

**TOWN OF TIMNATH, COLORADO**

**ORDINANCE NO. 7 - 2007**

**AN ORDINANCE REPEALING AND REENACTING  
CHAPTER 1, AND CHAPTER 2 OF THE MUNICIPAL  
CODE OF TIMNATH.**

**WHEREAS**, the Town Council (the "Council") of the Town of Timnath (the "Town") currently has a Municipal Code; and the Municipal Code is in need of revisions in order for the Municipal Code and the newly adopted Home Rule Charter to be consistent; and

**WHEREAS**, the Municipal Code is in need of updates to recognize current practices; and

**WHEREAS**, Codification of all of the laws adopted by the Town of a permanent and general nature allows for the publication of all laws of the Town affecting the citizens to be located in an organized printer or digital format so citizens and any other interested individuals can more easily determine the laws of the Town.

**NOW, THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:**

**Section 1. Chapter 1 of the official code of the Town of Timnath titled General Provisions is hereby repealed and reenacted as follows:**

**Chapter 1- Article I -Code**

**1.1.1. Adoption of Code**

The published code known as the Timnath Municipal Code, (sometimes referred to herein as the "Code") of which one (1) copy is now on file in the office of the Town Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This copy may be in digital format if a computer to review the digital format is available to the public. This primary code has been promulgated by the Town of Timnath, Colorado, as a codification of all the ordinances of the Town of Timnath of a general and permanent nature for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the Town.

**1.1.2. Purpose**

The Town Council finds, determines and declares that the ordinances codified in this Code are necessary for the general health, safety and welfare of the community.

**1.1.3. Title and scope**

This Code shall be known as the Timnath Municipal Code. This Code constitutes the adoption, compilation, revision and codification of all the ordinances of the Town of Timnath, of a general and permanent nature.

✓  
Town of Timnath  
Town Clerk  
4800 Goodman Street  
Timanth, CO 80547

#### **1.1.4. Adoption of codes by reference**

Secondary codes may be adopted by reference, as provided by state law.

#### **1.1.5. Repeal of ordinances not contained in Code**

This Code contains all ordinances and portions of ordinances of general legislation which are of a permanent nature. All other ordinances of a general nature which are not included in this Code and portions of ordinances inconsistent with any provision of this Code to the extent of such inconsistency are hereby repealed as of the effective date of the ordinance adopting this Code, except as hereinafter provided.

#### **1.1.6. Matters not affected by repeal**

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1.1.5 above shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.

#### **1.1.7. Ordinances saved from repeal**

A. The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission there from, and the adoption of the Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

1. Creating, opening, dedicating, vacating or closing specific streets, alleys and other public ways.
2. Naming or changing the names of specific streets and other public ways.
3. Establishing the grades of specific streets and other public ways.
4. Establishing the grades or lines of specific sidewalks.
5. Annexing territory to or excluding territory from the Town.
6. Dedicating or accepting any specific plat or subdivision.
7. Calling or providing for a specific election.
8. Authorizing specific contracts for purchase of beneficial use of water by the Town.
9. Approving or authorizing specific contracts with the State, the County, other governmental bodies, or with others.
10. Authorizing a specific lease, sale or purchase of property.
11. Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
12. Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
13. Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.
14. Appropriating money.
15. Levying a temporary tax or fixing a temporary tax rate.
16. Relating to salaries.
17. Amending the Official Zoning Map.

18. Changes in ordinances previously adopted concerning items listed in numbers 1-17 above.

**B.** In compiling and preparing the ordinances of the Town for adoption and revision as part of the Code, certain grammatical changes and other changes were made in existing ordinances. It is the intention of the Town Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

## CHAPTER 1 - ARTICLE II DEFINITIONS AND USAGE

### 1.2.1. Definitions

**A.** The following words and phrases, whenever used in the ordinances of the Town of Timnath and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. *Board of Adjustment* means the Board of Adjustment of the Town of Timnath.
2. *Charter* means the Town of Timnath Home Rule Charter as amended from time to time
3. *C.R.S.* means Colorado Revised Statutes, including all amendments thereto.
4. *Engineer* means the Town Engineer of the Town of Timnath.
5. *Law* denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the Town, the Charter, rules and regulations of other entities with jurisdiction and, when appropriate, any and all rules and regulations which may be promulgated there under.
6. *Manager* means the Town Manager of the Town of Timnath
7. *May* is permissive.
8. *Month* means a calendar month.
9. *Must and shall* are both mandatory.
10. *Oath* shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.
11. *Ordinance* means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.
12. *Owner* includes any person who alone, jointly or severally with others or as agent, executor, trustee or other representative capacity has legal or equitable title to any property.
13. *Person* means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, representative, officer or employee of any of them.
14. *Personal property* includes money, goods, chattels, things in action and evidences of debt.

