



**TOWN OF MILLIKEN  
TOWN BOARD  
AGENDA MEMORANDUM**

<b>To:</b> Mayor Tokunaga and Board of Trustees <b>From:</b> Martha Perkins, Community Development Director <b>Via:</b> Kent Brown, Town Administrator		<b>Public Hearing Date:</b> February 10, 2016	
<b>Agenda Item #</b>	<b>Action:</b> x	<b>Discussion:</b>	<b>Information:</b>
<b>Agenda Title:</b> Continuation of a Public Hearing/Meeting for the Review and Possible Approval of Ordinance 723 "An Ordinance of the Town of Milliken Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Milliken Municipal Code Concerning Home Occupations".			
<b>Attachments:</b> Ordinance 723			

**PURPOSE**

To continue the public hearing to a time and date certain for Ordinance 723 "An Ordinance of the Town of Milliken Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Milliken Municipal Code Concerning Home Occupations". The Planning & Zoning Commission requested a continuation of the public hearing at their meeting on February 3, 2016 to February 17, 2016 at 7:00 p.m. to allow them more time to review the proposed text changes that staff wrote after obtaining input provided by the Town Board and the Commission in a joint work session on January 20, 2016.

**BACKGROUND INFORMATION**

<b>Type of Application:</b>	Text Amendment
<b>Location:</b>	Milliken Colorado in Weld County
<b>Applicant:</b>	Town Of Milliken
<b>Comprehensive Plan Notice</b>	Supports the Envision Milliken Comprehensive Plan  The public hearing was noticed/published in the <i>Johnstown Breeze</i> on November 26, 2015. Referrals were sent on December 1, 2015. The Planning Commission met on December 16, 2015 and recommended a joint work session with the Town Board on January 20, 2016 and continued the public hearing to 7:00 pm on February 3, 2016. The Town Board and Commission met on January 20, 2016 in a work session open to the public. On February 3, 2016, the Commission asked to continue the public hearing to February 10, 2016 at 7:00 pm to provide them additional time for review.

## **BACKGROUND**

On December 16, 2015, the Planning & Zoning Commission opened the public hearing on Ordinance 723 to review staff's code changes to the Land Use Code relating to home occupations. After opening the public hearing, the Commission requested a joint work session with the Town Board to find out how the Board envisions creating a balance between protecting and maintaining the character of residential neighborhoods with commercial activities in these residential neighborhoods. The Commission continued the public hearing to February 3, 2016.

After the joint work session with the Town Board and the Commission, staff revised Ordinance 723 to address the Board's and the Commission's comments during the joint work session. On February 3, 2016, this revised Ordinance was presented to the Commission. After some discussion, the Commission voted to continue the public hearing to February 17, 2016 at 7:00 pm to obtain additional time for review of the Ordinance. The Commission does not believe this code change can be taken lightly as it affects resident's livelihoods. The Commission is much more interested in home occupations obtaining business registrations than they are about enforcement as long as the home occupations do not affect their immediate neighbors and the general character of the neighborhood. The fear is that if the Town makes the code too rigorous then no one will register their business with the Town and/or may even leave Town.

## **BUDGET IMPLICATIONS**

Not applicable.

## **RECOMMENDATION**

Staff and the Planning and Zoning Commission recommend the continuation of the public hearing to approve Ordinance 723 "An Ordinance of the Town of Milliken Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Milliken Municipal Code Concerning Home Occupations" in Weld County Colorado.

## **TOWN BOARD SUGGESTED MOTION**

"I move to continue the public hearing to 7:00 pm on February 24, 2016 to consider the adoption of Ordinance 723 "An Ordinance of the Town of Milliken Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Milliken Municipal Code Concerning Home Occupations" in Weld County Colorado."

