

ARTICLE III. STREET TREES

Sec. 98-71. Findings of fact.

The Board of County Commissioners hereby makes the following findings:

- (1) Sarasota County is perceived by residents and visitors alike as a place of exceptional natural beauty and this perception is an important reason people enjoy living and working here.
- (2) The natural beauty of Sarasota County and the health of its natural environment contribute significantly to the attractiveness of the County and thus contribute to the strength of the many businesses which benefit from these virtues and contribute, in turn, to the public economic well-being.
- (3) The residents of developed areas of Sarasota County have historically enjoyed a rich natural environment including clean air and water and abundant bird life.
- (4) Trees and other plantings make a significant contribution to our perception of the beauty of Sarasota County and to the ecological health of our environment.
- (5) Street Rights-of-Way and other public open spaces provide land which is appropriate, accessible, and highly visible for the planting of Trees and other vegetation.
- (6) It is a matter of public policy that the health, safety, welfare, and economic well-being of the residents and property owners of Sarasota County require that the County adopt a comprehensive program for the installation, maintenance, and preservation of Street Trees and other plantings within Sarasota County.
- (7) The Board of County Commissioners has reviewed Ordinance No. 97-013 and finds that its amendment, ratification, and restatement of Ordinance Number 88-02 fulfills the purposes of Sunset Review Ordinance Number 96-054.

(Ord. No. 88-002, § 1, 1-5-1988; Ord. No. 97-013, § 1, 2-25-1997)

Sec. 98-72. Statement of purpose.

The purpose of this article is to:

- (1) Effect and accomplish the planting, maintenance and preservation of Trees and other plantings in Street Rights-of-Way and other public open spaces and to assure all plantings conform to the following guidelines for landscape design. All plants shall have low to moderate water and maintenance needs and be adapted to local urban environmental conditions; native species are preferred but are not required as long as the non-native species is proven benign to the natural ecosystems of the County; canopy Trees shall be planted wherever space permits; landscape beds shall be confined primarily to gateway areas of the County and those areas where sod and sod maintenance are impractical; plants with similar cultural needs shall be grouped, and the use of fabrics will be required to reduce weed growth.
- (2) Extend the role of Trees and other plantings as producers of oxygen and water vapor, cleansers of water, stabilizers of soil, providers of habitat, reducers of noise and glare, and suppliers of shade and cooling.
- (3) Promote the interests of the people of Sarasota County through enhancing the

beauty of the County and strengthening its ecological health.

(Ord. No. 88-002, § 2, 1-5-1988; Ord. No. 97-013, § 2, 2-25-1997)

Sec. 98-73. Definitions.

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

Block. "Block" means an area of land surrounded by Streets, streams, railroad Rights-of-Way, parks, or similar areas or facilities.

County. "County" means the County of Sarasota, a political subdivision of the State of Florida.

Department. "Department" means the Transportation Department of the County of Sarasota.

Dripline. "Dripline" means any imaginary vertical line running from the outermost branches or portion of the Tree crown to the ground.

Emergency. "Emergency" means any manmade or natural disaster which is specifically declared to be an Emergency by resolution, geographically defining the Emergency area and adopted by the Board of County Commissioners.

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

Historic Tree. "Historic Tree" means any Tree existing within Sarasota County which has been designated as such by the Board of County Commissioners. It shall have been found by the County to be a Tree of notable historic interest or designation.

Manager. "Manager" means the Manager of the Landscape Operations Division of the Transportation Department.

Master Tree List. "Master Tree List" means a list of Tree species suitable and desirable for planting on certain sites, conditions, [and] locations on Rights-of-Way and for use in the Street Tree program.

New Construction. "New Construction" means the construction of any public Road facility where none previously existed, or the act of paving any previously unpaved Road.

Person. "Person" means any individual, corporation, partnership, association, firm, trust, or other entity.

Private Street. "Private Street" means any Street which has not been dedicated for public use or not accepted for ownership or maintenance by the Board of County Commissioners.

Public Places. "Public Places" means all lands and Rights-of-Way owned by the County of Sarasota, excluding park lands and lands managed by other County agencies.

Reconstruction. "Reconstruction" means any Road construction other than New Construction.

Residential Street Tree Program. "Residential Street Tree Program" means the County's program to plant, maintain, and protect Trees on public lands or along any Street, portion of Street, County owned Right-of-Way, or planting easement planted by the County through an agreement and with the cooperation of the local residents or homeowners' association. These Trees are County property and are protected under the provisions of this article.

