

ORDINANCE 88-36

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, PERTAINING TO PRESERVATION OF CANOPY ROADS AND TREE-LINED ROADS; PROVIDING FOR SHORT TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR DESIGNATION OF PROTECTED CANOPY ROADS AND TREE-LINED ROADS; PROVIDING FOR PRESERVATION OF CANOPY ROADS AND TREE-LINED ROADS; PROVIDING FOR PERMITTING PROCEDURES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES REGARDING THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. SHORT TITLE

This ordinance shall be known as the "Hernando County Canopy Road Protection Ordinance".

SECTION 2. DEFINITIONS.

Canopy roads: Roads whether rural or urban which are characterized by rows of trees bordering both sides of the road corridor of sufficient height, density, and crown spread to create natural canopy coverage over the road corridor and that preserve and maintain the historic natural beauty and ambience of Hernando County Florida.

Crown: The main point of branching or foliage of a tree or plant, or the upper portion of a tree or plant.

Crown spread: The distance measured across the greatest diameter of a plant or tree.

Tree-lined road: Roads whether rural or urban which are characterized by rows of trees bordering both sides of the road corridor but having an insufficient crown spread to constitute a canopy covering over said road.

SECTION 3. TREE PROTECTION ZONES

- A. Canopy road and tree-lined road tree protection zones shall be adopted by resolution of the Board of County Commissioners. Future amendments to the list of protected zones shall also be by resolution. The Board shall hold a public hearing with due public notice prior to the adoption of any resolution amending the list of protected zones. The notice of public hearing shall be published a minimum of one (1) time at least seven (7) days prior to the public hearing.
- B. All lands within fifty (50) feet of the center lines of the adopted roads are hereby declared to be tree protection zones.
- C. Minor neighborhood access streets of less than .2 (2/10) mile in length shall not be considered for inclusion as designated roadways.

SECTION 4. TREE PROTECTION

- A. No tree shall be removed for the purpose of access to adjacent properties, and no improvements shall be carried out nor made in the tree protection zone other than routine maintenance of existing roadways, utilities, and existing drainage facilities without the express written approval of the Board of County Commissioners, as provided herein.

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B. Tree protection during development.

1. Following development approval and prior to the land clearing stage, the applicant shall clearly mark any tree or tree groups to be preserved in the proximity of any area where land clearing equipment is to be operated. The markings shall remain in place during construction, and shall not result in physical damage to the tree. Said equipment shall be operated in a manner as to not injure or destroy any trees in accordance with this section.
2. During construction of any structures or other improvements, it shall be unlawful for any person to place or allow disposal of solvents, materials, construction machinery, concrete, mortar, or temporary soil deposits within the tree protection zone. This provision includes soil that is placed in the protection zone permanently for the purpose of a grade change, unless the grade is changed according to the guidelines described in the Florida Division of Forestry, Department of Agriculture and Consumer Services Publication: Tree Protection Manual for Builders and Developers.
3. No direct driveway access shall be permitted to a protected road from any subdivision lot, unless permitted pursuant to Section 5 of this Ordinance.
4. Any structure shall be set back a minimum of fifty (50) feet from the centerline of a designated protected road.
5. Any structure which exceeds forty (40) feet in building height must be set back an additional one (1) foot for every one (1) foot of structure in excess of forty (40) feet in height.

C. No attachments, signs, or wires other than those of a protective or non-damaging nature shall be attached to any tree in a tree protection zone.

D. In the case of a tree protection zone within an existing subdivision, Sections 4.A, 4.B.1, 4.B.2, and 4.C of this ordinance shall be applicable.

SECTION 5. PERMIT PROCEDURE

A. Permits for removal or relocation of trees within the tree protection zone shall be obtained by making application for a permit to the Department of Planning and Development. The application shall be accompanied by a written statement indicating the reasons requiring removal or relocation of trees, a general description of the trees to be removed or relocated, an area map indicating the location of the trees to be removed or relocated, and any proposed structures or vehicle use areas. In addition, part of the application shall contain a signed acknowledgement by the applicant verifying that no protected trees will be removed as a part of the development project except as

noted on the approved application. The written statement and area map shall include, as a minimum, the following:

