

**ORDINANCE NO. 797**

**AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, AMENDING CERTAIN PROVISIONS OF THE MILLIKEN MUNICIPAL CODE AND AUTHORIZING TOWING OF NON-MOTOR VEHICLES IN DEFINED CIRCUMSTANCES**

WHEREAS the Milliken Municipal Code (“Code”) currently provides local law enforcement personnel with the authority to tow and impound motor vehicles under defined circumstances;

WHEREAS some key provisions of the Code authorizing towing and impounding are limited to “motor vehicles;”

WHEREAS it is desirable to extend similar authority to non-motor vehicles that may at times need to be towed and impounded, such as when a non-motorized trailer is abandoned in such a way that it interferes with the free movement of traffic; and

WHEREAS the Board desires to amend certain provisions of the Milliken Municipal Code to enable towing and impounding of a broader range of “vehicles;”

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

**Section 1.** 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.

“Vehicle” has the same meaning as in section 42-1-102 and also includes special mobile machinery, farm tractors, and implements of husbandry as defined in the same section.

(b) Except as otherwise specifically provided in this Section, (1) the definitions contained in Section 42-1-102, C.R.S., shall apply to this Article, (2) the definitions contained in Section 42-4-1802, C.R.S., shall apply to this Article with respect to any vehicle on public property, and (3) the definitions contained in Section 42-4-2102, C.R.S., shall apply to this Article with respect to any vehicle on private property.

**Section 2.** 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of motor vehicles in said provisions shall be applicable to vehicles in the Town except to the extent specifically superseded by this Article. In the event the owner of a particular vehicle that is not a motor vehicle cannot be identified, such as if the department of revenue is unable using available information to report the name and address of the owner pursuant to section 42-4-1804(2)(c) of the Colorado Revised Statutes, then the vehicle may be processed pursuant to the abandoned property provisions found in Chapter 4, Article V, of this Code.

**Section 3.** 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 vehicle 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 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 vehicles on public property.** Whenever a police officer finds an abandoned 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 vehicles on private property.** Whenever an owner of private property finds an abandoned 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 vehicles on public property shall be followed.
- (4) **Emergencies.** Whenever a police officer finds an emergency requiring the immediate removal of a 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 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 4.** 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 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 5.** 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 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 6.** Any effective repeal by this ordinance of any existing provision of the Milliken Municipal Code shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of the provisions repealed prior to the taking effect of this ordinance and such repealer shall not repeal the repealer clauses of any ordinance adopting the repealed provisions nor revive any ordinance repealed by such ordinance.

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

INTRODUCED, READ, PASSED, AND ADOPTED THIS 9th DAY OF FEBRUARY 2022.

TOWN OF MILLIKEN

  
By: Elizabeth Austin, Mayor

ATTEST:

  
Caree Rinebarger, Town Clerk

APPROVED AS TO FORM:

  
Matthew T. Gould, Town Attorney