



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor and Town of Board of Trustees		Public Hearing Date:	
From: Martha Perkins, Community Development Director		March 9, 2016	
Via: Kent Brown, Town Administrator			
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: Ordinance 725 to amend Chapter 7 "Health, Sanitation and Animals" of the Municipal Code concerning beekeeping.			
Attachments: Existing Municipal Code Chapter 7 "Health, Sanitation and Animals Article V - Animal Control" Ordinance 725 "An Ordinance Amending Article V, Title Animal Control, Chapter 7 of the Milliken Municipal Code Concerning Beekeeping"			

PURPOSE

The Board requested that a code change be made to the Town of Milliken's Municipal Code to allow for beekeeping. Ordinance 725 amends Chapter 7 "Health, Sanitation and Animals" of the Municipal Code to allow for beekeeping in residential neighborhoods while protecting the community's enjoyment of their property and open space in these residential neighborhoods.

BACKGROUND INFORMATION

Because beekeeping is considered a land use related issue, Staff presented the Planning & Zoning Commission on March 2, 2016 with a draft of the Ordinance 725 for public comment. The public hearings were noticed and published in the *Johnstown Breeze*, on February 11, 2015, for public hearings before the Planning Commission on March 2, 2016 and the Town Board on March 9, 2016.

After listening to public input on March 2, 2016, the Planning Commission recommends that the Board entertain one more public joint work session with a beekeeping expert to make sure that the ordinance addresses the public's concerns, is enforceable, and still encourages beekeeping.

BUDGET IMPLICATIONS

N/A

STAFF RECOMMENDATION

Staff recommends that the Town Board review Ordinance 725 and consider obtaining additional professional input before adopting the proposed ordinance. Staff lacks beekeeping expertise and has received quite a bit of public input on this.

Existing Code for Reference

CHAPTER 7 - Health, Sanitation and Animals

ARTICLE V - Animal Control

Sec. 7-5-10. - Definitions.

For the purpose of this Article, the following words shall have the following meanings, unless the context indicates otherwise.

Animal means any animal or fowl.

Bee means a honey-producing insect of the genus *Apis*, including all life stages of such insect.

Cat means any member of the feline species.

Dog means any member of the canine species.

Dog under control means a dog that is physically controlled by a person by means of a leash, cord or chain held by the person, or a dog that is at all times accompanied by a person and that at all times immediately responds to the sound or sight command of such person.

Fowl means a chicken, duck, goose, turkey, pigeon or bird except any canary, parakeet or similar bird kept solely as a pet.

Own means to own, co-own, control, feed, herd, maintain, board, train, breed, keep or harbor an animal, or to knowingly permit an animal to remain for seven (7) consecutive days on or about property or premises owned, controlled or occupied by an owner.

Owner means a person who owns an animal.

Pet means an animal that is tamed or domesticated and kept as a favorite and treated with affection, except any animal that is customarily larger than thirty (30) pounds or is classified as a carnivore. Pet shall not include any dog, cat or fowl.

Stray animal means an animal that is not accompanied by a person.

Vicious animal means an animal that bites or attacks without provocation, or that has bitten or attacked without provocation.

(Ord. 224 §1, 1987; Ord. 481 §1, 2003)

Sec. 7-5-20. - Rabies vaccination.

Every owner of a dog or cat six (6) months of age or older shall have such dog or cat vaccinated every three (3) years against rabies with a Colorado Department of Health-approved vaccine by a licensed veterinarian. No person shall own any such dog or cat that has not been vaccinated as required by this Section. Upon vaccination, the veterinarian shall provide the owner with a rabies tag showing the year and the series number of the tag, and with a certificate of vaccination, on a form satisfactory to the Town, containing the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;

- (2) The date of vaccination;
- (3) The type of vaccination used;
- (4) The date the next vaccination is required;
- (5) The year and series number of the rabies tag; and
- (6) The breed, age, color and sex of the vaccinated dog or cat.