15. *Planning Commission* means the Planning Commission of the Town of Timnath.
16. *Preceding and following* mean next before and next after, respectively.
17. *Property* includes real and personal property.
18. *Real property* includes lands, tenements and hereditaments.
19. *Sidewalk* means the actual walkway and all of the area between the walkway and the pavement of the street, including but not limited to landscaped areas, drainage gullies and any other use of the area between the walkway and the street.
20. *State* means the State of Colorado.
21. *Statute* means Colorado Revised Statutes, including all amendments thereto.
22. *Street* includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the Town which have been or may hereafter be dedicated and open to public use for vehicular traffic; or such other public property so designated in any law of this State.
23. *Tenant and occupant*, applied to a building or land, includes any person who occupies all or a part of such building or land, whether alone or with others.
24. *Town* means the Town of Timnath, Colorado, or the area within the territorial limits of the Town of Timnath, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.
25. *Town Council* means the Town Council of the Town of Timnath, Colorado.
26. *Written* includes printed, typewritten, photocopied or a facsimile, mimeographed or multigraphed, or otherwise reproduced in permanent visible form.
27. *Year* means a calendar year.

B. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning.

### 1.2.2. Computation of time

The time within which an act is to be done after a certain date shall be computed by excluding the first and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. The time within which an act is to be done before a certain date shall be computed by including the first and excluding the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the business day immediately preceding the Saturday, Sunday or legal holiday. When the time for an act is less than seven (7) days, Saturday, Sunday and legal holidays shall be excluded.

### 1.2.3. Title of office

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Town, or his or her designated representative.

#### **1.2.4. Grammatical interpretation**

The following grammatical rules shall apply to Town ordinances unless it is apparent from the context that a different construction is intended:

1. Any gender includes the other genders.
2. The singular number includes the plural and the plural includes the singular.
3. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

### **CHAPTER 1 - ARTICLE III - GENERAL**

#### **1.3.1. Titles and headings not part of Code**

Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code, may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the Code.

#### **1.3.2. Authorized acts by agents, representatives**

When an act is required by this Code or an ordinance, the same being such that it may be done as well by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed by any authorized agent or representative.

#### **1.3.3. Construction of code**

The provisions of this Code, and all proceedings under it, are to be construed with a view to effect their objectives and to promote justice.

#### **1.3.4. Repeal of ordinances**

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

#### **1.3.5. Publication of ordinances**

Publication of ordinances shall be governed by the Charter.

#### **1.3.6. Amendments to Code**

Ordinances and parts of ordinances of a permanent and general nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to the Code adopted with or without specific reference to the Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to the Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby in the Code shall be inserted and made in the Code as provided in Section 1.3.7 hereof.

#### **1.3.7. Supplementation of Code**

A. The Town Clerk shall cause supplementation of the Code to be prepared and printed from time to time as the Clerk sees fit. All substantive, permanent and general parts of ordinances passed by the Town Council or adopted by initiative and referendum, and all

amendments and changes in ordinances or other measures included in the Code prior to the supplementation and since the previous supplementation, shall be included.

B. It shall be the duty of the Town Clerk to keep up to date the copy of the book or digital format containing the Code required to be filed in the office of the Town Clerk for the use of the public.

**1.3.8. Altering or tampering with Code; penalties for violation**

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Article, or who shall alter or tamper with the Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby shall, upon conviction thereof, be punishable as provided by Section 1.4.2 of this Code.

**1.3.9. Severability**

The provisions of this Code are declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby.

**1.3.10. Preparing Ordinances for Codification:**

In preparing ordinances to be included in the Timnath Municipal Code, the Town Clerk may correct obvious errors and inconsistencies including, but not limited to, correction of errors of punctuation, capitalization, grammar and spelling; correction of typographical errors; and correction of internal references. The Town Clerk shall make no change in the substance, effect, intent or meaning of any ordinance.

**CHAPTER 1 - ARTICLE IV - GENERAL PENALTY**

**1.4.1. Violations**

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful, or to fail to do or perform any act required, in this Code.

