

Chapter 30 ENVIRONMENT ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - VEGETATION

ARTICLE III. - URBAN TREES

ARTICLE IV. - STORMWATER MANAGEMENT AND EROSION CONTROL

FOOTNOTE(S):

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State Law reference— Municipal power to abate nuisances, W. Va. Code, § 8-12-5(23).

ARTICLE I. IN GENERAL

Sec. 30-1. Nuisances on private property.

Secs. 30-2—30-20. Reserved.

Sec. 30-1. Nuisances on private property.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Nuisance means any condition or use of premises or of building exteriors, which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:

- (1) Lumber, junk, trash, or debris;
 - (2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (b) No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.
- (c) Exterior storage of nonoperating vehicles is prohibited. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle to remain on such property within the town for a longer time than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding

private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town or any other public agency or entity.

- (d) The municipal police department may employ its own personnel, equipment and facilities for the purpose of removing, preserving, or storing abandoned vehicles.

(Code 1981, § 7-116)

Secs. 30-2—30-20. Reserved.

ARTICLE II. VEGETATION

Sec. 30-21. Weeds.

Sec. 30-22. Noncompliance by owner.

Sec. 30-23. Charges.

Sec. 30-24. Filing of lien.

Secs. 30-25—30-50. Reserved.

Sec. 30-21. Weeds.

No owner or tenant of property shall permit grass or other vegetation, commonly recognized as weeds, on such property, to exceed a height of one foot.

(Code 1981, § 7-115)

Sec. 30-22. Noncompliance by owner.

- (a) Upon the failure, neglect or refusal of any such owner or agent so notified of violation of section 30-21, and failure to cut, destroy and remove such growths of weeds, grasses, vegetation and brush on such property within 15 days after receipt of the notice, the mayor, recorder, or chief of police is hereby authorized to send a registered notice of violation to said owner or said agent.
- (b) If the owner or said agent has failed to comply with said notice after 30 days of receipt of the notice, the mayor, recorder, or chief of police is hereby authorized to have the street department cut and remove such weeds, grasses, vegetation and brush growths, in which an accurate and exact cost of the work shall be maintained and charged to the owner or said agent.

(Ord. of 11-17-1997, § 7-115A)

Sec. 30-23. Charges.

The cost of having such weeds, grasses, vegetation and brush growths cut, destroyed and removed as provided in section 30-22 shall be a debt due the town and collectable in any court of competent jurisdiction in the county, and in addition shall be a lien upon the property of the owner.

(Ord. of 11-17-1997, § 7-115B)

Sec. 30-24. Filing of lien.

In the event that such grass or other vegetation commonly recognized as weeds are cut by town crews, as provided in section 30-22, the charge therefor shall become a lien against the property in favor of the town, and notice of the lien shall be filed in the office of the clerk of the county court.

(Ord. of 11-17-1997, § 7-115C)

Secs. 30-25—30-50. Reserved.

ARTICLE III. URBAN TREES ^[2]

Sec. 30-51. Short title.

Sec. 30-52. Definitions.

Sec. 30-53. Violations and penalties.

Sec. 30-54. Statement of objectives.

Sec. 30-55. Urban tree board—Created.

Sec. 30-56. Same—Term of office.

Sec. 30-57. Same—Compensation.

Sec. 30-58. Same—Responsibilities.

Sec. 30-59. Same—Operation.

Sec. 30-60. Same—Duties and authority.

Sec. 30-61. Request for inspection.

Sec. 30-62. Abuse or mutilation of public trees.

Sec. 30-63. Interference with the urban tree board.

Sec. 30-64. Review by town council.

Secs. 30-65—30-87. Reserved.

Sec. 30-51. Short title.

This article shall be known and may be cited as the "Urban Tree Ordinance."

(Ord. No. 2006-01, § 1, 6-5-2006)

Sec. 30-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park includes all public parks, the ownership and control of which is vested in the town.

Property owner means the person owning designated property as shown by the county assessor's plat of the town, as the case may be.

Public places includes all grounds owned by the town, the county and the state situated within the town.