ORDINANCE NO. 723

**AN ORDINANCE OF THE TOWN OF MILLIKEN AMENDING SECTIONS 16-1-150 AND 16-3-620 OF CHAPTER 16 OF THE MILLIKEN MUNICIPAL CODE CONCERNING HOME OCCUPATIONS**

**WHEREAS**, 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.; and

**WHEREAS**, the Board of Trustees previously enacted regulations governing the operation of home occupations in residentially zoned areas of the Town as codified in Section 16-3-620 of the Municipal Code; and

**WHEREAS**, the Town Board desires to amend its home occupation standards to best strike a balance between the goal of protecting and maintaining the residential character of established neighborhoods and the need for some of its residents to engage in limited commercial activities in their homes to supplement incomes or establish new businesses; and

**WHEREAS**, the Planning Commission has reviewed proposed changes to the home occupation regulations and has recommended approval of the same to the Board of Trustees; and

**WHEREAS**, following a duly noticed public hearing, the Town Board of Trustees has considered the proposed home occupation regulations as set forth herein.

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

**Section 1:** Section 16-1-150, titled *Definitions*, of Chapter 16 of the Milliken Municipal Code is hereby amended to modify the definitions of *home occupation* and *home business* to read as follows:

*Home occupation* means a business, profession or service conducted and or/operated entirely inside the residential premises of a dwelling, enclosed garage or other permitted accessory structures as an incidental and secondary use to the

*Home business* means a home occupation that is subject to the use by special review process.

**Section 2:** Subsection (c) of Section 16-3-320, titled *R1 Single Family Residential*, is hereby amended to add a new subsection (c)(13) to read as follows:

(c) Uses by Special Review. Uses by special review in the R-1 District shall be as follows:  
(13) Home businesses.

**Section 3:** Section 16-3-620, titled *Home Occupations*, of Chapter 16 of the Milliken Municipal Code is hereby amended to read in full as follows:

Sec. 16-3-620. Home occupations.

- (a) Home occupations must meet the following standards:
- (1) The home occupation shall be carried on exclusively within the dwelling, an enclosed garage or other accessory building, or any combination of these, provided the use is allowed by right and incidental and secondary to primary residential use of the property.
  - (2) The home occupation use must be clearly incidental and secondary to the primary residential use of the lot.
  - (3) There shall be no exterior (outdoor) display or storage of materials, vehicles, trailers, or equipment used in the home occupation that is visible from a public street, alley, or public open space.
  - (4) The home occupation shall not exceed thirty (30) percent of the total square footage of the dwelling, enclosed garage and accessory structures combined on the property.
  - (5) All aspects of the home occupation operation shall not disrupt the residential character of the neighborhood. The home occupation shall not create noise, vibrations, smoke, dust, odor, heat or glare detectable beyond the boundaries of the lot on which the home occupation is located. No hazardous materials shall be stored or used in the operation of the home occupation and no pedestrian, automobile or truck traffic, or parking congestion significantly in excess of the normal amount found in a residential district shall be generated by the home occupation.
  - (5) The use shall not involve the use of signs or structures other than those permitted in the applicable zone district.
  - (6) Home occupations that do not meet the criteria set forth in Subsections (a)(1)-(5) above, or as set forth below, may be permitted as a home business subject to compliance with Section 16-3-620 (c):
    1. Agricultural service establishments, plant nursery and greenhouses; or
    2. Beauty or barber shops; or
    3. Commercial kitchens for catering, wholesale food preparation, and/or meal delivery; or
    4. Automotive/boat repair; or
    5. Automotive/boat body or paint shop; or
    6. Research and development; or
    7. Animal boarding; or
    8. Distillers (for oral and non-oral use); or
    9. Wineries, breweries, and tasting rooms.
- (b) Interpretations. Any question of whether a particular use is permitted as a home occupation by the provisions of this section shall be determined by the administrative official pursuant to his or her authority to interpret the provisions of this chapter.
- (c) Home businesses may be allowed to operate in a dwelling only if a use by special review has been obtained for a home business in accordance with Section 16-3-500.

**Section 4: 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 5: 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 6: 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 7: 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**

\_\_\_\_\_  
Milt Tokunaga, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Cheryl Powell, Town Clerk

\_\_\_\_\_  
Linda Michow, Town Attorney

Published: \_\_\_\_\_

