WEST VIRGINIA CODE: §61-3-48

§61-3-48. Offenses involving damage to shrubbery, flowers, trees and timber; limitation of section; penalties.

(a) It is unlawful to break, cut, take or carry away, or in any manner to damage any of the shrubbery or flowers, including everything under the title of flora, whether wild or cultivated, growing within one hundred yards on either side of any public road in this state, without the permission in writing of the owner or tenant of the land upon which the shrubbery or flowers, including everything under the title of flora, are growing.

(b) It is unlawful for any person to enter upon the lands or premises of another without written permission of the owner of the lands or premises, in order to break, cut, take or carry away or in any manner to damage or cause to be broken, cut, taken or carried away or in any manner damaged, any trees or timber on the land.

(c) It is unlawful for any person willfully or knowingly to have in his possession, or to haul along any public road in this state, any trees, shrubbery or flowers, including everything under the title of flora, which are protected by this section, unless the person so having in his possession or hauling the trees, shrubbery or flowers, and any other plant, has permission in writing so to do from the owner or tenant of the land from which they have been taken.

(d) At the request of a law-enforcement officer, a person engaged in any act which would constitute an offense under the provisions of subsection (a), (b) or (c) of this section if such act were done without the required permission specified therein, shall display the written permission to such officer.

(e) Notwithstanding the provisions of this section or section forty-eight-a of this article:

(1) An employee of the department of highways or of a county or municipality performing roadside maintenance shall obtain the permission of an owner before engaging in any act specified in subsection (a), (b) or (c) of this section but is not required to obtain the permission in writing or to display the written permission as provided in subsection (d) of this section; and

(2) When any of the acts specified in subsection (a), (b) or (c) of this section are permitted pursuant to an existing contract with the owner or a predecessor in title to the subject real estate, or by virtue of a judgment or decree of a court of competent jurisdiction, or by other operation of civil law, then a public utility as defined in section two, article one, chapter twenty-four of this code, or any other person or entity holding such existing rights, shall not be required to obtain any further permission of the present owner to exercise such existing rights: Provided, That the holder of such existing rights shall notify the owner of the land of the holder's intent to perform proposed work upon such lands, by first class United States

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mail, postage prepaid, addressed to the person and address of record upon the current land books in the assessor's office in the county in which the land is situate: Provided, however, That if the proposed work includes several tracts within a larger area, then notice shall be sufficient if provided by publication in a newspaper of general circulation within the county, describing the boundaries and type of work proposed within such area of work. Where prior notice is not practical by reason of a sudden emergency which endangers persons or property of either the owner of the real property, the holder of such rights, the general public or public service, then the owner of the real property shall be notified that such emergency work has been performed, such notice to be by first class United States mail, as above provided for prior notice to the current owner as indicated in the land book records. Where the emergency work was performed on several tracts within a larger area, then the notice shall be sufficient if made by publication in a newspaper of general circulation within the county.

(f) Any person who violates the provisions of subsection (a) or (c) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, for the first offense shall be fined not more than $50, and for subsequent offenses shall be confined in the county jail for not more than three months, or fined not more than $50, or both, for each offense.

(g) Any person who violates the provisions of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, for the first offense shall be fined not less than $50, and for subsequent offenses shall be confined in the county jail for not less than three months, or fined not less than $50, or both, for each offense.

(h) Magistrates shall have concurrent jurisdiction with circuit courts for offenses under this section.

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