

TOWN OF TIMNATH, COLORADO

ORDINANCE NO. 81, SERIES 2009

**AN ORDINANCE AMENDING SECTIONS 4.102, 4.103, 6.4.1 THROUGH 6.4.15 AND
ADDING SECTIONS TO CHAPTER 10 TO ADDRESS PROHIBITED SOLICITATION**

WHEREAS, the Town of Timnath, Colorado (the "Town"), is a political subdivision of the State of Colorado organized and existing as a home rule municipality pursuant to Section 6 of Article XX of the Colorado Constitution and the home rule charter for the Town ("Charter"); and

WHEREAS, pursuant to its constitutional, statutory and home rule authority, the Town possesses the authority to prohibit and punish nuisances and offenses; and

WHEREAS, the Town Council has previously adopted ordinances proscribing certain sections of Article IV, Sections 102 and 103, and Article VI, Section 6.4.1 through 6.4.15 providing permits and licensing for solicitation. Thereby, adding criminal conduct and providing penalties for solicitation, therefore, codified as Chapter 10 of the Timnath Municipal Code (the "Code"), entitled General Offenses; and

WHEREAS, the Town Council desires to ensure that residents shall be provided with privacy and security from solicitation.

WHEREAS, Article 10 of Title 13 of the Colorado Revised Statutes generally governs Colorado municipal courts; and

WHEREAS, C.R.S. § 13-10-113 authorizes municipal courts to impose such fines and costs not to exceed those amounts established locally by ordinance; and

WHEREAS, the Court has established, by Court order, a presumptive fine schedule within the maximum penalty parameters established by ordinance of the Town; and

WHEREAS, recognizing the Court's authority to adopt such a fine schedule, the Timnath Town Council ("Council") desires to recommend to the Court that presumptive fines for the offenses of theft, shoplifting and exceeding the maximum permissible wheel and axle loads be added to the fine schedule.

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

Section 1. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Council.

Section 2. The Council hereby recommends that the Town of Timnath Municipal Code be amended and sections added as shown in the attached **EXHIBIT A**.

Section 3. 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.

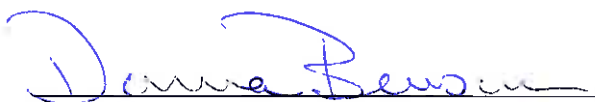
Section 4. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 5. 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 NOVEMBER 4, 2009 AT THE TIMNATH TOWN HALL, 4100 MAIN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 5TH DAY OF NOVEMBER, 2009.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON
December 2, 2009.

TOWN OF TIMNATH, COLORADO


Donna Benson, Mayor

ATTEST:


Milissa McGuire, Town Clerk

EXHIBIT A

AMENDED AND ADDED SECTIONS TO CHAPTERS 4, 6, AND 10.

Chapter 4, Sections 102 and 103 Amendments

Section	Description	Amount of Fee	
6.74	Peddlers	\$35.00 for each peddler's permit	Each month

4.103. Returned checks: (Ord 11-2002) A fee of twenty dollars (\$20.00) shall be assessed by the Town against any person who issues a check returned for insufficient funds or lack of an account to the Town in payment of taxes, licenses or any other fees collectable by the Town. Any other penalties or interest prescribed by any provision of this Code or state law may be applied.

Chapter 6, Sections 4.1 through 4.15 Amendments

**LICENSES, PERMITS AND REGULATIONS
ARTICLE IV – PEDDLERS**

- 6.4.1: Purpose
- 6.4.2: Definitions
- 6.4.3: Permit and applicable licenses required
- 6.4.4: Fees
- 6.4.5: Application contents
- 6.4.6: Permit; grounds for denial
- 6.4.7: Transfer of permits
- 6.4.8: Records
- 6.4.9: Appeal
- 6.4.10: Expiration of permit
- 6.4.11: Revocation of permit
- 6.4.12: Exhibition of permit

6.4.1: Purpose (Ord 11-2002, 9-2007)
the Town Council is desirous of establishing a permitting process for peddlers engaged in business in the Town.

6.4.2: Definitions (Ord 11-2002, 9-2007)
As used in this Article, unless the context otherwise requires:

Peddler means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the Town, and who in furtherance of such purpose, leases, uses or occupies any tent, temporary

structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the Town for more than fifteen (15) minutes at a time. This definition does not include a Special Use Permit. This definition shall not include an individual who holds a business license from the Town and operates indoors.

Sales tax means the tax authorized and levied by and within the Town, pursuant to this Code.

6.4.3: Permit and applicable licenses required (Ord 11-2002, 9-2007)

Every peddler shall register and obtain a permit from the Town Clerk and pay the permit fee as provided in this Article before engaging in peddling or soliciting activities. Such permit shall be in addition to licenses required pursuant to Articles I and II of this Chapter.

6.4.4: Fees (Ord 11-2002, 9-2007)

The permit fee for each person engaging in peddling shall be set forth in Chapter 4, and such permit shall be issued for one (1) month.