Right-of-Way. "Right-of-Way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes. Specifically, the land in which the State, the County, and/or a municipality owns the fee or has an easement devoted to or required for use as a public Road.

Right-of-Way Use Permit. "Right-of-Way Use Permit" means any authorization given to a Person to work in County-maintained Rights-of-Way as defined in Ordinance 81-12 (Chapter 74 of this Code).

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

Root Area. "Root Area" means the area within the Dripline where root growth is unobstructed.

Specimen Tree. "Specimen Tree" means any Tree existing within Sarasota County which has been designated as such by the Board of County Commissioners. It shall be found by the County to be a Tree of notable size, type, or unique qualities.

Street Tree. "Street Tree" means any Tree planted by the County Street Tree program, including the cooperative Residential Street Tree Program, after January 1988, which is located on any Right-of-Way.

Street Tree Planting and Maintenance Manual. "Street Tree Planting and Maintenance Manual" means the manual adopted by resolution of the Board of County Commissioners providing for the planting and maintenance of Trees and other vegetation in Streets and other public open spaces.

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

Tree. "Tree" means a woody, self-supporting plant, which has a mature diameter of greater than four inches measured at 4.5 feet above the ground, more or less upright in growth habit, generally having one stem, but which may be multi-stemmed.

Tree Diameter. "Tree Diameter" means the measurement of the diameter of the main trunk of a Tree 4.5 feet above the ground for all Trees greater than four inches in diameter. For Trees less than four inches in diameter, Tree Diameter will be measured at six inches above the ground.

Vehicle. "Vehicle" means every device in, upon, or by which any Person or property is or may be transported or drawn upon a Travelway, excepting devices used exclusively upon stationary rails or tracks.

(Ord. No. 88-002, § 3, 1-5-1988; Ord. No. 97-013, § 3, 2-25-1997)

Sec. 98-74. Sarasota Tree Advisory Council.

The Street Tree Advisory Council is abolished and there is created the Sarasota Tree Advisory Council. The current members of the Street Tree Advisory Council created pursuant to Ordinance No. 88-02, as amended, shall serve as the initial members of the Sarasota Tree Advisory Council in accordance with existing appointments.

(1) *Composition and requirements for membership.*

- a. The Council shall be composed of not less than eight nor more than 14 citizens of the County of Sarasota, including one youth representative appointed by the Board of County Commissioners from the County at large.
- b. All private members shall serve without pay.
- c. No member shall hold elective office on the Sarasota County Board of County Commissioners.
- d. With the exception of the youth representative, members shall be appointed for terms of four years. The youth representative shall be appointed for a one-year term only. Vacancies shall be filled for the unexpired term in the same manner as the original appointments were made. Members may be removed by

the Board of County Commissioners for failure to attend three consecutive meetings.

e. The Executive Director of the Public Works Business Center, or his/her designee and the Division Manager of Forestry shall serve as ex officio nonvoting members of the Council.

(2) *Duties of the Council.*

a. To update and revise the Street Tree Planting and Maintenance Manual as defined and detailed in Section 98-75;

b. To recommend plans for individual Street and neighborhood planting projects, and specify the type, kind, locations of plant material, and priority of projects;

c. To assist the Public Works Business Center in updating and revising a Master Tree List as detailed in Section 98-76;

d. To assist in the dissemination of public information;

e. To review and recommend revisions to the Sarasota County Street Tree Ordinance No. 88-02, as amended, (Sarasota County Code, Chapter 98, Article III) for consideration by the Board of County Commissioners with the assistance of the County Administrator and staff persons assigned by him/her;

f. To review and recommend revisions to the Sarasota County Tree Protection Ordinance No. 83-44, as amended, for consideration by the Board of County Commissioners with the assistance of the County Administrator and staff persons assigned by him/her;

g. To review and recommend revision to the Sarasota County Land Development Regulation, Ordinances No. 97-051, as amended, (Sarasota County Code, Chapter 94) and the Sarasota County Zoning Code. Ordinance No. 75-38, as amended, as it pertains to landscaping, buffering, and the protection of trees (Sarasota County Code, Appendix A), for consideration by the Board of County Commissioners with the assistance of the County Administrator and staff persons assigned by him/her;

h. To prepare, with the assistance of the County Administrator and staff assigned by him/her, proposed regulations for consideration by the Board of County Commissioners regarding the protection of grand tree specimens and the designation and preservation of tree canopy roadways;

i. To make such other recommendations to the County as the Council may see fit consistent with the terms of this article; and

j. To carry out other such duties as the Board of County Commissioners may require.

