

**ARTICLE XVIII. TREE PROTECTION****Sec. 54-581. Findings of fact.**

It is hereby found and determined that:

- (1) Trees are proven producers of oxygen, a necessary element for the survival of mankind;
- (2) Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air;
- (3) Trees play an important role in the hydrologic cycle, transpiring considerable amounts of water each day, and they precipitate dust and other particulate airborne pollutants from the air;
- (4) Trees play an important role in cleansing stormwater runoff which passes from the surface [water] to groundwater;
- (5) Trees, through their root systems, stabilize the soil and play an important and effective part in County-wide soil conservation, erosion control and flood control;
- (6) 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;
- (7) 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, and breaking the visual monotony of Development on the land;
- (8) Trees provide wildlife habitat and play other important ecological roles;
- (9) The protection of Trees within Sarasota County is not only desirable, but essential to the present and future health, safety and welfare of all the citizens of Sarasota County; and
- (10) Some Tree species are more beneficial than others as necessary contributors to the County's environment and it is not necessary to protect each and every species in order to attain the public benefit of a Tree protection and replacement ordinance.
- (11) The Board of County Commissioners, sitting as the Land Development Regulation Commission, has reviewed the ordinance codified in this article and found it to be consistent with Apoxsee, the Sarasota County Comprehensive Plan.
- (12) Some trees on public and private lands are especially significant due to their character, size, and age.
- (13) 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.
- (14) Adoption of a program for the designation and preservation of grand trees within Sarasota County promotes the health, and economic well being of the residents and property owners of Sarasota County.
- (15) Ordinance No. 98-025 relating to protection measures for the Myakka River,

requires the Tree Protection Code to be consistent with the provisions of the Myakka River Protection Plan, to minimize potential adverse physical and visual impacts on resource values in the river area and to minimize adverse impacts on private landowners use of land for residential purposes.

(Ord. No. 83-044, § 1, 8-2-1983; Ord. No. 95-022, § A, 2-21-1995; Ord. No. 98-029, § 1, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

### **Sec. 54-582. Definitions.**

*Administrator.* The designated representative of the Sarasota County Administrator.

*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.

*Applicant.* Any Person or his duly authorized representative who submits Development plans through any County agency for the purpose of obtaining approval thereof.

*Board.* The Board of County Commissioners of Sarasota County.

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

*Comprehensive Plan.* The document "Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan" (Apoxsee), adopted by the Board and filed with the Clerk of said Board pursuant to Sarasota County Ordinance No. 89-18.

*Condition Classification.* A 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.* A subdivision of land or a site and Development as defined by the Land Development Regulations, a residential mobile home park, or any other construction, whether residential, commercial, industrial, office, professional, institutional, or recreational, except a one-family or two-family dwelling on an individual Lot.

*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.* An imaginary vertical line running from the outermost branches or portion of the Tree crown to the ground.

*Emergency.* Any man-made or natural disaster which is specifically declared to be an Emergency through a resolution adopted by the Board.

*Grand Tree.* Any tree that has been determined by the Administrator to have the characteristics as outlined in Section 54-586 or any tree designated a Florida State Champion, United States Champion, or World Champion by the American Forestry Association.

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

*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.

*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. ch. 258, pt. III, 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 Florida Administrative Code ch. 62-340.

*Myakka River Wild and Scenic 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.

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

*Remove a Tree.* To relocate, cut down, poison, or in any other manner destroy, or cause to be destroyed, a Tree as defined in this article. It includes topping, or any action that causes irreparable injury to a tree, including damage inflicted on the root system by heavy machinery, changing the natural grade above the root system or the removal of sufficient canopy so as to cause the unnatural decline of the tree.

*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 a 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 Permit or with an approved plan, with which compliance is necessary for continued validity of the Permit or other approval.

*Topping.* Internodal removal of woody branches containing heartwood or cutting back to a lateral branch too small to assume the terminal role, that removes canopy coverage by more than 30 percent.

*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. For the purpose of this article, all rooted species of mangrove, including red mangrove (*Rhizophora mangle*), white mangrove (*Laguncularia racemosa*), black mangrove (*Avicennia germinans*), and buttonwood mangrove (*Conocarpus erecta*), are hereby declared to be Trees, and are hereby protected by the provisions of this article, regardless of size, except where State law supersedes local jurisdiction. 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. It includes any tree planted, relocated or replaced pursuant to Section 54-590 of this Code.