(Ord. 224 §2, 1987; Ord. 481 §1, 2003)

Sec. 7-5-30. - Dog license required.

- (a) No person shall own any dog six (6) months of age or older without obtaining and keeping in force a valid license therefor in the manner provided in this Section.
- (b) Each application for a dog license shall be made to the Town Clerk upon a form provided for that purpose. At the time the completed application is submitted to the Town Clerk, the applicant shall submit the certificate of vaccination required by Section 7-5-20 above, and shall pay the required license fee. The Town Clerk shall then issue a numbered dog license and a metal tag bearing the same number as the dog license. The Town Clerk shall keep a record of the date of issuance of each license issued, the number of such license and the name and address of the applicant for such license. Such tag shall be securely attached to a collar, which collar shall be worn by the dog at all times. If a tag is lost or destroyed, a duplicate tag shall be issued upon payment of the required fee.
- (c) Such license shall be in effect for a period of one (1) year from the date of issuance. Within ten (10) days before the date of expiration of such license, the owner shall submit a current certificate of vaccination and shall pay the required license renewal fee. The Town Clerk shall then issue a renewal of such license.

(Ord. 224 §3, 1987)

Sec. 7-5-40. - Animal bites and quarantine.

- (a) A person having knowledge that an animal has bitten a person shall immediately report the incident to the Police Department or to the Town Clerk.
- (b) Any animal that has been reported to have bitten a person shall be quarantined and shall be observed for a period of ten (10) days from the date of the report. On demand by the Chief of Police, the owner of any animal that has been reported to have bitten any person shall produce the animal for quarantine and observation as prescribed in this Section. The procedure for and place of such quarantine and observation shall be designated by the Chief of Police. The owner shall quarantine the animal on the owner's premises, or in an animal shelter if so required by the Chief of Police. If the animal is required to be quarantined in any Town-designated animal shelter, the costs of such quarantine and any associated impound and boarding fees, together with any other applicable costs pursuant to this Article, shall be paid by the owner in advance to the Police Department. A stray animal whose owner cannot be located shall be quarantined in an animal shelter by the Town; if such owner is subsequently located, such owner shall pay the costs of such quarantine, together with any other applicable costs pursuant to this Article.

- (c) No person shall remove, without the consent of the Chief of Police, any animal which has been quarantined pursuant to this Section.
- (d) Any police officer, Town employee or health officer is authorized to enter upon any premises in the Town for the purpose of impounding any animal as authorized in this Section or for any other purpose as authorized by this Article.

(Ord. 224 §4, 1987; Ord. 541 §1, 2006)

Sec. 7-5-50. - Violations; enforcement.

- (a) No person shall fail to keep a dog under control at all times. It shall be prima facie evidence that a dog is not under control if such dog is off the leash of such person and is out of the range of either the sight or sound command of such person, if such dog trespasses upon the property or premises of another person without such other person's consent, or if such dog inflicts any damage without the consent of such person.
- (b) No person shall own a vicious animal within the Town.
- (c) No person shall permit a dog to habitually disturb the neighborhood; or permit a dog to bark or howl for an excess period of time in the Town any time of the day or night.
- (d) Subject to the provisions of Subsection (e) of this Section, no person shall maintain more than three (3) dogs which are four (4) or more months old per residence within the Town, and the owning of more than three (3) such dogs per residence is hereby declared to be a nuisance. This shall not apply to those portions of the Town where the zoning of the property would permit a greater number of animals to be kept.
- (e) A person may apply to the Town for a variance from Subsection (d) pursuant to Section 7-5-60 below.
- (f) Any vicious animal or any stray animal may be taken up and impounded by a Town police officer or other Town employee.

(Ord. 224 §5, 1987; Ord. 368 §1, 1998; Ord. 481 §1, 2003; Ord. 575 §1, 2008)

Sec. 7-5-60. - Variances.

