

Ordinance 2022-11

Ordinance Reconfiguring and Redefining the Roles and Purposes of the Weston City Tree Board

Whereas, West Virginia Code §8-12-5(29) authorizes municipalities to “provide for the protection and conservation of shade or ornamental trees, whether on public or private property, and for the removal of trees or limbs of trees in a dangerous condition”;

Whereas, the City of Weston created a City Tree Commission in April, 1981;

Whereas, the City Tree Commission has been unused or under-utilized;

Whereas the requirements of the 1981 Ordinance, particularly the requirement of seven (7) members to be on the Commission, have become too cumbersome to effectively institute and maintain a Tree Commission;

Whereas, the 1981 Ordinance creating the City Tree Commission needs replaced;

The City of Weston now replaces the 1981 City Tree Commission Ordinance with this Ordinance:

Section 1. Definitions

TREE/TREES are defined as trees, shrubs, bushes, and other woody vegetation

STREET TREES are defined as trees, shrubs, bushes and all other woody vegetation upon or along any sidewalk or street in the City of Weston.

PARK TREES are defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City of Weston, or to which the public has free access as a park.

PRIVATE PROPERTY TREES are defined as trees, shrubs, bushes and all other woody vegetation located on private property

Section 2. Issues Regarding Street Trees, Park Trees, and Private Property Trees Shall Be Heard by the Code Appeals Board

Issues that arise under the purview of this Ordinance shall be heard by the Weston Code Appeals Board (“Board”).

Section 3. Compensation.

Members of the Weston Code Appeals shall serve without compensation in matters related to this Ordinance.

Section 4. Duties and Responsibilities of Weston Code Appeals Board.

It may be, at the direction of City Council, the responsibility of the Weston Code Appeals Board to study, investigate, counsel 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 plans may, at the request of City Council, be presented annually to the City Council of the City of Weston and upon its acceptance an approval thereof shall constitute the official comprehensive City tree plan for the City of Weston, Lewis County, West Virginia.

The Board, when requested by the common council of the City of Weston, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

Section 5. Pruning; Corner Clearance; Appeals.

Every owner of any tree overhanging any street or right of way within the City 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.

All owners of private property trees shall maintain said trees so that there shall be a clear space of eight feet (8 feet) above the surface of the street or sidewalk. The City of Weston shall also maintain any street trees in the same manner.

Said owner shall remove all dead, diseased or dangerous private property trees, or broken or decayed limbs on private property trees which constitute a reasonable threat to the safety of the public. The City shall have the right to prune any private property tree when the tree:

- reasonably interferes with the proper spread of light along the street from a street-lamp; or
- reasonably interferes with visibility of any traffic control signal or device.

The City of Weston, through the Building Code Official, shall have the authority to order private property tree owners, at the cost to the owner, to prune or remove any private property tree(s) that poses a reasonable threat to public health or safety. Owners may appeal such decision to the Code Appeals Board. Such appeal must occur within 10 days of the order given by Weston. The Code Appeals Board shall oversee appeals consistent with its rules for hearing appeals.

The Code Appeals Board's decision can be appealed to any court competent jurisdiction.

The City of Weston shall maintain its Street and Park trees in a manner consistent with this Ordinance or other orders of the Weston Code Appeals Board.

Section 6. Dead or Diseased Tree Removal on Private Property

The City of Weston, through the Building Code Official, shall have the right to cause the removal of any dead or diseased private property tree the City when such tree constitutes a reasonable threat to public health and safety, reasonable threat to damage of property, or harbors insects or disease which constitute a reasonable threat to other trees within the City.

The Building Code Official will notify the owners of such trees, in writing, of the requirement to remove said trees. Removal shall be done by said owners at their own expense within sixty (60) days, or a shorter time if the situation requires it, after the date of service of notice. Owners may appeal such decision to the Code Appeals Board.

In the event of failure of owners to comply with such order, and no appeal is filed, the City shall have the authority to remove such trees and charge the costs of removal thereof to the owners of the property and to file liens, or seek other legal remedies, in the manner that other municipal liens are filed and enforced.

Section 7. Removal of Stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. In the event a stump of a private property tree reasonably becomes a threat to public health or safety, the City of Weston shall have the authority to order said stump removed in a manner that alleviates the threat.

Section 8. Repeal of All Prior Conflicting Ordinances

All ordinances in conflict herewith are hereby repealed.

Section 9. Severability

If a part of this ordinance is for any reason declared unconstitutional or otherwise invalid, the decision of the Court shall not affect the validity of any remaining portion.

Section 10. Effective Date

This ordinance shall take effect on the day it is passed by City Council.

First Reading 7/5/2022

Second Reading _____

Kim Harrison-Edwards, Mayor

Judy Piercy, City Clerk