



**TOWN OF MILLIKEN
PLANNING COMMISSION
AGENDA MEMORANDUM**

To: Chairman Woodcock and Planning Commissioners From: Martha Perkins, Community Development Director Via: Kent Brown, Town Administrator		Public Hearing Date: February 6, 2016	
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: 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”.			
Attachments: Ordinance 723			
Staff Recommendation: Staff recommends approval of Ordinance 723, which incorporates the input provided by the Town Board in a joint work session on January 20, 2016.			

PURPOSE

To consider and 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” after obtaining input at a joint work session with the Town Board on January 20, 2016. The Town’s Board of Trustees would like to amend the existing regulations governing the operation of home occupations in the Town’s Municipal Land Use Code, Section 16-3-620 “Home Occupations”, to balance the goal of protecting and maintaining the character of residential neighborhoods with the desire to allow limited commercial activities as an accessory use on residential property.

BACKGROUND INFORMATION

Type of Application:	Text Amendment
Location:	Milliken Colorado in Weld County
Applicant:	Town Of Milliken
Comprehensive Plan	Updates the 2015 Comprehensive Plan Envision Milliken
Notice	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.

COMPLIANCE WITH TOWN LAND USE CODE

This staff memorandum is prepared in accordance with the Land Use Code. Staff compiled the most relevant sections of the Code for the Planning and Zoning Commission's and the Town Board's review of the application. The applicable Code sections are included at the end of the staff report after the suggested motions to enable a Commissioner or Board Trustee to look up relevant sections of the Code and still be able to read through staff's review of the case easily.

REVIEW CRITERIA

The Land Use Code contains four criteria for amendments to Text Amendments to the Zoning Code (Section 16-3-540), which are intended to establish and maintain sound, stable and desirable development within the Town. These are four criteria are:

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

The current Code is not in error. The Board would just like to clarify what is allowed as a home occupation. After a joint work session with the Town Board and the Planning Commission on January 20, 2016, it became apparent to staff that the Board and the Commission would like to allow additional opportunities for commercial enterprises on residential property as an accessory use without creating a negative impact on neighboring residents.

- (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 home occupation regulations to strike a better balance between the goal of protecting and maintaining the character of residential neighborhoods with residents' need to engage in limited commercial activities in their homes to supplement their incomes and/or try out new business ideas. A text amendment is necessary to accommodate the changing needs of the community to allow more opportunities for businesses as an accessory use on residential property. This issue came before the Board due to the Town retaining a Code Enforcement Officer to enforce various sections of the Municipal Code, including home occupations.

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

The existing 2010 Comprehensive Plan supports a form-based code for land development, which focuses on the physical, architectural character aspects of development (urban form) rather than the separation and grouping of uses together (Euclidean zoning) as the organizing principle for land use development. With the adoption of a 2016 Comprehensive Plan and mixed-use zoning proposed for downtown and for the area to the east by Trader's Junction, staff believes that the community is beginning to embrace the idea that business endeavors may work as an accessory use in residential neighborhoods. These smaller home occupations and businesses will allow additional local economic development in Milliken.

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

The 2010 Envision Milliken Comprehensive Plan's states that Milliken's land use should allow existing and future residents to live, work, and recreate here. Residents should have access to a range of housing opportunities, complemented with a vibrant commercial and employment environment.

The 2016 Comprehensive Plan supports this vision too. The Town's economic growth depends on having both housing and business opportunities within the community. The Town does not want to remain a bedroom community. It wants to be a family-oriented, small town community with access to multiple services and amenities.

The Comprehensive Plan recognizes the significant contribution of existing businesses within the community. The Town shall support the retention, expansion and entrepreneurial activities of existing local businesses and maintain a positive business environment.

Both the Town Board and the Commission would like to amend the existing regulations governing the operation of home occupations in the Town's Municipal Land Use Code, Section 16-3-620 "Home Occupations", to balance the goal of protecting and maintaining the character of residential neighborhoods with the desire to allow additional commercial activities as an accessory use on residential property.

Thus, Town staff believes the proposed text amendment supports the Comprehensive Plan's vision to retain the existing character and livability of established neighborhoods while supporting, retaining, and expanding private investment in the community with local employment, goods and services.

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 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.
3. The Town Board desires to amend its home occupation standards to best strike a balance between the goal of protecting and maintaining the character of residential neighborhoods with the need for residents to engage in limited commercial activities in their homes to supplement incomes, explore new business endeavors, and provide the community with additional local goods and services.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission 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 before it goes to the Town Board for approval.

PLANNING AND ZONING COMMISSION APPROVAL

_____The Planning & Zoning Commission 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 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.

or:

_____The Planning & Zoning Commission after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES NOT MEET the provisions of Sections et. seq. of the Town of Milliken’s Land Use Development Code (LUDC) and DENIES 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 of Milliken Land Use Code Sections
for reference

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. 16-3-20. 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. 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 rationale 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.
 1. 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) blue-line 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 Trustees' 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 is 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. 16-1-150. 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. 16-3-620. - Home occupations.

- (a) Home occupations must meet the following standards:
- (1) Medical and dental offices are not permitted as home occupations.
 - (2) In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one (1) outside employee in the home occupation.
 - (3) The employee and clients may park in on-street curbside parking spaces.
 - (4) The home occupation shall not exceed one thousand (1,000) square feet or thirty (30) percent of the total square footage of the dwelling, whichever is less, or can be located in an accessory building not to exceed seven hundred twenty (720) square feet.
 - (5) All aspects of the home occupation operation shall not disrupt the residential character of the neighborhood or create noise or environmental hazards.
 - (6) A maximum of ten (10) clients may visit the home occupation per day.
 - (7) Home occupations may include state-licensed family child care homes (residential day care facilities) that have received zoning approval from the Town.
- (b) Home occupations that cannot meet the above standards are not permitted unless a special use permit is applied for and granted.

(Ord. 480 §3.13, 2003)

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: _____