- (a) A person may apply for a variance from the provisions of Subsection 7-5-50(d), 7-5-90(a) or 7-5-90(b) of this Article. Such application shall be on a form supplied by the Town Clerk. The completed application shall be returned to the Town Clerk and shall be accompanied by the required application fee.
- (b) The application shall contain the following information:
 - (1) The name, address and telephone number of the applicant;
 - (2) The number and species, and such other identifying characteristics as applicable, including but not limited to breed, age, color and sex, of all animals or bees owned by the applicant in the case of a variance from Subsection 7-5-50(d) or 7-5-90(a) of this Article, or the number and species of animals customarily being boarded, trained or groomed by the applicant in the case of a variance pursuant to Subsection 7-5-90(b) of this Article;

- (3) A description of the property where such animals or bees will be kept, the length of time they will be customarily on the premises and the facilities for their care;
 - (4) The reasons for requesting the variance; and
 - (5) Such other information as the Town may require.
- (c) The application shall be reviewed by the Board of Trustees at a public hearing held not sooner than ten (10) days after all property owners within three hundred (300) feet of the application have received a notice of the hearing and a copy of the application. The applicant shall be responsible for providing such notice and such copy to such property owners.
 - (d) The Board of Trustees may grant a variance if it determines that the granting of such variance would not disturb the neighborhood or create a nuisance.
 - (e) The variance, if granted, shall be reviewed at least annually and may be reviewed at any time by the Board of Trustees to ensure that the excepted activities are not disturbing the neighborhood or creating a nuisance.

(Ord. 224 §6, 1987; Ord. 481 §1, 2003)

Sec. 7-5-70. - Impoundment of vicious animals.

- (a) When a vicious animal has been taken up and impounded, the Police Department shall give notice of such impoundment and of the date, time and location of the hearing provided in Subsection (b) below. If the owner is known, the Police Department shall give such notice personally, by telephone or by mail. If the owner is not known, the Police Department shall post such notice in the offices of the Police Department, and such notice shall contain, in addition to the other information provided for in this Section, a description of the animal by species, if known to the Police Department, color, size and such other descriptive information as the Police Department deems appropriate.
- (b) The owner of an animal impounded pursuant to this Section shall be entitled to a hearing before the Municipal Court. Such hearing shall be held as soon as practicable following the impoundment. At the hearing, the Municipal Court shall determine by a preponderance of the evidence whether the animal bit or attacked a person or an animal without provocation. If the Court so determines, the Court may order the animal to be destroyed in order to protect the public health, safety and welfare, and shall order the owner to pay the impoundment fee, any costs of boarding the animal, any costs of destroying the animal if the animal has been ordered to be destroyed, and any other applicable costs pursuant to this Article. Upon a determination by the Court that the animal has bitten or attacked a person or an animal without provocation on a second or subsequent occasion, the Court shall order the animal to be destroyed in order to protect the public health, safety and welfare, and shall order the owner to pay the impoundment fee, any costs of boarding the animal, any costs of destroying the animal and any other applicable costs pursuant to this Article.

(Ord. 255 §1, 1988; Ord. 481 §1, 2003)

Sec. 7-5-80. - Impoundment of stray animals.

When any stray animal has been taken up and impounded, the Police Department shall record the species of animal and description, including color and size; any tag or registration information; date, time and location of impound; date on which disposition will occur if not claimed prior to said date; and costs required to be paid by the owner pursuant to this Article to obtain the release of the animal. If the owner is known, the Police Department shall give notice to the owner by telephone, electronic mail or mail. If the owner is not known, the Police Department shall make the information available to potential owners who call or visit the Police Department to inquire about the identity of lost or stray animals in the Police Department's custody. The owner shall appear at the Police Department to claim such animal and to pay the impoundment fee, any costs of boarding the animal and any other applicable costs pursuant to this Article, within three (3) days of the date on which notice was given in person, by telephone or by electronic mail, or within three (3) days of the date of mailing, whichever is applicable. If no owner appears to claim such animal and pay such costs within such three-day period, the animal shall be disposed of by selling, adopting out or being destroyed, as the Chief of Police may from time to time determine.

