

ORDINANCE NO. 2022-100

**Amending Chapter 54, Article XVIII
of the Sarasota County Code of Ordinances
[Trees]**

AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA, RELATING TO TREES, AS AMENDED AND CODIFIED IN CHAPTER 54, ARTICLE XVIII OF THE CODE OF ORDINANCES OF SARASOTA COUNTY, FLORIDA; AMENDING SECTION 54-586 RELATING TO PERMITTING CRITERIA AND PROCEDURES, AMENDING SECTION 54-589 RELATING TO TREE PLANTING, RELOCATION, OR REPLACEMENT, AMENDING SECTION 54-592 RELATING TO APPEALS AND PROVIDING AN EFFECTIVE DATE.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY:

SECTION 1. This Ordinance amends Sarasota County Ordinance No. 83-044, as amended, as codified in Article XVIII, Chapter 54 of the Sarasota County Code of Ordinances. Language that has been added to the Code has been underscored, while language that has been eliminated has been ~~stricken~~.

SECTION 2. Section 54-586 of the Code is hereby amended to read as follows:

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 and with all new Development, 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 the permitted 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.~~

1. Existing Lots:

- a. Safety reasons; or
- b. 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.

2. New Lots:

- a. Safety reasons; or
- b. Grand Tree is located in a required access point to a Lot with no other reasonable alternative access point as determined by the Code Administrator in consultation with the Sarasota County Engineer;

(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) *Pre-application 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 foot

SECTION 3. Section 54-589 of the Code is hereby amended to read as follows:

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) *Residential Development.* For all residential Development, the following Tree planting requirements shall be applicable:

1. Tree Permits with Tree Removal. In connection with the removal of any Tree(s) for residential Development 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.

a. Trees within a CRPZ. For Tree Removal within a CRPZ, the Tree planting ratio contained in 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.

- b. *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 residential 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 residential 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) *Commercial Properties.* For all commercial Development, the following Tree planting requirements shall be applicable:

1. For all new commercial Development. One Tree shall be planted for each 2,000 square feet of the property. 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.

2. For expansions or additions to existing commercial Development. The Tree planting requirements contained in 54-589(2)(d) will be calculated based on the square footage of the new impervious area of the Lot being developed. For determining Tree planting requirements, new shell parking areas are considered impervious.

(ed) *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~~ into the reforestation special revenue fund based on the following schedule:

1. Existing Lots: \$200 per DBH inch not replanted on site. For every 25% of the total DBH inch that is replanted on site, the \$200 fee, is reduced by \$50. All calculations are to be rounded down in consideration of replanting.

2. New Lots: \$400 per DBH inch not replanted.

(fe) *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.

(gf) *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.

(hg) *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.
- (ih) *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.
- (ji) *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 Unified Development Code (Chapter 124, as amended, of the Sarasota County Code of Ordinances) and landscaping requirements of the Unified Development Code (Chapter 124, as amended, 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 timeframe 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.

SECTION 4. Section 54-592 of the Code is hereby amended to read as follows:

Sec. 54-592. - Appeals.

~~Any Person~~ Applicant or owner 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. The Board may consider such appeals concurrently with rezoning or special exception petitions when there is a binding development concept plan associated with the petition. There is no fee associated with the appeals process. Any action pursuant to this section shall not stay any enforcement proceedings.

SECTION 5. Effective Date: This Ordinance shall take effect immediately upon filing with the office of the Florida Secretary of State.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: _____
Chairman

ATTEST:

KAREN E. RUSHING, Clerk of Circuit
Court and Ex-Officio Clerk of the Board
of County Commissioners of Sarasota
County, Florida

By: _____
Deputy Clerk