

**Code of Ordinances, City of Waynesboro, Virginia
Abstracted April 2016**

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Chapter 26 CEMETERIES

Sec. 26-16. Injury, destruction, etc., of markers, plants, decorations, etc.

Any person who willfully or maliciously commits any of the following acts is guilty of a class 1 misdemeanor:

(1) Destroys, removes, cuts, breaks, or injures any tree, shrub or plant within the cemetery;

...

(4) Puts or places rubbish, litter or trash on any monument, tombstone, curbing, tree, shrub, plat, flower or other property in the city's cemeteries.

This section shall not apply to any work which is done by the authorities of the cemetery belonging to it and under its management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker, or vault.

(Code 1964, § 20-16; Ord. No. 2008-49, § 5, 6-9-08)

Editor's note— Ord. No. 2008-49, § 5, adopted June 9, 2008, changed the title of § 26-16 from defacing monuments, tombstones, etc. to injury, destruction, etc., of markers, plants, decorations, etc.

Chapter 30 ENVIRONMENT

ARTICLE II. EROSION AND SEDIMENT CONTROL

Sec. 30-27. Definitions.

Definitions as used in this article, unless the context requires a different meaning:

Clearing means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

Land-disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

...

(7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, article 2, (§ 10.1-604 et seq.) of chapter 6 of title 10.1, Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of chapter 11 (§ 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

...

Land-disturbing permit means a permit issued by the city for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

Transporting means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Vegetative stabilization means vegetative ground cover that has been sufficiently established, on all disturbed areas where other permanent ground stabilization methods have not been applied, and which vegetative ground cover has reached maturity and sustainability and protects the soil from raindrop impact erosion.

(Ord. No. 2006-98, 11-27-2006)

Chapter 38 HEALTH, SANITATION AND NUISANCES

ARTICLE I. HEALTH AND SANITATION

Sec. 38-11. Garbage, trash, grass, weeds, foreign growth removal.

...

(c) In addition to meeting the requirements set forth in subsection (b) of this section, it shall be unlawful for any person to have or suffer any unwholesome or offensive matter, stagnant water or nuisance of any kind upon any vacant land, in any house or cellar, or upon any premises owned by such person in the city. Any weeds or other vegetation, except trees and ornamental shrubs, cultured plants and flowers, and growing or producing vegetable plants, having an overall height of more than ten inches above the surface of the surrounding ground shall be judged to be in violation of the provisions of this section if located on a lot or parcel of land that portion of which is within 200 feet of a dwelling within the city. The city manager may enforce this subsection in precisely the same manner as is provided in subsections (a) and (b) of this section for enforcement.

...

(Ord. No. 1998-22, § 2, 5-11-98)

Chapter 50 OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE IV. NOISE

Sec. 50-50. Unnecessary or excessive noise.

(a) It shall be unlawful for any person to make, or to cause or allow to be made, upon any property in the city the following:

...

(9) Other noises. Refuse collection and sanitation services; activities related to the construction, repair, maintenance, remodeling or demolition, grading, or other improvement of real property; and gardening, lawn care, tree maintenance or removal and other landscaping activities; between 10:01 p.m. and 5:59 a.m. Monday through Friday and 10:01 p.m. to 6:59 a.m. Saturdays and Sundays.

(c) Exceptions. Notwithstanding any provisions of this section to the contrary this section shall not apply to any sound generated by any of the following:

...

(3) Refuse collection and sanitation services; activities related to the construction, repair, maintenance, remodeling or demolition, grading, or other improvement of real property; and gardening, lawn care, tree maintenance or removal and other landscaping activities between 6:00 a.m. and 10:00 p.m. Monday through Friday and 7:00 a.m. to 10:00 p.m. Saturdays and Sundays.

...

...

(Ord. No. 2009-15, 2-23-09; Ord. No. 2010-19, 3-8-10; Ord. No. 2013-8, 1-28-13)

Chapter 70 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

Sec. 70-19. Planting shade trees.