(Ord. 224 §7, 1987; Ord. 255 §2, 1988; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 7-5-90. - Regulation of animals and bees.

- (a) Keeping of animals and bees prohibited. Subject to the provisions of Subsection (c) below, no person shall own any animal or bees within the Town, except for dogs, cats, pets or fowl, as otherwise provided for in this Article.
- (b) Training, boarding or breeding of animals prohibited. Subject to the provisions of Subsection (c) below, no person shall keep, maintain or operate within the Town any kennel, building or other place or establishment for the purpose of training, boarding or breeding of animals, and the keeping, maintaining or operating of such an establishment is hereby declared to be a nuisance.
- (c) Variance. A person may apply for a variance from the provisions of Subsections (a) and (b) above pursuant to Section 7-5-60 above.
- (d) Pets. No person who owns any pet within the Town shall fail to keep such pet securely enclosed in a pen or building, and no such person shall permit such pet to run or fly at will except on the premises of such person, or to go upon the premises of another person.
- (e) Removal of fecal matter. Any owner taking an animal to any public way or other public property in the Town shall immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal. Any owner, taking any animal upon any private property other than his or her own, shall immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal.
- (f) Places for animals or bees kept clean; running or flying at will prohibited. No person who keeps any animal or bees within the Town shall permit the place within which the same are kept to become foul, noisome, putrid, malodorous, unwholesome, offensive or in any way dangerous or detrimental to human health, comfort or welfare. Any such place kept in violation of this Subsection is hereby declared to be a nuisance. No person who owns any

animal shall permit the same to run or fly at will except on the premises of such person, or to go upon the premises of another person.

(g) Exceptions.

- (1) This Section, except for Subsection (f) above, shall not be applicable to the display of any pet or fowl by an entrant in any show, fair or 4-H project. No person shall display any animal, except a pet or fowl, at any such show, fair or 4-H project.
- (2) This Section, except for Subsection (f) above, shall not be applicable to the temporary keeping by a licensed veterinarian of an animal during the time necessary for treatment.
- (3) This Section shall not be applicable to any person engaged in operating a packinghouse or slaughterhouse governed by Colorado Health Department regulations, nor keeping of animals for a temporary period of time not to exceed seventy-two (72) hours in connection with the operation of such business.
- (4) This Section, except for Subsection (f) above shall not be applicable to the owning of no more than two (2) pets. Such pets shall be kept entirely within an interior cage, an exterior pen or a fenced area. The owner of such pets shall obtain a license from the Town Clerk, identifying the pets by breed, color and sex.
- (5) This Section, except for Subsection (f) above, shall not apply to the owning of no more than twelve (12) fowl. Such fowl shall be kept entirely within an interior cage, an exterior pen or a fenced area.
- (6) This Section, except for Subsection (f) above, shall not be applicable to any animal kept in an area zoned for agricultural-recreational use.

(h) Tethering that endangers well-being of domesticated animal unlawful; lawful tethering of domesticated animal defined.

- (1) It is unlawful to tether any animal in such a manner as to create an immediate physical danger to the well-being of the animal.
- (2) Tethering to a pole, stake or any similar stationary object shall be deemed to create an immediate physical danger to the well-being of a domesticated animal if the domesticated animal is not within the immediate vicinity of its owner, caretaker or other responsible adult, except as provided in Paragraph (3)(g) below.
- (3) Domesticated animals not in the immediate vicinity of their owner, caretaker or other responsible adult may be tethered by means of a trolley system or attached to a pulley on a cable run, if the conditions set forth below are met:
 - a. The tether must be attached to a properly fitting collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering.
 - b. There must be a swivel attached to both ends of the tether to minimize tangling.
 - c. The tether may not weigh more than one-eighth (1/8) of the animal's body weight.
 - d. The trolley system or cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level.
 - e. The tethered domesticated animal shall be provided with sufficient area to exercise, and shall have access to adequate shelter and adequate water.