**1.4.2. General penalty for violation**

A. Unless otherwise specifically provided, whenever in this Code or any other ordinance of the Town or any section or an order, rule or regulation promulgated under the provisions of this Code or other ordinance of the Town any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefore, any person who shall be convicted of the violation of any such provision of this Code or other ordinance of the city or of such orders, rules or regulations shall be punished by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a period not exceeding one (1) year, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to imprisonment for violation of any provision of this Code.

B. Except as hereafter provided, every person convicted of a violation of the Model Traffic Code for Colorado, as adopted by this Code, shall, in addition to administrative court costs which may be imposed, be punished by a fine not exceeding one thousand dollars (\$1,000.00); except any person convicted of violating Section 1101, Speed limits, when such person exceeded the lawful speed limit by twenty (20) miles per hour or greater, Section 1105, Speed contest, Section 1401(1), Reckless driving, Section 1409, Compulsory insurance, Section 1413, Eluding or attempting to elude a police officer, all being violations of the Model Traffic Code for Colorado as adopted by the Town, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

C. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the Town or of this Code is committed, continued or permitted by any such person and shall be punished accordingly.

**1.4.3. Fines and penalties; plea of guilty or nolo contendere**

Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

**1.4.4. Penalty for violations of ordinances adopted after adoption of Code**

Any person who shall violate any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in the Code by a supplement, shall, upon conviction thereof, be punishable as provided by Sections 1.4.2 or 1.4.3 unless another penalty is specifically provided for the violation.

**1.4.5. Interpretation of unlawful acts**

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful.

**1.4.6. Authority to suspend fines; assess court costs**

The Municipal Judge shall have the authority to suspend all or any portion of any fine upon finding of good cause therefore. The Municipal Judge shall assess court costs as the Judge determines are reasonable.

**CHAPTER 1 - ARTICLE V - INSPECTIONS**

**1.5.1. Entry**

Whenever necessary to make an inspection to enforce any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the Town, any public official of the Town may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance.

In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the public official is unable to obtain permission of such occupant or owner to enter such building or premises, the public official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

**1.5.2. Authority to enter premises under emergency**

Law enforcement officers, any authorized agents of any Fire Department serving, the Town, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the Town without invitation from the occupant or occupants of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant or occupants of such premises are incapable of consenting to the entry because of such medical emergency.

**CHAPTER 1 - ARTICLE VI - SEAL**

**1.6.1. Seal description**

The common seal of the Town shall be of circular shape in the center of which shall be the word "Seal" and with the words "The Town of Timnath, Colorado" surrounding the word "Seal," and said seal above described is hereby established and declared to be the seal of the Town.

**1.6.2. Town Clerk to be custodian of seal**

Said seal shall be kept in the office of the Town Clerk, who shall be the custodian thereof. It shall be the duty of the Town Clerk to affix said seal to all instruments hereinafter mentioned; provided, however, that any other person who shall have been specifically directed so to do by resolution of the Town Council may affix said seal to any such instrument.

**1.6.3. Seal to be affixed where**

Said seal shall be affixed to all transcripts, orders or certificates which it may be necessary or proper to authenticate, under the provisions of the statutes in such cases made and provided, or any ordinance of the Town, and said seal shall be affixed to every contract or other instrument requiring the seal of the Town under any law of the State, or any ordinance of the Town.

**CHAPTER 1 - ARTICLE VII - UNCLAIMED PROPERTY**

**1.7.1. Purpose**

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the Town.

**1.7.2. Definitions** Unless otherwise required by context or use, words and terms in this Article shall be defined as follows:



1. *Owner* means a person or entity, including a corporation, partnership, association, governmental entity other than the Town, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the Town.
2. *Unclaimed property* means any tangible or intangible property, including any income or increment derived there from, less any lawful charges, that is held by or under the control of the Town and which has not been claimed by its owner for a period of more than two (2) years after it became payable or distributable.

### 1.7.3. Procedure for disposition of property

A. Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the Town shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the Town department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

B. Prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00) or having no last known address of the owner, the Town shall cause a notice to be published in a newspaper of general circulation in the Town. The notice shall include a description of the property, if known, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

C. If the Town receives no written claim within the above sixty-day claim period, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

D. If the Town receives a written claim within the sixty-day claim period, the Town Manager shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The Town Administrator may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

E. In the event that there is more than one (1) claimant for the same property, the Town may, in the Town Manager's sole discretion, resolve said claims or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

F. In the event that all claims filed are denied, the property shall become the sole property of the Town and any claim of the owner of such property shall be deemed forfeited.

G. Any legal action filed challenging a decision of the Town shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town pursuant to the order of the Court having jurisdiction over such claim.

