

**CODIFIED ORDINANCES OF GLEN DALE**

**PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE**

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**CHAPTER ONE - Street and Sidewalk Areas**

- Art. 905. General Provisions.
- Art. 911. Excavations.
- Art. 917. Sidewalks.
- Art. 923. Urban Tree Regulations.

**CHAPTER THREE - Utilities**

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#### CHAPTER ONE - Street and Sidewalk Areas

- Art. 905. General Provisions.
- Art. 911. Excavations.
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- Art. 923. Urban Tree Regulations.

#### ARTICLE 905 General Provisions

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#### CROSS REFERENCES

- General power to regulate - see W. Va. Code 8-12-5(1)
- Special charges for street cleaning etc. - see W. Va. Code 8-13-13
- Connection to State road system - see W. Va. Code 17-4-26 et seq.
- Action for damages occasioned by defective streets, etc. - see W. Va. Code 17-10-17
- Street obstructions - see TRAF. 311.01

**905.01 ASSEMBLIES, PARADES, ETC.; PERMIT REQUIRED;  
EXCEPTIONS.**

All street parades, processions and street assemblages, occupying, assembling or marching upon any street or public place of the City, except units of the National Guard of the State or armed forces of the United States, and funeral processions, are forbidden, unless a permit therefor in writing shall have first been obtained from the Mayor, which permit shall designate what and how much of the streets such procession or assemblage may occupy; provided, that in all processions and parades in which vehicles are in line such vehicles shall be kept twenty feet apart. (1987 Code §28-1-1.)

**905.02 TURNING WATER INTO STREETS OR ALLEYS.**

No person shall turn water into streets or sidewalks of the City in such quantity or in such manner that it shall become a nuisance. (1987 Code §28-1-2.)

**905.03 THROWING OR PLACING RUBBISH ON STREETS, ETC.**

No person shall throw or place any earth, brick, stone, filth, ashes, lime, mortar, shavings or rubbish of any kind, except materials for building or rubbish caused by building, on any square, street, public landing or on any sidewalk of any such square, street, or public building. (1987 Code §28-1-3.)

**905.04 DUTY OF OCCUPANTS OF BUILDINGS TO KEEP ABUTTING  
SIDEWALKS CLEAR OF TRASH, ETC.**

It shall be the duty of all persons occupying premises abutting on any street to keep the sidewalk immediately abutting thereon clean and clear of rubbish, trash, leaves, wastepaper, filth and debris, and they shall not sweep any such matter into the street, but shall take it up and put it into proper receptacles to be removed as other trash, rubbish, leaves, wastepaper, filth and debris are lawfully removed. In case of buildings of more than one story it shall be the duty of the occupant or occupants of the first story to keep the sidewalk clean and clear. (1987 Code §28-1-4.)

**905.05 DISPLAY OF MERCHANDISE FOR SALE.**

No person shall set or place any goods, wares or merchandise for the purpose of exposing them for sale in any street or on the sidewalks of any street so as to project more than two and one-half feet from the wall or front of his place of business without prior permission of Council. (1987 Code §28-1-5.)

**905.06 OCCUPYING STREETS FOR BUILDING PURPOSES;  
CONSTRUCTION OF SAFETY BRIDGES.**

No person building or repairing any building shall occupy more than one-third of any street or alley, clear of the sidewalks in front of any lot on which a building is being erected or repaired, with the materials necessarily used in erecting such building or repairing.

After any such building is built up to the second story, if such building is to be more than one story in height, a strong, compact and substantial bridge shall be built over the sidewalk, at least ten feet in height and of equal length with such building, and at each end of such bridge shall be posted a notice warning persons of the danger in passing such building; provided, that this shall not apply to buildings more than ten feet from the line of the sidewalk. (1987 Code §28-1-6.)

**905.07 BREAKING OR DEPOSITING GLASS, ETC., ON STREETS OR SIDEWALKS.**

No person shall break bottles, glass containers, earthenware or like articles on the streets and sidewalks of the City, nor shall any person deposit glass, tacks, nails or other like articles on any of the streets and sidewalks of this City.  
(1987 Code §28-1-7.)

**905.08 FENCING OR OBSTRUCTING STREETS, ETC.**

It shall be unlawful for any person to fence or obstruct or cause to be fenced or obstructed, any street, sidewalk, crossing or gutter within the City; provided, that any person loading or unloading any goods, wares, merchandise, produce or fuel shall have a reasonable time to remove unavoidable obstructions occasioned thereby.  
(1987 Code §28-1-8.)

**905.09 ERECTION AND MAINTENANCE OF DANGEROUS FENCES ALONG STREET LINES.**

It shall be unlawful for any person to build, keep or maintain upon the line of any street within the City, any barbed wire, rail or other fence which is dangerous or a nuisance to the public. (1987 Code §28-1-9.)

**905.10 ERECTION OF STRUCTURES OVER STREETS, ETC.**

No house, storeroom, shop, stable, porch, veranda or any other building or structure shall be erected upon or over or extend into, upon or over any street, sidewalk or public grounds of the City. Any person who shall erect or construct or cause to be erected or constructed anything in violation of this section shall be guilty of an offense and upon conviction thereof shall be compelled to remove such structure at his own proper expense, in addition to any other adjudged sentence. (1987 Code §28-1-10.)

**905.11 ELECTRIC POLES ON THE STREET.**

Electric light, telephone and telegraph companies must make application to the Council for the erection and removal of their poles; such application must designate the location of each pole proposed to be erected or removed, and such companies will not be permitted to erect or remove any poles without the consent of the City; and any company now having poles on the streets of the said City will be required to remove them when in the opinion of Council their location is dangerous or that they obstruct the proper use of the streets. Any person, firm or corporation, which shall fail or refuse to remove any pole or poles when ordered to do so by the Council of said City shall be deemed guilty of a misdemeanor.  
(1987 Code §28-1-13.)

**905.12 CURBS.**

(a) Construction; Permit Required. It shall be unlawful for any person or construct or build any curb along any street within the City without first obtaining a permit from the Council.

(b) Cutting, Destroying, Etc; Permit Required. It shall be unlawful for any person to cut, destroy or otherwise remove any curb adjoining or being along any public street within the City without a permit from the Council to do so.

(c) Application. The application for permission to cut, destroy or otherwise remove any curb along any street with the City shall be in writing and shall state the names of the owners of the property adjacent to the curb sought to be so cut, the location of such property and number of feet of curb sought to be cut, destroyed or otherwise removed, and shall also contain a statement as to the purpose for which such removal is sought.

Such application shall be signed by the owners of the property adjacent to such curb so sought to be cut or removed, and the application shall be accompanied by a detailed plat, blueprint or drawing showing the amount of curb sought to be removed, giving the distance to be removed measured both from the top of the curb sought to be removed, and the distance to be removed measured along the bottom of the proposed cut at the level of the gutter of the street, and shall also show by detailed plat, blueprint or drawing whether or not a proposed drive or entrance-way is to be made, and if so, the amount of surface of the sidewalk which will be included in the drive or entrance-way and whether or not the present grade of sidewalk will be changed thereby.

(d) Fee. The application for permission to cut any curb or remove the same shall be accompanied by a fee of two dollars (\$2.00) per running foot for each foot of curb sought to be removed, such foot of curb sought to be removed to be computed by measurements from the top of the curb. The Council may waive the fee in unusual circumstances.

If permission is granted by the Council to cut or remove any curb, the fee of two dollars per foot shall be retained by the City as compensation for relaying such curb.  
(1987 Code §§28-1-14 to 17.)