- f. The trolley system or cable run must be located on the domesticated animal owner's property and must prevent the tether from extending over an object or edge that could result in injury or strangulation of the domesticated animal and prevent the tether from becoming entangled with other objects or animals.
 - g. A stake, if flush with the ground and containing a slip ring or other low profile, freely rotating ring device, shall be allowed under the same conditions as a trolley system except for the trolley height requirements.
- (4) In no case shall a domesticated animal be tethered in excess of ten (10) hours in a twenty-four-hour period. Tethering in excess of ten (10) hours in a twenty-four-hour period shall be unlawful and shall be deemed to constitute inhumane treatment of the domesticated animal.

(Ord. 224 §8, 1987; Ord. 398, 1999; Ord. 481 §1, 2003; Ord. 560 §1, 2007)

Sec. 7-5-100. - Fees.

The fees which apply to this Article are set forth in the Fee Schedule.

(Ord. 224 §9, 1987; Ord. 481 §1, 2003; Ord. 571 §2, 2007)

Sec. 7-5-110. - Reserved.

Sec. 7-5-120. - Animal at large.

- (a) No animal shall be at large or beyond the control of its keeper.
- (b) It shall be prima facie evidence that an animal is at large if the animal is not under restraint or the keeper is not aware of its location.
- (c) All cats and dogs are required to have current rabies vaccinations. Owners of all cats and dogs are to retain proof of the rabies vaccinations that have been made until a subsequent vaccination is given to the dog or cat.

(Ord. 606 §1, 2009)

ORDINANCE NO. 725

AN ORDINANCE AMENDING ARTICLE V, TITLED ANIMAL CONTROL, CHAPTER 7 OF THE MILLIKEN MUNICIPAL CODE CONCERNING BEEKEEPING

WHEREAS, the Town of Milliken is a municipal corporation duly organized and operating pursuant to the laws of the State of Colorado; and

WHEREAS, honeybees are of benefit to mankind by providing agricultural, fruit and garden pollination services, and by producing honey, wax and other useful products; and

WHEREAS, over one third of the food consumed is dependent on bees for pollination and with the loss of natural bee habitats continuing every year, our crops are suffering devastating consequences; and

WHEREAS, domestic strains of honeybees have been selectively bred for desirable traits, including gentleness, honey production, reduced swarming, pollination attributes and other characteristics are desirable to foster and maintain; and

WHEREAS, the Town of Milliken desires to allow beekeeping within populated areas in reasonable densities with careful management to promote the health, safety and welfare of the residents in the Town of Milliken without causing nuisances; and

WHEREAS, the Town of Milliken desires to establish certain requirements for sound beekeeping practices within the Town's Municipal Code to define beekeeping and to allow bee keeping as a permitted use by an annual permit; and

WHEREAS, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy nuisance, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others; and

WHEREAS, the Town of Milliken Board of Trustees considered the proposed ordinance at a duly noticed public meeting.

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

Section 1: The above-stated Recitals are hereby restated and incorporated into the Milliken Municipal Code as though fully set forth herein.

Section 2: Section 7-5-10, *Definitions*, of Chapter 7 of the Town of Milliken Municipal Code, is hereby amended to add and modify the following definitions as follows:

Animal means any member of the kingdom Animalia, ~~animal~~ fish, reptile, bird or fowl.

Beekeeping means the keeping of one or more colonies of honeybees on one's own private property, tract of land, or lot.

Apiary means a place where a bee colony or colonies are kept.

Bee means any stage of the common domestic honeybee, *Apis Mellifera* a honey producing insect of the genus *Apis*, including all life stages of such insect.

Cat means any member of the feline species.

Colony means a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

Domesticated animal means any household pet or livestock customarily adaptable so as to commonly live safely within society.

Hive means a structure intended for the housing of a bee colony with removable frames or combs, which shall be kept in sound and usable condition.

Fowl means a chicken, duck, goose, turkey, pigeon or bird except any canary, parakeet or similar bird kept solely as a pet.

