

## ARTICLE IV. CANOPY ROADS

### Sec. 98-92. Findings of fact.

The Board of County Commissioners hereby makes the following findings:

- (1) Sarasota County is endowed and forested by native oaks and other trees which give the County a unique visual character and enhance property values.
- (2) Preservation and maintenance of healthy oaks and other species that comprise Canopy Roads will maintain their historic, aesthetic, cultural and environmental value.
- (3) Preservation of these trees along roads is important for the following reasons.
  - a. To increase economic value of properties and neighborhoods, encouraging quality development.
  - b. To protect the environment of the County.
  - c. To aid in the reduction of air pollution by protecting the capacity of trees to produce oxygen and sequester carbon dioxide.
  - d. To help reduce potential damage from wind.
  - e. To provide shade and act as a noise barrier.
  - f. To assist in the absorption of rainwater into the ground, thereby protecting against potential damages from soil erosion and flooding, as well as reducing the cost of handling stormwater by artificial means.
  - g. To conserve, protect and enhance the aesthetic and scenic beauty of the County.

(Ord. No. 2001-041, 5-23-2001)

### Sec. 98-93. Statement of purpose.

(a) The purposes of this article are to:

- (1) Designate, preserve, promote, and protect Canopy Roads in Sarasota County.
- (2) Provide definitions and regulations that will protect Canopy Roads in Sarasota County and encourage property owners to maintain these trees.

(Ord. No. 2001-041, 5-23-2001)

### Sec. 98-94. Definitions.

As used in this article, the following words shall have the meanings set out herein unless some other meaning is plainly intended.

*Administrator.* The designated representative of the Sarasota County Administrator who shall have minimum qualifications of Environmental Specialist II and also ISA certified arborist.

*ASCA.* American Society of Consulting Arborists.

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

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

*Border Trees.* A Tree which has any part of its trunk (part defined as between 12"--54" above ground surface), growing on the line established as the outer perimeter of the Canopy Road Zone.

*Canopy Road Zone (CRZ).* A designated section of County Right-of-Way and the adjacent private property extending 15' from edge of Right-of-Way onto adjacent Private Property.

*Clear Zone.* Canopy above travelway trimmed to 14' above road surface for vehicle clearance. Canopy above pedestrian zones trimmed to 8' above ground surface and two feet laterally from edge of sidewalk.

*County.* Sarasota County, Florida.

*Disturbance.* Any action by a Person which causes irreparable harm to a Protected Tree. Actions which disturb a Protected Tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the Tree permitting infection or pest infestation, application of herbicides or other chemical agents, infliction of a trunk wound, measured at its greatest dimension, that is 50 percent or greater of the diameter of the Tree, or removal of sufficient canopy to cause unnatural decline of the Tree.

*Diameter at Breast Height (DBH).* The diameter of the trunk measured at breast height, which is 54 inches above the ground.

*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 by resolution, geographically defining the emergency area, and adopted by the Board.

*Invasive Plant.* Any non-indigenous plant that grows aggressively enough to crowd out Native Plants.

*ISA.* International Society of Arboriculture.

*Land Development Regulations.* Sarasota County Ordinance 81-12, as amended or its successor.

*Native Plant.* An indigenous plant.

*Naturalized Plant.* A plant that is not native to an area but has colonized without being aggressive.

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

*Protected Tree.* A Tree of eight inches DBH or greater with sustaining root system and crown and potential to provide shade over travelways.

*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, damage, or any other action that causes irreparable injury.

*Travelway.* The portion of the Roadway for the movement of Vehicles exclusive of the shoulders, bike lanes, or gutters.

*Tree.* A living woody, self-supporting plant, which has or can have a mature diameter of greater than four inches measured at 54 inches above the ground, more or less upright in growth habit, generally having one stem but may be multi-stemmed.

*Tree Removal and Protection Permit.* The legal authorization to Remove Trees and/or the requirements to protect the Trees from disturbance on a lot, pursuant to the provisions of this article.

*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 54-585(b)(1) of the Sarasota County Code. 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).

