

TOWN OF MILLIKEN

ORDINANCE NO. 769

**AN ORDINANCE AMENDING SECTIONS OF CHAPTER 6, TITLED
“BUSINESS LICENSES AND REGULATIONS” AND CHAPTER 10, TITLED
“GENERAL OFFENSES” OF THE MILLIKEN MUNICIPAL CODE FOR
CONSISTENCY WITH CHANGES IN STATE LAW RELATED TO ALCOHOL
BEVERAGE AND MARIJUANA REGULATION**

WHEREAS, the Board of Trustees of the Town of Milliken (“Board of Trustees”) has the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of the Town of Milliken (“Town”); and

WHEREAS, the legislature of the State of Colorado (“Legislature”) enacted House Bill 18-1025 on April 23, 2018, effective October 1, 2018, relocating laws related to regulation of alcohol beverages and marijuana to Title 44 of the Colorado Revised Statutes (“HB 18-1025”); and

WHEREAS, the Legislature enacted Senate Bill 18-243 on June 4, 2018, part of which is effective January 1, 2019, and part of which is effective July 1, 2019, which bill concerns the retail sale of alcohol beverages (“SB 18-243”); and

WHEREAS, the Board of Trustees desires to amend certain sections in Articles 2, 5, and 6 of Chapter 6 of the Milliken Municipal Code (the “Municipal Code”), and Article 8 of Chapter 10 of the Municipal Code, for the purposes of correcting references to the Colorado Revised Statutes in light of HB 18-1025, and ensuring compliance with the tastings provisions of SB 18-243.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, THAT:

Section 1. Section 6-2-10 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-10. - Definitions.

(a) As used in this Article, unless the context otherwise requires:

Colorado Beer Code means Article 4 of Title 44, C.R.S.

Colorado Liquor Code means Article 3 of Title 44, C.R.S.

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (~~Article 46 of Title 12, C.R.S.~~) or a grant to a licensee to

sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (~~Article 47 of Title 12, C.R.S.~~).

Retail licensee or licensee means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (~~Article 46 of Title 12, C.R.S.~~) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (~~Article 47 of Title 12, C.R.S.~~).

Special Event Permit Laws means Article 5 of Title 44, C.R.S.

- (b) All other terms shall be defined as set forth in the provisions of the Colorado Beer Code, the Colorado Liquor Code and Special Event Permit Laws, as the definitions presently exist or may hereafter be amended.

Section 2. Section 6-2-20 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-20. - Application of state statutes.

Pursuant to declaration by the General Assembly, the Colorado Beer Code, ~~Section 12-46-101 et seq., C.R.S.~~, the Colorado Liquor Code, ~~Section 12-47-101 et seq., C.R.S.~~, and Special Event Permit Laws, ~~Section 12-48-101 et seq., C.R.S.~~, as they presently exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town.

Section 3. Section 6-2-30 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-30. - Power and purpose.

The Board of Trustees finds and determines that it is empowered by Section ~~12-47-135 44-3-505(4)~~, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor.

Section 4. Subsection (b) of Section 6-2-60 of the Municipal Code, titled "Optional premises," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for optional premises license and optional premises for a hotel and restaurant license.
- (1) Eligible facilities. Outdoor sports and recreational facilities as defined in Section ~~42-47-103(13.5)~~ 44-3-103(33), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.
 - (2) Number of optional premises. There are no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility.
 - (3) Minimum size of facility. There is no restriction on the minimum size of an outdoor sports or recreational facility which would be eligible for issuance of an optional premises license or optional premises for a hotel and restaurant license.

Section 5. Section 6-2-210 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-210. - License required.