Owner means a person who owns an animal, bird, reptile, fish, or hive of bees.

Pet means an animal that is tamed or domesticated and kept as a favorite and treated with affection, except any animal that is customarily larger than thirty (30) pounds or and is classified as a carnivore. Pet shall not include any dog, cat, or fowl.

Tract shall mean a contiguous parcel of land under common ownership.

Undeveloped property shall mean any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human use or occupancy, and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

Section 3: Subsection (e) of Section 7-5-50, *Violations; enforcement*, of Chapter 7 of the Milliken Municipal Code is hereby amended to read in full as follows:

- (e) A person may apply to the Town for a permit from Subsection (d) pursuant to Section 7-5-60.

Section 4: Section 7-5-60, *Variances*, of Chapter 7 of the Milliken Municipal Code is hereby repealed and replaced to read in full as follows:

Sec. 7-5-60. - Permit.

- (a) A person may apply for a permit to allow for additional animals or bees not allowed by right as set forth in Subsections 7-5-50(d), 7-5-90(a) or 7-5-90(b) of this Article. Such application shall be on a form supplied by the Town Clerk. The completed application shall be returned to the Town Clerk and shall be accompanied by the required application fee and include at a minimum the following:

- (1) The name, address and telephone number of the applicant;
 - (2) The number and species, and such other identifying characteristics as applicable, including but not limited to breed, age, color and sex, of all animals owned by the applicant in the case of a waiver from Subsections 7-5-50(d) or 7-5-90(a) of this Article, or the number and species of animals customarily being boarded, trained or groomed by the applicant in the case of a waiver pursuant to Subsection 7-5-90(b) of this Article; and
 - (3) A description of the property including street address where such animals will be kept, the length of time they will be customarily on the premises and the facilities for their care.
- (b) The application shall be reviewed by the Board of Trustees at a public hearing held not sooner than ten (10) days after all property owners within three hundred (300) feet of the application have received a notice of the hearing and a copy of the application. The applicant shall be responsible for providing such notice and such copy to such property owners.
 - (d) The Board of Trustees may grant a permit if it determines that the granting of such permit would not unreasonably disturb the neighborhood or create a nuisance as defined in Article II of this Chapter.
 - (e) The permit, if granted, may be reviewed annually and or at any time by the Board of Trustees to ensure that the excepted activities are not disturbing the neighborhood or creating a nuisance.

Section 5: Section 7-5-90, Regulation of Animals and Bees is hereby amended to read in full as follows:

Section 7-5-90 Regulation of Animals

- (a) Purpose. The purpose of this Article is to provide reasonable regulations for animals and the general health, safety, and general welfare of animals and the public. Unless a permit is obtained under Section 7-5-60, then no person shall own any animal within the Town, except for dogs, cats, pets or fowl. Any violation of this Section shall be declared a nuisance.
- (b) Training, boarding or breeding of animals prohibited. Unless a permit is obtained under Section 7-5-60, no person shall keep, maintain or operate within the Town any kennel, building or other place or establishment for the purpose of training, boarding or breeding of animals, including the keeping, maintaining or operating of such an establishment.
- (c) Permit. A person may apply for a permit to waive or modify the provisions of Subsections (a) and (b) of this section pursuant to Section 7-5-60 above.
- (d) Pets. No person who owns any pet within the Town shall fail to keep such pet securely enclosed in a pen or building, and no such person shall permit such pet to run or fly at will except on the premises of such person, or to go upon the premises of another person.
- (e) Removal of fecal matter. Any owner taking a domesticated animal to any public way or other public property in the Town shall immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the domesticated animal. Any owner, taking any domesticated animal upon any private property other than his or her own, shall

immediately remove, or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal.

(f) Animal safety. No person who keeps any animal within the Town shall permit the place within which animals are kept to become foul, noisome, putrid, malodorous, unwholesome, offensive or in any way dangerous or detrimental to animal's health, comfort or general welfare.