*Tree Location Survey.* A one inch equals 200 feet or less scale drawing which 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 Section 54-587 (b)(1). A site plan printed on an aerial photograph may 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 Removal and Protection Permit (Permit).* The legal authorization to remove, transplant, and/or the requirement to protect Tree(s) on a Lot, pursuant to the provisions of this article.

*Treed Area.* The area within a 100-foot radius of any Tree trunk.

(Ord. No. 83-044, § 2, 8-2-1983; Ord. No. 95-022, § B, 2-21-1995; Ord. No. 98-029, § 2, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 2, 4-14-2004)

**Sec. 54-583. Public Education.**

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

(Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-584. Prohibitions.**

(a) Unless exempt under Section 54-585, it shall constitute a violation of this article for any Person to Remove a Tree or Trees or cause a Tree or Trees to be removed, or to initiate Development, or construction or demolition of single- and two-family homes, when Trees exist on the property, except in accordance with a Tree Removal and Protection Permit issued by the Administrator pursuant to the provisions of this article.

(b) It shall constitute a violation of this article for any Person to violate any provision or Stipulation contained in a site and Development plan or preliminary subdivision plan approved pursuant to the Land Development Regulations and this article, or in a Permit issued pursuant to this article.

(Ord. No. 83-044, § 3, 8-2-1983; Ord. No. 95-022, § C, 2-21-1995; Ord. No. 98-029, § 3, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-585. Exemptions.**

This article shall not apply to:

(1) A Tree or Trees which has/have a DBH of less than four and one-half inches and any palm Tree with less than four and one-half feet of Clear Trunk (except mangrove species listed in the definition of "Tree" in Section 54-582, which are protected regardless of size).

(2) 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 this Code).

(3) Governmental personnel or agencies in the performance of their official duties during an Emergency declared by the Board as provided herein.

(4) A Lot or portion thereof that is classified by the County Property Appraiser as bona fide agricultural land under the agricultural assessment provisions of F.S. § 193.461, and where Tree removal is undertaken solely for agricultural or silvicultural purposes. This exemption shall not apply to any Tree removal 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 would invalidate this exemption and require an after-the-fact Permit and/or mitigation in accordance with Section 54-595. Neither this invalidation nor the six year time frame shall apply to bona fide agricultural or silvicultural operations. Nothing herein shall be construed to affect the right of any person engaged in the commercial enterprise of Agriculture or Silviculture to alter the topography of any tract of land for purposes consistent with the practice of such enterprise. 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. This exemption does not apply within a wetland or watercourse buffer required by County Code.

(5) Plant or Tree nurseries with regard to only those Trees grown on the premises, and specifically for sale to the general public in the ordinary course of such plant or Tree nurseries' businesses.

(6) Tree removal on an owner-occupied residential Lot 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, Tree removal is exempted within 250 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 Removal and Protection Permit, or where the residential dwelling is to be demolished and reconstructed. This exemption does not apply to any Grand Tree. This exemption shall not apply within the Myakka River Wild and Scenic 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 permit is required for tree removal landward of the watercourse buffer. This exemption does not apply within a wetland or watercourse buffer required by County Code.

(7) Tree removal necessary for the construction of public roads, public utilities, public landfills, or public stormwater facilities. This exemption does not apply to any Grand Tree. This exemption shall not apply within the Myakka River Wild and Scenic Protection Zone. This exemption does not apply within a wetland or watercourse buffer required by County Code.

(8) Tree removal necessary for the maintenance of existing roads, utilities, or stormwater facilities within rights-of-way and easements, performed or contracted by a duly constituted communication, water, sewerage, stormwater, electrical, other utility or government entity. This exemption does not apply to any Grand Tree. This exemption shall not apply within the Myakka River Wild and Scenic Protection Zone. This exemption does not apply within a wetland or watercourse buffer required by County Code.

(9) The demolition of structures, where the demolition does not require the removal of any Trees.

