

ORDINANCE NO. 784

AN ORDINANCE ESTABLISHING A QUALIFIED MUNICIPAL COURT OF RECORD FOR THE TOWN OF MILLIKEN, STATE OF COLORADO

WHEREAS, pursuant to Chapter 2, Article IV, of the Milliken Municipal Code, there is established in and for the Town of Milliken a municipal court, which has operated as a Police Magistrate’s Court or Police Court and not as a qualified municipal court of record;

WHEREAS, the Board finds that in order to effectively enforce its codes and ordinances through the operation of a municipal court, the municipal court should henceforth operate as a “qualified municipal court of record” as defined under section 13-10-102(3) of the Colorado Revised Statutes;

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

Section 1. Sections 2-4-10 through 2-4-40 of the Milliken Municipal Code are amended to read in their entirety as follows:

Sec. 2-4-10. - Definitions.

As used in this Article, the following terms shall have the following meanings:

Municipal Court means the qualified municipal court of record established in section 2-4-20 of this Code.

Municipal Judge means a judge appointed by the Milliken Board of Trustees to preside over the Municipal Court who meets the qualifications set forth in this Article and in the Colorado Revised Statutes.

Sec. 2-4-20. - Creation of Municipal Court.

The Municipal Court for the Town of Milliken is hereby established pursuant to the provisions of Article 10, Title 13, of the Colorado Revised Statutes, as they may be from time to time amended, as a qualified municipal court of record. The Court Clerk shall keep a record of all cases tried or determined by the Court.

Sec. 2-4-30. - Original jurisdiction, powers, and procedures.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance, to grant declaratory relief, and to order restitution or other appropriate and lawful remedies. The Municipal Judge shall have all judicial powers relating to the operation of the court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado Supreme Court. The Municipal

Judge shall have the power to enforce subpoenas issued by any board, body or officer of the municipality.

Sec. 2-4-40. - Qualification and appointment of Municipal Judge.

- (a) The Board of Trustees may, by ordinance or resolution duly considered and adopted, establish from time to time such qualifications consistent with sections 13-10-105 and 13-10-106, C.R.S., for the office of Municipal Judge as it may deem fit, proper and consistent with the procurement of persons of judicial temperament and ability.
- (b) The Municipal Judge shall be appointed by the Board of Trustees for a specified term of not less than two years and may be reappointed for a subsequent term; except that the initial appointment under this section may be for a term of office which expires on the date of the next election of the Board of Trustees.
- (c) The Board of Trustees may appoint such assistant judges as may be necessary to act or such substitute judges as circumstances may require in case of temporary absence, sickness, disqualification, or other inability of the presiding or assistant municipal judges to act. If more than one (1) Municipal Judge is appointed, the Board of Trustees shall designate the presiding Municipal Judge.
- (d) Any Municipal Judge must be admitted to and currently licensed in the practice of law in the State.

Section 2. Section 2-4-100 of the Milliken Municipal Code is amended by adding the following new subsection (d):

- (d) The court clerk shall keep a verbatim record of the proceedings and evidence at trial by either electronic device or stenographic means. In addition, the clerk shall keep a record of all cases tried or determined by the court.

Section 3. Section 2-4-120 of the Milliken Municipal Code is amended to read in its entirety as follows:

Sec. 2-4-120. - Penalties.

- (a) All fines and costs collected or received by the Municipal Court shall be reported and paid monthly to the Town Treasurer and deposited in the general fund.
- (b) The Municipal Judge may suspend a sentence or fine and place the violator on probation for a period not exceeding one (1) year. Costs may be assessed against a defendant found guilty as provided by law.
- (c) The following penalties, herewith set forth in full, shall apply to this Code:
 - (1) It is unlawful for any person to violate any of the provisions adopted in this Code by failing to comply with its prohibitions or its mandates.