- (a) No person shall manufacture, sell or possess for sale any fermented malt beverage or any malt, vinous or spirituous liquors within the Town unless licensed to do so pursuant to the provisions of ~~Title 12, Article 46, or Title 12, Article 47, C.R.S.~~ Colorado Beer Code and the Colorado Liquor Code, and unless any applicable fees have been paid in full.
- (b) No organization or political candidate shall sell, by the drink, any fermented malt beverage, malt beverages or malt, spirituous or vinous liquors unless issued a permit to do so pursuant to the provisions of ~~Title 12, Article 48, C.R.S.~~ Special Event Permits Laws, and unless any applicable fees have been paid in full.
- (c) The authority is hereby authorized to approve an application for a special event permit for an event within the Town of Milliken without notification or referral to the state licensing authority for its approval or disapproval. In accordance with ~~C.R.S. § 12-48-107(5)(a)~~ Section 44-5-107(5)(a), C.R.S., the Town Clerk or his or her designee shall report to the liquor enforcement division within ten (10) days after a special event permit is approved, the name of the organization to whom a permit was issued,

the address of the permitted location and the permitted dates of alcohol beverage service.

Section 6. Section 6-2-240 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-240. - State law.

In addition to any other applicable laws, the Town may exercise any authority granted by, enforce any applicable provisions of, prosecute any applicable violations of, and avail itself of any remedies provided for in ~~Title 12, Articles 46, 47 and 48~~ *Title 44, Articles 3, 4, and 5*, C.R.S.

Section 7. Section 6-2-400 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-400. - Definition.

Alcohol beverage tastings means the sampling of malt, vinous or spirituous liquors that may occur on the premises of retail liquor store licensees and liquor-licensed drugstore licensees by adult patrons of the licensee pursuant to the provisions of both this Division and applicable provisions of Section ~~12-47-301(10)~~ *44-3-301(10)*, C.R.S., and 1 C.C.R. 203-2 of the Colorado Code of Regulations.

Section 8. Section 6-2-410 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-410. - License and permit required.

No person shall manufacture, sell or possess for sale any alcoholic beverage or conduct alcohol beverage tastings within the Town unless such person holds a valid and effective liquor license and, if applicable, an alcohol beverage tastings permit issued in accordance with both this Division and applicable provisions of ~~Articles 46, 47 and 48 of Title 12~~ *Articles 3, 4, and 5 of Title 44*, C.R.S., and all applicable fees and taxes have been paid in full.

Section 9. Section 6-2-420 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-2-420. - Alcohol beverage tastings permit.

- (a) The Town Clerk shall receive all applications for alcohol beverage tastings permits and permit renewals and shall issue permits in accordance with this Division, upon receipt of such permit fees as are required by law and this Division and Section 6-2-40 of this Article II.
- (b) A retail liquor store or liquor-licensed drugstore licensee that wishes to conduct alcohol beverage tastings shall submit an application for an alcohol beverage tastings permit to the Town Clerk. The application shall be in the form required by the Town Clerk.
- (c) An application for an alcohol beverage tasting permit should be submitted to the Town Clerk at least one (1) month prior to the date of the first alcohol beverage tasting requested in the application or at the time of license renewal, whichever occurs first.
- (d) At a minimum, the application must include the following information:
 - (1) The name of the licensee and location of the licensed premises of the retail liquor store or liquor-licensed drugstore.
 - (2) Description of the proposed tasting events, including information describing where within the licensed premises the tasting events will be conducted and how such events will comply with this Division.
 - (3) Schedule of the specific dates and times of requested alcohol beverage tastings for the period of the permit. Such schedule shall conform to all requirements imposed by this Division. Following approval of a tastings permit and the tastings schedule by the Town, the licensee may amend such schedule by delivering to the Town Clerk at least forty-eight (48) hours prior to an unscheduled event a notice of amendment of the Town-approved schedule.
 - (4) A copy of a certificate of training for individuals who will conduct the alcohol beverage tastings.
 - (5) Payment of the application fee or renewal fee in accordance with this Division.
 - (6) Any other information requested by the Town Clerk reasonably necessary to ensure compliance with the requirements of this Division, state law or applicant regulation.
- (e) In accordance with this Division and Section 6-2-40 of this Article II, the Town Clerk shall approve, approve with restrictions or deny the application for alcohol beverage tastings. The Town Clerk may deny an application if the applicant fails to establish that the applicant is able to conduct alcohol beverage tastings without violating the provisions of this Division, applicable provisions of Section ~~42-47-301(10)~~ 44-3-301(10), C.R.S., or 1 C.C.R. 203-2 of the Colorado Code of Regulations or creating

a public safety risk to the neighborhood. A decision to deny an alcohol beverage tastings application should be made in writing and shall be provided to the applicant within five (5) business days of the date of the decision. Approval of an application for alcohol beverage tastings shall also constitute approval of the schedule for tastings submitted with the application unless such schedule fails to conform to all applicable requirements imposed by this Division.

