Ordinance
99-01

Ordinance 99-01 Amending the Cape Girardeau County Code by the addition of a new public tree ordinance which provides for the regulation of planting and removal of trees on County Property.

WHEREAS, Cape Girardeau County Parks, the Missouri Department of Conservation, and the Cape Girardeau County Groundwater Committee have requested that the County adopt a County tree ordinance to protect trees on County property; and

WHEREAS, this ordinance will allow these organizations greater flexibility in obtaining grant funds for greenway programs and other beautification efforts; and

WHEREAS, the first reading of this ordinance was held on August 2, 1999 and the second reading was held August 9, 1999.

NOW, THEREFORE, BE IT ORDAINED by the County Commission of Cape Girardeau County, Missouri, as follows:

1. That the Cape Girardeau County Code be amended by the addition of a new Ordinance, 99-01, entitled "County Tree Ordinance" to read and provide as follows:

Ordinance 99-01 County Tree Ordinance

(A) Purpose

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting and removal of trees on County property.

Further, it is the purpose of this ordinance to enhance the quality of life in Cape Girardeau County by protecting trees and by minimizing the loss of tree coverage on County properties.

(B) DEFINITIONS

The following terms, when used in this ordinance, shall have the meanings ascribed to them in this section, unless context clearly indicates a different meaning:

Diameter-at-breast -height shall be the tree trunk diameter measured in inches at the height of 4.5 feet above the ground.

Dripline shall mean a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

County property shall include all lands owned by Cape Girardeau County, limited to county parks and property of other County buildings and facilities. The term County property shall exclude public roads and streets and public utility, drainage and storm water easements.

Public utility company shall mean any corporation, company, individual, association or cooperative that is a "public utility" as defined in RSMo 386, as amended.

Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Tree shall mean any self-supporting woody plant, usually having a single, main woody trunk and producing a more or less distinct and elevated head with many branches. For the purposes of this ordinance, a tree shall have a diameter- at- breast- height of four inches or more.

(C) APPLICABILITY

This ordinance provides full power and authority over all trees located on County property.

(D) AUTHORIZATION REQUIRED

(1) It shall be unlawful for any person to knowingly plant, remove, destroy, harm or otherwise disturb any tree on county property

without first receiving written approval from the Park Department Superintendent.

(2) In the case of emergencies, such as windstorms, ice storms, or other disasters, written approval may be waived by the Park Superintendent during the emergency period so as not to hamper work to restore order to the County.

(3) Pursuant to Section 49.266, RSMo, violation of this ordinance is an infraction, punishable under Section 560.016, RSMo, by a fine not exceeding $200.00.

(E) ABUSE OR MUTILATION OF COUNTY TREES OR SHRUBS

Unless specifically authorized by the park supervisor, it shall be unlawful for any person to knowingly damage, cut, carve, transplant, or remove any tree on County property; attach any nails, advertizing posters, or other contrivance to any tree on County property; allow any gas, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on County property.

(F) PROTECTION OF TREES

Trees that are to remain after construction of County buildings, facilities, driveways, roads, utilities or other below or above ground County structures must be protected from construction activities and heavy equipment to ensure their survival.

(1) The Park Superintendent shall establish guidelines for trees that are to remain on County property and that are within or in close proximity to the immediate construction activity area.

(2) No person, including public utility companies and County Departments, shall excavate any ditches, tunnels, trenches or lay any driveway or street within a radius of ten (ten) feet from any tree on County property without first obtaining written approval from the Park Superintendent. This provision does not apply to the maintenance and repair of existing public utility and County water and sewer utility facilities.

(3) All trees on County property shall be pruned or trimmed only in accordance with the standards established by the National Arborist Association, entitled "Pruning Standards for

Shade Trees," as revised in 1988. This includes all public utility companies and County departments or their subcontractors involved in maintenance on County property or easements.

(4) It shall be unlawful for any person, firm, or County department to knowingly top any tree on County property. Trees severely damaged by wind, ice or snow storms or other disasters may be exempted from this section at the determination of the Park Superintendent.

(G) ENFORCEMENT

The Park Superintendent shall, with County Commission approval, have the general powers and duties to:

(1) Direct, manager, supervise and control the planting, removal, and protection of all trees on County property.

(2) Protect all trees on County property so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the health, life or safety of persons or property.

(3) Require the preparation of a tree protection plan for County construction projects, when deemed appropriate and necessary.

(4) Administer the provisions of this article.

2. This ordinance shall be effective January 1, 2000.

Attest::

Rodney Miller, Clerk of Commission

Gerald W. Jones, Presiding Commissioner

Larry Bock, Commissioner, 1st District

Max G. Stovall, Commissioner, 2nd District