The Code of the Town of Bath, West Virginia

Public trees means all shade and ornamental trees now or hereafter growing on any street or any public right-of-way or in any other public area.

Remove means the cutting down or damaging, whether by deliberate or negligent act or omission, or any act which causes the tree to die within three years.

Street or highway means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular and pedestrian traffic, and extending from property line to property line.

Tree means any self-supporting woody plant as designated by the urban tree board.

Tree or street tree includes any tree or other plant in a public place as indicated by subsequent provisions of this article.

Tree steward means person within the board who provides technical expertise and advice to the urban tree board.

Urban forest means all trees located on city-owned or -controlled property.

Urban tree board means the body which advises the town on matters affecting the urban forest.

Urban tree specifications and standards of practice means regulations promulgated by the urban tree board and adopted by the town council, and regulating or dealing with the urban forest.

(Ord. No. 2006-01, § 2, 6-5-2006)

Sec. 30-53. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of up to \$500.00.

(Ord. No. 2006-01, § 14, 6-5-2006)

Sec. 30-54. Statement of objectives.

The objective of this article is to manage removal and replacement of trees within the town, monitor species, provide for the aesthetic quality of the town, and provide for citizen protection by controlling tree growth, size and condition within the town limits.

(Ord. No. 2006-01, § 3, 6-5-2006)

Sec. 30-55. Urban tree board—Created.

There is hereby created and established a tree board for the town, which consists of five members.

(Ord. No. 2006-01, § 4, 6-5-2006)

Sec. 30-56. Same—Term of office.

(a) The term of five voting persons to be appointed by the mayor and council may be as follows:

One tree steward	2-year term
One member of the town council	2-year term
One resident of the town	2-year term

Two residents of the county	2-year term
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- (b) Any public utility, including a cable television company, whose right-of-way maintenance practices and activities may be affected by this article and/or regulations promulgated thereunder may appoint an ex officio member to serve in an advisory capacity. Members may be appointed to consecutive terms.
- (c) In the event of a vacancy during any member's term, his successor shall be appointed by the mayor and council to serve the unexpired portion of the term.

(Ord. No. 2006-01, § 5, 6-5-2006)

Sec. 30-57. Same—Compensation.

Members of the urban tree board shall serve without compensation.

(Ord. No. 2006-01, § 6, 6-5-2006)

Sec. 30-58. Same—Responsibilities.

It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such a plan will be presented annually to the town council and, upon their acceptance and approval, shall constitute the official comprehensive tree plan for the town.

(Ord. No. 2006-01, § 7, 6-5-2006)

Sec. 30-59. Same—Operation.

The urban tree board shall choose its own officers. The board shall make its own rules and regulations and keep a journal of its proceedings. A majority of members shall be a quorum for the transaction of business. The board shall create bylaws to govern itself. Except as ordinance or statute dictates, Robert's Rules of Order shall prevail.

(Ord. No. 2006-01, § 8, 6-5-2006)

Sec. 30-60. Same—Duties and authority.

- (a) The urban tree board shall assist in the administration and enforcement of the provisions of this article, and for recommending new or modified rules and regulations governing the planting, maintenance, removal, fertilization, spraying, pruning, and bracing of public trees, emergency procedures, stump removal, and the use of insecticides, fungicides, and herbicides and sale/disposal of wood products on the streets or other public sites, and shall oversee the planting, maintenance and removal of trees growing now or hereafter planted in any public area of the town.
- (b) The urban tree board shall:
 - (1) Supervise or inspect all work done under a permit issued in accordance with the terms of this article.
 - (2) Coordinate the formulation of a comprehensive tree plan in cooperation with the urban tree board, the mayor and the town council.

- (3) The urban tree board shall develop an urban tree specifications and standards of practice manual by which all work shall conform. This document shall be updated and amended as needed.
- (4) The urban tree board has the authority to amend and add to the master urban tree plan at any time that circumstances make it advisable.

(Ord. No. 2006-01, § 9, 6-5-2006)

Sec. 30-61. Request for inspection.

