

TOWN OF TIMNATH, COLORADO

ORDINANCE NO. 12-2006

**AN ORDINANCE OF THE TOWN OF TIMNATH
COLORADO, ASSURING THE RIGHT TO FARM
WITHIN THE TOWN OF TIMNATH.**

WHEREAS, the changing nature of land use and demography in particular parts of the Town of Timnath has increased the incidence of conflicts between agricultural operators and visitors to and residents of the Town of Timnath, and has begun to threaten the economic viability of agricultural operations; and

WHEREAS, examples of such conflicts include, but are not limited to: harassment of livestock and livestock losses due to free roaming dogs; trespass by livestock; livestock on highway and Town roads; leaving gates open; fence construction and maintenance; chemical applications; maintenance of ditches across private property, storm water management; burning of ditches; complaints about noise, dust and odor; disposal of dead animals; weeds and pest control; and trespass; and

WHEREAS, it is desirable to protect agricultural operators within the Town from complaints about legal and non-negligent agricultural operations and activities; and

WHEREAS, educating the public and non-agricultural residents is desirable and visitors to the Town of Timnath about the existence, validity, and importance of the Town's agricultural operations and activities; and

WHEREAS, the Board of Trustees, pursuant to C.R.S. 31-15-401, has the authority to (1) regulate the police of the municipality and enforce all necessary police ordinances, (2) do all acts and make all regulations that may be necessary or expedient for the promotion of health or the suppression of disease, (3) declare what is a nuisance and abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; and

WHEREAS, pursuant to Article 3.5, Title 35, C.R.S., it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products; and further that the general assembly recognizes that when nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits; as a result, a number of agricultural operations are forced to cease operations and many others are discouraged from making investments in farm improvements; and that it is the purpose of the Article to reduce the loss to the State of Colorado of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance; it is recognized that local government may adopt ordinances that provide additional protection for agricultural operations consistent with the interests of the affected agricultural community, without diminishing the rights of any real property interest; and

WHEREAS, the Board has determined that it is desirable and beneficial to the citizens of the Town of Timnath to establish and adopt by Ordinance a Right to Farm and Ranch Policy involving the elements of protection of agricultural operations, education of property owners and the public, and resolution of disputes; and

WHEREAS, the establishment and adoption of such a Right to Farm and Ranch Policy would serve and promote the public health, safety, and welfare of the citizens of the Town of Timnath.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH, LARIMER COUNTY, COLORADO; THAT;

Section 1. Definitions. For the purposes of this Chapter, certain words and phrases shall be defined as follows, unless the context otherwise requires:

- a. “Agricultural land” means lands on which an agricultural operation has been maintained for more than one year.
- b. “Agricultural operation” means and includes, but is not limited to, the cultivation and tillage of the soil; dairying; grazing of livestock; the production, irrigation, frost protection, cultivation, growing, application of fertilizers and pesticides, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including storage, preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Section 2. Purpose.

- a. It is the declared policy of the Town of Timnath to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operators are sometimes forced to cease operations or curtail their operations. Others may be discouraged from making investments in farm improvements to the detriment of the economic viability of the county’s agricultural industry as a whole. It is the purpose of this Chapter to reduce the loss to the State of Colorado of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.
- b. An additional purpose of this chapter is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residency. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural

operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

Section 3. Nuisance.

a. No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained on agricultural lands for commercial purposes, and in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, after the same has been in operation for more than one year, if it were not a nuisance at the time it began; except that the provisions of this section shall not apply in the case of a negligent operation or when a change in operation would result in a private or public nuisance, or when a substantial increase in the size of operations occurs.

b. This chapter is not to be construed as modifying or abridging existing or future law relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this chapter.

Section 4. Disclosure.

a. Disclosure by Subdivider. The subdivider of any property located within 1,000 feet of land zoned for agricultural use shall disclose through a notation on the final plat of the subdivision, within the Covenants, if prepared, and through the recordation of a separate acknowledgment statement, the presence of agricultural and appurtenant uses in the proximity of the subdivision through the following, or similar, statement:

“The property(ies) within this subdivision is(are) located within 1,000 feet of land utilized or zoned for agricultural operations and residents/occupants of the property may be subject to inconvenience or discomfort arising from such operations, including but not limited to, the storage and disposal of manure, the application by spraying or otherwise of agricultural chemical fertilizers, soil amendments, herbicides and pesticides, cultivation, plowing, spraying, pruning, harvesting, crop protection, shipping and processing, and the operation of machinery of any kind during any 24-hour period (including aircraft) which may generate dust, smoke, light, noise, odor and traffic. The Town of Timnath determined that inconvenience and discomforts associated with such agricultural operations shall not be considered a nuisance if such operations are consistent with the accepted customs and standards. Residents/occupants of property(ies) within this subdivision should be prepared to accept such inconvenience or discomfort as normal and necessary to agricultural operations.”

b. Disclosure Prior to Issuance of Building Permits. Where a new building intended for human occupancy is to be on property that is within 1,000 feet of land zoned for agricultural use, the owners of the property shall, prior to issuance of a building permit, be required to sign and record a statement in a form similar to that set forth in the subsection a. above. In lieu of signing the statement required above, the owner may submit evidence that the statement set forth in subsection a. above has been made part of subdivision documents creating the parcel on which the building is to be constructed.

Section 4. Effective Date. This ordinance shall be published and become effective as provided by law.

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. 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 7. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED
PUBLISHED this 19th day of July , 2006.**



Donna Benson, Mayor

ATTEST:

By 
Linda Griess, Acting Town Clerk