H. The Town Manager is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

## **CHAPTER 1 - ARTICLE VIII - LIENS**

### **1.8.1. Unpaid charges a lien**

A. The amount of any fees and charges due the Town which are not paid shall be a lien upon the property for which any services or benefit was provided by the Town, giving rise to such charge. The owner of every building, premises, lot or house shall be liable for all fees and charges due the Town, which lien or liability may be enforced by the Town by action at law or suit to enforce the lien, and the owner thereof shall not be relieved of such obligations and lien for services provided to a tenant in possession of any premises or building and the Town shall not be required to look to any person whatsoever other than the owner for the payment of any charges. No change of ownership or occupation shall affect the application of this Article and the failure of any owner to learn that he or she purchased property against which a lien exists shall in no way affect his or her liability for such payment in full.

B. The amount due and in default shall, in addition to said right of enforcement by disconnection of service, become a lien of the property and premises so served to the amount of the charges from the date the same accrued and became due and payable. Said delinquent payments shall be enforced by assessment upon the property and premises so served and certification thereof to the County Treasurer for collection in the same manner as though they were part of the taxes.

**Section 2.** Chapter 2 of the official code of the Town of Timnath titled ADMINISTRATION, PERSONNEL, BOARDS AND COMMISSIONS is hereby repealed and reenacted as follows:

## **CHAPTER 2 ARTICLE I - GENERAL PROVISIONS**

### **2.1.1. Meetings**

A. Regular meetings of the Town Council, the Planning Commission, and any other board appointed by the Town Council shall be held as set forth in the Charter.

B. Town Council: There shall be one (1) regular meeting of the Town Council in each calendar month.

C. Planning Commission: There shall be one (1) regular meeting of the Planning Commission in each calendar month.

### **2.1.2. Special meetings, work sessions**

A. Special meetings shall be held and noticed as set forth in the Charter.

B. At any special or regular meeting, the Town Council or the Planning Commission may, by motion continue the meeting, The motion for continuing the meeting shall include the date, time, place and purpose of the business to be discussed.

C. Work sessions shall be held as set forth in the Charter.

### **2.1.3: Emergency meetings**

An emergency meeting may be held in accordance with the Charter.

### **2.1.4. Posting of meeting notices**

Town Hall, 4100 Main Street, Timnath, Colorado shall constitute the designated public posting place for the posting of meeting notices. The Town Clerk shall be responsible for posting the required notices no later than twenty-four (24) hours prior to the holding of the meeting. All meeting notices shall include specific agenda information, where possible.

### **2.1.5. Quorum, Conduct of meetings; voting**

A. For the purposes of conducting business or taking action at any meeting, a quorum shall be determined as set forth in the Charter. Upon the taking of any vote, the Town Clerk shall record in the minutes the names of those voting and their votes

B. Conflicts of interest shall be identified and addressed as set forth in the Charter. Unless a conflict is identified and the Council or Commission member is-permitted to abstain, all members of the Council or the Commission shall vote on all matters.

C. If a quorum is not present the members present may continue the meeting to a future date and time by a majority vote of those present. In the event neither the Mayor nor the mayor pro tem, or the Chair nor the co-Chair, is present at the meeting, the members present shall determine by majority vote who shall serve as chair of the meeting. In the event that in order to achieve a quorum a member can attend only by telephone, and there is an issue that must be determined prior to the next meeting, a quorum may be

achieved by having at least one (1) member participate by telephone provided that the member so participating shall be fully advised of the issues to the extent that the other members present in person and shall be able to hear and comment on all discussion on the issue prior to voting thereon. Attendance by telephone shall not be allowed absent such extenuating circumstances and approval of the majority of the members of the Town Council or Planning Commission present. In the event a quorum is to be achieved by the use of telephone, the Council or Commission members present shall make an attempt to contact each absent Council or Commission member by telephone in an effort to achieve a quorum in an impartial manner.

#### **2.1.6. Decorum during meetings**

All members of the Town Council, and the Planning Commission and individuals in attendance shall observe proper decorum and avoid the use of abusive or profane language in the meeting room and when addressing the Town Council, or the Planning Commission. In the event that abusive or profane language is used or an individual otherwise disrupts the meeting, such individual may be removed from the meeting room.

