

ORDINANCE NO. 783

AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE TOWN OF MILLIKEN COLORADO; ADOPTING BY REFERENCE THE 2020 EDITION OF THE "MODEL TRAFFIC CODE" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Town of Milliken desires to pass an Ordinance adopting by reference the 2020 Edition of the "Model Traffic Code for Colorado"; and

WHEREAS, the Town of Milliken agrees with the recognition by the Colorado General Assembly that every driver should expect the rules of the movement of vehicles and pedestrians on streets and highways to be reasonably uniform throughout the State; and

WHEREAS, the Town of Milliken has an interest and desire to protect the public health, safety and welfare of its citizens and believes that adopting the 2020 Edition of the "Model Traffic Code" effectuates that purpose;

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

Section 1. The Board hereby repeals Chapter 8 Article I Section 10 of the Milliken Municipal Code and reenacts the same subsection to read as follows:

8-1-10. - Adoption.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., there is hereby adopted by reference the 2020 edition of the Model Traffic Code for Colorado, promulgated and published as such by the Colorado Department of Transportation, Traffic Engineering and Safety Branch, 2829 W Howard Place, Denver, CO 80204; provided, that any penalty provisions are expressly not adopted. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the Nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Town Clerk and may be inspected during regular business hours.

Section 2. The Board hereby repeals Chapter 8 Article I Section 20 of the Milliken Municipal Code and reenacts the same subsection to read as follows:

8-1-20. - Deletions.

The 2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections which are declared to be inapplicable to the Town and are therefore expressly deleted: none.

Section 3. The Board hereby repeals Chapter 8 Article I Section 30 of the Milliken Municipal Code and reenacts the same subsection to read as follows:

8-1-30. - Additions of Modifications.

The adopted code is subject to the following additions or modifications:

A. Part 11, Section 1101 (2)(c), Speed limits, is hereby amended to read in its entirety:

(c) Twenty-five miles per hour in any residence district, as defined in section 42-1-102 (80), C.R.S., or where not otherwise posted, and fifteen miles per hour in any alley as defined in section 42-1-102(3), C.R.S.;

B. Part 11, Section 1101 is amended by the addition of the following new subsection 2.1:

(2.1) If a speed limit lower than that specified in subsections (2)(a) through (2)(g) is designated by an official traffic control device then that lower limit shall be the maximum lawful speed

C. Part 14, Section 1417 is hereby added to read as follows:

Section 1417. Permitting Unauthorized Person To Drive.

No person shall authorize or knowingly permit a motor vehicle owned by such person or under such person's hire or control to be driven upon any street or highway within the Town by any person who has not been issued a currently valid driver's or minor driver's license or an instruction permit or shall cause or knowingly permit such person to drive a motor vehicle upon any street or highway in violation of the conditions, limitations, or restrictions contained in a license or permit which has been issued to such other person.

D. Part 14, Section 1418 is hereby added to read as follows:

Section 1418. Expired License Plates/ Improper Use of Title or Registration.

(1) Pursuant to State law (§ 42-3-114, C.R.S.), every vehicle registration issued by the State of Colorado shall expire on the last day of the month at the end of each twelve-month registration period and shall be renewed, upon application by the owner, by the payment of the fees required by law not later than the last day of the month following the date of expiration. No license plates other than those of the registration period to which they pertain shall be displayed on a motor vehicle operating on any street or highway within the Town.

(2) No person shall lend to or knowingly permit the use by one not entitled thereto any certificate of title, registration card, or registration number plate issued to the person so lending or permitting the use thereof.

E. Part 14, Section 1419 is hereby added to read as follows:

Section 1419. Driving Without a Current Driver's License.

(1) No person shall drive any motor vehicle upon a street, road or highway within the Town unless such person has been issued a currently valid driver's or minor driver's license or an instruction permit by a State Department of Motor Vehicles.

(2) No person shall drive any motor vehicle upon a street, road or highway within the Town unless such person has in his or her immediate possession a current driver's or minor driver's license or an instruction permit issued by a State Department of Motor Vehicles.

(3) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall drive a type or general class of motor vehicle upon a street, road or highway within the Town for which such person has not been issued the correct type or general class of license or permit.

(4) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall operate a motor vehicle upon a street, road or highway within the Town without having such license or permit in such person's immediate possession.

(5) A charge of a violation of subsection (4) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid driver's or minor driver's license issued to such person or an officially issued duplicate thereof if the original was lost, stolen or destroyed; provided that such currently valid driver's license or minor driver's license shall also have been valid on the date the defendant was issued the citation.

(6) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:

(a) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by this Section; or

(b) The applicable conditions for exemption, as set forth in § 42-2-102, C.R.S., exist.

(7) The issue of justification or exemption is an affirmative defense. As used in this subsection, affirmative defense means that, unless the prosecutor's evidence raises the issue involving the particular defense, the defendant, to raise the issue, shall present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the liability of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the charge.

F. Part 14, Section 1420 is hereby added to read as follows:

Section 1420. Open Alcoholic Beverage Containers in Motor Vehicles.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) Alcoholic beverage means a beverage as defined in § 44-3-103(2), C.R.S.

(b) Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads or highways but does not include a vehicle operated exclusively on a rail or rails.

(c) Open alcoholic beverage container means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and:

(I) That is open or has a broken seal; or

(II) The contents of which are partially removed.

(d) Passenger area means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

(2) Except as otherwise permitted in Subsection (3) below, a person while in the passenger area of a motor vehicle that is on a public street, road or highway within the Town or the right-of-way of a public street, road or highway within the Town may not knowingly:

(a) Drink an alcoholic beverage; or

(b) Have in his or her possession an open alcoholic beverage container.

(3) The provisions of Subsection (2) shall not apply to:

(a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(b) The possession by a passenger, other than the driver or a front seat passenger, of an open alcoholic beverage container in the living quarters of a house coach, house trailer, motor home, as defined in § 42-1-102(57), C.R.S., or trailer coach, as defined in § 42-1-102(106)(a), C.R.S.;

(c) The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(d) The possession of an open alcoholic beverage container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

Section 4. The Board hereby repeals Chapter 8 Article I Section 40 of the Milliken Municipal Code and reenacts the same subsection to read as follows:

8-1-40. - Penalties.

The following penalties, herewith set forth in full, shall apply to this Article:

(1) It is unlawful for any person to violate any of the provisions adopted in this Article.

(2) Every person convicted of a violation of any provision adopted in this Article shall be subject to penalties established pursuant to section 2-4-120 of the Milliken Municipal Code, as well as costs, surcharges, and orders as provided by Chapter 2, Article IV, of the Milliken Municipal Code, as such provisions may from time to time be amended.

Section 5. The Board hereby enacts Chapter 8 Article I Section 80 of the Milliken Municipal Code to read as follows:

8-1-80. - Validity.

If any part or parts of this Article or the Model Traffic Code adopted herein are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this Article. The Town Board of Trustees hereby declares that it would have passed this Article and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 6. Existing ordinances or resolutions or parts thereof covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances

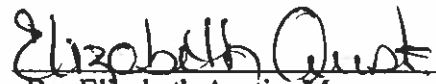
inconsistent with the provisions of this ordinance are hereby repealed, except that (1) this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance and (2) such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance repealed by such ordinance.

Section 7. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

Section 8. Effective date. This ordinance shall take effect thirty days after publication as provided by law.

PASSED, ADOPTED, SIGNED AND APPROVED this the 29th day of June, 2020.

TOWN OF MILLIKEN


By: Elizabeth Austin, Mayor

ATTEST:


By: Cheryl Powell, Town Clerk