

Town of Bath  
**ORDINANCE 2006-01**  
(Amending ORDINANCE 2005-09)

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE AND REMOVAL OF TREES IN PUBLIC STREETS, PARKS, AND OTHER MUNICIPALLY OWNED PROPERTY ; 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 Board** is the body which advises the town on matters affecting the Urban Forest.
3. **Tree Steward** means person within the committee who provides technical expertise and advice to the Urban Tree Board.
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 as designated by the Urban Tree Board.
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 Board and adopted by the Town of Bath Council, and regulating or dealing with the Urban Forest.

### **SECTION 3. STATEMENT OF OBJECTIVES**

The objective of the ordinance is to manage removal and replacement of 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) voting persons to be appointed by the Mayor and Council may be as follows:

1 tree steward

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. Members may be appointed to consecutive terms.

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 board 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. The board shall create by laws to govern itself. Except as ordinance or statute dictate, Roberts Rules of Order shall prevail.

**SECTION 9. DUTIES OF THE BOARD AND AUTHORITY**

The board 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.

The Urban Tree Board 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 Board, the Mayor and the Town Council.
- (c) 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.
- (d) The Urban Tree Board has the authority to amend and add to the Master Urban Tree Plan at anytime that circumstances make it advisable.

#### **SECTION 10. REQUEST FOR INSPECTION**

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 ordinance not withstanding, 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.

Application for a public tree work permit shall be made in the form prescribed by the Town by:

- (a) Any public utility company shall notify the Urban Tree Board of any routine line maintenance within 30 days of beginning any work.

The town may grant permission to perform work on any tree as needed by storm damage or other emergency situation.

#### **SECTION 11. ABUSE OR MUTILATION OF PUBLIC TREES**

No person shall or shall cause any public tree to be damaged, cut, carve, transplant, improperly prune or remove public trees; 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 and/or replacement costs for each tree damaged.

#### **SECTION 12. 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 ordinance.

#### **SECTION 13. 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 who may hear the matter and make the final decision.

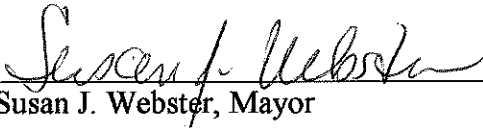
**SECTION 14. VIOLATIONS AND PENALTIES**

Any person, firm, or corporation violating for failing to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of up to five hundred dollars (\$500.00).

**SECTION 15. SEVERABILITY**

If any provisions of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provisions of this Ordinance. The Town of Bath hereby declares that they would have adopted each and every portion of this Ordinance separately regardless of the possible invalidity of any part thereof.

Enacted this 5<sup>th</sup> day of June 2006, by the Town Council for the  
Town of Bath after it's first reading on March 23 2006, and its second reading  
on June 5<sup>th</sup>, 2006.

  
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Susan J. Webster, Mayor

  
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Garnet Marsh, Recorder