(Ord. No. 83-044, § 4, 8-2-1983; Ord. No. 95-022, § D, 2-21-1995; Ord. No. 98-029, § 4, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 3, 4-14-2004)

### **Sec. 54-586. Grand Tree Designation.**

The tree species and standards set forth in Schedule A and Schedule B shall provide the parameters for Grand Tree designation in Sarasota County. Additionally, all Grand Trees shall have a 70 percent or greater Condition Classification.

Schedule A  
Species and Minimum Points  
Needed to be a Grand Tree

TABLE INSET:

American Elm ( <i>Ulmus americana</i> )	100
Bald Cypress ( <i>Taxodium distichum</i> )	120
Hickory ( <i>Carya spp.</i> )	110
Live Oak ( <i>Quercus virginiana</i> )	110
Pine ( <i>Pinus spp.</i> )	110
Redbay ( <i>Persea borbonia</i> )	85
Sand Live Oak ( <i>Quercus geminata</i> )	70
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

TABLE INSET:

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 foot

(Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-587. Permitting criteria, procedures, and fees.**

(a) *Criteria for granting Tree Removal and Protection Permits.* It is the intent of this section that no Permit shall be granted for the removal of any Tree where the Applicant has failed to design and locate the proposed improvements to minimize the removal of Trees consistent with the permitted use of the property under the County Zoning Ordinance, Ordinance No. 75-38, as amended (Appendix A to this Code), or municipal zoning ordinance, if applicable. Subdivision plans, site and development plans, rezones and special exceptions first submitted after [date of adoption of this Ordinance] shall be designed to protect Grand Trees. Exceptions may only be made for safety reasons or if the Applicant can clearly show that setting aside the space necessary to protect a Grand Tree would unreasonably prevent the Development of a Lot. Tree Removal and Protection Permits, which must be consistent with the Environment chapter of the Comprehensive Plan relating to habitat protection, shall be issued only where:

- (1) The Trees pose a safety hazard to pedestrian or vehicular traffic or unmanageably threaten to cause disruption to utility services;
- (2) The Trees pose a safety hazard to buildings, structures, or other improvements;
- (3) The Trees completely prevent access to a Lot;
- (4) The Trees unreasonably prevent Development of a Lot or the physical use thereof, or if State or local regulations require fill to the extent that Trees cannot be saved and the required elevations are certified by the project engineer.
- (5) The 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, improvements or other Trees, if so determined by the Administrator. It is the intent of this provision that no Permit shall be granted for the removal of any Tree if the hazard can be abated by any other reasonable means.

(b) *Procedure.* If Trees exist on a Lot, regardless of whether they may be removed or protected, a Tree Removal and Protection Permit is required before any construction activity shall occur on that Lot. An application meeting the requirements of this article shall be submitted to the Administrator for review and recommendation, prior to or concurrent with the submission of preliminary subdivision plans or a site and Development plan or an application for a building permit, whichever is first required. Where Development requires approval under the Land Development Regulations, said Tree Removal and Protection Permit shall not be issued until after the preliminary subdivision plan or site and Development plan is approved. Any Person applying for a Permit to remove, protect or relocate a Tree shall file a written application and pay such fee as is established by the Board pursuant to subsection (c) of this section. 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 Location Survey for the Lot must be submitted with the application. The Tree Location Survey shall show the information required in subsections (b)(1)a. through g. of this section at a scale sufficient to enable the determination of matters required under these regulations:

- (1) Information required on the Tree Location Survey.
  - a. The shape and dimensions of the Lot, together with the existing and proposed locations of structures, utilities (i.e., power lines, water, sewer), and other improvements, if any.
  - b. Locations 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 dripline (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 necessary to provide proper preparation of the Tree Location Survey. However, this shall not be done in any fashion that is contrary to this article.

c. If existing Trees are to be transplanted, the proposed relocation for such Trees, together with a statement as to how such Trees are to be protected during land clearing and construction and maintained after construction.

d. A statement indicating how Trees not proposed for removal or relocation are to be protected during land clearing and construction (i.e., as provided by Section 54-588 and Section 54-589).

e. Locations and dimensions of all setbacks and easements required by the zoning code of the County.

f. Statements as to grade changes proposed for the Lot and how such changes will affect Trees.

g. Any proposed Tree replacement program.

h. If a Grand Tree exists on a lot and the proposed activity will encroach into the dripline, a plan shall be submitted by a forester, certified arborist (with current credentials from the International Society of Arboriculture) 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.

i. The Administrator shall issue written conditions for work within the dripline of a Grand Tree only when a arboricultural plan has been approved.