- (f) Each new or renewal application for an alcohol beverage tastings permit shall be accompanied by an application or renewal fee as set forth by the Town Clerk pursuant to this Division.
- (g) An alcohol beverage tastings permit shall be valid for the period of the then-existing liquor license. The permit may be renewed at the time of any liquor license renewal or at any time within twelve (12) months of the permit's expiration. If an alcohol beverage tastings permit has been expired for more than twelve (12) months, then an applicant must submit a new application and pay the initial application fee.
- (h) Alcohol beverage tastings shall be subject to the following limitations:
 - (1) Alcohol beverage tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue and who is either a retail liquor store or liquor-licensed drugstore licensee or an employee of a licensee, and only on a licensee's licensed premises.
 - (2) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brewpub, *licensed distillery pub*, or winery licensed pursuant to Section ~~12-47-403~~ 44-3-403, C.R.S., at a cost that is not less than the laid-in cost of such alcohol.
 - (3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half ($\frac{1}{2}$) ounce of spirituous liquor.
 - (4) Alcohol beverage tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.
 - (5) Alcohol beverage tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11:00 a.m. or later than ~~7:00~~ 9:00 p.m.
 - (6) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
 - (7) The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, ~~or~~ shall destroy the samples immediately following the completion of the alcohol beverage tastings, *or shall store any open*

containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time and date.

- (8) The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated.
 - (9) The licensee shall not serve more than four (4) individual samples to a patron during an alcohol beverage tasting.
 - (10) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
 - (11) A licensee may conduct tastings no more than 156 days per year. ~~tastings may occur on no more than four (4) of the six (6) days from a Monday to the following Saturday, not to exceed one hundred four (104) days per year.~~
 - (12) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at an alcohol beverage tasting. The licensee shall bear the financial and all other responsibility for an alcohol beverage tasting.
- (i) A violation of a limitation specified in this Division or of Sections ~~12-47-301(10)~~ 44-3-301(10) or ~~12-47-801~~ 44-3-801, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee, the licensee's employees or agents or otherwise, shall be the responsibility of the licensee who is conducting the alcohol beverage tasting.
- (j) A retail liquor store or liquor-licensed drugstore licensee conducting an alcohol beverage tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee and are imposed by the Licensing Authority.

Section 10. Subsection (a) of Section 6-2-440 of the Municipal Code, titled "Violations," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (a) Any violation of the regulations specified in this Division or in Section ~~12-47-301(10)~~ 44-3-301(10), C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee's employees, agents or otherwise, shall be the responsibility of the retail liquor store, brewery, distillery or liquor-licensed drugstore licensee which is conducting the alcohol beverage tasting.

Section 11. Subsection (a) of Section 6-5-30 of the Municipal Code, titled “Definitions,” is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

(a) As used in this Article, the following words shall have the following meanings:

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000, codified as Section 14 of Article XVIII to the Colorado Constitution.

Applicant means a person who has submitted an application for a license pursuant to this Article.

Application means an application for a license submitted pursuant to this Article.

Authority means the Town Board of Trustees serving as the Milliken Marijuana Licensing Authority.

Town Clerk means the Town Clerk or his or her designee.

Colorado Medical Marijuana Code means ~~Article 43.3 of Title 12~~ Article 11 of Title 44 of the Colorado Revised Statutes, inclusive of promulgated rules, and as may be amended.

Crime of violence shall have the same meaning as set forth in Section 18-1.3-406, C.R.S. whether committed in Colorado or another state.

Cultivation means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant.

Day means a calendar day, unless otherwise indicated.

