

ORDINANCE NO. 1424

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on Monday, June 26, 2023, at 5:00 p.m.

Present: Beth A. Taylor, Cathy D. Pattison, Holly E. Atkins, Gary L. Gillman, Candice N. Johnson

Absent: Noine

AN ORDINANCE AMENDING AND REENACTING CHAPTER 12. SOLID WASTE COLLECTION AND DISPOSAL, ARTICLE VI. NUISANCES ON PREMISES, REMOVAL OF WEEDS, MOWING, ETC., AND CLUTTER, DIVISION 2. REMOVAL OF WEEDS, MOWING, ETC., BY AMENDING SECTION 12-92. EXCESSIVE VEGETATION; OVERGROWTH, AND BY ADDING SECTION 12-94. MOWING EXEMPTIONS, OF THE CODE OF THE TOWN OF WYTHEVILLE, VIRGINIA

BE IT ORDAINED by the Town Council of the Town of Wytheville, Virginia, that this ordinance amends and reenacts Chapter 12. Solid Waste Collection and Disposal, Article VI. Nuisances on Premises, Removal of Weeds, Mowing, Etc., and Clutter, Division 2. Removal of Weeds, Mowing, Etc., by amending Section 12-92. Excessive Vegetation; Overgrowth, and by adding Section 12-94. Mowing Exemptions, of the Code of the Town of Wytheville, Virginia, as follows:

DIVISION 2. REMOVAL OF WEEDS, MOWING, ETC.

Sec. 12-92. Excessive vegetation; overgrowth.

- (a) It shall be unlawful for the owners of property to permit grass, weeds and other foreign growth to exceed the prescribed height of 12 inches, except: (1) if a property is located in an A-1 Agricultural Zone that has been set aside for agricultural operations as defined in Section 12-76 of this chapter and used for the production of hay, feed crops or similar agricultural uses; (2) if a property owner has applied and been approved for a mowing exemption as outlined in Section 12-94 of this chapter; or (3) if a property owner has applied and been approved for using the property for nontraditional landscaping purposes as defined in Section 12-93.
- (b) Shrubs, flower beds, vegetable gardens and other landscaping that are maintained free of grass, weeds, vegetation or other foreign growth do not require cutting.
- (c) Each person owning property containing a stormwater management facility within the town shall cut the grass, weeds, trees, vegetation or other foreign growth within and surrounding the facility, as well as all conveyance channels serving the facility, a minimum of two times per year.
- (d) Every year, the town shall publish reasonable notice in the news media reminding property owners of their obligation to cut or trim grass, weeds and other foreign growth on such property each year. In the event the property owner fails to comply with the provisions of this article, the town, through its public works agents or employees, may elect to cut or trim the grass, weeds and foreign growth if the height meets or exceeds 12 inches, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected as taxes are collected. The town shall not be required to provide more than one written notice per growing season to the owner of record of the subject property.

- (e) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 and 4 (Code of Virginia, §§ 58.1-3940 et seq., 58.1-3965 et seq.). The town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed. If the sum due to the town has not been paid within fifteen (15) days from receipt of such notice, the town manager shall be authorized to add the charges to the amount due for the current town real estate taxes on said property.
- (f) Any violations of this section shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period. The civil penalties are in addition to any costs the property owner incurs as a result of the failure to comply with this section.
- (g) In the event three civil penalties have been previously imposed on the same property owner for the same or similar violation, as described in this section and not arising from the same set of operative facts, within a 24-month period, the fourth violation shall be a class 3 misdemeanor.

State Law Reference – Code of Virginia, § 15.2-901, *Locality may provide for removal or disposal of trash and clutter; cutting of grass, weeds, and running bamboo; penalty.*

Sec. 12-93. Nontraditional landscaping of property.

(a) If a person owning property wishes to establish an area of such property in which the continuing growth of grass, landscaping plants, trees or other growth will occur, such person may make application to the town council for a revocable permit for nontraditional landscaping of the property including but not limited to pollinator meadows, urban woodlands, native plant materials, and/or ornamental grasses. To assure approval prior to the spring planting season, applications for nontraditional landscaping shall be submitted prior to December 15 of each year for consideration and approval at a Council meeting on or about February 15 of the following year.

(b) Property owners desiring to maintain nontraditional landscaping for the purpose of improving wildlife habitat, species diversity or other sound ecological or aesthetic goal, shall submit an application to the town manager. With the application, the property owner shall be prepared to present information concerning the proposed nontraditional landscaping to the town council, which shall include the following information as well as any other information supporting the proposed nontraditional landscaping:

(1) A plan for the property along with a narrative description of the proposed landscaping delineating in detail the proposed planting to be installed and the existing planting to remain and describing the composition of the proposed plan including rock formations, ponds, streams, planting beds, flowers, grasses, trees, shrubs and other features;

(2) A description of the expected benefits of the proposed landscape to the community, wildlife, habitat and other effects on the property and its environs;

(3) A maintenance plan for the property that shows the type of maintenance to be performed, the frequency of that maintenance; and,

(4) A narrative of how the proposed landscape materials and maintenance program will protect public health, safety, and welfare. The narrative should address how habitat enhancement is balanced with fire safety and reduction of vermin.

The town manager will present the application to the town council at the next regularly scheduled council meeting. It is the responsibility of the applicant to submit their application early enough to secure required approval prior to any plant installation. The town council will notify the property owners adjacent to the proposed nontraditional landscaping by registered mail. Upon notification, property owners will have 30 days in which to comment on the proposal. If any adjacent property owner communicates concern, a public hearing will be set at a regularly scheduled council meeting. The hearing date shall allow adequate time for the required advertisements. If a public hearing is deemed necessary, the property owner shall present the information at the hearing or meeting. Presentations may be in writing, orally, or a combination of the two.

(c) Upon approval, implementation action of the plan is expected within six months and if after two years from the date of approval, the alternate landscaping plan is not in substantial compliance with the original plan, the Town Council may revoke it. Town inspections will occur each year. Nontraditional landscaping is not intended as a substitute for landscape maintenance. Maintenance including pruning, mowing, trimming, and shaping of plant materials is required in a manner that is appropriate for each species of plant in order to preserve an attractive appearance and to eliminate buildup of vegetation that would pose a fire hazard to adjoining properties.

Sec. 12-94. Mowing exemptions.

(a) The purpose of the mowing exemption is to accommodate owners of property who are not located in an A-1 Agricultural Zoning District and who harvest hay or use the property for other valid agricultural purposes.

(b) The mowing exemption shall only apply to those properties that are not already considered exempt as stated in Section 12-92 (a) (1) and (a) (3).

(c) A property owner seeking a Mowing Exemption Permit shall submit an application prior to the grass, weeds and foreign growth reaching the prescribed height, and the application shall be reviewed for approval by the Town Manager or his/her designee.

(d) The mowing exemption shall only be valid until December 31 of each year, and the owner must reapply each year.

(e) To maintain the mowing exemption, the property owner shall mow, harvest or otherwise cut the grass, weeds and other foreign growth at least once by December 31 of each year. The Town Manager reserves the right to revoke the Mowing Exemption Permit, if the property owner fails to comply with the terms of this article.

(f) The Town Manager shall reserve the right to grant mowing exemptions. The property owner shall be required to mow the property, or the property shall be mowed by the town as provided for in Section 12-92 (d).