No person shall plant any shade trees in the streets or sidewalks of the city without the previous consent of the city manager, who shall designate the proper line for the same.
(Code 1964, § 22-26)

Cross reference— Vegetation, ch. 90.

Chapter 74 SUBDIVISIONS

ARTICLE IV. SUBDIVISION DESIGN

DIVISION 1. IN GENERAL

Sec. 74-44. Preservation of natural features and amenities.

(a) Generally. Existing natural features that would add value to residential development or to the city as a whole, such as trees, watercourses, historic sites, and similar irreplaceable assets shall be protected wherever practicable in the design of the subdivision.

(b) Site cover requirements.

(1) In subdivision development trees shall be retained to the extent that, at ten years from date of preliminary plat approval, minimum tree canopies or covers (including retained trees and new trees planted under subsection (d) below) will total as far as possible the following site cover percentages:

Zoning Districts Percentage of Site Cover

Multiple-Dwelling and Industrial District	10 Percent
Single-Family Residential Districts	20 Percent

The area to be occupied by the estimated building footprint(s) and driveway access area(s) proposed for a development site shall be subtracted from the gross site area before calculating required tree coverage.

(2) As used herein, "tree canopy" or "tree cover" shall include all areas of coverage by plant material exceeding five (5) feet in height, and the extent of canopy at maturity shall be derived from the current edition of "Manual of Woody Landscape Plants" by Michael A. Dirr, or other comparable sources.

(3) The applicant shall consult with the city horticulturist as to trees planted to satisfy canopy requirements stated herein.

(4) To curtail the spread of disease or insect infestation in a plant species, when more than five trees are required to be planted on a site, no more than 50 percent of those trees shall be of one type. When more than 20 trees are required on a site, no more than 25 percent of the required trees shall be of a single species.

(c) Existing trees.

(1) The applicant shall provide a tree protection plan to be approved by the city horticulturist and shall protect existing trees, where possible, in the design and development of a subdivision and replace those trees necessarily removed during such development.

(2) All trees that are to be retained shall be marked and protected during construction, with tree wells provided where necessary to protect the tree from changes in grade.

(3) Existing trees infested with disease or insects or structurally damaged to the extent that they pose a hazard to persons or property, or to the health of other trees on site, shall not be included to meet the tree cover requirements.

(d) New trees.

- (1) New streets. The applicant shall plant shade or ornamental trees along both sides of all new streets. Such trees shall be spaced not more than 50 feet apart on each side of the street off the city right-of-way. Such trees shall be at least two inches in caliper.
 - (2) Developer shall be encouraged but not required to plant trees in addition to those required under subsection (d)(1) of this section.
- (e) Waiver. The requirements of this section 74-44 may be waived, in whole or in part, by the city council in one or more of the following circumstances:
- (1) To allow for the reasonable development of areas devoid of woody materials, dedicated school sites, playing fields and other non-wooded recreation areas, and other facilities and uses of a similar nature.
 - (2) To allow for the preservation of wetlands.
 - (3) When strict application of the requirements would result in unnecessary or unreasonable hardship to the developer as provided in section 74-126 of this chapter.
- (Ord. No. 2000-56, 11-27-00)

Sec. 74-45. - Soil erosion and sediment control.

- (a) The applicant shall submit a soil erosion and sediment control plan to be approved in accordance with the provisions of chapter 30 "Environment" of this Code. Such plan shall include measures to control soil erosion both during and after construction.
 - (b) In order to stabilize grade areas, grass shall be re-seeded on cleared areas in accordance with chapter 30 of this code. Sod may be used to comply with this requirement.
 - (c) Except as otherwise provided herein, no cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be left deposited on any lot or street at the time of issuance of a certificate of occupancy. Removal of such debris and waste shall be considered a prerequisite of the issuance of a certificate of occupancy. No such debris shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.
- (Ord. No. 2000-56, 11-27-00)

DIVISION 2. STREETS

Sec. 74-62. Design.

- (a) The following chart indicates the minimum acceptable widths of right-of-way, paved surface and adjacent easements for newly constructed streets of various categories:

...

