TOWN OF MILLIKEN
BOARD OF TRUSTEES

AGENDA MEMORANDUM

To: Mayor Woodcock and Board Trustees From: Martha Perkins, Community Development Director Via: Kent Brown, Town Administrator			Public Hearing Date: October 12, 2016
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: Public Hearing and consideration of Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses.			
Attachments: Ordinance 733			
Staff Recommendation: Staff recommends approval of Ordinance 733			

PURPOSE

To consider and approve Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses.

BACKGROUND INFORMATION

Type of Application:	Text Amendment
Location:	Milliken Colorado in Weld County
Applicant:	Town Of Milliken
Comprehensive Plan	Supports the Envision Milliken Comprehensive Plan's Guiding Principles
Notice	The public hearing before the Planning Commission and Town Board was noticed/published in the *Johnstown Breeze* on September 8, 2016. The Planning & Zoning Commission discussed the need for the Land Use Code to allow for temporary uses at a Work Session on July 20, 2016 too. The Planning & Zoning Commission recommended approval of Ordinance 733 to the Town Board at their meeting on October 5, 2016.

COMPLIANCE WITH TOWN LAND USE CODE

The Land Use Code has no provisions for a temporary use permit. The Planning Commission discussed the type of uses that they consider temporary in nature at their work session on July 20, 2016, which resulted in the proposed Ordinance 733.

REVIEW CRITERIA

This staff report is prepared using the Land Use Code's four criteria for amendments to the Zoning Code (Section 16-3-540), any one of which may be found to justify the text amendment proposed in Ordinance No. 733. The Code states that for the purpose of establishing and maintaining sound, stable and desirable development within the Town the text of the Land Use Code should not be amended except:

(1) To correct a manifest error in the text of this Article;

The current code does not allow for temporary uses. Apparently, in the past temporary uses have been allowed on private and public property by the Town Administrator. This summer, staff entertained requests to allow for a temporary food cart, a fruit stand, the ability to live in a RV or camper while building their house, etc. Staff believes it is important to allow such uses on a limited term basis within the code, since a need for such uses exist within the community now and will continue in the future.

The current code includes several sections that relate to this proposed ordinance allowing for temporary uses. Section 6-1-150 "Exempt Activities" allows businesses and individuals to operate on a temporary basis as long as the activity is not conducted more than two days per calendar month or is conducted in conjunction with a public event, public parade, craft show or concert.

Section 16-3-210 "General Application of Uses" allows the Town Board to determine if a use may be allowed. The Board will determine if such unspecified use shall be considered a use by right, accessory use or use by special review within any particular zone district. Unless the Board makes such a determination, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk. The Board of Trustees shall consider the request at a regularly scheduled meeting. This section focuses on permanent uses, not temporary ones.

Section 10-12-80 "Tents and Tent-like Structures" limits a property owner to allow a tent or tent-like structure to remain on his or her property for no more than one month.

Section 16-10-190 "Permanent Occupancy Prohibited" does not allow any recreational vehicle to be used a permanent place of abode, dwelling or business or for indefinite periods of time. Permanent occupancy is considered over 3 months in any twelve-month period.

While the Code allows for certain temporary uses, it does not identify a process by which to allow such uses. Thus, the proposed text allows for administrative approval of temporary uses with a specific function, location, specific dates, hours of operation, and end date provided the temporary use does not involve the construction or alternation of any permanent structure. It allows the temporary use for a maximum of ninety days within a six-month period with two additional ninety day renewals for a use that cannot exceed a cumulative period of 365 days. The code change must ensure the use remains temporary, not permanent.

(2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff;

The Town Board and the Planning Commission wish to amend the Municipal Code to allow for uses that are temporary in nature to accommodate the changing needs of the community. Businesses and residents have been requesting administrative approval of temporary uses like fruit stands, food carts, special events, entertainment, and other venues for a limited time period on land with the property owner's permission. These requests can provide the community with community oriented events, entertainment, gathering places, additional food and other goods and services locally, which build on Milliken's strengths and traditions being a small family-oriented town.

(3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Article; or

With the adoption of a 2016 Comprehensive Plan and with so many people moving here, the community expects the same level and variety of services they had previously where ever they lived. The proposed text amendment will allow for temporary uses which could include entertainment, special events, food carts, farmer markets, fruit stands, temporary housing while building a new custom house, and other uses for a limited time that were not contemplated at the adoption of the code.

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

The 2016 Envision Milliken Comprehensive Plan's promotes the idea that existing and future residents should be able to live, work, and recreate here. Residents should have access to a range of housing opportunities, complemented with commercial and employment opportunities. The Town wants to remain a small community, but not as a bedroom community. The Comprehensive Plan's vision focuses on building a family-oriented, small town community with access to multiple services and amenities.

The Comprehensive Plan's vision "is founded on the premise that the vitality and future growth of the Town and the quality of life of its residents are dependent upon the balancing of multiple contributing factors" that are embodied in eight guiding principles. The guiding principles build on Milliken's strengths and traditions focusing on the outcomes that the community wants to strive for within the next ten to twenty years. The guiding principles include: a strong, diversified economic base; a vibrant downtown that functions as the heart of the community; a complete and highly accessible system of parks, open space, trails and recreational opportunities; a district community identity that reflects Milliken's cultural, archaeological, historic, and agricultural resources; a fiscally sustainable pattern of development; and a diverse mix of housing types to meet the needs of residents of all ages, incomes, and abilities; a safe and disaster resilient community; and a well-connected community.

Temporary uses may be the stepping stones for exploring whether or not an idea or permanent use works to facilitate one or more of the goals under several areas encompassed under a guiding principal. For example, a temporary use could provide for regular summer entertainment and activities in downtown and/or in the public open space with food carts, farmer's produce, goods, and music allowing entrepreneurs to test the market while at the same time expanding and

diversifying the Town's mix of businesses and services. Activities downtown foster vibrancy and a perception that downtown is the heart of the community, which strengthens Milliken's small town family-oriented cohesiveness. The goods that are sold or the events that occur can support the town's identity which is rich in culture and agricultural history. The Beef 'N Bean Day is one of these special events.

Temporary uses can even play a role in meeting the Comprehensive Plan's guiding principles in other ways that are not immediately obvious. For example, temporary use permits for temporary housing while building a custom house or after a natural disaster necessary implement additional Comprehensive Plan guiding principles for creating a safe and disaster resilient community and diversifying the mix of housing. For example, after the 2013 flood, people were unable to take advantage of temporary housing within Milliken and had to leave to live elsewhere or stay with friends because this code provision did not exist.

In summary, there is a need to allow for temporary uses administratively. The proposed Ordinance No. 733 provides flexibility in the temporary uses allowed, which staff believes is necessary to accommodate the changing needs of the community.

FINDINGS OF FACT

1. The Board of Trustees of the Town of Milliken has the power to adopt 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.
2. The proposed text amendment presented in Ordinance No. 733 meets all of the criteria set forth in Section 16-3-540(e)(1)(4) of the Land Use Code as set forth in this staff report dated October 12, 2016. The current Code has no provisions for allowing for temporary uses. It specifies a limited number of temporary uses for limited periods of time and does not address other temporary uses that seem to keep being requested by the community, like the ability to allow for a food cart by a local resident this summer and the ability to allow for temporary housing after the 2013 flood.

STAFF RECOMMENDATION

Staff recommends that the Town Board of Trustees approve Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses."

PLANNING & ZONING COMMISSION RECOMMENDATION

The Planning & Zoning Commission recommended at a public hearing on October 5, 2016 that the Town Board of Trustees approve the proposed text in Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses."

