

**ORDINANCE NO.789**

**AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, UPDATING FINE AND PENALTY PROVISIONS TO CORRESPOND TO THOSE AUTHORIZED FOR A MUNICIPAL COURT OF RECORD**

WHEREAS the Board of Trustees for the Town of Milliken, Colorado, ("Board") desires to update the Milliken Municipal Code ("Code") to more fully standardize fine and penalty provisions throughout the Code and to enable the assessment of penalties consistent with those authorized for a municipal court of record;

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

**Section 1.** Chapter 1, Article IV, Section 1-4-20 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

**Sec. 1-4-20. - General penalty for violation.**

Any person who shall violate or fail to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof or upon pleading guilty or no contest, be punished in accordance with the provisions of section 2-4-120, except as hereinafter provided in Section 1-4-30.

**Section 2.** Chapter 1, Article IV, Section 1-4-30 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

**Sec. 1-4-30. - Application of penalties to juveniles.**

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than the amount specified in section 2-4-120. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

**Section 3.** Chapter 6, Article II, Section 6-2-350 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

**Sec. 6-2-350. - Penalty.**

It is unlawful to operate any malt, vinous or spirituous liquor or fermented malt beverage establishment within the Town without paying the applicable tax imposed by this Division.

**Section 4.** Chapter 7, Article II, Section 7-2-160(d) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

(d) Penalty clause.

- (1) Prior to issuance of a summons and complaint, the owner shall be given a written notice of violation and a thirty-day period of time to remedy the violation. If the violation is not remediated and the alleged defendant is either convicted of or pleads guilty or no contest to the charge, then no period of imprisonment may be imposed unless the Municipal Court also finds that aggravating factors exist, which include, but shall not be limited to, extended delay in compliance without good cause; circumstances which jeopardize the health, safety and welfare of the citizens of the Town; or repeated violation.

**Section 5.** Chapter 7, Article VII, Section 7-7-30 of the Milliken Municipal Code is hereby repealed.

**Section 6.** Chapter 8, Article I, Section 8-1-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 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 punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code.

**Section 7.** Chapter 8, Article IV, Section 8-4-30 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 8-4-30-Penalties

Any violation of this Article shall be civil infraction punishable in accordance with the General Penalty provisions of Chapter 1, Article 4. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged road, street or bridge and any reasonable attorney fees or costs.

**Section 8.** Chapter 10, Article VIII, Section 10-8-80 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

**Sec. 10-8-80. - Possession of marijuana.**

- (a) For the purposes of this Section, the term marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- (b) It is unlawful for any person under twenty-one (21) years of age to possess one (1) ounce or less of marijuana or marijuana concentrate.
- (c) It is unlawful for any person to openly and publicly consume one (1) ounce or less of marijuana.
- (d) It is unlawful for a person under twenty-one (21) years of age to transfer or dispense not more than one (1) ounce of marijuana from one (1) person to another for no consideration.
- (e) It is unlawful to transfer or dispense not more than one (1) ounce of marijuana to another person for consideration except as provided in Article XVIII, Section 14 or Section 16 of the Colorado Constitution or pursuant to a lawfully issued and valid state and local marijuana permit or license in accordance with applicable state and local laws.
- (f) It is unlawful to possess, grow, process or transport more than six (6) marijuana plants, with three (3) or few being mature, flowering plants, except as provided in Article XVIII, Section 14 or Section 16 of the Colorado Constitution or pursuant to a lawfully issued and valid state and local marijuana permit or license in accordance with applicable state and local laws.
- (g) The provisions of this Section shall not apply to any person who possesses or uses marijuana or marijuana concentrate pursuant to the Dangerous Drugs Therapeutic Research Act.

**Section 9.** Chapter 10, Article IX, Section 10-9-90(a) of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

**Sec. 10-9-90. - Discharge of weapons.**

- (a) Except in accordance with section 7-7-10 of this Code in regard to permitted hunting, it is unlawful for any person, except a law enforcement officer in the performance of his or her duties, to fire or discharge within the Town a revolver or pistol of any description, shotgun or rifle, or any air gun, gas-operated gun, spring gun, sling shot or bow and arrow.