(3) *Organization.*

a. The Council shall provide for the adoption of rules and procedures and for the holding of regular and special meetings.

b. The Division Manager of Forestry shall serve as Council Secretary.

c. All recommendations of the Council shall be presented to the Board of County Commissioners.

d. A simple majority of the members shall constitute a quorum. An affirmative vote of a simple majority of members present shall constitute adoption of a motion. A motion is lost on a tie vote.

(Ord. No. 88-002, § 4, 1-5-1988; Ord. No. 88-026, § 2, 3-8-1988; Ord. No. 97-013, § 4, 2-25-1997; Ord. No. 2001-039, § 2, 5-23-2001; Ord. No. 2001-063, § 2, 9-12-2001)

Cross references: Administration, ch. 2.

Sec. 98-75. Street Tree Planting and Maintenance Manual.

The adopted "Street Tree Planting and Maintenance Manual for Sarasota County" is hereby maintained. The Council shall review the manual at least every five years and recommend changes. Revisions to the manual may be made by the Board of County Commissioners.

(Ord. No. 88-002, § 5, 1-5-1988; Ord. No. 97-013, § 5, 2-25-1997)

Sec. 98-76. Master Tree List.

The Department, with the assistance of the Council, shall develop and maintain a Master Tree List, which shall be kept on file at the Department office. This document shall specify the types and species of Trees suitable and desirable for planting in certain areas, and the conditions under which such Trees shall be planted.

(Ord. No. 88-002, § 6, 1-5-1988; Ord. No. 97-013, § 6, 2-25-1997)

Sec. 98-77. Authorization for planting, removal, or pruning of Trees or other vegetation in Public Places.

(a) It shall constitute a violation of this article for any Person, except the Executive Director of the Public Works Business Center, or duly designated representatives, to plant any tree or shrub or to remove, kill or destroy any tree, top any tree, shrub, plant, or vegetation from any Right-of-Way as defined, without first obtaining authorization from the Public Works Business Center. However, nothing contained in this section shall prohibit any Person from maintaining lawn areas or pruning or trimming non-street trees or shrubs in the public transportation Right-of-Way that is used for access and is immediately adjacent to property owned or leased by that person out to the edge of the travel way, (that portion of the roadway dedicated to the movement of motorized vehicles), provided that said vegetation is not a State or County protected mangrove tree(s).

(b) The Executive Director of the Public Works Business Center or duly designated representatives shall not remove or authorize removal of any tree, shrub, plant or other vegetation from any street or Right-of-Way, unless it has been determined that such tree, shrub, plant or vegetation:

- (1) Is endangering Streets, sidewalks, sewers, utility installations, other facilities; or,
- (2) Poses a safety hazard to people, buildings, structures, or vehicles; or,
- (3) Is diseased or so weakened by age, storm or other injury so as to pose a danger to Persons, property, improvements, or other trees; or,
- (4) Is dead or unsightly; or,
- (5) Is determined to be a pest or invasive species; or,
- (6) Unreasonably prevents development of a lot, parcel, Right-of-Way, easement, or other lands, or the physical use thereof. It is the intent of this provision 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 Street Trees consistent with the permitted use of the property under County Ordinance No. 75-38, as amended; or,

(7) Within the Right-of-Way creating a hazard to Vehicles; or

(8) Is not State or County protected mangrove, or native habitat as described in the Habitat Inventory and Analysis Section of Apoxsee Environment Chapter.

(c) When authorization for Street Tree removal is required, except pursuant to authorization under the provisions of this article or other County regulations, an application meeting the requirements of this article shall be submitted for review by the Development Services Business Center. The Development Services Business Center shall issue a written authorization for removal only when it is determined that the action proposed is in the public's best interest will not be contrary to this section, the Street Tree Planting and Maintenance Manual for Sarasota County, or the provisions of this article, and will be performed in a timely manner and in accordance with professional forestry practice.