- (3) The term "adjacent easement" refers to an area five feet in width on either side of the dedicated right-of-way which shall not be deemed to be conveyed to the city in fee simple, but over which the city shall be deemed to have a perpetual easement for public purposes, including but not limited to location of utility lines, poles and meters, planting of shade trees, installation of traffic signs or signals, bus stops or benches and clearing and cutting to preserve visibility at driveways and intersections. The developer shall grade the areas subject to such easements in the same manner as the dedicated right-of-way, and such easements shall be shown on preliminary and final plats. The reservation of such easements shall not be deemed to deny the property owner rights of ingress and egress which would otherwise accrue to him, nor to deny the developer or owner the right to include the area subject to the easement in calculating lot sizes to fulfill minimum area requirements in the city zoning ordinance (chapter 98 "Zoning" of this Code).

...

(Ord. No. 2000-56, 11-27-00)

Chapter 90 VEGETATION

ARTICLE II. PUBLIC TREES

Sec. 90-26. 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:

City horticulturist means the person within the department of parks and recreation or his or her representative assigned to carry out certain duties of this article.

Department of parks and recreation means the department under whose jurisdiction the master planning of parks and/or street trees fall.

Park means all public parks or public open spaces having individual names.

Property line means the right-of-way line of a street or highway.

Property owner means the person owning such property as shown by the city assessor's maps.

Public trees means all shade and ornamental trees growing on any public areas.

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 purposes of vehicular and pedestrian traffic.

Treelawn means that part of a street or highway, not covered by a sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

(Code 1964, § 29-1; Ord. No. 2007-41, 5-29-07)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 90-27. Master street tree plan.

(a) The city horticulturist shall have the authority to formulate and administer a master street tree plan. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the city. From and after the effective date of the master street tree plan or any amendment thereof, all planting shall conform thereto.

(b) The city horticulturist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the city.

(c) The city horticulturist shall have the authority to amend or add to the master street tree plan at any time that circumstances make it advisable.

(Code 1964, § 29-2; Ord. No. 2007-41, 5-29-07)

Sec. 90-28. Obstruction.

(a) Duty of occupant. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees or other vegetation, to prune such trees or vegetation in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct views of any street or alley intersection. Suggested minimum clearance of any overhanging portion thereof shall be ten feet over sidewalks and 12 feet over all streets except truck thoroughfares which shall have a clearance of 16 feet.

(b) Notice to prune. Should any person owning real property bordering on any street fail to prune trees, the department of public works with advice from the city horticulturist shall order such person within 14 days after receipt of written notice to so prune such trees.

(c) Service of order. The order required in this section shall be served by mailing a copy of the order by certified mail to the last-known address of the property owner.

(d) Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, the city may prune such trees, and the exact cost thereof shall be

recoverable from such person so failing to comply through the city property taxes and/or filed as a lien against the real estate.

(Code 1964, § 29-3; Ord. No. 2007-41, 5-29-07)

Sec. 90-29. Abuse or mutilation of public trees.

(a) Unless specifically authorized in writing by the city horticulturist, no person shall damage, cut, carve, transplant, remove and/or otherwise alter any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any public tree; allow any gas, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. Any person violating the provisions of this section shall be guilty of a class 2 misdemeanor and, in addition thereto, shall be responsible for the cost of repair or replacement of any public tree so damaged.

(b) It shall be unlawful to top any street tree, park tree and/or any other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstruction where other pruning practices are impractical may be exempted from this subsection at the determination of the city horticulturist.

(Code 1964, § 29-4; Ord. No. 2007-41, 5-29-07)

Sec. 90-30. Protection of trees.

(a) All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work shall be guarded with a good substantial fence, frame or box not less than four feet high and eight feet square or at a distance in feet from the tree equal to the diameter of the trunk in inches dbh (diameter at breast height), whichever is greater. Said guarding shall be performed by the individual(s) conducting the excavation or construction, and done at the sole cost of the individual excavating or constructing. Under no circumstance shall the city be required to perform the guarding unless the city is the party conducting the excavation or construction alluded to herein. All building material, dirt or other debris shall be kept outside the barrier and adequacy of the guarding procedures and devices implemented according to this section will be determined under the sole discretion of the city horticulturist.

