following criteria:
 1. Projects shall involve plantings on publicly owned land.
 2. Projects shall not be used to satisfy any landscaping required per the Zoning Regulations (Appendix A of the Sarasota County Code of Ordinances).
 3. Projects may include enhancement or restoration of native habitats, not required through permitting or regulation.
- (4) *Enforcement of Code by other means.* A violation of any of the provisions of this article or of any regulations adopted or Tree Permit Stipulations approved pursuant to this article shall be punishable in the same manner as a misdemeanor as provided by law.
- (5) *Responsible parties.*
 - (a) The property owner, contractor, service provider retained by the Applicant, or their representative, to conduct work covered by this article are jointly responsible for any activities authorized pursuant to this article.
 - (b) Prior to receiving the Tree Permit, the property owner(s) and the contractor conducting the work must submit a signed form provided by the County attesting that the County permit has been received and all conditions or stipulations are acceptable.
 1. Failure to sign the form will terminate the Tree Permit and may require reapplication.
 2. The property owner(s), contractor, or service provider, or Applicant, may decline to accept the permit by notifying the County in writing within 14 days of the County approval.
 - (c) Once work commences, all conditions or stipulations provided with the County approved Tree

Permit shall apply and shall be enforceable. Failure to adhere to these conditions or stipulations may be cause for the posting of a stop work order on site, revocation of the County approval, and/or code enforcement pursuant to this article.

- (d) For activities that are performed without the appropriate authorization, or are performed in a manner that is inconsistent with the authorized plans and/or stipulations of the permit, the Administrator reserves the right to report the action to the appropriate contractor licensing board.

(Ord. No. 2011-023, § 11, 5-25-2011; Ord. No. 2014-080, § 2, 11-5-2014)

Sec. 54-592. - Appeals.

Any Person aggrieved by the administration or interpretation of any of the terms or provisions of this article may appeal to the Board, which, after a hearing, with notice to the appellant, may reverse, affirm, or modify, in whole or in part, the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Administrator from whom the appeal is taken. Any action pursuant to this section shall not stay any enforcement proceedings.

(Ord. No. 2011-023, § 12, 5-25-2011)

Sec. 54-593. - Severability.

If any provision of this article is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.

(Ord. No. 2011-023, § 13, 5-25-2011)

Appendix I

- (1) *Tree Permit Applications.* All Tree Permit applications shall meet the requirements contained in this section and shall include a statement detailing the reasons why the proposed activities meet the permitting criteria of this article.
- (2) *Tree Location Surveys.* A Tree Location Survey is required for all proposed activities on undeveloped Lots as described in this section. A Tree Location Survey is not required when Tree Removal is proposed on a developed Lot, unless the Tree(s) proposed for removal is located within a CRPZ. Due to site-specific conditions, the Administrator may require a Tree Location Survey on developed Lots. On all developed lots, a written statement or a sketch shall be provided with the application identifying the Tree(s) proposed for removal and their location.
- (3) *Information required on the Tree Location Survey.* When a Tree Location Survey is required, it shall depict the following information when applicable. All surveys shall be at a scale sufficient to enable the Administrator to determine if an application meets the requirements of this article.
 - (a) The shape and dimensions of the Lot together with the existing and proposed locations of structures, utilities (e.g., power lines, water, sewer), and other improvements, if any.
 - (b) The location of all on-site native habitats and buffers as defined in the Environment Chapter of the County's Comprehensive Plan.
 - (c) The location of all existing Trees, identified by common or botanical name and DBH. Trees proposed to remain, to be transplanted, or to be removed shall be identified. Where clearing is occurring on part of a

Lot, only the Trees in the area to be cleared and an additional 50 feet need to be located. Grand Trees shall be identified by DBH, height, the size of the Drip Line (in feet) and the proposed location of Tree protection barricades. Groups of Trees in close proximity (five feet spacing or closer) may be designated as a "clump" of Trees, with the predominant species, estimated number and average size listed. Limited clearing may be approved by the Administrator to provide proper preparation of the Tree Location Survey.

- (d) If existing Trees are to be relocated, the proposed relocation for such Trees, together with a statement as to how the Trees will be protected during land clearing and construction and maintained after construction.
- (e) A statement from the applicant indicating how any Trees that are not proposed for removal or relocation will be protected during land clearing, construction, or other proposed activity.
- (f) Locations and dimensions of all setbacks and easements required by the Sarasota County zoning ordinance, as amended.
- (g) Statements and plans clearly depicting grade changes proposed for the Lot and/or Right-of-Way and how such changes will affect Trees. Statement as to the form of root protection to be used, such as Tree wells or retaining walls. State the distance from Tree trunk to change in grade and the required elevations are certified by the project engineer.
- (h) The applicant shall include a statement about any proposed Tree plantings.
 - (i) In the event that there are no Trees located on the site, the Applicant shall so state on the permit application for all new construction, additions, and demolitions. Such statement shall be substantiated by an inspection of the site or the review of a recent legible aerial photograph that reflects existing site conditions, which shall be a binding determination that no Trees are presently on the site.
 - (j) Any other information requested by the Board or Administrator to assist in the review of a permit application or exemption determination.
- (4) *Grand Trees.* If a Grand Tree exists on a Lot and the proposed activity will encroach within the Drip Line, the Administrator may require, in addition to a survey and a statement detailing how the proposed activities meet the permitting criteria of this section, a plan to be submitted by a forester, certified arborist (with current credentials) from the ISA or a Florida licensed landscape architect specifying the methods to be utilized to preserve the Tree. This plan shall address the protection of the root system, crown and trunk of the Tree and the means of supplying water and essential nutrients if applicable.
- (5) *Trees Located within a CRPZ.* In addition to a survey and a statement specifying how the application meets the permitting criteria of this section, the Applicant shall include:
 - (a) A plan showing the scaled location of the Canopy Road Protection Zone. Border Trees shall be included in the plan depicting the CRPZ.
 - (b) A statement and plan clearly depicting if trimming is proposed within the CRPZ. All trimming shall be limited to Clear Zone heights, as defined in this article, unless exempted in this article.
 - (c) If encroachments into the CRPZ are proposed, a plan will be required to be prepared by an ISA certified arborist, an ASCA certified consulting arborist, landscape architect, or other specialist in the field of arboriculture specifying the methods to be utilized to preserve the vegetation. This plan shall address protection of the root system, crown, and stems of the Trees, a means of supplying water and essential elements to the root system, and the proposed location of the Tree protection barricades. This plan shall be subject to approval by the Administrator.

Secs. 54-594—54-620. - Reserved.