

## **Draft Ordinance Town of Bath Tree Board**

Be it ordained by the Town Council of the Town of Bath, Morgan County, West Virginia:

Purpose: The purpose of the Town of Bath Tree Board is to enhance the quality of life and the present and future health, safety, and welfare of all residents; to enhance property values through best urban forest management practices; and to ensure proper planting and care of trees on public property,

The Town Council herein delegates the authority and responsibility for these purposes by creating a Tree Board that will establish governing of the planting and care of trees on public property, and make provision for the emergency removal of trees on private property under certain conditions.

### **Definitions:**

- Municipality is the Town of Bath, Morgan County, West Virginia.
- The Tree Board is the body that advises the town on matters affecting street trees, park trees and heritage trees in the Town of Bath.
- Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town.
- Park trees are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks, and all areas owned by the Town, or to which the public has free access as a park. The latter includes the three cemeteries on Town property, including the Old Dutch Cemetery, the Old English and Greenway Cemetery.
- Heritage Trees are typically large, individual trees with unique value, which are considered irreplaceable. The major criteria for heritage tree designation are age, rarity, and size, as well as aesthetic, botanical, ecological, and value. The Town Council, upon recommendation of the Tree Board, may designate specific trees as "heritage trees." Upon the adoption of such list by the Town Council, a copy shall be kept on file in the office of the town clerk, and shall be available to the public for reference during business hours. The list of heritage trees may be modified from time to time. Once a tree is designated as a heritage tree, it will remain so unless it becomes necessary to classify it as a risk tree and removed as such. Heritage trees may not be removed without the recommendation of the Tree Board and without the approval of the Town Council.
- A Risk Tree is a tree with a risk of failure and resulting damage to people or property that exceeds the risk tolerance of the Tree Steward.
- Damage is any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the



natural grade above a root system or around a trunk surrounding the tree with impervious paving materials; or any trauma caused by accident of collision.

- Nuisance is any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.
- Top or Topping is the non-standard practice of cutting back limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- Tree Steward means the person within the Tree Board who administers the provisions of this Ordinance under the supervision and direction of the Town Council.
- An Arborist is a certified specialist in the care and maintenance of trees. At times the Tree Board may recommend that an arborist be called in to determine the specifics of care and maintenance for one or more trees.
- Property Owner shall mean the person(s) owning a designated property as shown by the County Assessor's Plat of the Town of Bath, as the case may be.

#### Creation and establishment of a Tree Board

There is hereby created and established a Tree Board for the Town of Bath, Morgan County, West Virginia.

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

- Tree Steward (two year term)
- Member of the Town Council (two year term)
- Resident of the Town of Bath (two year term)
- Two (2) residents of Morgan County (two year term)

In the event that a vacancy shall occur during the term of the member, his/her successor shall be appointed for the unexpired portion of the term. The Tree Board shall propose one or more names, and the Tree Board member who is a representative of the Town Council shall share this recommendation.

Compensation: Members of the Tree Board shall serve without compensation.

#### Duties and Responsibilities

- Coordinate and promote Arbor Day activities;
- Review and update a five-year plan to plant and maintain trees on town property
- Support public awareness and education programs relating to trees;
- Review town department concerns relating to tree care;
- Submit an annual report of its activities to the town council;
- Assist with the annual application to renew the Tree City USA designation;



- Recommend a list of tree species for planting on town property, and a list of species to be discouraged from planting on town property;
- Other duties that may be assigned by the Town Council

The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

#### Operation

The Tree Board shall choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business.

#### Coordination Among Town Departments

All town departments will coordinate as necessary with the Tree Board and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under the direct jurisdiction of the Tree Board.

#### Tree Planting and Care Standards

Standards. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care "Best Management Practices (BMPs)" published by the International Society of Arboriculture.

Requirements of franchise utility companies. The maintenance of public trees for utility clearance shall conform to A-300 standards.

Spacing. Small trees shall be planted a minimum of 30 feet apart; medium trees shall be planted a minimum of 40 feet apart; large trees shall be planted a minimum of 50 feet apart, except in special plantings designed or approved by the Tree Board.

Distances from curb and sidewalk. No trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

Distance from Street Corners and Fireplugs. No street tree shall be planted closer than 35 feet of any street corner, measured from the nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet of any fireplug.

Utilities: No street trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.



Public Tree Care. The town shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

Pruning, Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that such branches shall not obstruct the light from any street lamp, or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of a street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign

Dead or Diseased Tree Removal on Private Property. The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such trees. Said owners at their own expense shall do removal within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

Interference with City Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Prohibition against harming public trees: It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on town property without written permission from the Town Council. Should a tree be illegally removed, the town may replace the tree and charge the cost to the person who removed the tree.

It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.



It shall be unlawful for any person, firm, or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Tree Steward. Should a tree be illegally topped, the town may replace the tree and charge the cost involved to the person who removed the tree.

Any person, firm or corporation, or city department performing construction near any public tree(s) shall consult with the Tree Board and shall employ appropriate measures to protect the tree(s) according to procedures contained in the Best Management Practices (BMPs) for Managing Trees During Construction, published by the International Society of Arboriculture.

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty shall be required to cover the costs of replacing the tree.

Review by Town Council. The Town Council shall have the right to review the conduct, acts and decisions of the Tree Board.