(Ord. No. 2001-041, 5-23-2001; Ord. No. 2004-019, § 1, 1-27-2004; Ord. No. 2004-098, § 1, 10-13-2004)

#### **Sec. 98-95. Prohibitions.**

Unless exempt under Section 98-96, 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 prune in Canopy Road Designated Areas, except in accordance with the Tree Removal and Protection Permit issued by the Administrator pursuant to the provisions of this article.

(Ord. No. 2001-041, 5-23-2001)

#### **Sec. 98-96. Exemptions.**

This article shall not apply to:

- (1) A road or road segment not designated as a Canopy Road by the County as adopted by Resolution.
- (2) Governmental personnel or agencies in the performance of their official duties during an emergency declared by the Board of County Commissioners as provided [provided] herein.
- (3) Tree Removal necessary for the construction of public roads, utilities, landfills, stormwater facilities, or other government uses only where no reasonable alternative exists to preserve the Protected Tree.
- (4) The demolition of structures where the demolition does not require the destruction or have an impact within the Drip Line of any Protected Tree.

- (5) Pruning required to restore electric service during severe weather events or other electrical emergency situations.
- (6) Persons engaged in routine arboricultural maintenance or Clear Zone pruning for vehicles, pedestrians, signs, or other roadside appurtenances provided that such maintenance and pruning conforms to current American National Standards Institute, (ANSI) A-300 standards (copy available at Office of Clerk to the Board of County Commissioners), as stated in Section 98-99(d) and does not compromise the integrity of the canopy to shade the road.
- (7) Brazilian pepper (*Schinus terebinthifolius*), Punk or Melaleuca (*Melaleuca quinquenervia*), Australian Pines (*Casuarina* Spp.), Carrotwood (*Cupaniopsis anacardioides*), China-berry (*Melia azedarach*), Chinese Tallow (*Sapium seiferum*), or any tree species prohibited by the Chapter 54, Article XIX Exotic Plants as amended, of the Sarasota County Code.

(Ord. No. 2001-041, 5-23-2001; Ord. No. 2004-019, § 2, 1-27-2004; Ord. No. 2004-098, § 2, 10-13-2004)

#### **Sec. 98-97. Canopy Road designation.**

- (a) The Board of County Commissioners 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 additional Canopy Roads can be made by residents, County Staff, and the Street Tree Advisory Council. Requests will be coordinated and brought to the Board of County Commissioners by the Administrator for approval.
- (b) Canopy Roads shall have characteristics as set forth below.
  - (1) A Canopy Road shall have a minimum length of one-eighth mile (660 feet) and a minimum of 50 percent overhead coverage (excluding invasive species), per section of travelway as measured by branching, drip line, shadows, and other visual cues; or
  - (2) A Canopy Road shall have a minimum length of one-quarter mile (1,320 feet) and overhead coverage contributing to a point-based evaluation requiring a minimum 50 points. Evaluation shall be based on tree canopy coverage as a percentage of overall travelway length, on canopy condition and composition; and
  - (3) A Canopy Road shall consist of a minimum of 75 percent native and naturalized species; and
  - (4) A Canopy Road may be composed of more than one segment of differently named roads providing they are contiguous and the combined length meets the minimum requirement.
- (c) Canopy Roads shall have appropriate signage.

(Ord. No. 2001-041, 5-23-2001; Ord. No. 2004-019, § 3, 1-27-2004; Ord. No. 2004-098, § 3, 10-13-2004)

#### **Sec. 98-98. Authorization for removal or disturbance to Protected Trees in designated Canopy Road Zones.**

- (a) It is the intent of this provision that no permit shall be granted for the removal of any Trees where the Applicant has failed to design the proposed improvements to minimize the impacts on the Canopy Road Zone (CRZ), consistent with the permitted use of the property under Appendix A, Sarasota County Code, as amended. It shall constitute a violation of this article for any Person to Remove or disturb any Protected Tree within a Canopy Road Zone unless it has been determined that such Protected Tree:
  - (1) Poses a safety hazard to people, buildings, structures, or vehicles; or
  - (2) Is classified as an invasive species; or
  - (3) Is diseased or so weakened by age, storm or other injury so as to pose a danger to persons, property, utilities, or improvements; or
  - (4) Unreasonably prevents a development of a lot, parcel, or other lands or the physical use thereof.
- (b) When authorization for Protected Tree Removal or Disturbance is required an application meeting the requirements of this article shall be submitted for review by the Administrator. The Administrator shall issue a written authorization for Removal, disturbance, or pruning of Trees only when it is determined that the action proposed is necessary, and will not be contrary to this section.

