

## ORDINANCE NO. 477

### AN ORDINANCE OF THE TOWN OF MILLIKEN IDENTIFYING AND DESCRIBING THE REQUIREMENT OF CARE OF TREES, AND PROVIDING FOR THE CREATION OF A TOWN TREE COMMITTEE.

Whereas trees have a positive environmental effect on the Town by providing oxygen, filtering pollution, abating heat, noise, and glare, providing shade on streets and sidewalks, mitigating drainage and soil erosion, and moderating the climate, and

Whereas trees have a positive economic impact on the Town by enhancing property values and making the Town an attractive place to visit and do business, and

Whereas the Town of Milliken Board of Trustees recognizes that trees generally enhance the quality of life for residents of the Town,

Whereas the definitions used herein concerning trees are as follows:

#### Definitions:

- a) **Park Trees:** Trees, shrubs, bushes, and all other woody vegetation in designated Public Parks and all areas owned by the Town, or to which the public has free access.
- b) **Private Trees:** Trees, shrubs, bushes, and all other woody vegetation located on private property, which may or may not protrude or project over or outside a property line.
- c) **Street Trees:** Trees, shrubs, bushes, and all other woody vegetation found on the Town's streets, rights-of-way, and existing between private property and the adjacent street.
- d) **Public Right-of-way:** Streets, sidewalks, easements, alleys, curbs, gutters, and all other publicly accessed areas.

### BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO:

#### Section 1: Creation and Establishment of a Tree Committee.

- a) There shall be a Tree Committee consisting of five (5) members. Four (4) of these shall be members of the community of the Town of Milliken, appointed by the Trustees of the Town Board. The fifth member shall be a staff member from the Town of Milliken, appointed by the Board of Trustees, preferably the Parks and Recreation Manager or the Director of Public Works. All serve on a volunteer basis without pay.

- b) The terms of office for the first Tree Committee shall be one year for two members, and two years for the remaining three members. From then on the terms of the members shall all be two years, in staggered terms.
- c) The Tree Committee shall make recommendations to the Board of Trustees concerning the purchase, disposition, trimming, spraying, removal, planting, pruning, and protection of Street trees, Park Trees, and any other trees on public property.
- d) The Tree Committee shall work with the Department of Parks and Recreation to see that an Arbor Day Celebration is held in the Town of Milliken every year. It will also be the duty of the Tree Committee to submit, in a timely manner, the annual Tree City USA application and information, which shall be the responsibility of the Tree Committee and signed by the Mayor of Milliken.
- e) The Tree Committee shall be responsible for reviewing and responding to all Town policy relating to trees and tree care.
- f) The Tree Committee shall act in an advisory capacity to the Board of Trustees of the Town of Milliken, leaving the Town Board to make all final decisions.

## **Section 2: Trees and Limbs in public right-of-way**

- a) It shall be the duty of any owner of any property adjacent to the public right of way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purpose of this section, a danger to public safety shall include all trees and limbs which hinder visibility, obstruct the view of traffic, obscure any traffic-control device, or which may otherwise affect public health, safety, and welfare, and trees and limbs which may fall on a person or on property.
- b) Limbs above sidewalks will be cut to allow a clearance of eight feet, and limbs above streets will be cut to allow a clearance of fourteen feet.
- c) Town of Milliken authorities may, by written notice, require the owner of any property adjacent to the public right-of-way to remove, at the expense of said property owner, any trees, limbs, or other plants which project beyond the property line of such owner onto or over the public rights-of-way, or otherwise constitute a nuisance.
- d) In the event that any property owner fails or neglects to trim or remove any such tree or limb within thirty days after receipt of written notice from said Town of Milliken authority to do so, the local authority may do or cause to be done the necessary work incident thereto, and said property owner shall reimburse the Town of Milliken for the cost of the work performed plus ten percent administrative fees. In the event that the condition of such tree or limb is determined to be an imminent danger to property or persons, said property owner must respond to written notice immediately.