6.4.5: Application Contents (Ord 11-2002, 9-2007)

Each applicant for a ~~license or~~ permit shall file with the Town Clerk:

1. The applicable licenses as required by Articles I and II of this Chapter;
2. Copies of any business or sales tax licenses required by the state; and
3. An affidavit on a form supplied by the Town Clerk stating:
 - a. The full name of the applicant;
 - b. The applicant's business address;
 - c. The applicant's business telephone number;
 - d. The applicant's residential address (temporary and permanent);
 - e. The applicant's residential phone number;
 - f. A description of the applicant, including height, weight, color of eyes and color or hair;
 - g. The state of issuance and identification number of the applicant's driver's license or other picture identification;
 - h. The number on and the state of issuance of the license plates of any motor vehicle owned, rented or being driven by the applicant and of any motor vehicle which the applicant intends to use in the course of door-to-door sales, a description of any such motor vehicle, and the name and address of the owner of such motor vehicle;
 - i. Whether the applicant is presently on parole or probation for any criminal violations;
 - j. A brief explanation of the nature of the merchandise to be sold or other activity that requires a license or permit under this Article;
 - k. If the applicant is an employee of a foreign corporation, the name, address and telephone number of an agent for process residing in the State; and
 - m. The dates or length of time for which the right to do business is desired.

6.4.6: Permit; grounds for denial (Ord 11-2002, 9-2007)

A. The Town Clerk may deny the issuance of a permit for the following reasons:

1. Any misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere;

2. Failure to comply with this Article or violation of any ordinance applicable to the permitted activities;

3. Failure to obtain any license as required by the Town or failure of the applicant, the applicant's supervisor or the applicant's employer to remit any sales tax due the Town; or

4. Felony convictions for crimes against the person or property of another, or institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such felony convictions or institutionalization occurred within the five (5) years preceding the date of application.

B. For purposes of this Section:

1. Crimes or acts of violence against the person of another shall include homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar felonies involving moral turpitude by whatever name; and

2. Crimes or acts against the property of another shall include theft, burglary, breaking and entering, larceny and other similar felonies involving moral turpitude by whatever name.

C. Persons whose applications for permits have been denied shall be notified in writing the reason for such denial, and upon written request to the Town Clerk, are entitled to an administrative hearing with the Town Clerk, or another hearing officer as designated by the Town Clerk, serving as presiding officer. The presiding officer shall determine whether the reasons for permit denial exist.

6.4.7: Transfer of Permits (Ord 11-2002, 9-2007)

No person shall transfer or attempt to transfer a permit to any other person, and no person shall use a permit issued to any other person.

6.4.8: Records (Ord 11-2002, 9-2007)

The Town Clerk shall maintain records showing each permit issued and any alleged violations of this Article.

6.4.9: Appeal (Ord 11-2002, 9-2007)

An applicant may appeal any decision relating to his permit by the Town Clerk to the Town Manager. If the applicant requests, the Town Manager shall hold a hearing pursuant to the procedures set forth in the ordinances of the Town.

6.4.10: Expiration of permit (Ord 11-2002, 9-2007)

Each permit shall expire on the date specified on the permit, and the Town Clerk shall issue no permit for a period longer than one (1) month. On the expiration of a permit, any person may

apply for the issuance of a new permit and shall not peddle or solicit within the Town until the permit has been renewed or reissued.

6.4.11: Revocation of permit (Ord 11-2002, 9-2007)

If the Town Clerk finds that any of the grounds stated in Section 6.4.6 exist or that an applicant has made a false statement in his application, the Town Clerk shall revoke the permit; or for other just cause, communicated to the person, related to the health, safety or welfare of the citizens of the Town, the Town Clerk may revoke the permit. The hearing process set forth in Section 6.4.8 (C) and the appeals procedures set forth in Section 6.4.11 shall be applicable to the revocation process.

6.4.12: Exhibition of permit (Ord 11-2002, 9-2007)

Whenever requested by any customer or prospective customer, or any law enforcement officer, a peddler shall exhibit the permit obtained pursuant to this Article.

Chapter 10 Additions

10.136. Residential solicitations prohibited; exceptions.

No person shall enter or remain upon any residential premises in the Town, not having been requested or invited by the occupant(s) thereof, for the purpose of contacting said occupants to solicit the immediate or future purchase or sale of goods, services or any other thing of value. The provisions of this Section shall not apply to charitable, religious or political solicitations unless a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance(s) to such residence.

10.137. All solicitations prohibited by posting of "No Solicitation" or "No Trespassing" sign.

No person shall enter or remain upon any public or private premises in the Town, not having been requested or invited by the occupant(s) thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, services or any other thing of value, or to solicit a gift or donation when a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance(s) to such premises. This provision shall apply to all solicitations, including, without limitation, those that are charitable, religious or political in nature.

10.138. Attempt to obtain invitation prohibited.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement.