

ORDINANCE NO. 733

AN ORDINANCE OF THE TOWN OF MILLIKEN AMENDING SECTION 16-1-150 “DEFINITIONS” AND ADDING SECTION 16-3-550 “TEMPORARY USES” TO CHAPTER 16 OF THE MILLIKEN MUNICIPAL CODE TO ALLOW FOR ADMINISTRATIVE APPROVAL OF TEMPORARY USES

WHEREAS, the Town of Milliken is a municipal corporation authorized under Article 23, Title 31 of the Colorado Revised Statutes to regulate the development of land within the Town for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

WHEREAS, the Board of Trustees of the Town has the power to adopt and amend zoning regulations pursuant to Section 31-23-301, *et seq.*, C.R.S., and the general ordinance powers conferred by Section 31-15-103, C.R.S.; and

WHEREAS, the Town has adopted zoning regulations codified in Chapter 16 of the Municipal Code that, in relevant part, establish requirements for zoning and allowed uses; and

WHEREAS, the Planning Commission has initiated a text amendment to Chapter 16 to allow for administrative approval of temporary uses; and

WHEREAS, the Planning Commission has considered the text amendment at a duly noticed public hearing on October 5, 2016 and has recommended approval of same to the Board of Trustees; and

WHEREAS, the Town Board of Trustees considered the proposed zoning changes as set forth in this Ordinance at a duly noticed public hearing on October 12, 2016.

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

Section 1: Section 16-1-150, titled Definitions, of the Milliken Municipal Code is hereby amended to change the definition of “temporary use” and “recreational vehicle” and to add definitions for “Carport”, “Mobile or Temporary Carport”, “Temporary Use Permit” and “Tent”, to read in full as follows:

Carport means is a covered structure used to offer limited protection to vehicles, primarily cars, and other personal items from the elements. The structure can either be free standing or attached to a wall. Unlike most structures a carport does not have four walls.

Mobile or Temporary Carport has the same purpose as a carport but may be removed/relocated and is typically framed with tubular steel and may have canvas or vinyl type covering which encloses the complete frame including all four walls and may have an accessible front entry or open entryway not typically attached to any structure and/or fastened in place by permanent means

held in place by stakes and is differentiated from a tent by its main purpose to house vehicles, motorized equipment and personal large belongings rather than to shelter persons.

Recreational Vehicle means a vehicle which is:

- a. built on a single chassis;
- b. designed to be self-propelled or permanently towable by a light duty truck; and
- c. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or temporary use.

Temporary Use means a use or an activity that is temporary in nature with a specific function, location, specific dates and hours of operation, and termination date and does not involve the construction or alternation of any permanent structure.

Temporary Use Permit means an administratively approved permit authorizing a temporary use.

Tent means a collapsible shelter for protecting people consisting of fabric (as nylon or canvas) draped over, stretched, attached to a frame of poles or attached to a supporting rope. While smaller tents may be free-standing or attached to the ground, large tents are usually anchored using guy ropes tied to stakes, tent pegs and/or trees.

Section 2: Chapter 16 of the Milliken Municipal Code is hereby amended to add a new Section 16-3-550, titled “Temporary Uses”, to read in full as follows:

Sec.16-3-550 – Temporary Uses

- (a) Intent. The intent of this section is to allow for the administrative approval of temporary uses that will not be detrimental to the health, safety, or general welfare of persons residing or working within the vicinity of the proposed use.
- (b) General provisions. Temporary uses are uses or activities that are temporary in nature with a specific function, location, specific dates, hours of operation, end date and do not involve the construction or alternation of any permanent structure. Examples of temporary uses include weddings, concerts, festivals, celebrations, special events, sidewalk sales, arts and crafts fairs, farmers’ markets, firewood sales, Christmas tree sales, food trucks, food carts, special sporting events and races, and temporary dwelling quarters.
- (c) Permit Required. No temporary use shall be operated in the Town without a temporary permit. Permits shall be issued administratively by the Town Clerk authorizing a temporary use. Permit authorizes a temporary use for a maximum of ninety (90) days within a six (6) month period. Notwithstanding anything in this Chapter to the contrary, if the temporary use is to allow temporary occupancy of a recreational vehicle (RV) during the active construction of a residential dwelling as evidenced by a valid building permit, or for a temporary caretaker/foreman’s/sales building associated with a new commercial project, the durational limit is a maximum of one hundred eighty (180) days. Upon a permit holder’s written request, the Town Manager is authorized to renew a permit that has not expired for up to two additional ninety (90) day periods not to exceed an additional six-month period. In no event shall a temporary use permit be valid for a period in excess of three hundred sixty-five (365) days.