Good cause means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article or the Colorado Medical Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or Local Licensing Authority; or (3) the licensee's medical marijuana establishment has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana establishment is located.

Good moral character means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law in accordance with the provisions of C.R.S. § 24-5-101(2).

License means a license to operate a medical marijuana establishment issued pursuant to this Article.

Licensee means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code.

Marijuana shall have the same meaning as set forth in Article XVIII, Section 16 of the Colorado Constitution.

Medical marijuana center means a premises licensed pursuant to the Colorado Medical Marijuana Code to operate a business described in Section ~~12-43.3-402~~ 44-11-402, C.R.S., that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution but is not a caregiver.

Medical marijuana establishment means a medical marijuana center, a medical marijuana - infused product manufacturer, a medical marijuana testing facility or an optional premises cultivation operation.

Medical marijuana-infused product means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

Medical marijuana-infused product manufacturer means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code to operate a business as described in Section ~~12-43.3-404~~ 44-11-404, C.R.S.

Medical marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana in accordance with the Colorado Medical Marijuana Code, and this Article.

Optional premises cultivation operation means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code to operate a business as described in Section ~~12-43.3-403~~ 44-11-403, C.R.S..

Party in interest means a person allowed to present evidence and to cross-examine witnesses at public hearings pertaining to medical marijuana license applications. Only the following persons may be a party in interest:

- (1) The applicant;
- (2) An adult who resides within the corporate limits of the Town of Milliken;
- (3) An owner or manager of a business located within the corporate limits of the Town of Milliken.

Patient has the meaning provided in Section 14(a)(d) of Article XVIII of the Colorado Constitution as further defined and regulated in 5 C.C.R. 1006-2.

Primary caregiver has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in 5 C.C.R. 1006-2.

School means a public or private preschool or a public or private elementary, middle, junior high or high school. School shall not include administration buildings not used for classroom education.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of marijuana in Colorado, pursuant to ~~C.R.S. § 12-43.3-201~~ Section 44-11-201, C.R.S.

Section 12. Subsection (8)(a) of Section 6-5-140 of the Municipal Code, titled “Decision on application,” is hereby amended as follows, with portions to be removed struck through:

- (8) The applicant meets or otherwise will meet all the requirements of this Article and the Colorado Medical Marijuana Code, ~~including but not limited to Section 12-43.3-307, C.R.S.,~~ and any rules or regulations promulgated pursuant thereto.

Section 13. Subsection (a) of Section 6-5-170 of the Municipal Code, titled “License non-transferable; exceptions; dual licenses,” is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (a) A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to and approval by the Town Clerk and compliance with ~~Section 12-43.3-309, C.R.S.~~ applicable provisions of the Colorado Medical Marijuana Code. Transfer applications shall be subject to a public hearing as set forth in Section 6-5-130 of this Code. Any attempt to transfer or assign a license in violation of this section voids the license.

Section 14. Subsection (c) of Section 6-5-180 of the Municipal Code, titled “Duration of license; renewal; late renewals,” is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (c) An application for the renewal of an existing license shall be made to the Town Clerk at least forty-five (45) days prior to the date of expiration. The licensee shall apply for renewal using forms provided by the Town. If the applicant fails to apply for

renewal at least forty-five (45) days before the expiration of the license, but does apply for renewal prior to expiration of the license, the Town may process the renewal application if the applicant submits the late filing fee established pursuant to Section 6-5-80 at the time of submittal of the renewal application. The process for renewal shall be administrative, in accordance with Section ~~12-43.3-311~~ *44-11-311*, C.R.S., provided that any decision not to renew shall be made by the Authority in accordance with the requirements set forth in Section ~~12-43.3-311~~ *44-11-311*, C.R.S.

Section 15. Section 6-6-10 of the Municipal Code is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

Sec. 6-6-10. - Findings and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution and ~~Article 43.4 of Title 12~~ *Article 12 of Title 44*, C.R.S. vests the Town Board with the option to determine whether to license retail marijuana establishments within the boundaries of the Town. The purpose of this Article is to authorize such licensing for retail marijuana establishments and to regulate such retail marijuana establishments in the Town pursuant to the requirements of this Article. This Article is intended to exercise the authority granted by Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code for the Town to adopt licensing requirements that are supplemental to and/or stricter than the requirements set forth in state law. The purpose of this Article is to license and regulate retail marijuana establishments in the interest of public health, safety, and general welfare of the community. Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this Article and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.

