

**TOWN OF TIMNATH, COLORADO**

**ORDINANCE NO. 72, SERIES 2009**

**AN ORDINANCE AMENDING CHAPTER 16, ARTICLE I OF THE TIMNATH MUNICIPAL CODE BY THE ADDITION OF A NEW SECTION 16.1.18 CONCERNING COMPLIANCE WITH THE MAJOR ACTIVITY NOTICE REQUIREMENTS FOR GEOLOGICAL TESTING OF C.R.S. § 31-23-225**

**WHEREAS**, the Town of Timnath, Colorado (the "Town"), is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Timnath Home Rule Charter ("Charter"); and

**WHEREAS**, C.R.S. § 31-23-225 requires the governing body of a municipality which has received a proposal for subdivision, commercial or industrial activity which will cover five (5) or more acres of land to send notice to the state geologist and the board of county commissioners of the county in which the improvement is located prior to approval of any zoning change, subdivision or building permit application associated with such a proposed activity; and

**WHEREAS**, C.R.S. § 31-23-226 provides that home rule municipalities may limit the applicability of C.R.S. §§ 31-23-201, *et seq.*, by ordinances adopted pursuant to their home rule authority; and

**WHEREAS**, pursuant to this authority, the Town Council ("Council") desires to amend Chapter 16, Article I of the Timnath Municipal Code by the addition of a new Section 16.1.18 to provide that compliance with the major activity notice requirements of C.R.S. § 31-23-225 is optional, at the sole discretion of the Town Manager or their designee, rather than mandatory as permitted by C.R.S. § 31-23-226.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO:**

**Section 1.** Chapter 16, Article I of the Timnath Municipal Code is hereby amended by the addition of a new Section 16.1.18, concerning major activity notice, to read in its entirety as follows:

**16.1.18 Major Activity Notice**

Pursuant to the Town's home rule authority and C.R.S. § 31-23-226, compliance with the major activity notice requirements of C.R.S. § 31-23-225 shall only apply when the Town Manager, in his or her sole discretion, deems such notice necessary and/or beneficial for the particular land development proposal received.

**Section 2. 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

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

**Section 3. Effective Date.** As authorized by Charter Section 3.5.5, this Ordinance shall take effect immediately upon adoption at second reading.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, ON JULY 22, 2009, AND SET FOR PUBLIC HEARING AND SECOND READING AT 7:00 P.M. ON AUGUST 5, 2009 AT THE TIMNATH TOWN HALL, 4100 MAIN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 23<sup>RD</sup> DAY OF JULY, 2009.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON August 5, 2009.

TOWN OF TIMNATH, COLORADO

*Donna Benson*

Donna Benson, Mayor

ATTEST:

*Milissa McGuire*

Milissa McGuire, Town Clerk