### **Section 3: Control of trees**

- a) The Town of Milliken shall have the right to plant, prune, maintain and remove trees within the public rights-of-way of all streets, alleys, public parks, greenbelts and other public grounds, as may be necessary for public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Board of Trustees may remove or cause to be removed any Park Tree, Private Tree, or Street Tree or part thereof which is in an unsafe condition, unsafe position, or is for any reason injurious to sewers, electric power lines, gas lines, water lines, or other public improvements. The Town may also remove or cause to be removed any Street Tree, Private Tree, or Public Tree that is affected with any injurious fungus, insect, or other pest.
- b) The property owner and/or occupant of each property in the Town of Milliken shall perform the care, maintenance, and trimming of trees located in or near the boundary lines of such property, usually on the street side of the property, according to the usual standards of care as established by the American National Standards Institute, A300 standard, published by the A. N.S. I. 11 West 42<sup>nd</sup> Street, New York, NY, 10036. Property owners are responsible for keeping lots and adjacent public rights-of-way clear of leaves, fruits, branches, and any other debris from trees.
- c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, or treat any tree upon access controlled arterials, public parks, and greenbelts within the Town, unless authorized or directed by the Town.
- d) It is unlawful and deemed a nuisance for any person to injure, damage, or destroy any tree in or upon public rights-of-way, public parks, or other public property within the Town.
- e) It is unlawful, as a normal practice, for any person, or firm to top any Street Tree or Park Tree. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the natural canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where regular pruning practices are impractical may be exempted on a case-by-case basis by the Tree Committee.
- f) This section does not prohibit the planting of Street Trees by adjacent property owners in accordance with Sections 4 and 5.

### **Section 4: Landscape design**

- a) Standards for the planting and placement of new trees are found in the Milliken Land Use Code, Section 2.16. All land development applications in the Town of Milliken shall be accompanied by an appropriate landscape plan. Building permit applications for individual single-family residences will not require landscape plans.

However, all landscaping within the Town of Milliken shall comply with the intent of these regulations and comply with the minimum standards for new tree planting and landscape design.

- b) Sections are provided for Site Landscape Design, Environmental Considerations, New Buildings and Paved Areas, Plant Materials, Irrigation, Guarantee of Installation, Maintenance, Landscaping within the Right-of-Way, Required Open Space, Small Lot Single Family Residential Development Landscaping Standards, Multi-Family and Mixed Use Residential Landscaping Standards, Large Lot Single Family Landscaping Standards, Business/Commercial and Industrial Development Landscaping Standards, Downtown Landscaping Standards, Parking Lot Landscaping Standards, Storm Drainage Facilities, Submittal Standards for Landscape Plans, and Prohibited Plant List.

### **Section 5: Tree Species**

- a) The following trees are specifically PROHIBITED from Town of Milliken regulated areas and discouraged from use elsewhere: Russian Olive, Lombardy Poplar, Siberian Elm, Boxelder Maple, Cotton-bearing Cottonwood, and Tree of Heaven (source, Milliken Construction Standards, 2001, with input from Colorado State Forestry Service).
- b) The following are thorn-less and non-toxic trees and shrubs that are recommended for selection as Parks Trees. (The source for this list is the Johnstown-Milliken Parks Trails Recreation Open Space Master Plan, page 48, with input from Colorado State Forestry Service.) Additional plantings may be considered if they do not pose a hazard to park users: Trees include all Maple Varieties, Yellow Buckeye, Eastern Redbud, Ash varieties, Honey locust varieties, Golden Rain Tree, Pine varieties, Gambel Oak, Burr Oak, Swamp White Oak, English Oak, Red Oak, Japanese Lilac Tree, Linden varieties, and Rocky Mountain Juniper. Shrubs include all Leadplant varieties, Sagebrush varieties, Butterfly Bush varieties, Peashrub varieties, Bluemist varieties, Mahogany varieties, Dogwood varieties, Lena Broom, Burning Bush varieties, Euonymus varieties, Manhattan varieties, Apache Plume, New Mexico Privet.

### **Section 6: Penalties:**

- a) Any person who fails to comply with any notice issued pursuant to any provision of this ordinance, upon being found guilty of violation, shall be subject to a fine of up to \$1000 or up to one year in jail or by both such fine and imprisonment.
- b) If, as a result of the violation of any provision of this ordinance, the injury, mutilation or death of a Street Tree or Park Tree or any other plant on Town property is caused, the party in violation shall make restitution to the Town for the cost of repair or removal or replacement of such tree or plant. Such requirement

shall be in addition to any other penalty.

**Section 7: Severability.**

If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 8: Effective Date:**

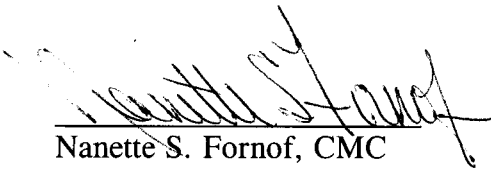
The Board of Trustees of the Town of Milliken herewith finds, determines and designates that this ordinance shall take effect and be in force thirty (30) days after publication.

Town of Milliken:



Linda Measner  
Mayor

ATTEST:



Nanette S. Fornof, CMC  
Town Clerk

Published: 11/20/13