(2) *Tree location on a developed Lot.* If Tree removal is proposed on a Lot that is already developed and the Tree removal is not in anticipation of additional Development, the Applicant will be required to show only the location of the Tree(s) proposed for removal on the survey.

(3) *Alternate information.* 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.

(4) *Preapplication inspection service.* The Administrator shall be available for pre-application conferences or inspections of the site involved.

(5) Upon receipt of a complete application, the Administrator will conduct a field inspection to determine if the information is sufficient for review, and if the proposed plan is in compliance with the provisions of this article. The review for single- and two-family Lots will be made within four working days of receiving a completed application. The review for 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 Permit is approved, or approved with Stipulations.

(6) Should an additional Tree or Trees need to be removed after a Tree Removal and Protection Permit has been issued, the Applicant must obtain an amended Permit prior to the removal of said Trees.

(7) If a Tree dies after a Tree Removal and Protection Permit has been issued and prior to the issuance of a certificate of occupancy, the Applicant shall notify the Administrator and request an inspection, prior to the removal of the dead Tree(s). An inspection 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.

(8) All Permits will require 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 within three working days after notification by the Applicant.

(c) *Permit 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 Tree protection related activities. Any Person who commences Development, or construction or demolition of single- and two-family homes, without first obtaining a Permit, shall be required to obtain an after-the-fact Permit and/or mitigate the impact in accordance with Section 54-595. Said payment shall not preclude nor be deemed a substitute for prosecution of violations of the provisions of this article.

(Ord. No. 83-044, § 5, 8-2-1983; Ord. No. 85-072, § 1, 5-21-1985; Ord. No. 95-022, § E, 2-21-1995; Ord. No. 98-029, § 5, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

### **Sec. 54-588. Tree protection during the Development of land.**

(a) Prior to and during land clearing, the owner, developer 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 construction. Barricades may be removed for the final grading. Removal of other vegetation within the protected zone may be accomplished only by mowing or hand clearing. 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 owner, developer, or agent shall not cause or permit the movement of equipment or the storage of equipment, material, debris or fill to be placed within the required protective barrier.

(b) During the construction stage, the owner, developer or agent shall not cause or permit the cleaning of equipment or material or the storage or disposal of waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other material within the Drip Line of any Tree or group of Trees.

(c) No damaging attachment wires (other than supportive wires for a Tree), signs or Permits may be fastened to any Tree.

(d) Protective barricades for trees other than Grand Trees shall be installed no closer than six feet or one-half the distance from the trunk to the Drip Line of the Tree, whichever is greater. Barricades may be placed three feet from the trunk of palms. Where feasible, barricades should be placed at the Drip Line of the Tree to provide greater protection and increase the chances of survival of protected Trees. 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. A minimum of a one by four inch (common industry standard) wooden board shall be used to connect the upright posts. High-visibility heavy-gauge tape may be substituted for the one by four inch connecting boards. The barricade tape must be a minimum of three inches wide, and of seven mil-thick polyethylene construction, and be a high-visibility color. The maximum distance allowed between upright posts is eight feet. More protective barricades may be substituted with the approval of the Administrator.

(e) In lieu of erecting barricades as required in subsection (d) of this section, large property areas containing Trees and separated from construction or land clearing areas, road rights-of-way, lakes and utility easements may be barricaded by placing stakes not more than 50 feet apart and connecting the stakes with a line of string and tying colored ribbon to the string, or

using three inch-wide heavy-gauge barricade tape described in subsection (d) of this section, from stake to stake along the outside perimeters of such areas to be cleared.

(f) 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.

(g) Where elevation changes are proposed within the protected zone of Trees, the Applicant will be required to 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.

(h) The Administrator shall conduct periodic inspections of the site during land clearing and construction in order to ensure compliance with this article.

(Ord. No. 83-044, § 6, 8-2-1983; Ord. No. 95-022, § F, 2-21-1995; Ord. No. 98-029, § 6, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002)

### **Sec. 54-589. Protection of Grand Trees.**

(a) During Development, including single and two-family lots, all areas within the dripline of every Grand Tree shall be protected from activities that may disturb or injure the tree, (such as cut and fill activities, building pad placements, road bed construction, construction material storage, driving or parking of equipment, or trenching, etc.).