(g) Exceptions.

(1) This Section, except for Subsection (f) above, shall not be applicable to the display of any pet or fowl by an entrant in any show, fair or 4-H project. No person shall display any animal, except a pet or fowl, at any such show, fair or 4-H project.

(2) This Section, except for Subsection (f) above, shall not be applicable to the temporary keeping by a licensed veterinarian of an animal during the time necessary for treatment.

(3) This Section shall not be applicable to any person engaged in operating a feedlot, nor keeping of animals for a temporary period of time not to exceed seventy-two (72) hours in connection with the operation of such business.

(4) This Section, except for Subsection (f) above, shall not apply to the owning of no more than twelve (12) fowl. Such fowl shall be kept entirely within an interior cage, an exterior pen or a fenced area.

(5) This Section, except for Subsection (f) above, shall not be applicable to any animal kept in an area zoned for agricultural uses.

(h) Tethering of domesticated animal.

(1) It is unlawful to tether any domesticated animal in such a manner as to create an immediate physical danger to the well-being of the animal.

(2) Tethering to a pole, stake or any similar stationary object shall be deemed to create an immediate physical danger to the well-being of a domesticated animal if the domesticated animal is not within the immediate vicinity of its owner, caretaker or other responsible adult, except as provided in Paragraph (3)(g) below.

(3) Domesticated animals not in the immediate vicinity of their owner, caretaker or other responsible adult may be tethered by means of a trolley system or attached to a pulley on a cable run, if the conditions set forth below are met:

a. The tether must be attached to a properly fitting collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering.

b. There must be a swivel attached to both ends of the tether to minimize tangling.

c. The tether may not weigh more than one-eighth (1/8) of the animal's body weight.

d. The trolley system or cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level.

e. The tethered domesticated animal shall be provided with sufficient area to exercise, and shall have access to adequate shelter and adequate water.

- f. The trolley system or cable run must be located on the domesticated animal owner's property and must prevent the tether from extending over an object or edge that could result in injury or strangulation of the domesticated animal and prevent the tether from becoming entangled with other objects or animals.
 - g. A stake, if flush with the ground and containing a slip ring or other low profile, freely rotating ring device, shall be allowed under the same conditions as a trolley system except for the trolley height requirements.
- (4) In no case shall a domesticated animal be tethered in excess of ten (10) hours in a twenty-four-hour period. Tethering in excess of ten (10) hours in a twenty-four-hour period shall be unlawful and shall be deemed to constitute inhumane treatment of the domesticated animal.

Section 6: Chapter 7 of the Milliken Municipal Code is hereby amended to add a new Article VIII, titled *Beekeeping*, to read in full as follows:

Article VIII Beekeeping

- Sec. 7-8-10. Purpose. The purpose of this Article is to provide reasonable regulations to promote sound beekeeping practices within the Town and to deter the creation of a nuisance that may be otherwise associated with the keeping of bees in populated areas.
- Sec. 7-8-11. Permitting. Beekeeping shall require a permit approved by the Board of Trustees upon payment of applicable application fee and review of a complete application submitted by the applicant showing the location of the beehive(s), distances from property lines and location of flyways on a tract of land or lot on a site plan exhibit in addition to the information required under Section 7-5-60 (b).
- Sec. 7-8-12. Lot size. The minimum lot size for beekeeping shall be 6,000 a square feet tract or size of lot.
- Sec. 7-8-30. Yard location. Beekeeping shall occur only in rear yards of single family residential lots or on commercial property, subject to the requirements of this Article. Beekeeping shall not occur on multi-family property.
- Sec. 7-8-40. Setbacks. No colony shall be kept closer than 15 feet from any lot or tract boundary line.
- Sec. 7-8-50. Fencing of flyways. The property owner on which beekeeping activities occur shall establish and maintain a flyway barrier of at least six feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of a least six (6) feet above ground level over the property lines in the vicinity of the apiary.

