

TOWN OF TIMNATH

ORDINANCE NO. 110, SERIES 2011

**AN ORDINANCE REPEALING CHAPTER 10, ARTICLE VIII, SECTION 146 OF THE
TOWN OF TIMNATH MUNICIPAL CODE CONCERNING CANNABIS AND
ENACTING A REVISED SECTION 146 CONCERNING MARIJUANA**

WHEREAS, section 10.146(A) of the Town of Timnath Municipal Code defines the term “cannabis” to mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination and the term “cannabis concentrate” to mean hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols; and

WHEREAS, section 10.146(B) of the Town of Timnath Municipal Code authorizes prosecution for unlawful possession of one (1) ounce or less of cannabis or cannabis concentrate, and section 10.146(C) of the Town of Timnath Municipal Code authorizes prosecution for unlawful open and public display or consumption of one (1) ounce or less of cannabis or cannabis concentrate; and

WHEREAS, section 10.146(D) of the Town of Timnath Municipal Code prohibits application of any part of said section to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act; and

WHEREAS, in the past, the Town has conformed the ordinance to its State law counterparts, those being C.R.S. § 18-18-102(18), C.R.S. § 18-18-102(19), C.R.S. § 18-18-406(1), C.R.S. § 18-18-406(4), C.R.S. § 18-18-406(3)(a)(I), and C.R.S. § 18-18-406(3)(a)(I), respectively; and

WHEREAS, the State of Colorado recently amended C.R.S. § 18-18-102(18) to define the term “marijuana” to mean all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination. “Marijuana” does not include marijuana concentrate; and

WHEREAS, the State of Colorado recently amended C.R.S. § 18-18-102(19) to define the term “marijuana concentrate” to mean hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols; and

WHEREAS, the State of Colorado recently amended C.R.S. § 18-18-406(1) to classify possession of two (2) ounces or less of marijuana as a class 2 petty offense, C.R.S. § 18-18-102(4) to classify possession of three (3) ounces or less of marijuana concentrate as a class 1

misdemeanor; and

WHEREAS, the State of Colorado recently amended C.R.S. § 18-18-406(3)(a)(I) to classify open and public display, consumption, or use of not more than two (2) ounces of marijuana as a class 2 petty offense and C.R.S. § 18-18-406(3)(a)(II) to classify open and public display, consumption, or use of more than (2) ounces of marijuana or any amount of marijuana concentrate three (3) ounces or less as a class 1 misdemeanor; and

WHEREAS, the Town of Timnath has not conformed any part of Section 10.146 of the Timnath Municipal Code to its State law counterparts, those being C.R.S. § 18-18-102(18), C.R.S. § 18-18-102(19), C.R.S. § 18-18-406(1), C.R.S. § 18-18-406(4), C.R.S. § 18-18-406(3)(a)(I), and C.R.S. § 18-18-406(3)(a)(I), respectively; and

WHEREAS, per House Bill 95-1020, the Dangerous Drugs Therapeutic Research Act was repealed and issues concerning lawful possession and use of marijuana are presently governed by Colorado Medical Marijuana Code as authorized by Amendment 20; and

WHEREAS, by repealing all of Section 10.146 of the Timnath Municipal Code and enacting a revised Section 10.146 concerning the definition of marijuana, the possession of marijuana, the open and public display, consumption, or use of marijuana, the prosecution in the Timnath Municipal court for the unlawful possession or open and public display, consumption, or use of up to two ounces of marijuana, with no specific municipal provisions concerning marijuana concentrate, and exemptions as authorized by Amendment 20, the Timnath Municipal Code will be updated to conform to its State law counterpart; and

WHEREAS, the Town Council desires to amend the Town of Timnath Municipal Code by repealing all of Section 10.146 and enacting a revised Section 10.146 concerning the definition of marijuana, the possession of marijuana, the open and public display, consumption, or use marijuana, the prosecution in the Timnath Municipal court for the unlawful possession or open and public display, consumption, or use of up to two ounces of marijuana, with no specific municipal provisions concerning marijuana concentrate, and exemptions as authorized by Amendment 20; and

WHEREAS, the Town Council finds that such amendment would benefit the health, safety, and welfare of the Town's residents and, therefore is in the Town's best interest.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Timnath, Colorado, that Section 10.146 of the Timnath Municipal Code concerning marijuana is hereby amended to read as follows:

10.146. Possession of marijuana (Ord. 11-2002, xx-2011)

A. For the purposes of this Section, the term "marijuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination.

B. It is unlawful for any person to possess two ounces or less of marijuana, and upon a

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plea of guilty or no contest thereto or conviction thereof, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

C. It is unlawful for any person to openly and publicly display, consume, or use two (2) ounces or less of marijuana and upon a plea of guilty or not contest thereto or conviction thereof, minimum punishment shall not be by a fine of not more than one hundred dollars (\$100.00) or imprisonment not exceeding fifteen (15) days.

D. The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to Colorado Medical Marijuana Code and for a purpose authorized by Amendment 20.

Section 1. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or any parts be declared unconstitutional or invalid.


Section 2. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 3. Effective Date. This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, SET FOR PUBLIC HEARING AND SECOND READING AT 7:00 P.M. ON JUNE 7, 2011 AT THE TIMNATH TOWN HALL, 4800 GOODMAN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 17th DAY OF MAY, 2011.

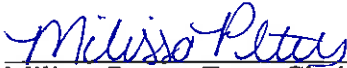
MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JUNE 7, 2011.

TOWN OF TIMNATH



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, Town Clerk



APPROVED AS TO FORM:

Thomas M. Rogers III, Town Attorney