**Section 10.** Chapter 13, Article II, Section 13-2-1080 of the Milliken Municipal Code is hereby repealed.

**Section 11.** Chapter 13, Article V, Section 13-5-50(1) of the Milliken Municipal Code, which is located under the heading “Criminal Penalties,” is hereby revised to read in its entirety as follows:

(1) A user who discharges any pollutant into the Town's Publicly Owned Treatment Works (POTW) commits criminal pollutions if such discharge violates any provision of the code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, and the discharge is made with criminal negligence, recklessly, knowingly, or intentionally, in which case the user shall, upon conviction, be guilty of a misdemeanor, punishable in accordance with the General Penalty provisions of Chapter 1, Article 4 per violation, per day.

**Section 12.** Chapter 13, Article V, Section 13-5-50(2) of the Milliken Municipal Code, which is located under the heading “Criminal Penalties,” is hereby revised to read in its entirety as follows:

(2) It shall be unlawful for a user to knowingly make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to the code, wastewater discharge permit, or order issued hereunder, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under the code. Such user shall, upon conviction, be punished in accordance with the General Penalty provisions of Chapter 1, Article 4.

**Section 13.** Chapter 16, Article IX, Section 16-9-95(b) of the Milliken Municipal Code is hereby repealed.

**Section 14.** Chapter 18, Article II, Section 18-2-50 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 18-2-50. - Violation, penalty.

It is unlawful for any person to violate any of the provisions stated or adopted in this Article. Every person convicted of a violation of any provision stated or adopted in this Article shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code.

**Section 15.** Chapter 18, Article III, Section 18-3-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 18-3-40. - Violations and penalties.

It is unlawful for any person to violate any of the provisions stated or adopted in this Article. Every person convicted of a violation of any provision stated or adopted in this Article shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code.

**Section 16.** Chapter 18, Article IV, Section 18-4-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 18-4-40. - Violation, penalty.

It is unlawful for any person to violate any of the provisions stated or adopted in this Article. Every person convicted of a violation of any provision stated or adopted in this Article shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code.

**Section 17.** Chapter 18, Article V, Section 18-5-40 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 18-5-40. - Violation, penalty.

It is unlawful for any person to violate any of the provisions stated or adopted in this Article. Every person convicted of a violation of any provision stated or adopted in this Article shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code.

**Section 18.** Chapter 18, Article VI, Section 18-6-50 of the Milliken Municipal Code is hereby revised to read in its entirety as follows:

Sec. 18-6-50. - Violation, penalty.

It is unlawful for any person to violate any of the provisions stated or adopted in this Article. Every person convicted of a violation of any provision stated or adopted in this Article shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**Section 19.** Chapter 18, Article VII, Section 18-7-30(1) of the Milliken Municipal Code, which amends section 203 of the Uniform Code for the Abatement of Dangerous Buildings as adopted by the Town of Milliken, is hereby revised to read in its entirety as follows:

(1) Section 203 to read as follows:

"203 - VIOLATIONS. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code.

"Upon conviction thereof, the person, firm or corporation shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code. Each separate day or portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as herein provided."

**Section 20.** Chapter 18, Article VIII, Section 18-8-30 of the Milliken Municipal Code, which amends section 203 of the Uniform Housing Code as adopted by the Town of Milliken, is hereby revised to read in its entirety as follows:

Sec. 18-8-30. - Amendments.

The code adopted herein is hereby modified by the following amendments: Section 204 of Chapter 2, entitled Violations, shall be amended to read as follows:

"203 - VIOLATIONS. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

"Upon conviction thereof, the person, firm or corporation shall be punished in accordance with the General Penalty provisions of Chapter 1, Article 4, of the Milliken Municipal Code, with each day a violation continues to constitute a separate offense."

**Section 21.** Effective Date. Unless otherwise specified herein, this ordinance shall take effect thirty days after publication as provided by law.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 10 DAY OF March, 2021.

TOWN OF MILLIKEN

  
By: Elizabeth Austin, Mayor

ATTEST:

  
Caree Rinebarger, Town Clerk

APPROVED AS TO FORM:

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Matthew T. Gould, Town Attorney