

**MILLVILLE CITY CODE  
TITLE 17 - ZONING  
CHAPTER 17.42 - URBAN FOREST**

[17.42.010: PURPOSE AND AUTHORITY](#)

[17.42.020: DEFINITIONS](#)

[17.42.030: CITY STREET TREE MAINTENANCE AND CARE](#)

[17.42.040: CITY TREE MAINTENANCE](#)

[17.42.050: CITY HELD HARMLESS](#)

[17.42.060: NOTIFICATION](#)

[17.42.070: MUTILATION AND TOPPING OF TREES](#)

[17.42.080: CITY TREE PLANTING PRACTICES](#)

[17.42.090: VIOLATION AND PENALTY](#)

**17.42.010: PURPOSE AND AUTHORITY**

This chapter regulates the planting, maintenance, protection, control, and removal of trees in, upon, or that impact upon public areas within the city limits of Millville.

It is the purpose of this chapter to promote and protect public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees in, upon or that impact upon public areas and rights of way within Millville City.

It is the intent of the city council of Millville City that the terms of this chapter shall be construed as to promote:

- A. The planting, maintenance, restoration, and survival of desirable trees within the city;  
and
- B. The protection of community residents from personal injury and property damage, and the protection of the city of Millville from property damage caused or threatened by the

improper planting, maintenance, or removal of trees located in, upon, or that impact upon public areas and rights of way within Millville City. (Ord. 2003-2, 2003)

## **17.42.020: DEFINITIONS**

As used within this chapter, the following terms shall have the meanings set forth in this section:

**CITY OF MILLVILLE URBAN FOREST TREE PROGRAM:** An ordinance prepared by the city council, containing regulations and standards for the planting, maintenance, or removal of trees in, upon, or that impact upon public areas and rights of way within the city.

**CITY PARK TREES:** Trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the city or to which the public has free access.

**CITY STREET TREES:** Trees, shrubs, or bushes, and all other woody vegetation on public rights of way within the city.

**CITY TREES:** A woody perennial, usually with one main trunk, attaining a height of at least six feet (6') at maturity or a trunk diameter of at least one and one-half inches ( $1\frac{1}{2}$ " ), including shrubs. (Ord. 2003-2, 2003)

## **17.42.030: CITY STREET TREE MAINTENANCE AND CARE**

- A. **Standards:** All trees located within the public right of way and parks, or such trees that overhang and encroach upon said public rights of way and create a hazard to the public must be pruned to preserve the health, safety, and welfare of the public.
- B. **Adjacent Property Owners To Maintain Trees:** Every property owner adjacent to city property where any tree on their property is overhanging any street or right of way within the city shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet six inches (13'6") over the street, and/or eight feet (8') above the sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to public safety.
- C. **Adjacent Property Owners Liable:** The owner of property where trees overhang on a right of way shall be liable for injury, damage, or loss to persons or property caused by the property owner's negligent failure to comply with subsection B of this section.

- D. Notification: The city council, or designee, may serve notice on the adjoining property owner to prune, remove, or otherwise treat any tree that overhangs a right of way as conditions may require. Any such notice shall be governed by section 17.42.060 of this chapter. Neither the duty of the adjoining property owner to maintain trees overhanging a right of way, nor the liability for the property owner's failure to do so, is dependent upon any notice from the city.
- E. Debris Removal: The person working on trees on a street, highway, or public area shall be required to remove all debris from the right of way by sunset of the same day, unless specifically authorized to do otherwise by the city council, or designee. The acceptable standard shall be a broom clean finish or better. (Ord. 2004-1, 2004: Ord. 2003-2, 2003)

### **17.42.040: CITY TREE MAINTENANCE**

The city shall have the right to plant, prune, maintain, and remove trees located within the public right of way as may be necessary to preserve or enhance the symm order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, natural gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. (Ord. 2003-2, 2003)

### **17.42.050: CITY HELD HARMLESS**

The city of Millville City shall not be liable for injury, damage, or loss to person or property caused in whole or part by the defective a city right of way. The adjacent property owner shall defend and hold harmless the city from all claims for loss and damage arising from the owner's negligent failure to comply with section 17.42.030 of this chapter. (Ord. 2003-2, 2003)

### **17.42.060: NOTIFICATION**

- A. Notice To Prune Or Remove: Should any property owner fail to maintain adjacent trees as per subsection 17.42.030B of this chapter, the city council, or designee, shall order such person or persons, within ten (10) days of mailing of such notice, to so prune or remove such trees.
- B. Notice Required: The notice required herin 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 notice is directed shall fail to comply within this specified time, it shall be lawful for the city to cause the trees in question to be pruned and/or removed; and the exact cost thereof shall be assessed to the property owner as provided by law in the case of public nuisance abatements. (Ord. 2003-2, 2003)

### **17.42.070: MUTILATION AND TOPPING OF TREES**

- A. Mutilation: Unless specifically authorized in writing by the city council, or designee, no person shall intentionally damage, cut, carve, transplant, or remove any tree in or upon a right of way or public area, attach any rope, wire, nails, advertising posters, or other contrivance; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire to burn when such fire or the heat thereof will injure any portion of such tree.
- B. Tree Topping: It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree; park tree; or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the city council, or designee. (Ord. 2003-2, 2003)

### **17.42.080: CITY TREE PLANTING PRACTICES**

(Rep. by Ord. 2004-1, 2004)

### **17.42.090: VIOLATION AND PENALTY**

Any person who violates the provisions of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to penalties pursuant to a class B misdemeanor. If as the result of the violation of the provisions of this chapter, the injury, mutilation or death of a tree or shrub located in a right of way is caused, the replacement value of trees and shrubs shall be determined in accordance with the latest revision of "Valuation Of Landscape Trees, Shrubs And Other Plants", as published by the International Society of Arboriculture. (Ord. 2004-1, 2004)