(b) Proper Grand Tree Care: Canopy and Root Pruning. When activities affect the Grand Tree within the dripline 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 dripline, 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 ANSI (American National Standards Institute) A300 Standards-1995 or latest edition. A copy of these standards is available through the Board of County Commissioners, Board Records Office.

(c) Tree Protection Barrier Requirements: During Development activities, including single and two-family lots, or any other potential disturbance that will impact within the dripline 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 dripline for 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 2 x 4 inches or larger wooden post and shall be connected with a minimum of at least a 1 x 4 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 3 feet above the ground.

(3) Where Development activity is permitted within the dripline of a Grand Tree, the Administrator may require additional tree protection provisions to be incorporated in the conditions of the permit to assure the protection of the Grand Tree.

(4) Where elevation changes are proposed within the dripline 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 dripline.

(Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

### **Sec. 54-590. Tree planting, relocation, or replacement.**

(a) *Conditions.* As a condition of granting a Tree removal Permit, the Applicant may be required, where practical (see subsections (b) and (c) of this section), to 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 No. 1 or better. A list of acceptable replacement Trees will be on file in the Administrator's office, and will be attached to 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.

(b) *Tree planting and replacement.* In connection with the removal of any Tree(s) pursuant to a Tree Removal and Protection 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 "Treed Area" or any part thereof within a parcel for which a Tree Removal and Protection Permit has been issued. For excavations of greater than 50,00 cubic yards, and for which a Level II or Level III earthmoving permit is issued, the replanting requirement shall be reduced to a minimum of five Trees per acre of "Treed Area," except that all such excavations that were issued earthmoving permits prior to the date of this amendment [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. Selection of replacement Trees, their number and species shall be determined by analysis of Tree canopy cover, special limitations, other characteristics and soil conditions.

(1) Replacement Trees shall be a species of similar height and crown spread, Florida No. 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.

(c) *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 owner'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 city within the County the right to acquire any such Tree(s) at the city's expense for relocation within the city's incorporated area for public use, or to a School Board site at their expense. 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 all parties.

(d) *Credit for other plantings.* Trees planted in compliance with the requirements of the Land Development Regulations (Chapter 74 of this Code) and landscaping requirements of the Zoning Ordinance (Appendix A to this Code) may be used to help satisfy the requirements of this section.

(e) *Timing and location.* Trees required to be planted in accordance with this section shall be in place and established prior to the issuance of a certificate of occupancy. Said Trees shall not be located closer than three feet to any property line, or six feet from any utility line or County easement. Replacement Trees shall not be planted underneath or near overhead utility lines unless they are a species that, when mature, will not interfere with the utility line. The planting site must have sufficient root zone and canopy space to reasonably allow the Tree(s) to grow to a mature size.

(f) *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 two years after planting, as determined by the Administrator.

(Ord. No. 83-044, § 7, 8-2-1983; Ord. No. 95-022, § G, 2-21-1995; Ord. No. 98-029, § 7, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Editor's note:** Appendix A, referenced above, has been repealed and replaced by Appendix I, pursuant to Ord. No. 2003-052, adopted Oct. 22, 2003.

### **Sec. 54-591. Emergency Tree removal.**

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, tornados, 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.

(Ord. No. 83-044, § 8, 8-2-1983; Ord. No. 95-022, § H, 2-21-1995; Ord. No. 98-029, § 8, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

### **Sec. 54-592. Penalties.**

Violation of this article, or any Permit issued thereunder, shall be punishable by a fine of not to exceed \$500.00 or by imprisonment in the County jail not to exceed 60 days or by both such fine and imprisonment. Each unauthorized removal of a Tree protected by this article shall be deemed a separate offense.

(Ord. No. 83-044, § 9, 8-2-1983; Ord. No. 95-022, § I, 2-21-1995; Ord. No. 98-029, § 9, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-593. Withholding of Permits and imposition of stop orders.**

Until the provisions of this article, including the conditions of any Permits issued thereunder, have been fully met, the County may withhold issuance of any building permit, certificate of occupancy, or inspection required under the current County building code or issue stop orders for any Development, or construction or demolition on single-family and two-family Lots, involving Tree removal.

