

Town of Bath

ORDINANCE 2005-09

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE AND REMOVAL OF TREES IN PUBLIC STREETS, PARKS, AND OTHER MUNICIPALLY OWNED PROPERTY IN THE TOWN OF BATH; ESTABLISHING AN URBAN TREE COMMITTEE AND PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE AND REMOVAL OF TREES IN PUBLIC PLACES; PROVIDING FOR THE PRUNING AND REMOVAL OF TREES ON PRIVATE PROPERTY WHICH ENDANGER PUBLIC SAFETY; ESTABLISHING AN URBAN FORESTRY APPEALS COMMITTEE; AND PRESCRIBING PENALITIES FOR VIOLATIONS OF ITS PROVISIONS.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BATH, MORGAN COUNTY, WEST VIRGINIA, AS FOLLOWS:

SECTION 1. SHORT TITLE

This ordinance shall be known and may be cited as the URBAN TREE ORDINANCE OF THE TOWN OF BATH, MORGAN COUNTY, WEST VIRGINIA.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include singular and words in the singular include the plural.

1. **Municipality** is the Town of Bath, Morgan County, West Virginia.
2. **Urban Tree Committee** is the body which advises the town on matters affecting the Urban Forest.
3. **Arborist** means person within the committee who administers the provisions of this Ordinance under the supervision and direction of the Mayor. The Arborist shall have experience in forestry and / or horticulture.
4. **Person** is any person, firm, partnership, association, corporation, company or organization of any kind.
5. **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.

6. **Park** shall include all public parks, the ownership and control of which as vested in the Town of Bath Morgan County, West Virginia.
7. **Public Places** shall include all grounds owned by the Town of Bath, Morgan County and the State of West Virginia situated within the Town of Bath.
8. **Tree or Street Tree** includes any tree or other plant in a public place as indicated by subsequent provisions of this Ordinance.
9. **Public Trees** are all shade and ornamental trees now or hereafter growing on any street or any public right-of-way or in any other public area.
10. **Property Owner** shall mean the person (s) owning designated property as shown by the County Assessor's Plat of the Town of Bath, as the case may be.
11. **Remove** shall mean 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.
12. **Tree** shall mean:
 - a. Any self-supporting woody plant which has a well defined stem with a diameter of at least four inches at 4.5 feet from the ground.
 - b. Any ornamental woody plant as designated by the arborist; or
 - c. Any small seedling or sapling planted or protected specifically to become a large tree as described in (a) and (b) above.
13. **Urban Forest** shall mean all trees located on city-owned or controlled property.
14. **Urban Tree Specifications and Standards of Practice** shall mean regulations promulgated by the Urban Tree Committee and adopted by the Town of Bath Council, and regulating or dealing with the Urban Forest. Such regulations shall conform with the Primary Standards of the National Arborist Association.

SECTION 3 STATEMENT OF OBJECTIVES

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

SECTION 4 CREATION AND ESTABLISHMENT OF A TOWN TREE BOARD

There is hereby created and established a Town Tree Board for the Town of Bath, which consists of five (5) members.

SECTION 5 TERM OF OFFICE

The team of five (5) persons to be appointed by the Mayor and Council shall be as follows:

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|---|------------------------------------|-------------------|
| 1 | Arborist | two (2) year term |
| 1 | member of the Town of Bath Council | two (2) year term |
| 1 | resident of the Town of Bath | two (2) year term |
| 2 | residents of Morgan County | two (2) year term |

Any public utility, including a cable television company, whose right-of-way maintenance practices and activities may be affected by this Ordinance and / or regulations promulgated there under may appoint an ex-officio member to serve in an advisory capacity.

In the event of a vacancy during any members term, his /her successor shall be appointed by the Mayor and Council to serve the unexpired portion of the term.

SECTION 6 COMPENSATION

Members of the Urban Tree Committee shall serve without compensation.

SECTION 7 RESPONSIBILITIES

It shall be the responsibility of the Committee 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 of Bath Council and upon their acceptance and approval, shall constitute the official comprehensive tree plan for the Town of Bath, West Virginia.

SECTION 8 OPERATION

The committee shall choose its own officers. The Committee 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. Except as ordinance or statute dictate, Roberts Rules of Order shall prevail.

SECTION 9 DUTIES OF THE BOARD

The Committee shall assist in the administration and enforcement of the provisions of this Ordinance, 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 of Bath.

SECTION 10 AUTHORITY OF THE ARBORIST

The Arborist, or his / her appointee shall:

- (a) Supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance.
- (b) Coordinate the formulation of a comprehensive tree plan in cooperation with the Urban Tree Committee, the Mayor and the Town Council.
- (c) The duties of the arborist shall be assumed by the members of the Urban Tree Committee until such times as the Town of bath employs an arborist or whenever the office of Arborist is vacant.