TOWN BOARD OF TRUSTEES' ALTERNATIVE MOTIONS TO APPROVE, DENY, APPROVE WITH CHANGES OR CONTINUE ORDINANCE NO. 733

_____The Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application MEETS the criteria of approval set forth in Section 16-3-540(e)(1)-(4) of the Town of Milliken's Land Use Development Code (LUDC) and APPROVES Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses."

or:

_____The Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES NOT MEET any of the criterion set forth in Section 16-3-540(e)(1)-(4) of the Town of Milliken's Land Use Development Code (LUDC) and DENIES Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses."

or:

_____The Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application MEETS the provisions of Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) and APPROVES Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses" with the following changes:

1.
2.
3.

or:

_____The Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact CONTINUES the Public Hearing on Ordinance 733 Amending Section 16-1-150 "Definitions" and Adding Section 16-3-550 "Temporary Uses" to Chapter 16 the "Land Use Code" of the Milliken Municipal Code to Allow for the Administrative Approval of Temporary Uses" to _____, 2016 at 7:00 p.m. to facilitate additional public input and discussion with a revision in the proposed text.

Town of Milliken Code Sections
for reference

CHAPTER 10 – GENERAL OFFENSES

Sec. 10-12-80. - Tents and tent-like structures.
It shall be unlawful for the owner of any real property within the Town to allow a tent or tent-like structure to remain on his or her property for more than one (1) month.

CHAPTER 16 – LAND USE CODE

Sec. 16-1-50. Purpose.
The purpose of this Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Milliken's character and further the citizens' goals as identified in the Comprehensive Plan. This Code is designed to:

(1) Encourage the most appropriate use of land through the Town;
(2) Encourage innovative, quality site design, architecture and landscaping;
(3) Encourage new developments to relate to Milliken's historic development pattern;
(4) Promote compact, well-defined, sustainable neighborhoods that enhance Milliken's character;
(5) Create livable neighborhoods that foster a sense of community and reduce dependency on private vehicles;
(6) Encourage the proper arrangement of streets in relation to existing and planned streets and ensure that streets facilitate safe, efficient and pleasant walking, biking and driving;
(7) Provide a variety of lot sizes and housing types in every neighborhood;
(8) Protect sensitive natural and historic areas and Milliken's environmental quality;
(9) Integrate a high-quality natural environment into the developed portions of the community;
(10) Facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks and other public requirements;
(11) Provide protection from geologic, flood and fire hazards and other dangers; and
(12) Promote the health, safety, morals and general welfare of Milliken residents. (Ord. 480 §1.5, 2003)

Sec. 16-1-60. Interpretation.
In their interpretation and application, the provisions of this Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern. (Ord. 480 §1.6, 2003)

Sec. 16-1-70. Applicability of Article.
(a) The provisions of this Code shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.

(b) Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

(c) Whenever both the provisions of this Code and provisions of any other law cover the same subject matter, whichever rule is more restrictive shall govern. This Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Comprehensive Plan and with adopted regulations, policies and other guidelines.(Ord. 480 §1.7, 2003)

Sec. 16-1-80. Relationship to existing ordinances.

All ordinances, resolutions or motions of the Board of Trustees or parts thereof in conflict with this Code are to the extent of such conflict hereby superceded and repealed, provided that no such repealer shall repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby. The adoption of this Code shall not adversely affect the Town's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect. (Ord. 480 §1.8, 2003)

Sec. 16-1-90. Relationship to Comprehensive Plan.

It is the intention of the Town that this Code implement the planning policies adopted in the Comprehensive Plan ("Comprehensive Plan") for the Town and its extraterritorial planning area. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

(1) Requirement for Comprehensive Plan Amendment. Where a development proposal would be in substantial conflict with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in changes from the designations of the Land Use Plan Map, Transportation Plan Map or Parks and Open Space Map in the Comprehensive Plan.

(2) Criteria for Evaluating Amendment Proposals. Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan. (Ord. 480 §1.9, 2003)

Sec. 16-1-150. Definitions.
Terms used in this Code are defined as follows:

Accessory building or *accessory structure* means a subordinate building or structure, the use of which is customarily incidental to that of the main building/structure or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building, structure or use. *Accessory buildings* or *accessory structures* are only permitted when they are incidental or accessory to an existing and permitted principal or conditional use.

Accessory dwelling means an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings.

Accessory use means a subordinate use, clearly incidental and related to the main structure, building or use of land, and located on the same lot (or on a contiguous lot in the same ownership) as that of the main structure, building or use.

Employees means the total number of persons to be employed in a building during normal periods of use.

Family means an individual living alone, or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

a. Any number of persons related by blood, marriage or adoption; or
b. Any unrelated group of persons consisting of:
    1. Not more than three (3) persons; or
    2. Not more than two (2) unrelated adults and their children, if any.

For purposes of this definition, a bona fide employee of the family who resides in the dwelling unit and whose live-in status is required by the nature of his or her employment shall be deemed a member of the family, but this exception shall allow only one (1) employee per dwelling unit.

Home occupation means a business use of the house that is conducted inside the premises of the house or garage, does not change the basic residential character of the neighborhood and is subordinate to the residential use of the dwelling unit.

Mixed use means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mixed use building means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses, including but not limited to office, retail, public uses, personal service or entertainment uses.

Mixed use dwelling unit means the dwelling unit in a mixed use building. For purposes of calculating residential density, each dwelling unit shall count as one-half (½) dwelling unit.

Owner means the person or entity that owns the property under consideration.

Principal use means the main use of land or of a structure as distinguished from a subordinate or accessory use.

Town of Milliken Comprehensive Plan means the plan which was adopted by the Planning Commission and Board of Trustees in accordance with Section 31-23-206, C.R.S., to guide the future growth, protection and development of the Town of Milliken, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare of its population.

Use means the type of activity for which land or a building is designated, arranged or intended and also means the activity which in fact regularly takes place upon the land.

Sec. 16-3-20. Purpose.

The purpose of this Zoning Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Milliken's small-town character and further the citizens' goals as identified in the Comprehensive Plan. These zoning regulations are designed:

(1) To promote the health, safety, aesthetics, morals and general welfare of the community;
(2) To lessen congestion in the streets and enhance pedestrian and vehicular movement with the least detriment to environmental quality;
(3) To secure the safety of the people against fire, panic, flood waters and other dangers;
(4) To provide adequate light and air, to prevent the overcrowding of land and to avoid the undue concentration of population;
(5) To regulate the location of activities and developments which could produce significant changes in population density;
(6) To classify land use and distribute land development and utilize in a way which will benefit the community; to regulate development and activities in hazardous areas; and to regulate the use of land on the basis of the impact thereof on the community and other surrounding areas;
(7) To provide, in conjunction with other laws and regulations, for transportation, water, schools, sewage treatment and other public requirements;
(8) To preserve mineral lands for needed development;
(9) To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the Comprehensive Plan;
(10) To encourage innovations in land uses in order to take advantage of improvements in the technology of land use and development;
(11) To encourage and facilitate the orderly growth and expansion of the Town, while at the same time protecting the environment in a manner consistent with constitutional rights;
(12) To construct new domestic water and sewer systems in areas which result in minimal environmental damage;
(13) To permit extension of domestic water and sewage systems in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the environmental and financial capacity of the area;
(14) To encourage traditional neighborhood residential mixed and multiple-use developments, so the growing demand for housing may be met;
(15) To protect the environmental and cultural heritage of the community; and
(16) To ensure quality development that will present and enhance the quality of life for residents of the Town. (Ord. 480 §3.2, 2003)

Sec. 6-1-150. - Exempt activities.

(a) The provisions of this Article shall not require payment of a fee for registration to conduct, manage or carry on any activity of a nonprofit organization which would qualify as a business if conducted by other than a nonprofit person or entity. No registration fee shall be

required for the conducting of any entertainment, dance, concert, exhibition or lecture by a nonprofit organization.

(b) No registration shall be required of any person for any mere delivery in the Town where no intent by such person is shown to exist to evade the provisions of this Article.

(c) No registration shall be required for an individual or incidental transaction which in itself does not constitute the carrying on of business.

(d) It shall be unlawful to conduct any business from any location in the Town from a site other than a permanent structure located on real property within the Town. Businesses and individuals which operate on a temporary basis, such as yard sales, which are conducted not more than two (2) days per calendar month or are conducted in conjunction with a public event, such as Milliken Beef and Bean Day, a public parade, craft show or concert, are exempt. Whenever food is being served, there must be a restroom and hand-washing facility provided by or available to the persons or entities selling the food.