Section 16. Subsection (7) of Section 6-6-20 of the Municipal Code, titled "Legal authority," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

(7) The Colorado Retail Marijuana Code, ~~Article 43.4 of Title 12~~ *Article 12 of Title 44*, C.R.S.

Section 17. Subsection (a) of Section 6-6-30 of the Municipal Code, titled "Definitions," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

(a) As used in this Article, the following words shall have the following meanings:

Amendment 64 means a voter-initiated amendment to the Colorado Constitution adopted November 6, 2012, codified as Section 16 of Article XVIII of the Colorado Constitution.

Applicant means a person who has submitted an application for a license to operate a retail marijuana establishment pursuant to this Article.

Application means an application for a license submitted pursuant to this Article.

Authority or Local Licensing Authority means the Town Board of Trustees serving as Milliken Marijuana Licensing Authority.

Town Clerk means the Town Clerk or his or her designee.

Colorado Retail Marijuana Code means ~~Article 43.4 of Title 12~~ Article 12 of Title 44 of the Colorado Revised Statutes, inclusive of rules and regulations promulgated thereunder, and as the same may be amended from time to time.

Crime of violence shall have the same meaning as set forth in Section 18-1.3-406, C.R.S., whether committed in Colorado or another state.

Cultivation means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant.

Day means a calendar day, unless otherwise indicated.

Good cause means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article or the Colorado Retail Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or local licensing authority; or (3) the licensee's retail marijuana establishment has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana establishment is located.

Good moral character means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law in accordance with the provisions of C.R.S. § 24-5-101(2).

License means a license to operate a retail marijuana establishment issued pursuant to this Article.

Licensee means a person licensed pursuant to this Article and the Colorado Retail Marijuana Code.

Marijuana shall have the same meaning as set forth in Article XVIII, Section 16 of the Colorado Constitution.

Marijuana accessories shall have the same meaning as set forth in Article XVIII, Section 16 of the Colorado Constitution.

Operating fees means fees that must be paid by a licensee for the costs of administering and enforcing this Article as set forth in Article XVIII, Section 16 of the Colorado Constitution, or as may be more fully defined in the Colorado Retail Marijuana Code.

Owner means a person or persons who have a controlling interest in a retail marijuana establishment license, bear a risk of loss other than as an insurer, have an opportunity to gain profit from the operation or sale of the establishment, and have a controlling interest in the license issued to such establishment.

Party in Interest means a person allowed to present evidence and to cross-examine witnesses at public hearings pertaining to retail marijuana license applications. Only the following persons may be a party in interest:

- a. The applicant;
- b. An adult who resides within the corporate limits of the Town of Milliken;
- c. An owner or manager of a business located within the corporate limits of the Town of Milliken.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that "person" does not include any governmental organization.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers in accordance with Amendment 64, the Colorado Retail Marijuana Code, and this Article.

Retail marijuana establishment means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility, or a retail marijuana testing facility as set forth in Section 16 of Article XVIII of the Colorado Constitution or as may be more fully defined in the Colorado Retail Marijuana Code.

Retail marijuana product manufacturing facility and retail marijuana products manufacturer shall have the same meaning and refer to ~~means~~ an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers, in accordance with Amendment 64, the Colorado Retail Marijuana Code, and this Article.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers, in accordance with Amendment 64, the Colorado Retail Marijuana Code, and this Article.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana in accordance with Amendment 64, the Colorado Retail Marijuana Code, and this Article.

School means a public or private preschool or a public or private elementary, middle, junior high, high school, or institution of higher education. School shall not include administration buildings.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of marijuana in Colorado, pursuant to ~~C.R.S. § 12-43.4-201~~ Section 44-12-201, C.R.S.