#### **905.13 SIGNS.**

(a) Standing on Streets, Sidewalks, Etc. It shall be unlawful for any person to construct or cause to be constructed any sign or other means of advertisement which shall stand on any street or sidewalk.

(b) Projecting, Etc. It shall be unlawful for any person to construct or cause to be constructed, any sign or other means of advertisement which shall project over any street or sidewalk unless such sign be at least ten feet above such street or sidewalk and its erection approved by the City Engineer.  
(1987 Code §§28-1-18, 28-1-19.)

#### **905.99 PENALTY.**

(EDITOR'S NOTE: See Section 101.99 for general Code penalty.)

CODIFIED ORDINANCES OF GLEN DALE  
PART NINE – STREETS, UTILITIES AND PUBLIC SERVICE CODES

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CHAPTER ONE – Street and Sidewalk Areas

Art. 906 STREET AND ALLEY ABANDONMENT PROCEDURES

**906.01 Legislative Intent**

Council finds and declares that within the City there are one or more streets, alleys, and/or public rights-of-way that have not, do not, or will not in the future serve any public purpose; that it would be in the best interest of the City to abandon and vacate such streets, alleys, and/or public rights-of-way, thereby absolving any actual or contingent liability; and that would otherwise permit more appropriate land use within the City and promote orderly development of the City.

**906.02 Authority**

The City, through Council, pursuant to the authority granted it by Chapter 8 of the West Virginia Code, reserves the right to close, abandon, and/or discontinue for public use any part or all of any street, alley, land, road, or other designated travel way presently owned by or dedicated to the City.

**906.03 Procedure**

a) Council may, on its own initiative, move to close, abandon, and/or discontinue for public use any part or all of any street, alley, land, road, or other designated travel way that it finds no longer serve the public good and/or otherwise conforms to the proper use of City resources.

b) Any landowner whose land abuts any street, alley, lane, road, or other designated travel way may submit a petition to close, abandon, and/or discontinue for public use any part or all of the same with the City Clerk, including the following:

(1) a written petition to City Council explaining the street, alley, land, road, or other designated travel way seeking to be closed, abandoned, and/or discontinued for public use and the reasons for such desire;

(2) an engineer's or surveyor's map of such street, alley, lane, road, or other designated travel way together with abutting property ownership; and

(3) a list of all owners of property abutting the street, alley, land, road, or other designated travel way in question.

(4) Any petition not accompanied by any of the required information laid out above shall be treated as not submitted by Council. No discussion or decision shall be made on such





petition. A new petition, with the required items, must be submitted by the abutting land owner in order for Council to take any action.

c) Before voting to close, abandon, and/or discontinue for public use any part or all of a street, alley, lane, road, or other designated travel way the City Council shall set a time and place for a public hearing on such decision and such public hearing shall be published as a Class I legal advertisement under W. Va. Code 59-3-2(a) no more than fifteen (15) days prior to such public hearing. After considering the evidence presented at the public hearing, as well as any additional evidence submitted to the Council leading up to the date of public hearing the Council shall vote to approve or deny the closure, abandonment, and/or discontinuation.

(1) In the event such public hearing is being held based on a request of an abutting landowner, as allowed by subsection b) above, then the Council shall also have notice served upon all abutting landowners who may be effected by such action.

#### **906.04 Approval and Disapproval**

a) Council shall not approve any closure, abandonment, and/or discontinuation of use under the following conditions:

(1) the street, alley, lane, road, or other designated travel way currently serves or is expected to serve good public use;

(2) in the event that such closure, abandonment, and/or discontinuation is brought by an abutting landowner, that any non-consenting landowner can show they would suffer damage due to such action; and

(3) the closure, abandonment, and/or discontinuation would unreasonably impede the flow of traffic in the area.

b) Nothing in these Sections shall require the City to abandon any property, nor shall it require the City to continue to upkeep or use of any property that the City, through Council, does not find serves the public good of the City.

#### **906.05 Division of Abandoned Property**

a) When, based on the type of petition, request of abutting landowners, or as otherwise required the abandoned property must be divided among the abutting landowners such property shall be divided equally among the abutting landowners based upon where their land abuts such abandoned property. Understanding that not all closures, abandonments, and or discontinuations will result in the property leaving the City's possession and/or being divided among the abutting landowners.

b) When division of the abandoned property is required, the Mayor shall execute and deliver a quitclaim deed for the portion of the property that is to go to that landowner. Such quitclaim deed shall reserve all necessary water, sewer, and other utility easements or rights of way.



**ARTICLE 911**  
**Excavations**

<p><b>911.01</b> Permit.</p> <p><b>911.02</b> Disposition of bricks, etc.</p> <p><b>911.03</b> Erection of barriers, lights, etc.</p> <p><b>911.04</b> Repairing street, etc.</p>	<p><b>911.05</b> Paving notices.</p> <p><b>911.06</b> Public service corporations; applicability of article.</p> <p><b>911.07</b> Replacing removed pavement.</p> <p><b>911.99</b> Penalty.</p>
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**CROSS REFERENCES**

Power to regulate street excavations - see W. Va. Code 8-12-5(2)  
Street obstructions - see TRAF. 311.01

**911.01 PERMIT.**

(a) Required. Except as provided in Section 911.06, it shall be unlawful for any person to dig up any street or alley of the City for any purpose whatsoever unless he shall have first obtained a permit from the Recorder to do so.

(b) Requisites Generally. No permit required by this article shall be granted until the person applying for such permit shall satisfy the Recorder that the digging up of the street is necessary for the health, welfare, safety and comfort of the applicant or others.

(c) Bond Required; Conditions; Enforcement. No permit required by this article shall be granted until the applicant shall enter into a bond with good and sufficient security to be approved by the recorder in the sum of one hundred dollars (\$100.00), payable to the City, conditioned that all ditches caused by such digging will be properly guarded both day and night and that such ditches will be thoroughly tamped and flushed and the earth again be properly placed in such street, and such street placed in good and safe condition without expense to the City and if paved to be repaved to the satisfaction of the Street Commissioner. In case it becomes necessary for the City to place such street in good and safe condition as a result of such digging the work shall be done by the Street Commissioner at the cost of the party obtaining such permit and giving the bond, which cost shall be enforced against the bond.  
(1987 Code §§28-2-1 to 28-2-3.)

**911.02 DISPOSITION OF BRICKS, ETC.**

Any person making any excavation as described in this article shall carefully place all bricks removed from any street in a neat rectangular pile inside the curb line, and such person shall account for all bricks so removed and is hereby made chargeable for any shortage. Any charges to be imposed or any duties required by this section shall be imposed against and required of the person who shall have obtained the permit required by Section 911.01(a).  
(1987 Code §28-2-4.)

**911.03 ERECTION OF BARRIERS, LIGHTS, ETC.**

Any person making any excavation as described by this article shall do the work in a careful, workmanlike manner, and carefully guard all ditches by barriers, lights and otherwise as the public safety may demand, and shall complete the work with all reasonable dispatch, refill and thoroughly tamp and flush all ditches, and when paved, fill them flush with the top of the paved street. (1987 Code §28-2-5.)

**911.04 REPAIRING STREET, ETC.**

Any person applying for a permit required by this article, where the street is paved, shall be required to repair such street to the satisfaction of the Street Commissioner. (1987 Code §28-2-6.)

**911.05 PAVING NOTICES.**

Whenever the City Council is about to pave any street of the City, the Recorder shall cause notice to be served upon the property owners fronting and abutting upon such street to lay or cause to be laid all necessary sewer, tile or pipe, gas or water lines. Such notice shall also be given to all gas or water line companies owning or operating gas or water lines in the City, of the City Council's intention to pave such street so that such gas and water line companies may have an opportunity to extend their lines and make all necessary connections before such street is paved. (1987 Code §28-1-7.)