Any authorization issued pursuant to this section shall specify the location approved, the species of tree or other plantings, the action allowed to be performed, the duration of the approval, and any other requirement deemed necessary or desirable by the Development Services Business Center to regulate the proper planting, trimming, or cutting or removal of trees, shrubs, plants and vegetation planted after January, 1988. Trees shall not be planted underneath or near overhead utility lines, unless they are a species that when mature will not grow into the lowest power line. All work performed under an authorization issued by the Department shall be performed in strict compliance with the terms of the authorization.

(Ord. No. 88-002, § 7, 1-5-1988; Ord. No. 97-013, § 7, 2-25-1997; Ord. No. 2001-040, § 1, 5-23-2001)

Sec. 98-78. Right-of-Way Use Permits.

(a) Any authorization for the private installation of landscaping granted pursuant to this article in public Rights-of-Way by the Department shall be subject to a Right-of-Way Use Permit, as provided in the Land Development Regulations, Ordinance 81-12 (Chapter 74 of this Code), and shall be reviewed by the Department for compliance to Road design setbacks, and shall conform to County landscaping policies and guidelines.

(b) Any Right-of-Way Use Permit granted by the Department for construction or other activity upon a Right-of-Way containing Street Trees shall be subject to review before such permit is granted. The Department shall review all such applications with the permittee to ensure compliance with the provisions of this article. All Street Trees in the permit area shall be inspected prior to the beginning of permitted activities to insure conformance with this article. The permittee shall give the Department 72 hours' notice prior to the beginning of any permitted activity. All activities are subject to inspection for conformance to Section 98-79 at any time during the length of the permit. The Department shall inspect all Street Trees in the permit area before the Right-of-Way Use Permit is determined to be complete.

(c) Any authorization issued pursuant to this section shall specify the County department that will be maintaining the vegetation specified to be installed, if said landscaping is to be assigned to a County department.

(d) When determined applicable by the Department, generally in the case of any private installation of landscaping within a public Right-of-Way by an applicant, a maintenance agreement will be required in addition to a Right-of-Way Use Permit. Said agreement shall be in a form satisfactory to Sarasota County and may include insurance, performance assurances, and other provisions deemed necessary by the County to protect the interests of the public.

(Ord. No. 88-002, § 8, 1-5-1988; Ord. No. 97-013, § 8, 2-25-1997)

Sec. 98-79. Protection of Trees in the public Right-of-Way and other Public Places.

(a) It shall constitute a violation of this article for any Person to abuse, destroy, top, or mutilate any Tree or shrub planted or growing on any Right-of-Way, or to attach or place any rope or wire (other than one used to support a Tree), sign, poster, handbill, or other thing to or on any Tree on public Rights-of-Way or other Public Places, or, to allow any gaseous, liquid, or solid substance which may be harmful to Trees to come in contact with any portion of the Tree except pursuant to authorization under the provisions of this article or other County regulations.

(b) No Person shall deposit, place, store, park, or maintain upon any Tree or Root Area of any Street Tree, or other plantings, planted in a public Right-of-Way or other Public Places, any Vehicle, stone, brick, concrete, soil, or other materials that may impede the free passage of water, air, and fertilizer to the roots of any Street Tree growing therein, except by written authorization of the Department.

(c) No Person shall physically impede employees of the County who are engaged in the planting, maintaining, pruning, treating, or removing of any Tree or portion of Tree in any public Right-of-Way.

(d) All Street Trees in public Rights-of-Way or other Public Places, near any excavation or construction of any building, structure, utility line, or Street work, shall be guarded during the construction period with a good substantial fence or wooden barricade, constructed of not less than two- by two-inch material, not less than four feet high. Said barricades shall be placed not less than six feet or one-half the Dripline, whichever is greater, from all such Trees.

(e) All Street Trees greater than six inches in Tree Diameter shall be protected from all digging or trenching activity within the Root Area. The use of tunnels or directional bores shall be required of all Right-of-Way use permittees or any other Person working in a County Right-of-Way unless the applicant demonstrates the additional cost of the tunnel or bore will exceed the appraised value of the Tree. Tree values shall be established by the International Society of Arboriculture valuation system, latest appraisal version. The tunnel or directional bore shall start at one-half the Dripline area or six feet (whichever is greater) from the basal flare of the Tree and end in the same dimension on the opposite side of the basal flare of the Tree.