(Ord. 282 §16, 1991; Ord. 496 §1, 2004)

Sec. 16-3-210. - General application of uses.

(a) Uses designated as *uses by right* are allowed in a zone district as a matter of right. Uses classified as *uses by special review* are permitted upon the Board of Trustees' approval of a special use permit, pursuant to the procedures and standards set forth in Section 16-3-500 of this Article. Unless a use is designated as a *use by right* or *use by special review* or is classified as a legal nonconforming building, structure or use, it is not permitted.

(b) If this Article does not identify a land use as a use by right or an accessory use in a particular zoning district, or if the use is not identified as a use by special review, the use is prohibited in that district. If a particular land use is not permitted in a zoning district, a building that is designed for that land use also is prohibited. For example, if the sale of merchandise at retail is prohibited in a particular zoning district that does permit residential uses, a store building would be prohibited in that district, even though used as a residence. Similarly, if a land use is described by reference to a type of building, the only land uses intended to be covered by the description are those for which the building is designed.

(c) If a land use could be classified under two (2) or more land use descriptions, the land use shall be classified according to that description which most specifically describes it.

(d) The administrative official shall make the initial determination as to the land use descriptions contained in this Article that best identify an actual land use or proposed land use.

(e) Unspecified Uses. Notwithstanding the foregoing, land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. The Board will determine if such unspecified use shall be considered a use by right, accessory use or use by special review within any particular zone district. Unless such determination is made, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk. The Board of Trustees shall consider the request at a regularly scheduled meeting.

(Ord. 480 §3.4, 2003)

Sec. 16-3-540. Amendments.

(a) *Initiation of Amendments to Text* or Official Zoning Map. The Board of Trustees may from time to time amend, supplement, change or repeal the regulations and provisions of this Article. Amendments to the text of this Code may be initiated by the Board of Trustees, Town Staff or Planning Commission, or by written application of any property owner or

resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff or the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.

(b) General Rezoning of the Town. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

(c) Zoning Amendment Application Process.

(1) Step 1: Optional Preapplication Conference. The applicant may attend a preapplication conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.

(2) Step 2: Zoning Amendment Application Submittal. The applicant shall submit one (1) copy of the complete zoning amendment application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Note: In the case of text amendments, only Items a and b are required.

a. Completed Land Use Application Form, Zoning Amendment – Technical Criteria Form (see Workbook), application fee and fee agreement.

b. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.

c. Legal Notice Form. The applicant shall prepare the legal notice form and return it to the Town with an electronic copy of the legal description in MSWord format.

d. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.

e. A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rational of the proposed change. Particular attention should be given to addressing the criteria listed in Subsection (d) below.

f. A legal description for all property to be considered for rezoning.

g. Current proof of ownership in the form of title insurance issued with thirty (30) days of submission of the application (for zoning map amendments only).

h. A zoning amendment map of the area included in the proposed change, twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:

1. North arrow, scale 1" = 100' or 1" = 200', and date of preparation.
2. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.

3. Legal description of the area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
4. Location and boundaries, including dimensions, of the property proposed for rezoning. Note: Zone boundaries are to be the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended.
5. The acreage or square footage contained within the property proposed for rezoning.
6. All existing land uses in the proposed rezoning area.
7. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
8. The location and dimensions for all existing public rights-of-way, including streets, and centerlines of watercourses within and adjacent to the rezoning.
9. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
10. Certificate blocks for the Surveyor, Planning Commission, Board of Trustees, and County Clerk and Recorder (see Workbook for examples).
11. An AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk or by other acceptable electronic transfer shall also be provided.

i. A written statement describing the proposal and addressing the following points:
   1. Need for the proposed rezoning.
   2. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
   3. Impact of the proposed zone on area accesses and traffic patterns.
   4. Availability of utilities for any potential development.
   5. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit.
   6. The relationship between the proposal and the Comprehensive Plan.
   7. Public benefits arising from the proposal.

j. Surrounding and Interested Property Ownership Report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred (300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

k. Public Hearing Notification Envelopes. Two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

l. It is the applicant's responsibility to ensure that accurate and complete information is provided.