#### **2.1.7. Holidays**

The Town of Timnath will observe the following state and national holidays, and the offices of the Town of Timnath shall be closed for business on these days:

1. New Year's Day - the first day of January.
2. Martin Luther King, Jr.'s Birthday - third Monday in January
3. Washington-Lincoln Day - third Monday in February
4. Memorial Day - last Monday in May
5. Independence Day - fourth of July
6. Labor Day - first Monday in September
7. Thanksgiving Day - fourth Thursday in November
8. Thanksgiving Friday - fourth Friday in November
9. Christmas Day - twenty-fifth of December
10. Floating Holiday - one day during Christmas week (in addition to the twenty-fifth of December)

If such holidays fall on a Saturday, the holiday shall be observed on the preceding Friday. If such holiday falls on a Sunday, the holiday shall be observed on the Monday following the actual holiday. The Town Manager shall determine the floating holiday no later than January 5 of each year.

### **CHAPTER 2 - ARTICLE II ELECTIONS**

#### **2.2.1: Conduct of elections**

Pursuant to the Charter, Town elections shall be governed by the Colorado Municipal Election Laws as now existing or hereafter amended. The Uniform Election Code shall govern coordinated elections.

#### **2.2.3: Cancellation of election**

A. If the only matter before the voters is the election of persons to office and if, at the close of business on the 19th day before the election, there are not more candidates than offices to be filled at such election, including write-in candidates, the Town Clerk, if instructed by resolution of the governing body either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected.

B. Notice of such cancellation shall be published, if possible, in order to inform the electors of the Town, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

## **CHAPTER 2 - ARTICLE III - MAYOR AND COUNCILMEMBERS**

### **2.3.1. Qualification of elected officers**

Qualifications and powers of elected officers and vacancies in office shall be as set forth in the Charter.

### **2.3.2. Removal from office**

A majority of the Town Council may remove a Councilmember for cause as set forth in Charter § 2.6 after written notice of the alleged grounds to the Councilmember and a hearing thereon before the Council.

### **2.3.3. Boards and Commissions**

The creation of and appointment to boards and commissions shall be governed by Article IX of the Charter.

## **CHAPTER 2 - ARTICLE IV OFFICERS AND EMPLOYEES**

### **2.4.1. Oath of office; bond**

When required by the Town Council, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitution and laws of the United States and the State and the ordinances of the Town.

### **~~2.54.~~ 2.4.2: Town Clerk duties**

The Town Clerk shall have such powers and perform such duties as prescribed by the Charter.

### **2.4.3. Town Manager**

The Charter shall govern the appointment, powers, duties and removal of the Town Manager.

## **CHAPTER 2 - ARTICLE V MUNICIPAL COURT**

### **2.5.1. Established**

The Charter shall govern the administration of the Town of Timnath Municipal Court.

### **2.5.2. Contempt power**

A. When the Municipal Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of thirty (30) days.

B. In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury.

## **CHAPTER 2 - ARTICLE VI POLICE DEPARTMENT**

### **2.6.1. Designation of Marshal**

The Larimer County Sheriff is designated as the Marshal of the Town pursuant to the annual Intergovernmental Agreement between the Town and Larimer County .

### **2.6.2. Duty of citizens to aid police officers**

It shall be the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his or her duties.

## **CHAPTER 2 ARTICLE VII PLANNING COMMISSION**

### **2.7.1. Created**

Pursuant to the authority conferred by Title 31, Article 23, Parts 2 and 3, C.R.S. there is hereby created a Planning Commission for the Town. This Article carries out the establishment and administration of the Planning Commission as contemplated by the Charter.

### **2.7.2. Members; terms; removal; vacancies**

A. Members. The Planning Commission shall be comprised of five (5) official members and two (2) alternates. The alternates shall serve as appointed Planning Commission members in the absence of an official member and shall have the power of an official member while serving in that capacity.

B. Term. The term of each appointed official shall be four (4) years or until the appointed official's successor takes office. The terms shall be staggered, commencing with the appointments made on or before April 1, 2003. Three (3) terms shall expire on March 31, 2005, two (2) terms shall expire on March 31, 2007, and the terms for the two (2) alternates shall expire one (1) on March 31, 2005 and one (1) on March 31, 2007, with all terms expiring four (4) years thereafter.

C. Removal; vacancies. Members may be removed after notice and an opportunity for hearing by the Town Council for inefficiency, neglect of duty or malfeasance in office. The notice shall include a written statement of the reason for such removal and inform the member of the opportunity for hearing. Vacancies occurring prior to the expiration of a term shall be filled for the remainder of the unexpired term as provided in the Charter.