(Ord. No. 83-044, § 10, 8-2-1983; Ord. No. 95-022, § J, 2-21-1995; Ord. No. 98-029, § 10, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-594. 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.

(Ord. No. 83-044, § 11, 8-2-1983; Ord. No. 95-022, § K, 2-21-1995; Ord. No. 98-029, § 11, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

**Sec. 54-595. Civil and administrative remedies.**

(a) The Board may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, and any Permit issued thereunder, including injunctive relief to enjoin and restrain any Person from violating its provisions, and such damages as may be sustained by virtue of this article, together with all costs and expenses involved in the case. The provisions of this article, or any Permit issued thereunder, may also be enforced through code enforcement proceedings under the provisions of Ordinance 93-006 (Chapter 2, Article VIII, of this Code).

(b) Any Tree removed in violation of the provisions of this article or any Permit issued thereunder may be mitigated on the Lot, by replanting a Tree of twice its size and type. The Applicant may choose to mitigate the violation by replanting the same type Trees with three-inch DBH 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 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). Alternatively, the Applicant may choose to mitigate the violation by paying a mitigation fee of \$200.00 per diameter inch of the Trees removed without authorization, to the reforestation special revenue fund. 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.

(1) The reforestation special revenue fund shall be kept and maintained by the Clerk of the of the Board of County Commissioners.

(2) The Executive Director of the Development Services Business Center shall have the authority to disburse funds for projects in accordance with the following criteria:

- a. Projects shall involve plantings on publicly owned land.
- b. Projects shall not be used to satisfy any landscaping required by the County Zoning Ordinance, Ordinance No. 75-38, as amended (Appendix A to this Code). Tree plantings may supplement required landscaping.
- c. Projects may include enhancement or restoration of native habitats, unless required through permitting or regulation.

(c) In lieu of mitigation, if the Applicant can clearly demonstrate that any Tree removed without a Permit would have met the criteria for removal listed in Section 54-587(a) at the time the Trees were removed, then only an after-the-fact Permit will be required for only those Trees that met the criteria.

(d) No permit approvals or certificate of occupancy shall be issued to any violators of this article until the violation has been certified by the Administrator as properly corrected.

(e) Any Grand Tree removed in violation of this article or any permit issued thereunder, and not mitigated as required in paragraph (b) of this section, shall be mitigated by paying a fee equal to \$500.00 per diameter inch (DBH) to the reforestation special revenue fund.

(Ord. No. 83-044, § 12, 8-2-1983; Ord. No. 95-022, § L, 2-21-1995; Ord. No. 98-029, § 12, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003)

#### **Sec. 54-596. Territorial applicability.**

The provisions of this Ordinance shall be effective throughout the unincorporated area of Sarasota County, Florida. Otherwise, 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. Where any provision of this article refers to a local ordinance, board, or official, it shall refer to the appropriate County ordinance, board, or official, and not to any municipal one, except pursuant to the provisions of an interlocal agreement. The Board may provide for enforcement within any municipality through an interlocal agreement.

(Ord. No. 95-022, § M, 2-21-1995; Ord. No. 98-029, § 16, 6-2-1998; Ord. No. 2000-061, § 3, 9-13-2000; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 4, 4-14-2004)

#### **Sec. 54-597. Severability.**

If any provision of this Ordinance 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. 83-044, § 14, 8-2-1983; Ord. No. 95-022, § N, 2-21-1995; Ord. No. 98-029, § 16, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 5, 4-14-2004)

#### **Sec. 54-598. Interpretation.**

Where any provision of this Ordinance 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.

(Ord. No. 95-022, § O, 2-21-1995; Ord. No. 98-029, § 16, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 6, 4-14-2004)

**Sec. 54-599. Sunset provision.**

This Ordinance shall be automatically repealed on June 30, 2009 unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

(Ord. No. 98-029, § 16, 6-2-1998; Ord. No. 2002-002, § 2, 5-22-2002; Ord. No. 2002-31, § 3, 10-9-2002; Ord. No. 2003-027, § 2, 11-12-2003; Ord. No. 2004-039, § 6, 4-14-2004)

Secs. 54-600--54-620. Reserved.