Sec. 7-8-60. Number of Colonies. The following number of colonies shall be allowed on any lot or tract within the Town, based upon the size or configuration of the lot or tract upon which the apiary is situated:

- a. On 7,500 square feet lot or tract but less than .25 acres – no more than one (1) colony;
- b. On more than .25 acre lot or tract but less than .50 acre - no more than two (2) colonies;
- c. On more than .50 acre lot but less than one (1) acre tract or lot – no more than four (4) colonies;
- d. One (1) acre or larger lot or lot size – no more than six (6) colonies.
- e. Regardless of lot or tract size, in which all hives are situated at least two hundred (200) feet from each and every property line of the lot or tract on which the apiary is situated, there shall be no limit to the number of colonies.

Sec. 7-8-70. General maintenance. Each owner shall ensure that no bee comb or other materials are left upon the grounds of the lot or tract where a hive is maintained. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

Sec. 7-8-71. Water source. Each beekeeper shall ensure and document that a convenient source of water is available at all times to the bees to help prevent bees congregating at swimming pools, bibcocks, pet water bowls, bird baths or water sources where they may cause human, bird or domestic pet contact.

Sec. 7-8-72. Posting of Signs. Upon approval of a permit by the Board of Trustees and as a condition of approval, beekeeping shall require conspicuously posting a sign located within five feet of the front property line of any tract, undeveloped property or lot. It shall be presumed for purposes of this Article that the beekeeper is the person who owns or otherwise has the present right of possession and control of the tract, undeveloped property or lot upon which a hive is situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract, undeveloped property or lot, setting forth the name, address and telephone number of the other person who is acting as the beekeeper. The property owner's or beekeeper's contact information including telephone numbers and the number of colonies located on the property shall be on the signage posted.

Sec. 7-8-73. Queen bees. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation, the neighbors, animals, and/or the general public nearby or exhibits an unusual disposition toward swarming, it shall be the duty of the

beekeeper to re-queen the colony and to provide written evidence of the same to the Town Clerk upon request.

Sec. 7-8-74. Inspections. A person who engages in beekeeping within the Town consents to reasonable inspections of the lot, undeveloped property or tract on which the colonies are located between the hours of 8 a.m. and 6 p.m. by the Town Administrator, Chief of Police or any other authorized person. The Town will provide, if practicable, prior notice to the beekeeper if his or her name is posted on the property.

Sec. 7-8-75. Declaration of Nuisance. Beekeeping within the Town not in strict compliance with this Article shall be declared to be a nuisance, which may be enforced in accordance with Article I of Chapter 7. In addition, the following provisions shall apply:

1. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive excluding natural places (such as old trees or houses where bees may reside and/or have resided for years without bothering anyone), which, by virtue of the hive's condition, has obviously been abandoned by the beekeeper, is hereby declared to be a menace to the health and safety of the residents of the Town and is hereby declared to be a nuisance and is prohibited.
2. Any bee colonies kept in the Town not in compliance with this Article or otherwise declared to be a nuisance pursuant to this Section or pursuant to Article II of this Chapter may be abated or removed from the Town in accordance with Section 7-1-80 of this Chapter. In each instance in which a bee colony is destroyed, all usable components of the hive structure that are not damaged or rendered unhealthy by the destruction of the bees shall upon the beekeeper's request be returned to the beekeeper, provided that the beekeeper agrees to bear all transportation expenses for their return.

Sec. 7-8-76. Violation; Fine. Any person violating the provisions of this Article shall be fined not less than \$75.00 for each offense, and a separate offense shall be deemed committed upon each and every day such violation continues. In the event a person is found guilty of violating this section, the Milliken Town Board of Trustees may revoke the permit which granted the right of the property owner to engage in beekeeping upon his or her property. These remedies are in addition to any other remedies available at law or equity.

Sec. 7-8-77. Enforcement. The Town Administrator or his or her designee shall be charged with enforcement of this Section.

Section 7: 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 8: 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 9: 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 10: 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: _____