Any authorization for Tree Removal or disturbance shall specify the location approved, the species of Tree, the action allowed to be performed, the duration of the approval, and any other requirement deemed necessary by the Administrator to regulate the disturbance or removal to Canopy Road Trees in the County.

- (c) Permitting Procedure. For the removal of Trees in a CRZ, a Tree Removal and Protection Permit is required before any Tree Removal within the CRZ occurs. An application meeting the requirements of this article shall be submitted to the Administrator for review and recommendation, prior to or concurrent with the 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 or disturb Trees, shall file a written application and pay such a fee as established by the Board of County Commissioners pursuant to Section 98-102 of this article. The written application shall constitute a written authorization for County staff to enter the property 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 Sections 98-98(c)(1)a., b. at a scale sufficient to enable the determination of matters required under these regulations.

(1) Requirements for Canopy Road Zone Tree Protection permits.

a. Applicant shall submit a plan showing proposed scope of work to include Protected Trees (by species and DBH), the scaled location of the Canopy Road Zone, and the proposed location of the Tree protection barricades.

b. If encroachments into the CRZ 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.

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

(3) Upon receipt of the 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. Upon completion of the review, the Administrator will notify the Applicant that the application is either insufficient, does not comply with the provisions of this article, or that the permit is approved, or approved with stipulations.

(4) If a Protected Tree dies after a Tree Removal and Protection Permit has been issued and prior to the issuance of a Certificate of Occupancy or Completion, the Applicant shall notify the Administrator and request an inspection, prior to the removal of the dead Tree. An inspection shall be made within two days of the notification by the Applicant. Failure to notify the Administrator prior to the removal of any CRZ protected tree constitutes a violation of this article.

(5) 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 completing the project.

(d) Trimming within CRZ shall be limited to 14 feet clearance over the travelway for vehicles and eight feet over walkways for pedestrian clearance unless exempt by Section 98-96.

(e) Border Trees shall be included in the Canopy Road Zone.

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-99. Protection of Canopy Road Trees.**

(a) *Requirements for utility pruning.* Franchised utilities must conform to current ANSI A-300 standards when performing line clearing work in CRZ 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.

(b) *Location of Protected Trees.* All Protected Trees which will be disturbed by proposed activities shall be physically located on-site and shown on the site plan submitted as part of the Tree Removal request in the Tree Removal and Protection permit application.

(c) *Drip Line Preservation.* During development, construction activity, and utility construction, all areas surrounding the trunk of a Protected Tree within a minimum of 50 percent of the radius of the Drip Line 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.), except where specific arboricultural analysis is provided by the Applicant to demonstrate that there is no likelihood of adverse impact to the Tree.

(d) *Proper Tree Care: Canopy and Root Pruning.*

(1) When activities affect the Protected Tree so that more than 25 percent of the area within the Drip Line is disturbed,

or when pruning must be performed on the crown of a Protected Tree, the following arboricultural techniques are required:

- a. When more than 25 percent of the area within the Drip Line will be disturbed, 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 Protected Trees shall conform to the current ANSI A-300 standards and be supervised by an ISA certified arborist. There shall be no flush cuts, stub cuts, or lions 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 which results in an unnecessary reduction of shade of Protected Trees in the permit area. Topping shall be considered as cutting a major branch or stem to a stub or lateral branch not sufficiently large enough to assume the terminal role.

(e) *Tree Protection barrier requirements and CPZ protection.* During development activities or any other potential disturbance that will impact the area within the Drip Line of any Protected Tree, protective barriers shall be placed around each Protected 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, however 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 and CPZ protection.

