

ORDINANCE NO. 779

AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, MAKING MINOR CHANGES TO THE MILLIKEN MUNICIPAL CODE TO REFLECT THE FEDERAL CHANGE TO THE MINIMUM SMOKING AGE, TO REFLECT RECODIFICATION OF STATE STATUTES PERTAINING TO FIREWORKS, ABANDONED VEHICLES, AND LIQUOR LICENSING, AND TO UPDATE AND CORRECT OTHER INACCURATE REFERENCES TO COLORADO STATUTES

WHEREAS the Board of Trustees for the Town of Milliken, Colorado, (“Board”) desires to make minor changes to the Milliken Municipal Code to (a) reflect a recent update in the legal smoking age under federal law, (b) reflect recodification of state statutes pertaining to fireworks, and (c) update and correct certain additional inaccurate references to provisions of the Colorado Revised Statutes contained in the Milliken Municipal Code;

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

Section 1. Chapter 10, Article VII, Section 10-7-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 10-7-40. - Furnishing and sale of tobacco products.

- (1) It is unlawful for any person knowingly to sell, convey for valuable consideration, give or dispense tobacco products to a person under the age of twenty-one (21) years.
- (2) It is unlawful for a person under the age of twenty-one (21) years to be in possession of tobacco products.
- (3) When used herein, the term *tobacco products* shall include but not be limited to kinds and forms of tobacco prepared in such manner as to be suitable for chewing, smoking or both.

Section 2. Chapter 10, Article X, Section 10-10-10 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 10-10-10. - Fireworks prohibited.

Except as provided in Sections 24-33.5-2003, 24-33.5-2004 and 24-33.5-2006, C.R.S., it is unlawful in the Town for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell, use or explode, any fireworks that are not within the definition of “permissible fireworks” in section 24-33.5-2001, C.R.S., as it may from time to time be amended.

Section 3. Chapter 10, Article X, Section 10-10-50(4) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (4) Any resident manufacturer from manufacturing and selling, or any resident wholesaler, dealer or jobber from selling at wholesale, such fireworks as are not prohibited under this Article, provided that the proper licenses have been issued under state law;

Section 4. Chapter 10, Article X, Section 10-10-50(5) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (5) Any resident manufacturer from selling any kind of fireworks, provided that the same are to be shipped directly out of state in accordance with regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail and water, and provided that such resident manufacturer's activities have been licensed under state law;

Section 5. Chapter 10, Article X, Section 10-10-60 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 10-10-60. - State licensing requirements.

- (a) No person shall sell or offer to sell at retail any fireworks which are to be used for display purposes within the Town unless he or she first obtains licenses to do so in accordance with state law and from the Board of Trustees.
- (b) No person shall manufacture or wholesale fireworks until he or she shall first obtain all licenses required under state law. The State of Colorado shall be the sole licensing authority for manufacturers' and wholesalers' licenses.

Section 6. Chapter 4, Article V, Section 4-5-10 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 4-5-10. - Definitions.

As used in this Article, the term abandoned personal property means personal property which comes into the custody of the Town and which is unclaimed by the owner of such property, except for abandoned motor vehicles, for which disposition shall be governed by Section 42-4-1801 et seq., C.R.S., and Section 42-4-2101 et seq., C.R.S., and contraband articles, for which disposition shall be governed by Section 16-13-501 et seq., C.R.S., and any other personal property for which a method of disposition is specified by state statutes as from time to time amended.

Section 7. Chapter 5, Article II, Section 5-2-180(b) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (b) Immunity. Nothing in this Section or any other provision of this agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the Town may have under the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or of any other defenses, immunities or limitations of liability available to the Town by law.

Section 8. Chapter 8, Article III, Section 8-3-10 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-10. - Definitions.

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

Owner means the record owner of property, the lessee or other person in lawful possession of property, or the agent of any of the foregoing.