### **2.7.3. Qualifications of members**

All official members and alternates shall be qualified electors of the Town appointed by the Town Council. All members of the Planning Commission shall be residents of the Town, and if any member ceases to reside in the Town, his or her membership shall immediately terminate. All members of the Commission shall serve as such without compensation, and the appointed members shall hold no other municipal office.

### **2.7.4 Organization and rules**

The Planning Commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The terms of the chairman shall be one (1) year, with eligibility for reelection. The Planning Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

### **2.7.5: Staff and finances**

The Planning Commission may, with the consent of the Town Manager, use Town employees the Town Planners, Town Engineer, the Town Attorney or, with the consent of the Town Council, contract with other consultants for such services as it may require. The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the, Town Council, which shall provide the funds, equipment and accommodations necessary for the Planning Commission's work.

### **2.7.6. Powers of the Planning Commission**

The Planning Commission shall have all of the powers and perform each and all of the duties specified by Title 31, Article 23, Parts 2 and 3, C.R.S. together with any other duties or authority which may hereafter be conferred upon them by the Charter and ordinances of the Town and the laws of the State of Colorado. The performance of such duties and the exercise of such authority is to be subject to each and all of the limitations expressed in such legislative enactment or enactments.

## **CHAPTER 2 - ARTICLE VIII BOARD OF ADJUSTMENT**

### **2.8.1. Created**

Pursuant to the authority conferred by state law, there is hereby created a Board of Adjustment for the Town. This Article carries out the establishment and administration of the Board of Adjustment as contemplated by the Charter.

### **2.8.2. Members of Board**

The Town Council shall serve as the Board of Adjustment.

### **2.8.3. Powers and duties of Board**

The Board of Adjustment shall have the following powers and duties, all of which shall be exercised subject to the laws of the State of Colorado and subject to appropriate conditions and safeguards, in harmony with the purpose and intent of this Code and in accordance with the public interest and the most appropriate development of the area:

1. To hear and decide appeals from, and review any order, requirements, decision or determination made by an administrative official or the Planning Commission, charged with enforcement of the regulations established in this Code.

2. To hear and decide requests for special exceptions as referred to such Board in other sections of this Code.

3. A concurring vote of three (3) members is needed to reverse any order, requirements, etc., of the administrative official charged with enforcing this Code; to decide in favor of any applicant on any matter upon which the Board of Adjustment is required to pass under this Code; to effect any variation in this ordinance.

#### **2.8.4. Organization and rules**

The Board of Adjustment shall elect a chairman from among its members and create and fill such other of its offices as it may determine. The term of the chairman shall be one (1) year, with eligibility for reelection. The Board of Adjustment shall hold such meetings as may be required to fulfill its purposes, and it shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Such rules shall include the time within which an appeal to the Board of Adjustment must be taken and the name in which meetings of the Board of Adjustment may be called.

### **CHAPTER 2 - ARTICLE IX LOCAL LICENSING AUTHORITY**

#### **2.9.1. Created**

Pursuant to the authority conferred by state law, there is hereby created a Local Licensing Authority for the Town. The Local Licensing Authority shall have two (2) divisions as follows:

1. The Town Council shall serve as the Local Licensing Authority for all new liquor renewals of existing liquor licenses, and for all other liquor licensing matters.

2. The Municipal Judge shall serve as the Local Licensing Authority for show cause orders and hearings on suspensions and revocations and other disciplinary actions.

#### **2.9.2. Appearance of witnesses**

The Local Licensing Authority shall have the authority to issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which the Local Licensing Authority is authorized to conduct. It is unlawful for any person to fail to comply with any subpoena issued on behalf of the Local Licensing Authority.

**Section 3. Code Revision:** The Municipal Code is being revised in its entirety. As Chapters of the Municipal Code are reviewed and edited, minor changes such as the format, numbering and other changes necessary to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes provided that neither the intent nor substantive content will be altered by such changes.



17  
**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 Council 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. As Chapter of the Municipal Code are reviewed and changes, minor number and edit changes may be necessary, and the Acting Town Clerk is hereby allowed to make minor changes as necessary.

**Section 5. 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 6. 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 APRIL 18, 2007 AT THE TIMNATH TOWN HALL, 4100 MAIN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 4<sup>TH</sup> DAY OF APRIL, 2007.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON APRIL 18, 2007 AS AMENDED.

TOWN OF TIMNATH, COLORADO

  
\_\_\_\_\_  
Donna Benson, Mayor

ATTEST:

  
\_\_\_\_\_  
Linda Griess, Acting Town Clerk