(3) Step 3: Zoning Amendment Application Certification of Completion. Within a reasonable period of time, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Zoning Amendment Technical Criteria

form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.

(4) Step 4: Final Staff Review and Report to Planning Commission. Staff shall complete a final review of the resubmitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the Criteria for Amendments to the Official Zoning Map or Criteria for Amendments to the Text of the Zoning Code.

(5) Step 5: Set Zoning Amendment Public Hearing and Complete Public Notification Process. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies no less than twenty-one (21) days before the initial Planning Commission public hearing. Such notice shall not be required for text amendments. The Town Clerk shall also publish notice in a newspaper of general circulation. For zoning map amendments, the Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. The applicant shall furnish to the Town an affidavit of posting on a form provided by the Town Clerk. The hearing may be held no less than thirty (30) days from the date of property posting and newspaper publication. If the zoning amendment request is accompanying another application that is scheduled for public hearings before the Planning Commission and Board of Trustees, one (1) public hearing may be held on both applications.

(6) Step 6: Planning Commission Public Meeting and Action on the Zoning Amendment. The Planning Commission shall hold a public hearing to review the zoning amendment based on the Criteria for Amendments to the Official Zoning Map or the Criteria for Text Amendments to the Zoning Code. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the zoning amendment application.

(7) Step 7: Finalize Zoning Amendment Based on Planning Commission Comments. The applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Town.

(8) Step 8: Notify Parties of Interest. Not less than twenty-one (21) days before the date scheduled for the initial Board of Trustees public hearing, Staff shall notify surrounding property owners within three hundred (300) feet, mineral interest owners of record, mineral and oil and gas lessees for the property and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.

(9) Step 9: Set Board of Trustees Public Hearing and Complete Public Notification Process. The Board of Trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in a newspaper of general circulation. The hearing may be held no less than thirty (30) days from the date of advertising.

(10) Step 10: Board of Trustees Public Hearing and Action on the Zoning Amendment. The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed below and approve, approve with conditions or deny the application, in whole or in part. No petition for rezoning shall be granted where, within one (1) year

preceding the date of filing of such petition with the Town Clerk, a petition for the same changes of the zoning district on the property described in such petition has been denied.

(11) Step 11: Post Approval Actions.

a. Upon approval of an amendment to the official zoning map by the Board of Trustees, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.

b. *Upon approval of an ordinance amending, changing or repealing part of the text of this Article, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Article.*

c. The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Town Clerk two (2) Mylar copies and three (3) blueline copies of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. A licensed surveyor or engineer shall prepare the zoning amendment map. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one (1) eleven (11) inch by seventeen (17) inch Mylar reduction of the zoning amendment map and an AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk, or by other acceptable electronic transfer.

d. Within thirty (30) days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Board of Trustee's approval, obtain the Town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the County Clerk and Recorder's Office for recordation.

(d) Criteria for Amendments to Official Zoning Map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

(1) To correct a manifest error in an ordinance establishing the zoning for a specific property;

(2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;

(3) The land to be rezoned was zoned in error and as presently zoned in inconsistent with the policies and goals of the Comprehensive Plan;

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

(e) *Criteria for Text Amendments to the Zoning Code.* For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Chapter shall not be amended except:

(1) To correct a manifest error in the text of this Article;

(2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff;

(3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Article; or

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

(f) Map – Amendment upon Zoning Establishment or Modification. Upon enactment of any

ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map. (Ord. 480 §3.11, 2003; Ord. 522, 2005)

Sec. 16-10-190. - Permanent occupancy prohibited.

(a) No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond three (3) months in any twelve-month period shall be presumed to be permanent occupancy.

(b) Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes is hereby prohibited.

(Ord. 480 §10.19, 2003)

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 a definition for "Temporary Use Permit", to read in full as follows:

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.

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 workers 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:

_____
Cheryl Powell, Town Clerk

APPROVED AS TO FORM:

_____
Linda Michow, Town Attorney

Published: _____