**911.06 PUBLIC SERVICE CORPORATIONS; APPLICABILITY OF ARTICLE.**

Nothing contained in this article shall prevent any public service corporation from making necessary and urgent repairs to its lines without obtaining the permit mentioned in Section 911.01(a), but in all cases such public service corporation making such repairs shall be bound by Section 911.04. In case of failure of any public service corporation to observe the provisions of Section 911.04, such resurfacing shall be done by the Street Commissioner at the cost of such public service corporation. (1987 Code §28-2-8.)

**911.07 REPLACING REMOVED PAVEMENT.**

Any public service corporation doing business in the City which shall take up any portion of the paved streets of the City for the purpose of making necessary repairs to its tracks, mains or lines, shall replace the pavement so removed as soon as possible. All ditches shall be tamped and flushed, then covered with six inches of concrete composed of a mixture of one part approved Portland cement and three parts of clean sand and gravel, to be thoroughly mixed, placed and tamped and shall have a cushion of two inches of clean sand on top of which shall be replaced any brick so removed, or in case of a shortage of brick, other brick of like quality shall be used and the brick shall be laid in a workmanlike manner so as to make a uniform surface on such street or alley. (1987 Code §28-2-9.)

**911.99 PENALTY.**

(EDITOR'S NOTE: See Section 101.99 for general Code penalty.)

**ARTICLE 917  
Sidewalks**

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| <b>917.01 Use of roller skates, bicycles, etc., on sidewalks.</b> | <b>917.07 Repairs.</b>                                 |
| <b>917.02 Driving animals over sidewalks.</b>                     | <b>917.08 Materials and width.</b>                     |
| <b>917.03 Awnings.</b>  | <b>917.09 Grade.</b>                                   |
| <b>917.04 Snow and ice removal.</b>                               | <b>917.10 Dimensions and set of curbstone.</b>         |
| <b>917.05 Paving order.</b>                                       | <b>917.11 Owner or occupant to maintain sidewalks.</b> |
| <b>917.06 Failure of owner to pave.</b>                           | <b>917.99 Penalty.</b>                                 |

**CROSS REFERENCES**

General powers relative to sidewalks - see W. Va. Code 8-12-5(1) et seq.  
 Low cost improvements - see W. Va. Code Art. 8-17  
 Sidewalk assessments - see W. Va. Code Art. 8-18

**917.01 USE OF ROLLER SKATES, BICYCLES, ETC., ON SIDEWALKS.**

No person shall use roller skates, coasters, bicycles, tricycles, small wagons or any other device of similar nature on wheels or runners, on any sidewalk in the City in such a manner as to become a nuisance or so as to endanger life, limb or property.  
 (1987 Code §28-3-1.)

**917.02 DRIVING ANIMALS OVER SIDEWALKS.**

No animal shall be led or driven over or upon any sidewalk in the City without precautions having first been taken to prevent damage to such sidewalks.  
 (1987 Code §28-3-2.)

**917.03 AWNINGS.**

(a) Erection and Removal. It shall be unlawful for any person to erect or permit to be erected any awning in front of any building in the City that shall extend out, over or along any sidewalk, which shall, when let down, be a hindrance or obstruction to the passing public.

(b) Minimum Distance of Crossbar From Sidewalk, Etc. No awning shall be erected in this City by any person, the crossbars on which when the awning is let down shall be less than seven and one-half feet in height from the sidewalk over which it is erected; and when left down no crossbars shall extend horizontally so as to interfere with the passing public.

(c) Removal Upon Failure to Comply. All persons owning property in the City in front of which there are awnings not strictly conforming to the provisions of subsections (a) and (b) hereof, which obstruct or impede travel on the sidewalk, shall be ordered by the Chief of Police to make them conform to such provisions. In case such person shall fail to comply with the order of the Chief of Police, such officer shall, on the order of Council, remove or cause the awnings to be removed at the cost of such persons.  
(1987 Code §§28-3-3 to 28-3-5.)

#### **917.04 SNOW AND ICE REMOVAL.**

(a) By Abutting Property Users, Occupants, Etc. It shall be the duty of each person using or occupying in any manner or for any purpose whatsoever any house, store, shop, garage, stable, building or tenement of any kind, and of all persons having charge of churches and public buildings of every description and of the owners of unoccupied houses, stores, shops, garages, stables, buildings or tenements of any kind, and the owners of vacant or unimproved lots, situated on or along any paved street in the City, and of their agents within three hours after the falling of any snow, or in case of formation of any ice, within three hours after such formation, to remove or clean away such snow or ice, or cause it to be removed or cleared away, from the pavement or sidewalk fronting the houses, stores, shops, garages, buildings, churches, public buildings or tenements of any kind or lots so used, occupied or owned by them or under their charge, in such a manner as to leave the sidewalk clean and free from snow and ice and in such manner as not to obstruct the passage of the water in the gutters leading to and from the pavement or sidewalk situated in the front or the rear or side of such tenements free from snow and ice and every obstruction and free from dirt, trash, and filth; provided, that if such snow shall fall or such ice shall form between the hours of 6:00 p.m. and 6:00 a.m., then such snow or ice shall be removed or cleaned away before 11:00 a.m. pursuant to the provision of this section.

(b) By City; Assessment of Costs. After the expiration of the time specified in subsection (a) hereof, the City by its agents or employees may without notice remove any snow or ice not removed as provided in such section, and the Mayor shall report to the City Council the cost and expense. Such cost and expense may be assessed against the person and property delinquent in addition to any other penalty for the violation of that section.  
(1987 Code §§28-3-6, 28-3-7.)

#### **917.05 PAVING ORDER.**

Whenever the City Council shall require the owner of any sidewalk, or of the real property next adjacent thereto, to pave such sidewalk, it shall cause an order to be entered in the records and a copy thereof served upon such owner or his agent or the occupant of such property, requiring such person to pave the sidewalk in the manner prescribed in this article within fifteen days after the service of such copy.  
(1987 Code §28-4-1.)

#### **917.06 FAILURE OF OWNER TO PAVE.**

(a) Council Action. Whenever the owner of any sidewalk, or of the real property next adjacent thereto, shall fail or refuse to pave such sidewalk in the manner, and within the time required by the City Council under the provisions of this section, it shall be the duty of the City Council to cause the sidewalk to be paved upon the most reasonable terms, under the direction of the Street Commissioner.

(b) Report of Street Commissioner, Etc. The Street Commissioner shall furnish and file with the Recorder a correct account containing a statement of the expenses of such pavement. Thereupon, it shall be the duty of the City Council to assess the amount of such expense upon the owner of such property and require it to be collected in the manner required by law for the collection of other fees and charges for municipal services.  
(1987 Code §§28-4-2, 28-4-3.)

#### **917.07 REPAIRS.**

Whenever in the opinion of the City Council, the pavement of any sidewalk shall need any repairs, the Street Commissioner shall give at least fifteen days notice to the owner or agent of the real property next adjacent thereto. If the owner or agent shall not make the required repairs within time limit in such notice, it shall be the duty of the Street Commissioner to cause such repairs to be done at the expense of the City, and file with the Recorder a statement of such expense. The City Council shall assess the amount of such expense upon the owner of such property, and require it to be collected in the manner required by law for the collection of other fees and charges for municipal services.  
(1987 Code §28-4-4.)