- (d) Application. At least thirty days prior to the commencement of the temporary use, an application shall be submitted to the Town Clerk for a temporary use permit containing the following information, unless waived by the Town Clerk as inapplicable:
- (1) A signed lease, contract, or other legal document with the property owner allowing the vendor, entity, or person(s) requesting a temporary use permit to use their property for a temporary use. If another person other than the applicant or corporation is managing or supervising the applicant's business during the proposed period of operation then their name, address and telephone number shall be provided and, if a corporation, the state under which it is incorporated;
 - (2) Description of the type of temporary use desired, including the particular type of service, goods, wares or merchandise to be sold or vended with the following type of information, as applicable:
 - a. The days and proposed period of operation;
 - b. The proposed hours and days of operation;
 - c. The location for which the application is made with the property owner's signed approval to conduct the temporary use;
 - d. A Milliken business registration and evidence of payment of local and state sales taxes;
 - e. Approval from Larimer or Weld County Health Department for vendors with food or other merchandise that needs to be inspected and/or other goods that must be inspected or approval obtained from other regional, state or federal entities;
 - f. Proof of general liability, property and/or worker's compensation insurance (if deemed appropriate by the Town Attorney to the type of event);
 - g. A description of how the proposed use will not adversely impact residential properties within 300 feet with noise, fumes, waste, debris, storm water, light, unsightly signage or structures, and other nuisances.
 - h. A description of the services and goods that will be vended with hours of operation; documented approval from the property owner and other local, county, state, and federal agencies, and insurance and indemnity provisions sufficient to protect the Town from liability claims as approved by the Town Attorney.
 - i. A clean-up and damage deposit to cover any damage or required clean-up to Town property or right-of-way as set forth in the Town's fee and fine schedule; and
 - j. A signed consent and acknowledgement that background checks may be conducted for all vendors and event personnel.
 - (3) Site plan layout for the temporary use location, including but not limited to:
 - a. The placement of any temporary structure(s) or mobile vehicle truck;
 - b. Traffic ingress and egress, passable area for emergency personnel and ADA accommodations;
 - c. Parking locations and setback from residential properties;
 - d. Identification of residential properties within 300 feet of proposed use;
 - e. Tables or chairs, tents, trash receptacles, portable bathrooms/sanitary stations, garbage cans, etc.;

- f. Lighting, noise or music, fumes, traffic, and waste that may be generated with hours of duration;
 - g. Crowd control or medical personnel if required by Town;
 - h. The layout of electrical cables, speakers, stage(s), booths, and other electricity being used; and
 - i. Proposed signage in conformance with this Chapter.
- (4) Approval. Upon receipt of a complete application, the Town Clerk shall schedule a meeting with the applicant and any affected agencies, if appropriate based on the nature of the proposed temporary use. Within thirty (30) days of receipt of a complete application, and following the meeting with the applicant, the Town Clerk shall either approve or deny a temporary use permit application. A temporary use permit shall be approved and issued administratively with or without conditions only if the Town Clerk determines that the following have been satisfied:
- a. A temporary use permit application was timely filed with the Town Clerk.
 - b. A meeting occurred between the applicant, the Town Clerk and appropriate Town staff to review the application.
 - c. And the following criteria are satisfied:
 - (1) Compliance with the adopted regulations, policies, and all the provisions of the Town's Municipal Code;
 - (2) That the proposed use will not adversely impact properties within 300 feet with noise, fumes, waste, debris, storm water, light, unsightly signage or structures, and other nuisances.
 - (3) Written approval from the property owner and other local, county, state, and federal agencies, and insurance and indemnity provisions sufficient to protect the Town from liability claims; and
 - (4) A site plan that meets all of the requirements in Section 16-3-550(d)(3).
- (5) Conditions of Approval. Conditions of approval may be imposed if deemed necessary to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets or other Town property. These may include, but are not limited to: modification or restrictions on hours of operation, posting of a clean-up or damage deposit; arrangements satisfactory to the Town for the provision of special or extraordinary services or equipment, such as traffic control or medical personnel.
- (e) Enforcement.
- (1) Violations under this Section, including a failure to comply with any conditions of the temporary use permit, shall be enforced in accordance with Article VI "Enforcement" of this Chapter 16. Nothing herein shall preclude the Town from taking any other enforcement action authorized under law.

Section 3: Codification. The Town Clerk is hereby directed to work with the Town's Municipal Code codifier to ensure that the provisions of this Ordinance are included in the next codification of the Milliken Municipal Code.

Section 4: Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the

remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 5: Repeal. Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this 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.

Section 6: Effective Date. This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.

Introduced, read, adopted, signed and ordered published in full by the Board of Trustees of the Town of Milliken this ____ day of _____, 2016.

TOWN OF MILLIKEN

Beau Woodcock, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Linda Michow, Town Attorney

Published: _____