1. Written detailed justification for removing a tree.
 2. The location and dimensions of all existing and proposed structures.
 3. Significant natural features.
 4. Existing and proposed contours.
 5. Existing protected trees to remain on site.
 6. Protected trees to be removed.
 7. Existing and proposed utilities.
 8. Building and other structural setbacks.
 9. Trees on adjacent property which may be affected by proposed construction.
 10. Any land use requirements pertaining to property use or restrictions.
 11. For items 5 and 6 above, the general location of the trees, including blocks of trees, is acceptable, providing a listing of individual trees by species and size is provided.
- B. Prior to the issuance of a permit, the county shall conduct an on-site inspection.
- C. Such a permit shall be granted or denied by the Board of County Commissioners. The Board shall have twenty-one (21) calendar days after receipt of a completed application filed pursuant to this section in which to approve or deny the requested permit. In the event that the Board denies an application, it shall specify to the applicant in writing the reason for its action. If no final action with respect to a completed application is taken within the required twenty-one (21) calendar days, the application shall be deemed to have been granted.
- D. A placard indicating issuance of a valid permit shall be posted in a conspicuous place on-site during the development activity, and a copy of the approved permit and application shall be available on-site during the development activity.
- E. Should the permitted special exception be exceeded, or not properly implemented based on the documentation referenced above, said permit shall be revoked, and any damage created by deviation from the permitted access shall result in a fine equal to the estimate of restoration as determined by the Board of County Commissioners.
- F. Permitting of a special exception and enforcement of the work to be done shall be in the purview of the Planning and Development Department. Failure to receive a permit for access to a protected road prior to tree removal, or alteration of the road

configuration by any person, firm, or corporation shall be considered a violation of the code and a misdemeanor subject to a fine of \$500.00 for each day the violation continues.

- G. The preservation of trees may be considered as a peculiar circumstance warranting relief from the literal application of the appropriate county codes, such as subdivision regulations, community appearance, and the zoning code. A person may make application for a variance to any such code or codes in order to avoid the removal, relocation, or destruction of a tree, or trees, in a tree protection zone. Application for such variance shall be to the appropriate governmental authority unless such variance is from the Hernando County zoning code in which case the application shall be made to the Board of Adjustments and Appeals, without charge to the applicant. The procedure for such application and the information required to be submitted therewith shall be the same as applications for removal of trees in tree protection zones as set forth in section 5 (A) above.

SECTION 6. EXCEPTIONS

- A. The following situations shall be exempt from the permit requirements for tree removal in tree protection zones.
1. Trees representing hazardous or dangerous conditions. In the event that any tree shall be determined to be in hazardous or dangerous condition so as to endanger the public health, welfare, or safety, and requires immediate removal without delay, verbal authorization by telephone may be given by the Manager of the Department of Planning and Development without obtaining a written permit as is otherwise required herein.
 2. Emergency waivers. During the period of any emergency or natural disaster, such as floods, windstorms, fires, or hurricanes, the requirements of this article may be temporarily waived by the Manager of the Department of Planning and Development so that they will in no way hamper private or public work to restore order in the county.
- B. Nothing in this Ordinance shall be construed to prevent routine maintenance or the trimming of trees by public utilities or their authorized agents where such trimming or maintenance is required for the establishment or continuation of the service provided by such utility.
1. The utility shall submit to the Department of Planning and Development a general maintenance plan which shall indicate:
 - a. The type of maintenance to be performed.
 - b. The location of the affected tree protection zone(s) and the location of utility structures within that zone.
 - c. An approximate (e.g., yearly or monthly) maintenance schedule.

- d. Specific measures to be taken by the utility to minimize damage to trees and the canopy or tree-lined effect within the protection zone(s).
2. The Department of Planning and Development shall review the submitted maintenance plan and shall, within thirty (30) days, issue a letter of agreement authorizing maintenance within the tree protection zone(s). The letter shall contain all pertinent information submitted in accordance with Section 6(B)(1) above as well as any revisions deemed necessary by the Department to preserve the tree protection zone. The letter shall be signed by the Manager of the Department and an authorized representative of the utility. The letter of agreement shall be applicable to future maintenance within the specified tree protection zone.

SECTION 7. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby.

SECTION 8. INCLUSION INTO THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

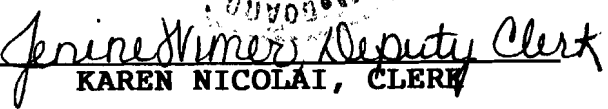
SECTION 9. EFFECTIVE DATE

This Ordinance shall become effective upon receipt of the official acknowledgment from the Office of the Secretary of State of the State of Florida that this Ordinance has been filed with said office.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 20TH DAY OF DECEMBER, 1988.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

BY 
RICHARD C. KILLINGSWORTH, CHAIRMAN

ATTEST 
KAREN NICOLAI, CLERK