#### **917.08 MATERIALS AND WIDTH.**

All sidewalks shall be constructed of brick, stone, concrete or such other suitable material as the City Council shall determine, and shall be of the width determined by the City Council.  
(1987 Code §28-4-5.)

#### **917.09 GRADE.**

All sidewalks shall be of uniform grade with the street and shall rise from the curbstone or water table at an angle of one-half inch in every foot in width thereof.  
(1987 Code §28-4-6.)

#### **917.10 DIMENSIONS AND SET OF CURBSTONE.**

All curbstones used for securing pavements on the sidewalks shall be of the following dimensions: At least four feet long, at least five inches thick and at least twenty inches deep, unless for good and sufficient reasons the City Council shall otherwise order at the time, and the curbstone shall be so set as to show at least four inches above the ground on the side next to the street. (1987 Code §28-4-7.)

#### **917.11 OWNER OR OCCUPANT TO MAINTAIN SIDEWALKS.**

(a) Definitions. In this section:

- (1) "Owner" means:
  - A. In the case of land, any person who is recorded on the tax records as the owner of land, or
  - B. In the case of property other than land, any person who is in lawful possession thereof.
- (2) "Occupant" means:
  - A. A person who is in physical possession of a property, or
  - B. A person who has responsibility for, and control over the condition of a property, the activities conducted on that property, and the persons allowed to enter that property.

- (3) "Person" includes any individual, corporation, society, association, partnership, or firm, and the successor or the heir, executor, administrators, or other legal representatives of a person.
- (4) "Sidewalk" means that part of a highway especially adapted to the use of or ordinarily used by pedestrians and included that part of the highway between the curb line (or edge of the roadway where there is no curb line) and the adjacent property line, whether or not paved or improved.

(b) Responsibility of Owner or Occupant. Every occupant, owner or person of every house, shop, building, lot, parcel of land, or other property that adjoins or is abutting to or on a sidewalk in the City shall be charged with the responsibility to keep such sidewalk in a good state of repair and free from defects and debris. Failure to maintain will result in the City undertaking such repair or remedy and charging back to the property owner. On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner shall be held liable in tort for such damages to another. Alternatively, should the City be called upon to make such payment to a third party, the City will look to the adjoining/abutting landowner for contribution and indemnity.  
(Ord. 10-13-03.)

**917.99 PENALTY.**

(EDITOR'S NOTE: See Section 101.99 for general Code penalty.)



**ARTICLE 923**  
**Urban Tree Regulations**

<b>923.01</b>	<b>Definitions.</b>	<b>923.09</b>	<b>Orders.</b>
<b>923.02</b>	<b>Establishment of an Urban Tree Committee.</b>	<b>923.10</b>	<b>Abuse or mutilation of public trees.</b>
<b>923.03</b>	<b>Duties of the Arborist.</b>	<b>923.11</b>	<b>Appeals.</b>
<b>923.04</b>	<b>Authority of the Arborist.</b>	<b>923.12</b>	<b>Interference with Arborist.</b>
<b>923.05</b>	<b>Permit required.</b>	<b>923.13</b>	<b>Placing materials on public property.</b>
<b>923.06</b>	<b>Permit application data.</b>	<b>923.14</b>	<b>Emergencies.</b>
<b>923.07</b>	<b>Removal, replanting and replacement.</b>	<b>923.15</b>	<b>Compensatory payments.</b>
<b>923.08</b>	<b>Planting and pruning of trees and shrubs obstructing views.</b>	<b>923.16</b>	<b>Disposal of wood products.</b>
		<b>923.17</b>	<b>Hedges.</b>
		<b>923.99</b>	<b>Violation and penalty.</b>

**CROSS REFERENCES**

Power to regulate - see W. Va. Code 8-12-5(29)

**923.01 DEFINITIONS.**

As used in this article:

- (a) "Municipality" is the City of Glen Dale, West Virginia.
- (b) "Urban Tree Committee" is the body which advises the City on matters affecting the Urban Forest.
- (c) "Arborist" means person within the Committee who administers the provisions of this article under the supervision and direction of the Mayor. The Arborist shall have experience in forestry and/or horticulture.
- (d) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (e) "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, and extending from property line to property line.
- (f) "Park" shall include all public parks, the ownership and control of which are vested in the City of Glen Dale, West Virginia.
- (g) "Public Places" shall include all grounds owned by the City of Glen Dale, and the State of West Virginia, situated within the City of Glen Dale.
- (h) "Tree" or "Street Tree" includes any tree or other plant in a public place as indicated by subsequent provisions of this article.

- (i) "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 areas.
- (j) "Property Owner" shall mean the person(s) owning designated property as shown by the County Assessor's Plat of Marshall County, as the case may be.
- (k) "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.
- (l) "Tree" shall mean:
  - (1) Any self-support woody plant which has a well defined stem with a diameter of at least four inches at 4.5 feet from the ground.
  - (2) Any ornamental woody plant as designated by the Arborist; or
  - (3) Any small seedling or sapling planted or protected specifically to become large tree as described in (1) and (2) above.
- (m) "Urban Forest" shall mean all trees located on City-owned or controlled property.
- (n) "Urban Tree Specifications and Standards of Practice" shall mean regulations promulgated by the Urban Tree Committee and adopted by the Glen Dale City Council, and regulating or dealing with the Urban Forest. Such regulations shall conform with the Primary Standards of the National Arborists Association. (1987 Code §28A-1-1.)

**923.02 ESTABLISHMENT OF AN URBAN TREE COMMITTEE.**

(a) There is hereby created an Urban Tree Committee consisting of three members. One member shall be appointed by the Mayor, two members shall be appointed by the City Council. All such members shall be appointed for three-year terms, except that the initial appointments shall be as follows:

Mayor's Representative	1 Year
Council's Representatives (2)	2 & 3 Years

(b) Any public utility company, including a cable television company, whose right-of-way maintenance practices and activities may be affected by this article and/or regulations promulgated thereunder may appoint an ex-officio member to serve in an advisory fashion.

(c) The members of the Urban Tree Committee shall elect a chairman and other necessary officers from their members. (1987 Code §28A-1-2.)

**923.03 DUTIES OF THE ARBORIST.**

The Arborist shall assist in the administration and enforcement of the provisions of the article, 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 City of Glen Dale. The Arborist shall work at the direction of the Urban Tree Committee. (1987 Code §28A-1-3.)

**923.04 AUTHORITY OF THE ARBORIST.**

The Arborist shall:

- (a) Supervise or inspect all work done under a permit issued in accordance with the terms of the article.
- (b) Coordinate the formulation of a Master Urban Tree Plan in cooperation with the Urban Tree Committee, the Mayor and the City Council.
- (c) The duties of the Arborist shall be assumed by the members of the Urban Tree Committee until such time as the City of Glen Dale employs an Arborist or whenever the office of Arborist is vacant.
- (d) The Urban Tree Committee has the authority to amend and to add to the Master Urban Tree Plan at anytime that circumstances make it advisable.  
(1987 Code §28A-1-4.)

**923.05 PERMIT REQUIRED.**

(a) No person shall commence or proceed with any operation involving a public tree without first obtaining a Public Tree Work Permit from the City. Activities covered by this section include, but are not necessarily 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 article notwithstanding, 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 operation.

(b) Application for a Public Tree Work Permit shall be made in the form prescribed by the City by:

- (1) The public utility company or its authorized agent, if the work is to be done by a public utility company pursuant to its regular operations; and
- (2) The abutting property owner, or such owner's agent, if the work is to be performed within the street on behalf of the abutting property owner.
- (3) Any agency of the City of Glen Dale doing work involving urban trees shall cooperate with the Arborist as prescribed by the article.