- (b) Except as otherwise specifically provided in this Section, the definitions contained in Section 42-4-1802, C.R.S., shall apply to this Article with respect to any motor vehicle on public property and the definitions contained in Section 42-4-2102, C.R.S., shall apply to this Article with respect to any motor vehicle on private property.

Section 9. Chapter 8, Article III, Section 8-3-20 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-20. - Applicability.

This Article is supplemental to the provisions of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and the procedures for the towing and storage of vehicles in said provisions shall be applicable to the Town except to the extent specifically superseded by this Article.

Section 10. Chapter 8, Article III, Section 8-3-30 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-30. - Authority to tow and impound vehicles.

A police officer of the Town shall have the authority to direct that a motor vehicle, trailer or other device designed to be drawn upon any highway or roadway of the Town be towed and placed in storage in an impound lot by an operator under the following circumstances:

- (1) Interference with traffic or street maintenance. Whenever a police officer finds a motor vehicle, attended or unattended, which is stopped, standing or parked upon any portion of a street, alley or highway right-of-way within the Town in such a manner or under such condition as to interfere with the free movement of traffic or with proper street, alley or highway maintenance, the police officer may direct an operator to tow the vehicle and place it in storage in an impound lot. The police officer may make a reasonable effort, as practicable under the circumstances, to locate the owner of the vehicle and direct the owner to remove the vehicle.
- (2) Abandoned motor vehicles and trailers on public property. Whenever a police officer finds an abandoned motor vehicle on any public property within the Town, the police officer may direct an operator to tow the vehicle and place the vehicle in storage in an impound lot. The police officer may make a reasonable effort, as practicable under the circumstances to locate the owner of the vehicle and direct the owner to remove the vehicle.
- (3) Abandoned motor vehicles on private property. Whenever an owner of private property finds an abandoned motor vehicle on his or her property, the owner may notify a police officer. The police officer shall then determine, in his or her discretion, whether to request a public tow of the vehicle or whether it shall be up to the owner of the property to request a private

tow. If the police officer determines that a public tow will be requested, (a) the police officer may make a reasonable effort, as practicable under the circumstances to locate the owner of the vehicle and direct the owner to remove the vehicle and (b) the procedures applicable to motor vehicles on public property shall be followed.

- (4) Emergencies. Whenever a police officer finds an emergency requiring the immediate removal of a motor vehicle which is legally stopped, standing or parked in a street, alley or highway right-of-way or on private property, the police officer may direct an operator to tow the vehicle and place it in storage in an impound lot and, except to the extent otherwise specified in this article, the procedures applicable to motor vehicles on public property shall be followed. If the police officer determines that a public tow will be requested, the police officer may make a reasonable effort, as practicable under the circumstances, to locate the owner of the vehicle and direct the owner to remove the vehicle. The Town shall pay any towing fees, and the owner of the vehicle shall pay any storage fees for a vehicle towed pursuant to this Paragraph.
- (5) Vehicles with three (3) or more unpaid parking citations. A police officer may direct an operator to tow a vehicle for safekeeping to an impound lot of the Town's choosing if the vehicle has received three (3) or more separate parking citations, and at least three (3) of those citations remain outstanding, or have not been paid in the time required by law. The owner and/or operator of the vehicle shall be liable for any and all towing and/or storage fees as allowed by law for a vehicle towed pursuant to this Section.

Section 11. Chapter 8, Article III, Section 8-3-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-40. - Liability.

Neither the Town, its officers, employees or agents, nor any person acting under the direction of the Town, its officers, employees or agents, shall be liable for any damages occasioned by the towing, impoundment or storage of a motor vehicle pursuant to this Article or pursuant to the provisions of Parts 18 or 21 of Article 4 of Title 42, C.R.S.

Section 12. Chapter 8, Article III, Section 8-3-50 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-50. - Post-impoundment hearing for impounded vehicles.