Section 18. Subsection (3) of Section 6-6-120 of the Municipal Code, titled "Location restrictions," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (3) In accordance with Section ~~12-43.4-104(1)(a)(IV)~~ 44-12-104(1)(a)(IV), C.R.S., retail marijuana establishments may be co-located with medical marijuana establishments subject to compliance with this Article, Article V of Chapter 6, the Colorado Retail Marijuana Code and all applicable state and local regulations.

Section 19. Subsection (a)(8) of Section 6-6-140 of the Municipal Code, titled “Decision on application,” is hereby amended as follows, with portions to be removed struck through:

- (8) The applicant meets or otherwise will meet all the requirements of this Article and the Colorado Retail Marijuana Code, ~~including but not limited to Section 12-43.4-306, C.R.S.,~~ and any rules or regulations promulgated pursuant thereto.

Section 20. Subsection (b) of Section 6-6-170 of the Municipal Code, titled “License non-transferable; exceptions; dual licenses,” is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (b) The Authority may approve an application to transfer or assign ownership, rights and interests in a license subject to compliance with ~~Section 12-43.4-308, C.R.S.~~ *the Colorado Retail Marijuana Code* and the provisions of this Article. An application for any transfer of a retail marijuana establishment license shall contain, at a minimum, all of the information and fees required by Section 6-6-60(c) and (d) of this Article and any supplemental information requested in writing by the Authority. The Town Clerk shall refer a transfer application to the Authority for a public hearing provided that notice of the public hearing is posted on the licensed premises in conformance with ~~Section 12-43.4-302, C.R.S.~~ *the Colorado Retail Marijuana Code*, and the applicant has been provided with at least ten (10) days advance notice of the hearing. The Authority shall decide whether or not to approve an application to transfer ownership in accordance with the process set forth in Section 6-6-140 of this Code. Any attempt to transfer or assign a license in violation of this section voids the license.

Section 21. The following definitions in Section 10-8-10 of the Municipal Code, titled “Definitions,” are hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined, with the remaining definitions of Section 10-8-10 to remain in full force and effect:

Sec. 10-8-10. – Definitions.

~~*Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one half of one percent (0.5%) and not more than three and two tenths percent (3.2%) alcohol by weight*~~ *malt liquors, when purchased by a fermented malt beverage retailer from a wholesaler or when sold by a fermented malt beverage retailer pursuant to the Colorado Beer Code, Article 4 of Title 44, C.R.S.*

Malt liquor includes beer and ~~shall be construed to mean~~ means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing ~~more than three and two-tenths percent (3.2%) of alcohol by weight~~ not less than one-half of one percent alcohol by volume.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property which is not open to the public. *Private property* shall not include:

- a. Any establishment which has or is required to have a license pursuant to ~~Article 46, 47 or 48 of Title 12~~ Article 3, 4, or 5 of Title 44, C.R.S.;
- b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

Section 22. Subsection (f) of Section 10-8-30 of the Municipal Code, titled "Illegal possession or consumption of alcoholic beverages by an underage person," is hereby amended as follows, with portions to be removed struck through and portions to be added in italics and underlined:

- (f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to ~~Article 46, 47 or 48 of Title 12~~ Article 3, 4, or 5 of Title 44, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age.

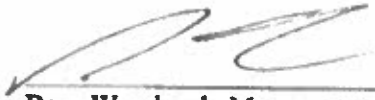
Section 23: Codification. The Town Clerk is hereby directed to work with the Town's Municipal Code codifier to ensure that the provisions of this Ordinance are included in the next codification of the Milliken Municipal Code.

Section 24: Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 25: Repeal. Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Introduced, read, adopted, signed and ordered published by title only by the Board of Trustees of the Town of Milliken this 27th day of April, 2019.

TOWN OF MILLIKEN



Beau Woodcock, Mayor

ATTEST:



Cheryl Powell, Town Clerk

APPROVED AS TO FORM:



Linda Michow, Town Attorney

Published by title only, together with the statement that "[t]he complete text of all ordinances is available at the Town offices and on the Town's official website" on May 02, 2019.



Cheryl Powell, Town Clerk