(c) Application for permits shall be made at the Building Official's office not less than forty-eight (48) hours in advance of the time the work is to be done, provided that in case of a blanket permit such application shall be made not later than fifteen days prior to the anticipated commencement of that work.

(d) The Building Official shall cause the permit to be issued, if in the judgment of the Arborist, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit, and in the manner as therein described. Provided, that said expiration date and time limit for completion may be extended if said work is not completed therein due to weather conditions or other unforeseen or uncontrollable circumstances. Any permit may be revoked, if its terms are violated. The City may charge a fee to cover the cost of printing and processing the permits referred to in this section: Provided, that such fee may not exceed twenty-five dollars (\$25.00) per permit. There shall be no fee charged for the planting of trees. A fee of three dollars (\$3.00) may be charged for pruning. Notice of completion shall be given within five (5) days to the Building Official for inspection by the Arborist. (1987 Code §28A-1-5.)

**923.06 PERMIT APPLICATION DATA.**

(a) Planting. The application required herein shall state the number of trees to be planted; the location, grade, species, cultivar or variety of each tree, the method of planting, and such other information as is reasonably necessary for a fair determination of whether a permit should be issued.

(b) Improper Planting. Whenever any tree shall be planted or transplanted in conflict with the provisions of this section, it shall be lawful for the City to remove or cause removal of the same, and the exact cost thereof may be assessed to and paid by the person responsible for the improper planting of such trees.

(c) Maintenance. The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise protected (except in the case of an application for a blanket permit); the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as shall be reasonably necessary for a fair determination of whether a permit should be issued. All pruning shall be done to comply with the Urban Tree Specifications.

(1987 Code §28A-1-5.)

**923.07 REMOVAL, REPLANTING, AND REPLACEMENT.**

(a) Whenever it is necessary to remove a tree or trees in connection with the paving of a sidewalk, 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. Provided that when conditions prevent planting between the curb and the sidewalk, any equivalent number of trees of the same size and species as provided for in the Urban Tree Specifications and Standards of Practice may be planted in an attractive manner on the adjoining property with the consent of the adjoining property owner. If it is impractical to replant in the same area, the Arborist will designate an appropriate location for planting the replacement tree.

(b) Except as provided in a permit, no person or property owner shall remove a tree from the City right-of-way for the purpose of construction, or for any other reason, without replacing the removed tree or trees in accordance with the adopted Urban Tree Specification. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the City. The person or property owner shall bear the cost of removal and replacement of all tree so removed and replaced.

(1987 Code §28A-1-5.)

**923.08 PLANTING AND PRUNING OF TREES AND SHRUBS  
OBSTRUCTING VIEWS.**

No tree shall be planted, or an existing tree maintained at, or near an intersection that does not permit a clear view down the side street or alley for a distance of one hundred (100) feet from said intersection measured along the curb. It shall be the duty of any person or persons owning or occupying real property abutting on any street upon whose property there may be trees, to prune those trees in such a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight ( 8) feet over sidewalks and fourteen (14) feet over all streets. This section shall not be construed to require private property owners to prune, remove, or otherwise maintain trees located on City owned property or easements.

- (a) Notice to Prune. Should any person or persons owning real property bordering on any street fail to prune trees as provided above, the City shall order such persons within thirty (30) days after receipt of written notice to so prune such trees.
- (b) Order Required. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner by certified mail.
- (c) Failure to Comply. When a person to whom a lawful order, as provided above, is directed shall fail to comply with the terms thereof within the specified time, it shall be lawful for the City to prune such trees, and the exact cost thereof shall be assessed to, and paid by the abutting property owner to whom such order was issued, provided that nothing herein contained shall be construed to require any person to cut, prune, remove or maintain any such trees or shrubs located on City-owned land or easement.  
(1987 Code §28A-1-6.)

#### **923.09 ORDERS.**

- (a) Any tree or shrub located on private or public property which obstructs a street or sidewalk, or which suffers from a communicable disease or insect infestation, as determined by the City, which threatens the public is a public nuisance.
- (b) When such a public nuisance exists as to a tree or shrub located on private property, the City may cause a notice to be mailed by certified mail to the owner of the property on which the tree or shrub is located specifying what corrective work is necessary and directing the owner to perform such corrective work to eliminate the nuisance.
- (c) Should any ordered correction not be made within fifteen (15) days of the date such notice is received, the City shall cause such tree to be pruned, treated, or removed as necessary to eliminate the public nuisance. All expenses involved in such work shall be recorded by the City and collected from the owner of the property on which the tree or shrub is located. Payments for non-compliance with such orders shall be made to the City Clerk-Treasurer.
- (d) The City may revoke for cause any permit previously approved and no refund of the permit shall be made.  
(1987 Code §28A-1-7.)

#### **923.10 ABUSE OR MUTILATION OF PUBLIC TREES.**

Unless specifically authorized by the City, no person shall damage, cut, carve, transplant, remove any public tree; 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 in contact with them; or set fire or permit any fire to burn when such fire or heat hereof will injure any portion of said tree.  
(1987 Code §28A-1-8.)

#### **923.11 APPEALS.**

- (a) Any person affected by an order, grant or denial of a permit, or other decision of the City when such decision is based upon the provisions of this article, may appeal such order, grant, denial or revocation of a permit, or other decision to the Glen Dale City Council.
- (b) Such appeal shall be filed in writing at the Building Official's office with City Council within fifteen (15) days of notification of the ruling.

(c) Unless continued at the request of the applicant, any appeal shall be heard and decided by City Council. Action by the City shall be stayed until the decision is rendered and the applicant notified.

(d) The City Council may, in conformity with the provision of the article, reverse, affirm or modify wholly or partly the order, grant, denial or revocation of any permit, or other decision of the Arborist. The decision of City Council shall be final. All appeals must be taken in writing and shall state clearly the factual basis for such appeal.

(e) The right of appeal shall be clearly stated on all permits.  
(1987 Code §28A-1-9.)

#### **923.12 INTERFERENCE WITH ARBORIST.**

No person shall hinder, prevent, delay or interfere with the City in carrying out the execution or enforcement of this article; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any Court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.

(1987 Code §28A-1-10.)

#### **923.13 PLACING MATERIALS ON PUBLIC PROPERTY.**

No person shall deposit, place, store or maintain upon any public property of the Municipality, any stone, brick, sand, water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the City.

(1987 Code §28A-1-11.)

#### **923.14 EMERGENCIES.**

No permit shall be required to remove any tree or part thereof which by reason of damage by fire, windstorm, icestorm, or other calamity poses a threat to the public health and safety or which obstructs any public way.

In the event of windstorm, fire, flood, or other calamity, the Mayor may declare a state of emergency and exempt operations necessary to remove threats to public safety from the permit requirements imposed by this article. Provided, that such a declaration is not necessary in the case of public utility company operations in the case of a threat to the public health and safety.

The City may determine that a public tree is hazardous and order that it be treated or removed immediately to protect the public health or safety. A tree obstructing any public way shall be removed or treated immediately.

(1987 Code §28A-1-12.)

#### **923.15 COMPENSATORY PAYMENTS.**

No person shall remove any public tree(s) without either first securing a permit as provided by this article, or without replacing such tree(s) with tree(s) of equivalent dollar value in the vicinity of the removed tree(s). The value of trees shall be determined by the Arborist in accordance with published guidelines of the International Society of Arboriculture. (Valuation of Landscape Trees, Shrubs and Other Plants.) If no suitable location exists in the vicinity of the tree removed, or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City of Glen Dale equal to the difference in value between the tree removed and any replacement tree. Any public tree that is determined by the City to be damaged, but not sufficiently to justify its removal, shall be considered to be devalued. The amount of devaluation shall be paid to the City by the person causing the damage.