As to any motor vehicle placed in storage in an impound lot pursuant to this Article at the direction of a police officer, the owner of the vehicle has the right to a post-impoundment hearing to determine whether the vehicle was legally towed, if the owner files a written demand for such hearing with the Town Clerk within ten (10) days after the postmarked date of the notice sent to the owner by the Police Department pursuant to Section 42-4-1804(4), C.R.S. Failure to request a hearing within such time shall operate as a waiver of the owner's right to such hearing.

Section 13. Chapter 8, Article III, Section 8-3-60 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-60. - Conduct of hearing.

- (a) A hearing shall be conducted before the Town Administrator within seventy-two (72) hours of receipt by the Town Clerk of the owner's written demand therefor unless the owner agrees to waive the right to a speedy hearing, or the delay in conducting a speedy hearing was occasioned by the owner. Saturdays, Sundays and Town holidays shall be excluded from the calculation of the seventy-two-hour period. The sole issue at the hearing shall be whether the vehicle was legally towed.
- (b) At the hearing, the owner and the Police Department shall each provide testimony or arguments concerning whether the vehicle was legally towed. The decision of the Town Administrator shall in no way affect any judicial proceeding relating to the vehicle or its owner.
- (c) The failure of the person who demanded the hearing to attend the hearing shall be deemed a waiver of the owner's right to the hearing.

Section 14. Chapter 8, Article III, Section 8-3-70 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-3-70. - Decision.

At the conclusion of the hearing, the Town Administrator shall only determine that either: (1) the vehicle was legally towed; or (2) the vehicle was not legally towed. In the event of a determination that the vehicle was not legally towed, the vehicle shall be released to the owner, and the Town shall pay any towing or storage fees for the vehicle.

Section 15. Chapter 10, Article VI, Section 10-6-180(a)-(b) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 10-6-180. - Disturbances at bars.

- (a) For purposes of this Section, licensee means a person holding any liquor license issued pursuant to this Code and Title 44, Articles 3, 4 and 5, C.R.S.
- (b) For purposes of this Chapter, premises means the premises specified in the application for a license issued and granted pursuant to Title 44, Articles 3, 4 and 5, C.R.S.

Section 16. Chapter 10, Article VII, Section 10-7-60(a)(2) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (2) Has a current age and school certificate or work permit issued pursuant to the "Colorado Youth Employment Opportunity Act of 1971," Title 8, Article 12, C.R.S.

Section 17. Chapter 10, Article IX, Section 10-9-80(a)(4) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (4) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 10-8-10 of this Chapter and Section

18-18-102(5), C.R.S. Possession of a permit issued under Title 18, Article 12, C.R.S., is no defense to a violation of this Section; or

Section 18. Chapter 16, Article IX, Section 16-9-75 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 16-9-75. - Compliance with State environmental and noise requirements.

Violation of any Federal, State or local laws or regulations shall be a violation of this Article. The approval of a special use permit shall not relieve the operator from complying with all current applicable local, State and Federal regulations and standards concerning air quality, water quality and waste disposal. State law and regulations concerning noise abatement (Title 25, Article 12, C.R.S., and COGCC, Series 800 Rules) shall apply to all operations, together with applicable local government ordinances, rules or regulations.

Section 19. Chapter 16, Article XIII, Section 16-13-30(12) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

- (12) Step 12: Board of Trustees Public Hearing. Upon the submission of documentation in accordance with this Article and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965 , as amended, and the public hearing, the Board of Trustees may consider the approval of an ordinance annexing and zoning the subject property to the Town. Before approval or denial of the ordinance to annex the subject property, the Board of Trustees per Section 31-12-110, C.R.S., shall set forth a finding of facts through a resolution regarding compliance with Sections 31-12-104 and 31-12-105, C.R.S., and whether or not an election is required. If the Board of Trustees, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution, stating the grounds for such denial. In the event the Board of Trustees considers and disapproves such ordinance, no similar request may be heard for a period of one (1) year from the date of denial.

INTRODUCED, READ, PASSED, AND ADOPTED THIS ____ DAY OF ____, 2020.

TOWN OF MILLIKEN

By: Beau Woodcock, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Matthew T. Gould, Town Attorney