- (1) Protective posts shall be placed so as to protect all areas within a minimum of 50 percent of the distance from the trunk to the Drip Line boundary for each Protected Tree, except in Right-of-Way or utility placement areas where posts shall be placed so as to protect a minimum of 50 percent of the area within the Drip Line where approved by the Administrator.
- (2) Posts shall be a minimum of two inches by four inches or larger wooden post, two inches outer diameter or larger or other post material of equivalent size; shall be connected with a minimum of at least a one inch by four inch wooden board; and shall be clearly flagged. The maximum distance allowed between upright posts is eight feet. Other similar methods, such as, construction fencing, may be permitted if approved in writing by the Administrator in advance of installation.
- (3) Posts shall be implanted deep enough into the ground to be stable and extend a minimum height of four feet above the ground.
- (4) Where development activity is permitted within 50 percent of the radius within the area of the Drip Line of a Protected Tree (as measured by the longest radius from trunk to Drip Line), the Administrator may require additional Tree protection provisions to be incorporated in the activity permit.
- (5) No storage or movement of equipment, store material, debris, or fill soil is allowed within 50 percent of the area within the Drip Line of any Protected Tree, (as measured by the longest radius from trunk to Drip Line).
- (6) No equipment shall be cleaned, or waste materials such as paints, oils, solvents, asphalt, concrete, mortar, or any other material shall be stored within 50 percent of the area within the Drip Line on any Protected Tree, (as measured by the longest radius from trunk to Drip Line).
- (7) No damaging wires, signs or permits shall be fastened to any Protected Tree.
- (8) Silt barriers, hay bales, or similar effective erosion silt control barriers will be required in any area where erosion or siltation may cause damage to Protected Trees.
- (9) Where elevation changes are proposed within 50 percent of the area within the Drip Line of any Protected Tree (as measured by the longest radius from trunk to Drip Line), the Applicant will be required to install retaining walls or drain tiles unless the cost of such walls/tiles exceeds the replacement value of the tree(s). 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 Drip Line.

(f) The Administrator shall conduct periodic inspections of the site during the permitted activity in order to ensure compliance with this article.

(Ord. No. 2001-041, 5-23-2001; Ord. No. 2004-098, § 4, 10-13-2004)

#### **Sec. 98-100. Territorial applicability.**

This article shall be effective throughout the unincorporated area of Sarasota County, Florida with the exception of incorporated

municipalities, unless municipalities, by ordinance, adopt these regulations, and enter into Interlocal Agreements with the County for enforcement.

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-101. Emergency Tree removal.**

When it is necessary to expedite the Removal of damaged or destroyed Protected Trees in the interest of the public safety, health, and general welfare following high winds, storms, hurricanes, tornadoes, floods, or other man-made or natural disasters, the Board of County Commissioners of Sarasota County may, by resolution, suspend the requirements of this article during the period of any declared Emergency.

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-102. Fees.**

The Board of County Commissioners is authorized to set reasonable fees and charges for the implementation of this article. Such fees shall be set by resolution after an advertised public hearing. Fees charged shall substantially finance the costs incurred in processing authorizations and other related activities administered by the Administrator. Fee shall be waived if tree is determined to be exempt under the conditions of Section 98-98(a)(1)--(4).

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-103. Appeals.**

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

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-104. Civil and administrative remedies.**

- (a) The Board of County Commissioners of Sarasota County 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.
- (b) Any Tree removed, unauthorized pruning, or any action which causes the disturbance of a Tree in violation of the provisions of this article or any permit issued thereunder, may be mitigated by paying a fee equal to \$100.00 per Diameter Inch (DBH) and shall be used only for the purposes of acquiring, planting, and protecting Trees within the County.
- (c) The provisions of this article or any permit issue thereunder, may also be enforced through code enforcement proceedings under the provisions of Chapter 2, Article VIII of the Sarasota County Code of Ordinances.

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-105. Penalties.**

In accordance with F.S. § 125.69, as amended, violation of this article, or any authorization 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 incidence of violation of any section or part of a section contained in this article shall be deemed a separate offense.

(Ord. No. 2001-041, 5-23-2001)

**Sec. 98-106. 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. 2001-041, 5-23-2001)

**Sec. 98-107. Interpretation.**

Wherein any provision of this article refers to or incorporates another provision, article, 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. 2001-041, 5-23-2001)

**Sec. 98-108. Effective date.**

This article shall take effect upon receipt of official acknowledgement from the Office of the Secretary of State of Florida that this Ordinance has been filed with said office.

(Ord. No. 2001-041, 5-23-2001)