



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor Woodcock and Town of Board of Trustees		Meeting Date:	
From: Martha Perkins, Community Development Director		Wednesday, June 29, 2016	
Via: Kent Brown, Town Administrator			
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: Approval of Ordinance No. 730 Amending Chapter 2 of the Town of Milliken Municipal Code Concerning Membership of the Board of Adjustment			
Attachments: Ordinance 730			

PURPOSE

Approval to add a new Article XI “Board of Adjustment” to Chapter 2 of Town of Milliken Municipal Code establishing a Board of Adjustment to hear and decide appeals and to consider variances under Chapter 16 of the Municipal Code. The Town Board of Trustees is obligated under Article 23, Title 31 of the Colorado Revised Statutes to establish a Board of Adjustment to hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of the Town’s zoning regulations.

BACKGROUND

The Municipal Code references the Board of Adjustment to grant variances and hear and decide appeals from and review any requirement, decision, or determination made by any administrative official charged with the enforcement of the Town’s zoning regulations. However, there is no provision in Chapter 2 “Administration and Personnel” that creates the Board of Adjustment, its powers and purpose, and membership. Historically, based on the actions that have been taken in the past and documented in the Board of Trustees minutes, the Board has served as the Board of Adjustment. Thus, in accordance with state law, Ordinance 703 codifies and creates the Board of Adjustment with seven members as the Board of Trustees in accordance with C.R.S. Section 31-23-307.

RECOMMENDATION

Staff recommends that the Town Board adopt Ordinance 730 to codify and clarify that Board of Trustees also serves as the Board of Adjustment in accordance with C.R. S. Section 31-23-307.

SUGGESTED MOTION

“I move to adopt Ordinance No. 730 Amending the Town of Milliken’s Land Use Code, Chapter 2 of the Town of Milliken Municipal Code Concerning Membership of the Board of Adjustment.”

ORDINANCE NO. 730

AN ORDINANCE OF THE TOWN OF MILLIKEN ADDING A NEW ARTICLE XI, TITLED BOARD OF ADJUSTMENT, TO CHAPTER 2 OF THE MILLIKEN MUNICIPAL CODE CONCERNING THE MEMBERSHIP OF THE BOARD OF ADJUSTMENT

WHEREAS, the Town of Milliken is a municipal corporation organized under Part 3, Article 4 of Title 31 of the Colorado Revised Statutes; and

WHEREAS, the Town Board of Trustees is obligated under Article 23, Title 31 of the Colorado Revised Statutes to establish a board of adjustment to hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of the Town's zoning regulations; and

WHEREAS, in accordance with state law and as set forth in Section 16-3-520 of the Town of Milliken Municipal Code, the Board of Trustees has authorized the board of adjustment to hear and decide appeals and to consider variances under Chapter 16 of the Municipal Code; and

WHEREAS, the Board of Trustees has served as the board of adjustment and desires to codify the membership of the board of adjustment in accordance with C.R.S. Section 31-23-307.

Section 1: Chapter 2, *Administration and Personnel*, of the Milliken Municipal Code is hereby amended to add a new Article XI, titled Board of Adjustment, to read in full as follows:

ARTICLE XI – Board of Adjustment

Sec. 2-11-10. - Creation.

Pursuant to Colorado Revised Statutes, Section 31-23-307, there is hereby created a Board of Adjustment for the Town.

Sec. 2-11-20. – Powers and Purpose.

The authority and powers of the Board of Adjustment are as set forth in Chapter 16 of this Code and as may be further authorized by the Board of Trustees. The Board of Adjustment shall not be authorized to consider or grant use variances.

Sec. 2-11-30. - Membership.

(a) The Board of Adjustment shall consist of the seven (7) members of the Board of Trustees, including the Mayor. The Board may adopt bylaws and rules of procedure, based on those in effect for the Town Board of Trustees, to govern its responsibilities of officers, procedures and rules for meetings and public hearings, requirements for applications for consideration, requirements for re-submittal of applications, if desired, and other internal operations, all in accordance with applicable state statute and this Section.

(b) The respective terms of the Board of Adjustment members shall run concurrently with the Trustees' respective terms of office.

Sec. 2-11-40. Quorum and Voting.

A quorum of the Board shall consist of four members. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any Town official charged with the enforcement of any provision of this Code or to grant a variance or otherwise decide in favor of an applicant on any matter considered by the Board under the provisions of Colorado law or as authorized under this Code.

Section 2: 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 3: 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 4: 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 5: Effective Date.

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

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

TOWN OF MILLIKEN

Beau Woodcock, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Linda Michow, Town Attorney

Published: _____