(Ord. No. 88-002, § 9, 1-5-1988; Ord. No. 97-013, § 9, 2-25-1997)

Sec. 98-80. Removal of nonconforming Trees or shrubs.

Any and all Trees or shrubs growing or hereafter set out, planted or raised in or upon publicly owned or maintained Rights-of-Way or other Public Places of Sarasota County, not in compliance with this article, may be declared a public nuisance and may be removed and abated. When it is determined pursuant to this article by the Director of the Transportation Department, or designated representatives, that such plantings are a hazard to the public, or are not in conformance with approved County standards, they, with the concurrence of the County Administrator, shall have full authority to cause such plantings to be removed.

(Ord. No. 88-002, § 10, 1-5-1988; Ord. No. 97-013, § 10, 2-25-1997)

Sec. 98-81. Jurisdiction.

This article shall apply to the public Rights-of-Way or other Public Places 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. 88-002, § 11, 1-5-1988; Ord. No. 97-013, § 11, 2-25-1997)

Sec. 98-82. Property owners' requests for Street Tree planting.

Owners of property within a given Block, subdivision, or geographical area abutting an existing Street may apply to have Street Trees planted on residential Streets through a cooperative residential Street Tree planting program, eligibility, design standards, and policies for which are established by resolution of the Board of County Commissioners. Street Trees planted pursuant to this section are protected by the provisions of this article.

(Ord. No. 88-002, § 12, 1-5-1988; Ord. No. 97-013, § 12, 2-25-1997)

Sec. 98-83. Designation of Specimen or Historic Trees on public property.

(a) The Board of County Commissioners, may, by resolution, designate as a Specimen Tree or Historic Tree any Tree in the public Right-of-Way which it deems to be of extraordinary value because of its age, size or type, or quality of uniqueness, or historic association. No Specimen Tree or Historic Tree shall be removed or destroyed, except as provided by Section 98-86.

(b) Individual property owners may petition the Board of County Commissioners to designate by resolution Specimen or Historic Trees on their private property.

(Ord. No. 88-002, § 13, 1-5-1988; Ord. No. 97-013, § 13, 2-25-1997)

Sec. 98-84. Emergency Tree removal.

When it is necessary to expedite the removal of damaged or destroyed Trees in the interest of the public safety, health, and general welfare following high winds, storms, hurricanes, tornadoes, floods, or other manmade 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. 88-002, § 14, 1-5-1988; Ord. No. 97-013, § 14, 2-25-1997)

Sec. 98-85. 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 Department.

(Ord. No. 88-002, § 15, 1-5-1988; Ord. No. 97-013, § 15, 2-25-1997)

Sec. 98-86. Appeals.

Any Person aggrieved by the administration or interpretation of any of the terms or provisions of this article may appeal to the Board of County Commissioners, 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 as ought to be made, and to that end shall have the powers of the department or official from whom the appeal is taken.

(Ord. No. 88-002, § 16, 1-5-1988; Ord. No. 97-013, § 16, 2-25-1997)

Sec. 98-87. 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 or any action which causes the removal or death of a Tree in violation of the provisions of this article, or any permit issued thereunder, may be mitigated by replanting a Tree, which meets County specifications, of equal size and type, providing maintenance and guaranteeing survival in a healthy condition for two years. The applicant may choose to mitigate the violation by paying a fee sufficient to replace the Tree removed. Fees shall be established by resolution, after an advertised public hearing, and administered by the Board of County Commissioners and shall be used only for the purposes of acquiring, planting, and protecting Street Trees within the County.

(Ord. No. 88-002, § 17, 1-5-1988; Ord. No. 97-013, § 17, 2-25-1997)

Sec. 98-88. Penalties.

In accordance with F.S. § 125.69, 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. 88-002, § 18, 1-5-1988; Ord. No. 97-013, § 18, 2-25-1997)

Sec. 98-89. 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. 88-002, § 19, 1-5-1988; Ord. No. 97-013, § 19, 2-25-1997)

Sec. 98-90. Interpretation.

Whereas any provision of this article refers to or incorporates another provision, ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any renumbering thereof or amendments thereto.

(Ord. No. 97-013, § 20, 2-25-1997)

Sec. 98-91. Effective date and automatic repeal.

This article shall take effect upon filing with the office of the Secretary of State of Florida. This article shall automatically be repealed seven years from the effective date unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida, within seven years.

(Ord. No. 97-013, § 21, 2-25-1997)