- (a) No person shall perform or cause to be performed any operation involving a public tree. A request for inspection by the urban tree board may be made at town hall. The urban tree board shall respond to a request for inspection within 60 days. Activities covered by this section include, but are not limited to, planting, fertilizing, spraying, protecting, pruning, removing, cutting above ground, cutting below ground or otherwise disturbing a public tree. Any other provision of this article notwithstanding, any public utility company, including a cable television company, may apply for and receive a blanket permit, which covers the entire activity of a scheduled right-of-way maintenance.
- (b) Application for a public tree work permit shall be made in the form prescribed by the town.
- (c) Any public utility company shall notify the urban tree board of any routine line maintenance within 30 days of beginning any work.
- (d) The town may grant permission to perform work on any tree as needed by storm damage or other emergency situation.

(Ord. No. 2006-01, § 10, 6-5-2006)

Sec. 30-62. Abuse or mutilation of public trees.

No person shall cause any public tree to be damaged, cut, carved, transplanted, improperly pruned or removed; and no person shall attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such trees to come into contact with them; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of said trees, or any other damage as determined by the urban tree board. Violators may be fined \$500.00 and/or replacement costs for each tree damaged.

(Ord. No. 2006-01, § 11, 6-5-2006)

Sec. 30-63. Interference with the urban tree board.

It shall be unlawful for any person to prevent, delay or interfere with the urban tree board, or any of its agents, while engaging in and about planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds as authorized in this article.

(Ord. No. 2006-01, § 12, 6-5-2006)

Sec. 30-64. Review by town council.

The town council shall have the right to review the conduct, acts and decisions of the urban tree board. Any person may appeal from any ruling or order of the urban tree board to the town council, which may hear the matter and make the final decision.

(Ord. No. 2006-01, § 13, 6-5-2006)

Secs. 30-65—30-87. Reserved.

FOOTNOTE(S):

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State Law reference— Municipal authority concerning protection and conservation of certain trees, W. Va. Code, § 81-2-5(29).

ARTICLE IV. STORMWATER MANAGEMENT AND EROSION CONTROL

Sec. 30-88. Purpose.

Sec. 30-89. Scope.

Sec. 30-90. Penalties.

Sec. 30-91. Exemptions.

Sec. 30-92. Minimum control requirements.

Sec. 30-88. Purpose.

The purpose of this article is to establish minimum requirements to control the adverse impact associated with increased stormwater runoff and erosion from development.

(Ord. No. 9-201, 4-4-1989)

Sec. 30-89. Scope.

No person shall develop land for residential, commercial, industrial, or institutional uses without having provided for appropriate stormwater, sediment and soil erosion control measures that manage runoff from such developments, except as provided for in this article.

(Ord. No. 9-201, 4-4-1989)

Sec. 30-90. Penalties.

A violation of any of the foregoing prohibitions set forth in this article shall be punishable by a fine as provided in section 1-7. Any violation continuing from day to day shall constitute separate individual violations and may be prosecuted as such.

(Ord. No. 9-201, 4-4-1989)

Sec. 30-91. Exemptions.

The following development activities are exempt from this article:

- (1) Agricultural and landscaping activities.

The Code of the Town of Bath, West Virginia

- (2) Additions or modifications to existing structures.
- (3) Developments that do not disturb over 5,000 square feet.
- (4) Residences on single lots when stormwater management plans have been approved for the subdivision in which they are located.

(Ord. No. 9-201, 4-4-1989)

Sec. 30-92. Minimum control requirements.

- (a) Stormwater management controls shall be based on release of post-development peak flows resulting from the ten-year frequency storm occurring over the entire contributing watershed, at the two-year frequency, predevelopment peak discharge rate. Stabilized predevelopment conditions will be assumed when determining peak discharge. When detention structures are used for stormwater control, emergency spillways shall be designed to safely pass a 100-year frequency storm.
- (b) Sediment and erosion control practices will be installed during construction according to a plan submitted to and approved by the Eastern Panhandle Soil Conservation District.

(Ord. No. 9-201, 4-4-1989)