(b) No person shall excavate any ditches, tunnels, trenches or lay any drive within a radius of ten feet from any public tree without first obtaining written approval from the city horticulturist's office.

(c) The public works department of the city shall notify the city horticulturist in advance of any applications for new curb, gutter, sidewalks, and/or driveway installations, and/or other improvements which might require the removal of and/or cause injury to any street tree, and/or its root system, and/or interfere with the fulfillment of the street tree plan, and/or require the planting or cultivation of trees on public property.

(Code 1964, § 29-5; Ord. No. 2007-41, 5-29-07)

Sec. 90-31. Placing materials on public property.

No person shall deposit, place, store or maintain upon any public place of the city any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the root of any tree growing thereon except by written permit of the department of parks and recreation.

(Code 1964, § 29-6; Ord. No. 2007-41, 5-29-07)

Sec. 90-32. Planting in rights-of-way.

(a) It shall be unlawful for any person to plant or cultivate any trees within a public right-of-way without first obtaining a permit therefor from the city horticulturist.

(b) The application for a permit to plant a tree under the provisions of this article shall state the number of trees to be set out, the location, species, cultivar or variety of each tree, and such other information as the city horticulturist shall find reasonably necessary to a fair determination of whether a permit should be issued.

(c) The city horticulturist shall issue the permit required by this article if, in his judgment, the proposed work is desirable and the method of workmanship meets the standards of the city's tree planting specifications.

(d) The right is reserved to the city at any time to trim, prune or remove such tree, shrub, plant or other vegetation without notice to any abutting property owner.

(e) Whenever any tree shall be planted or set out in conflict with the provisions of this chapter, it shall be lawful for the city horticulturist to remove or cause removal of said trees; and the cost thereof shall be recoverable from the person(s) responsible for such planting.

(Code 1964, § 29-7; Ord. No. 2007-41, 5-29-07)

Sec. 90-33. Pruning; removal; replanting; replacement.

(a) No person shall prune, remove, disturb, and/or otherwise alter a tree from the treelawn for any reason without first filing an application and procuring a permit from the city horticulturist.

(b) The city horticulturist shall not remove or permit removal of all or any part of any tree from any street, alley, right of way or easement, or public place owned by the city, unless he has determined that such tree is:

(1) Significantly interfering with new construction;

(2) Irreversibly infected with disease;

(3) Irreversibly infected with injurious insects or pests;

(4) Is endangering or is likely to endanger streets, highways, sidewalks, sewers, utility installations, property, vehicles or the traveling public; and/or

(5) Is dead.

(c) Wherever it is deemed necessary by the city to remove a tree from a treelawn in connection with construction, such as the paving of a street, or the paving or widening of the portion of a street or highway used for vehicular traffic, the city shall replant such trees or replace them whenever possible.

(d) If it is determined that a tree should be removed from a treelawn due to construction requested by an individual or any other entity, other than the city, the person or property owner shall bear the cost of removal and replacement of all trees removed; the work shall be completed to the satisfaction of the city horticulturist and abide by the city's tree removal and planting specifications.

(e) All stumps of trees removed from public property 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.

(Code 1964, § 29-8; Ord. No. 2007-41, 5-29-07)

Sec. 90-34. Timing of applications for permits.

Applications for permits required by the provisions of this article shall be made at the office of the city horticulturist not less than 72 hours in advance of the time the work is to be done.

(Code 1964, § 29-9; Ord. No. 2007-41, 5-29-07)

Sec. 90-35. Review by city manager.

The city manager shall have the right to review the decisions of the city horticulturist pursuant to this article. Any person may appeal from any ruling or order of the city horticulturist to the city manager who may hear the matter and make the final decision.

(Code 1964, § 29-10; Ord. No. 2007-41, 5-29-07)

Cross reference— City manager, § 2-166 et seq.

Sec. 90-36. Voidance.

Any permits issued under the provisions of this article shall be void if its terms are violated.

(Ord. No. 2007-41, 5-29-07)