- (2) Every person convicted of violation of any provisions adopted in this Code shall be punished by a fine not exceeding two thousand, six hundred fifty dollars (\$2,650.00), or by imprisonment not exceeding three hundred sixty-four (364) days or by both such fine and imprisonment.
- (3) Each day or portion thereof during which the violation continues shall constitute a separate violation.
- (4) The maximum fine specified in subsection (2), above, may be revised by resolution of the Board of Trustees to match the inflation adjusted amount allowed in section 13-10-113(1), C.R.S.

Section 4. Section 2-4-140 of the Milliken Municipal Code is amended to read in its entirety as follows:

Sec. 2-4-140. - Detention and incarceration surcharge.

- (a) Each person who pleads guilty or no contest to a violation of the Town's ordinances or this Code, or who is found guilty after a trial, shall pay a surcharge according to the following schedule, provided however that in no circumstance shall the total fine assessed plus the surcharge exceed \$2,650.00:

Fine	Surcharge
\$.01 to \$50.00	\$5.00
\$50.01 to \$100.00	\$10.00
\$100.01 to \$150.00	\$15.00
\$150.01 to \$200.00	\$20.00
\$200.01 to \$250.00	\$25.00
\$250.01 to \$300.00	\$30.00
\$300.01 to \$400.00	\$40.00
\$400.01 to \$500.00	\$50.00
\$500.01 to \$600.00	\$60.00
\$600.01 to \$700.00	\$70.00
\$700.01 to \$800.00	\$80.00
\$800.01 to \$900.00	\$90.00

\$900.01 to \$1,000.00	\$100.00
\$1,000.01 to \$1,100.00	\$110.00
\$1,100.01 to \$1,200.00	\$120.00
\$1,200.01 to \$1,300.00	\$130.00
\$1,300.01 to \$1,400.00	\$140.00
\$1,400.01 to \$1,500.00	\$150.00
\$1,500.01 to \$1,600.00	\$160.00
\$1,600.01 to \$1,700.00	\$1700.00
\$1,700.01 to \$1,800.00	\$180.00
\$1,800.01 to \$1,900.00	\$190.00
\$1,900.01 to \$2,000.00	\$200.00
\$2,000.01 to \$2,100.00	\$210.00
\$2,100.01 to \$2,200.00	\$220.00
\$2,200.01 to \$2,300.00	\$230.00
\$2,300.01 to \$2,400.00	\$240.00
\$2,400.01 to \$2,500.00	\$250.00
\$2,500.01 to \$2,600.00	\$260.00
\$2,600.01 to \$2,650.00	\$270.00

- (b) The proceeds of the surcharge shall be paid into the General Fund of the Town to be used to defray the costs of necessary police services, community court programs, and incarceration of municipal offenders.
- (c) The Municipal Court shall assess, and the Town Attorney shall use financially appropriate efforts to collect, the amount of the costs of detention and incarceration from those individuals whose violation of the Town's ordinances or this Code necessitates detention or incarceration.

Section 5. Section 2-4-150 of the Milliken Municipal Code is amended to read in its entirety as follows:

Sec. 2-4-150. - Demand for jury.

In all trials for a violation of this Code or any ordinance of the Town, a defendant shall have the right to demand a trial by jury. The jury shall consist of three jurors unless, in the case of a trial for a petty offense, a greater number, not to exceed six, is requested by the defendant. The Municipal Judge shall adjourn the cause, if necessary, to any time not exceeding three (3) days, for that purpose. The jury, when empaneled, shall be sworn by the Municipal Judge to try the cause according to the evidence and the law as provided for in criminal trials.

Section 6. Section 2-4-170 of the Milliken Municipal Code is amended to read in its entirety as follows:

Sec. 2-4-170. - Method of summoning jurors.

Upon demand of the defendant for trial by jury, the jury shall be selected from a jury list as is provided for courts of record.

Section 7. 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 8. Effective Date. This ordinance shall take effect thirty days after publication as provided by law.

PASSED, ADOPTED, SIGNED AND APPROVED this the ____ day of _____, 2020.

TOWN OF MILLIKEN

By: _____
Elizabeth Austin, Mayor

ATTEST:

By: _____
Cheryl Powell, Town Clerk