

TOWN OF TIMNATH

ORDINANCE NO. 2-2006

AN EMERGENCY ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH AMENDING ORDINANCE 2-2002 OF THE TOWN OF TIMNATH AND AUTHORIZING THE CHARGE OF SALES TAX ON FOOD

WHEREAS, §31-11-111(2), C.R.S. provides that the legislative body of any municipality may, without receipt of any petition, submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality. The legislative body of the municipality or its designee shall fix a ballot title for the referred measure; and

WHEREAS, the Town of Timnath (the "Town") adopted a sales tax ordinance in 2002 as Ordinance 8-2002 (the "Sales Tax Ordinance"); and

WHEREAS, the Sales Tax Ordinance as adopted exempted from sales tax any charges for sales of food; and

WHEREAS, no business selling food is currently operating within the Town of Timnath; and

WHEREAS, the Board of Trustees of the Town of Timnath (the "Board") believes it to be in the best interests of the Town to collect sales tax on food sales in the event business or businesses selling food commence operations within the Town; and

WHEREAS, §29-2-105, C.R.S. provides that any such amendment of the Sales Tax Ordinance shall be adopted in the same manner as the Sales Tax Ordinance was originally adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE TRUSTEES OF THE TOWN OF TIMNATH, COLORADO, THAT:

Section 1. Chapter 4, Article IV, Section 52.A of the Municipal Code ("the Code") of the Town is repealed and amended to read as follows:

There is hereby imposed on the sale of tangible personal property at retail or the furnishing of services as provided in Section 29-2-105(1)(d), C.R.S., a sales tax equal to three percent (3%) of the gross receipts (the "sales tax"). Except as set forth herein, the tangible personal property and services taxable under this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S.; and provided that the exemption of sales and purchases of those items in section 39-26-114(1)(a)(XXI), C.R.S., shall apply to the sales tax, and the sale of such items is expressly exempted from the sales tax as allowed by section 29-2-105(1)(d), C.R.S. Notwithstanding the foregoing,

the exemptions for sales of machinery or machine tools pursuant to Section 39-26-114(11), C.R.S., and for sales of food as specified in section 39-26-114(l)(a)(XX), C.R.S., shall not apply to the sales tax; and the sale of such items is expressly made taxable under this Article. The imposition of the sales tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the sales tax an amount in excess of the amount of the sales tax imposed by this Article, he or she shall remit to the Executive Director (hereinafter defined) the full amount of the sales tax herein imposed and also such excess.

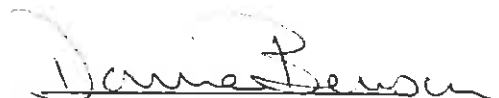
Section 2. Submission to Election. The tax proposal providing for charging sales tax on groceries shall be submitted to an election by the registered electors of the Town of Timnath for their approval or rejection at the regular Municipal Election to be held on April 4, 2006. The election shall be conducted in the manner provided in the "Colorado Municipal Election Code of 1965", Article 10 of Title 31, C.R.S.

Section 3. Repeal. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portions thereof are hereby repealed to the extent of such inconsistency or conflict.


Section 4. 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 Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

Section 5. Safety. This Ordinance is adopted and deemed necessary for the immediate preservation of the public peace, health or safety of the community.

INTRODUCED, READ, PASSED AND ADOPTED BY A VOTE OF THREE FOURTHS OF ALL THE MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH AS AN EMERGENCY ORDINANCE PURSUANT TO CRS §31-11-105(1) AND ORDERED PUBLISHED THIS 1st DAY OF FEBRUARY, 2006.


Donna Benson, Mayor

ATTEST:


Linda Thompson, Town Clerk