(1987 Code §28A-1-13.)

**923.16 DISPOSAL OF WOOD PRODUCTS.**

Unless otherwise specified in a permit, the Arborist may sell without competitive bidding, wood and other forest products generated during urban forestry operations on public property. Proceeds from such sales shall be paid within twenty-four (24) hours to the City Clerk-Treasurer. (1987 Code §28A-1-15.)

**923.17 HEDGES.**

(a) It shall be unlawful for any person to plant any hedge less than three feet from his property line. (1987 Code §19H-1-4.)

(b) Any person having hedges on his property which abut any street or sidewalk, in the City, shall keep such hedges trimmed in such a manner as to prevent them from interfering with persons or vehicles traveling thereon. (1987 Code §19H-1-6.)

**923.99 VIOLATION AND PENALTY.**

Any person, firm, or corporation violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of up to five hundred dollars (\$500.00). (1987 Code §28A-1-14.)





**CHAPTER THREE - Utilities**

- Art. 930. Sanitary Board.
- Art. 935. Public Sewers.
- Art. 941. Water Regulations.

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**ARTICLE 930  
Sanitary Board**

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| <b>930.01 Establishment; composition.</b> | <b>930.06 Funds; collection; disbursements.</b>    |
| <b>930.02 Appointment of members.</b>     | <b>930.07 Annual budget; financial statements.</b> |
| <b>930.03 Officers; bond.</b>             | <b>930.08 Superintendent and other employees.</b>  |
| <b>930.04 Compensation.</b>               |  |
| <b>930.05 Rules and regulations.</b>      |  |

**CROSS REFERENCES**

Sanitary Board - see W. Va. Code Art. 16-13

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**930.01 ESTABLISHMENT; COMPOSITION.**

(a) There is hereby established a Sanitary Board for the custody, supervision, control, administration, operation and maintenance of the City sewage system, all as permitted and provided by West Virginia Code Article 16-13.

(b) The Sanitary Board shall be composed of the Mayor and four other persons appointed by Council.

(c) The organization of the Sanitary Board and the qualifications, term of office and bond of the members shall be as provided in the West Virginia Code 16-13-18. (Ord. 10-12-04.)

**930.02 APPOINTMENT OF MEMBERS.**

To provide staggered terms of office, as provided in the West Virginia Code 16-13-18, the four members of the Sanitary Board who are to be appointed by Council shall be appointed as follows: At the first regular meeting of Council in September, 2004, and every three years thereafter, two members shall be appointed; and at the first regular meeting of Council in September, 2006, and every three years thereafter, two members shall be appointed. Members shall take office on October 1st of the year of their appointment. (Ord. 10-12-04.)

**930.03 OFFICERS; BOND.**

The Mayor shall be the chairman of the Sanitary Board, and the Board shall elect a vice-chairman and also designate a secretary and treasurer, who may be separate persons or one and the same; and Council hereby reserves the right and privilege from time to time by ordinance or resolution to fix the compensation of the members of the Sanitary Board and the secretary and treasurer thereof, and also to require and fix the amount of bond which any or all of such officials may be required to furnish.

(Ord. 10-12-04.)

**930.04 COMPENSATION.**

(a) Unless otherwise provided by ordinance or resolution of Council, the members of the Sanitary Board each shall be paid the sum of twenty-five dollars (\$25.00) for each meeting of the Board they shall attend.

(b) The compensation of members of the Sanitary Board shall be paid from the funds of the Sanitary Board, at the direction of the Board, and from no other source.

(Ord. 10-12-04.)

**930.05 RULES AND REGULATIONS.**

(a) The Sanitary Board shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management of the City's sanitary sewerage system and sewage treatment works, for the construction and use of house sewers and connections to the sewerage system, and for the regulation, collection, rebating and refunding of rates and charges for the use thereof.

(b) The Sanitary Board is authorized to prohibit dumping of wastes into the City sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods affecting pretreatment of such wastes to reduce the characteristics of the waste satisfactory to the Sanitary Board.

(Ord. 10-12-04.)

**930.06 FUNDS; COLLECTION; DISBURSEMENTS.**

(a) All revenue from any source shall be deposited in a bank or banks designated by the Sanitary Board. Checks and drafts against the account shall be drawn upon the signatures of the Mayor and the Recorder of the City, and no other signature shall be necessary. Any provision of any other ordinance in conflict with this section is hereby expressly repealed.

(b) All expenses, wage, benefits, insurance, suits, indebtedness, payments, and loans shall be the exclusive responsibility of the Sanitary Board. The City shall not be held liable for any indebtedness or libelous action of the Sanitary Board or its employees.

(Ord. 10-12-04.)

**930.07 ANNUAL BUDGET; FINANCIAL STATEMENTS.**

The Sanitary Board shall submit to the City the Board's proposed budget each year, at least ninety days prior to the beginning of the Board's annual fiscal year. The City shall thereafter arrange and conduct a public hearing regarding the same. Also, during each fiscal year, the Board shall submit to the City monthly financial statements which shall accurately reflect its financial condition. (Ord. 10-12-04.)

**930.08 SUPERINTENDENT AND OTHER EMPLOYEES.**

The Council shall have power to employ, fix the compensation of and discharge a Superintendent, and through such Superintendent, with the recommendation of the Board, to employ, fix the compensation of and discharge all employees of the Sanitary Department. The Superintendent shall perform such duties as may be conferred upon him by the Council. (Ord. 10-12-04.)



**ARTICLE 935  
Public Sewers**

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| <p><b>935.01</b> Definitions.</p> <p><b>935.02</b> Disposal of objectionable waste.</p> <p><b>935.03</b> Discharge of sanitary sewage, etc., into natural outlets.</p> <p><b>935.04</b> Assessment for sewer construction.</p> <p><b>935.05</b> When connection of property to public sewer required; privies, cesspools, etc., restricted.</p> <p><b>935.06</b> Private sewage disposal systems; when private systems to be abandoned.</p> <p><b>935.07</b> Required permits; classes of permits; permit and inspection fees; applications for permits.</p> <p><b>935.08</b> Requirements for installation and connection of building sewers.</p> <p><b>935.09</b> Barricading and lighting of excavations; restoration of surface.</p> | <p><b>935.10</b> When and by whom inspection of connections to be made.</p> <p><b>935.11</b> Water prohibited in sanitary sewers.</p> <p><b>935.12</b> Disposal of storm water and other unpolluted drainage.</p> <p><b>935.13</b> Regulations for use of public sewers; prohibited wastes.</p> <p><b>935.14</b> Grease, oil and sand interceptors.</p> <p><b>935.15</b> Preliminary treatment facilities.</p> <p><b>935.16</b> Control manholes and measuring devices.</p> <p><b>935.17</b> Measurements, tests and analysis.</p> <p><b>935.18</b> Special agreements relating to unusual industrial wastes.</p> <p><b>935.19</b> Tampering with property and equipment of sewage works.</p> <p><b>935.20</b> Authority of officers to make inspections.</p> <p><b>935.21</b> Sewer rates.</p> <p><b>935.99</b> Penalty.</p> |
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**CROSS REFERENCES**

- Power to regulate utility systems - see W. Va. Code 8-12-5(32)
- Sewer connections - see W. Va. Code 8-18-22
- Authority to establish and maintain a sewage system - see W. Va. Code Art. 16-13A
- Power to collect charges - see W. Va. Code 8-12-5(32), 16-13-16
- Review by Public Service Commission - see W. Va. Code 24-2-4(b)
- Deposit limitations - see W. Va. Code 24-3-8

**935.01 DEFINITIONS.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "B.O.D. (denoting biochemical oxygen demand)" means the quality of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in part per million by weight.
- (b) "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
- (c) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.
- (d) "Combined sewer" means a sewer receiving both surface runoff and sewage.
- (e) "Garbage" means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (f) "Industrial wastes" means the liquid wastes from industrial processes as distinguished from sanitary sewage.
- (g) "Inspector" means the person or persons duly authorized by the City, through its Sanitary Board, to inspect and approve the installation of building sewers and their connection to the public sewer system.
- (h) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (i) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (j) "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in dimension.
- (k) "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (l) "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- (m) "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.
- (n) "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
- (o) "Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.
- (p) "Sewer" means a pipe or conduit for carrying sewage.
- (q) "Storm sewer or storm drain" means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (r) "Superintendent" means the Superintendent of the Municipal Sewage Works of the City or his authorized deputy, agent or representative.
- (s) "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.
- (t) "Watercourse" means a channel in which a flow of water occurs, either continually or intermittently.  
(1987 Code §25-1-1.)

**935.02 DISPOSAL OF OBJECTIONABLE WASTE.**

It shall be unlawful for any person to place, deposit or permit to be placed or deposited in any unsanitary manner upon public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste. (1987 Code §25-1-2.)

**935.03 DISCHARGE OF SANITARY SEWAGE, ETC., INTO NATURAL OUTLETS.**

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article. (1987 Code §25-1-3.)

**935.04 ASSESSMENT FOR SEWER CONSTRUCTION.**

Whenever the City Council shall order the construction of any public sewer or sewer system within the City, the owners of the property abutting upon any street in which such sewer shall be constructed shall be charged with and liable for sewerage assessments for the cost of such construction and the Council shall make such assessments in conformity with the applicable provisions of Chapter 8 of the Code of West Virginia. (1987 Code §25-1-4.)

**935.05 WHEN CONNECTION OF PROPERTY TO PUBLIC SEWER REQUIRED; PRIVIES, CESSPOOLS, ETC., RESTRICTED.**

(a) Except as hereinafter provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(b) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City and abutting any street, alley or right of way in which there is now located or may in the future be located a public sewer or combined sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within ninety days after date of official notice to do so; provided, that such public sewer is within one hundred feet of the property line and economically accessible. (1987 Code §25-1-5.)

**935.06 PRIVATE SEWAGE DISPOSAL SYSTEMS; WHEN PRIVATE SYSTEMS TO BE ABANDONED.**

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 935.05, the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the State Department of Health.

(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 935.05, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned.

(c) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. (1987 Code §25-1-6.)

**935.07 REQUIRED PERMITS; CLASSES OF PERMITS; PERMIT AND INSPECTION FEES; APPLICATIONS FOR PERMITS.**

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Council or the Mayor if Council be not in session.

(b) There shall be two classes of building sewer permits:

- (1) For residential and commercial services; and
- (2) For service to establishments producing industrial waste.

In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the inspector. A permit and inspection fee shall be paid to the Recorder at the time the application is filed. The fee shall be prescribed by council with approval of the Public Service Commission of West Virginia. (1987 Code §25-1-7.)

**935.08 REQUIREMENTS FOR INSTALLATION AND CONNECTION OF BUILDING SEWERS.**

(a) All costs and expense incident to the installation and connection of the building sewer to the public sewer shall be borne by the owner. The owner or the person installing the building sewer for him shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such installation or connection.

(b) A separate and independent building sewer shall be provided for every building; provided, that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(c) Old building sewers may be used in connection with new buildings only when they are found on examination and test by the inspector to meet all requirements of this article.

(d) The building sewer shall be cast-iron soil pipe, ASTM specification or equal; vitrified clay sewer pipe, ASTM specification or equal; or other suitable material approved by the inspector. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipe with leaded joints may be required by the inspector where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the inspector.

(e) The size and slope of the building sewers shall be subject to the approval of the inspector, but in no event shall the diameter be less than four inches for cast iron soil pipe or six inches for vitrified sewer pipe or other material approved by the inspector. The slope of such pipe shall not be less than one-eighth inch per foot.



(f) Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(g) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer. No water-operated sewage ejector shall be used.

(h) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the inspector. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the inspector or his representative.

(i) All joints and connections shall be made gas-tight and water tight. Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. All joints in vitrified clay pipe or between such pipe and metals shall be made with the approved jointing material with the approval of the inspector or the Superintendent. Other jointing materials and methods may be used only by approval of the inspector.

(j) The connection of the building sewer into the public sewer shall be made by the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve inches in diameter or less and no properly located "Y" branch is available, a neat hole may be cut in the public sewer to receive the building sewer with entry in the downstream direction at an angle of about forty-five degrees. A forty-five degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth neat joint shall be made and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the inspector.  
(1987 Code §25-1-8.)

#### **935.09 BARRICADING AND LIGHTING OF EXCAVATIONS; RESTORATION OF SURFACE.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.  
(1987 Code §25-1-9.)

#### **935.10 WHEN AND BY WHOM INSPECTION OF CONNECTIONS TO BE MADE .**

The applicant for the building sewer permit shall notify the inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the inspector or his representative.  
(1987 Code §25-1-10.)

**935.11 WATER PROHIBITED IN SANITARY SEWERS.**

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, industrial cooling water or unpolluted industrial process waters to any sanitary sewer.  
(1987 Code §25-1-11.)

**935.12 DISPOSAL OF STORM WATER AND OTHER UNPOLLUTED DRAINAGE.**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the superintendent, to a storm sewer, combined sewer or natural outlet.  
(1987 Code §25-1-12.)

**935.13 REGULATIONS FOR USE OF PUBLIC SEWER; PROHIBITED WASTES.**

Except as hereinafter provided in this article, no person shall discharge or cause to be discharged, any of the following described waters or wastes to any public sewer:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit.
- (b) Any water or wastes which may contain more than one hundred parts per million, by weight, of fat, oil or grease.
- (c) Any water or waste which may contain more than twenty-five parts per million, by weight, of soluble oils.
- (d) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (e) Any garbage that has not been properly shredded.
- (f) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rugs, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewer or other interference with the proper operation of the sewage works.
- (g) Any waters or wastes having a pH lower than 5.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (h) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plants.
- (i) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plants.
- (j) Any noxious or malodorous gas or substance capable of creating a public nuisance.  
(1987 Code §25-1-13.)

**935.14 GREASE, OIL AND SAND INTERCEPTORS.**

(a) Grease, oil and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; provided, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(c) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. (1987 Code §25-1-14.)

**935.15 PRELIMINARY TREATMENT FACILITIES.**

(a) The admission into the public sewers of any waters or wastes:

- (1) Having a five-day B.O.D. greater than four hundred parts per million by weight;
- (2) Containing more than four hundred fifty parts of per million by weight of suspended solids;
- (3) Containing any quantity of substances having the characteristics described in Section 935.13; or
- (4) Having an average daily flow greater than two per cent of the average daily sewage flow of the City;

shall be subject to the review and approval of the Superintendent.

(b) Where necessary, in the opinion of the Superintendent, the owner shall provide at his expense such preliminary treatment as may be necessary to:

- (1) Reduce the B.O.D. to four hundred parts per million and the suspended solids to four hundred fifty parts per million by weight;
- (2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 935.13; or
- (3) Control the quantities and rates of discharge of such waters or wastes.

(c) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and of the State Department of Health, and no construction of such facilities shall be commenced until such approval is obtained in writing.

(d) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously, in satisfactory and effective operation by the owner, at his expense. (1987 Code §25-1-15.)

**935.16 CONTROL MANHOLES AND MEASURING DEVICES.**

When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole and measuring device in the building sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole and measuring device shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (1987 Code §25-1-16.)

**935.17 MEASUREMENTS, TESTS AND ANALYSIS.**

All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in Sections 935.13 and 935.15 shall be determined in accordance with "Standards Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for in Section 935.16 or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. (1987 Code §25-1-17.)

**935.18 SPECIAL AGREEMENTS RELATING TO UNUSUAL INDUSTRIAL WASTES.**

No provision of this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern. (1987 Code §25-1-18.)

**935.19 TAMPERING WITH PROPERTY AND EQUIPMENT OF SEWAGE WORKS.**

It shall be unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. (1987 Code §25-1-19.)

**935.20 AUTHORITY OF OFFICERS TO MAKE INSPECTIONS.**

The Superintendent, Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. (1987 Code §25-1-20.)

**935.21 SEWER RATES.**

(a) Availability of Service. Available for general domestic, commercial and industrial sanitary sewer service.

(b) Rate. Based upon the metered amount of water supplied or water discharged, with a minimum rate of two thousand (2,000) gallons for customers within the City.

(c) Charge for Gallons Used to all Residential and Commercial Customers within the City.

First 50,000 gallons used per month: \$4.71 per 1,000 gallons  
All over 50,000 gallons used per month: 4.27 per 1,000 gallons

(d) Charge for Gallons Used to Industrial Customers within the City.  
\$5.73 per 1,000 gallons.

(e) Charge to Resale Customers (Marshall County Sewerage District). The rate based upon the metered water usage of Marshall County Sewerage District's customers:  
\$2.82 per 1,000 gallons

(f) Delayed Payment Penalty. The above schedule is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment is not interest and is only to be collected once for each bill where it is appropriate.

(g) Service Connection Charge. A charge of five hundred and 00/100 dollars (\$500.00) shall be made for each new connection to the sewer system after the effective date hereof.

(h) Service Reconnection Charge. A charge of fifty and 00/100 dollars (\$50.00) shall be made for each reconnection to the sewerage system after the effective date hereof.

(i) Insufficient Funds Check Service Charge. A charge of twenty-five and 00/100 dollars (\$25.00) shall be made for each check received which is drawn on insufficient funds. (Ord. 4-26-04.)

**935.99 PENALTY.**

(a) Any person found to be violating any provision of this article except Section 935.19 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) per day of said violation.

(c) Any person violating any of the provisions of this article shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. (Ord. 4-9-90.)



**ARTICLE 941**  
**Water Regulations**

<b>941.01 Management and control.</b>	<b>941.05 Superintendent and other employees.</b>
<b>941.02 Contracts and bonds.</b>	<b>941.06 Water rates.</b>
<b>941.03 Bill collections, etc.</b>	
<b>941.04 Fiscal year; budget; additional reports.</b>	

**CROSS REFERENCES**

Power to regulate - see W. Va. Code 8-12-5(32)  
 Power to collect rates - see W. Va. Code 8-12-5(32); Art. 8-19  
 Discontinuance for nonpayment - see W. Va. Code. 8-19-13  
 Review by Public Service Commission - see W. Va. Code 24-2-4(b)  
 Deposit limitations - see W. Va. Code 2-3-8

**941.01 MANAGEMENT AND CONTROL.**

(a) The management and control of the municipal waterworks plant and system of the City shall be carried on by the Council of the City of Glen Dale, and the Glen Dale Water Board, performing the functions as prescribed in this article; and the provisions of this article shall govern and control the administration and operation of the municipal waterworks plant and system of the City.

(b) The Council and the Water Board shall have full and complete supervision, management and control of the municipal waterworks plant and system of the City, including the administration, maintenance, operation and extension thereof.  
 (1987 Code §§30-1-1, 30-1-2.)

**941.02 CONTRACTS AND BONDS.**

No contracts affecting the waterworks plant and system shall be entered into without the approval of the Council and said Water Board.  
 (1987 Code §30-1-3.)

**941.03 BILL COLLECTIONS, ETC.**

All bills for water and water service shall be collected and accounted for by the City Treasurer in the manner and form required by law. All disbursements for account of the waterworks plant and system shall be ordered paid out only upon approval of the Council.  
 (1987 Code §30-1-4.)

**941.04 FISCAL YEAR; BUDGET; ADDITIONAL REPORTS.**

The municipal waterworks plant and system shall be operated on a fiscal year basis commencing on the first day of July of each year and ending on the thirtieth day of June of the next calendar year. By the 28th day of March of each year, the said Water Board shall cause to be prepared and adopted a detailed budget of the estimated amounts of money to be collected and the amounts and purposes for which expenditures are to be made in connection with the operation of the waterworks plant and system for the next ensuing fiscal year, which budget shall be filed with the Recorder, and shall be reviewable by the Council.  
(1987 Code §30-1-5.)

**941.05 SUPERINTENDENT AND OTHER EMPLOYEES.**

The Council shall have power to employ, fix the compensation of and discharge a superintendent, and through such superintendent, or directly, to employ, fix the compensation of and discharge all employees of the waterworks department. The superintendent shall perform such duties as may be conferred upon him by the Council.  
(1987 Code §30-1-6.)

**941.06 WATER RATES.**

- (a) Applicability. Applicable within the entire territory served.
- (b) Availability. Available for general domestic, commercial and industrial water service.
- (c) Rates. (Customers with metered water supply)
- |          |                          |                          |
|----------|--------------------------|--------------------------|
| First    | 2,000 gallons per month  | \$8.44 per 1,000 gallons |
| Next     | 3,000 gallons per month  | 4.40 per 1,000 gallons   |
| Next     | 5,000 gallons per month  | 3.83 per 1,000 gallons   |
| All over | 10,000 gallons per month | 3.46 per 1,000 gallons   |
- (d) Minimum Charge. No bill shall be rendered for less than \$16.88 per month.

<u>Size of Meter (inches)</u>	<u>Charge Per Month</u>
5/8	\$ 16.88
3/4	25.32
1	42.20
1-1/2	84.40
2	135.04
3	253.20
4	422.00
6	844.00
8	1,350.40

- (e) Delayed Payment Penalty. The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.



(f) Tap Fee. The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$500.00 will be charged to all customers who initially apply for new service.

(g) Reconnection. A reconnection fee of \$50.00 is to be charged whenever the supply of water is turned off.

(h) Returned Check Charge. A service charge equal to the actual bank fee assessed to the City or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

(i) Leak Adjustment. \$1.71 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(j) Security Deposit. Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for commercial service, or \$50.00, whichever is greater.

(k) Public Fire Protection Service.

(1) The fee for a public fire hydrant is \$26.00 per month.

(2) The City shall pay a public fire service fee of \$1,326.00 per month which shall cover all of the hydrants and fire facilities existing within the City.

(3) All of the public hydrants located outside of the City shall be paid for by the users who are located outside of the City on a pro-rated basis.

(l) Private Fire Protection Service. Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer:

<u>Service Line with Hydrants, Sprinklers and/or Hose Connections</u>	<u>Per Annum</u>
1 inch or less	\$150.00
2 inch	200.00
3 inch	310.00
4 inch	420.00
6 inch	540.00
8 inch	660.00
10 inch	880.00
12 inch	1,080.00

(Ord. 2-22-10.)

