

TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 82, SERIES - 2009

**AN ORDINANCE ADDING SECTIONS 10.26, 10.27, 10.28, 10.134 AND 10.135 OF
THE TIMNATH MUNICIPAL CODE CONCERNING CAMPING, PANHANDLING AND
MISUSE OF PUBLIC WATERS, AND DECLARING AN EMERGENCY**

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 criminal conduct and providing penalties therefore, codified as Chapter 10 of the Timnath Municipal Code (the "Code"), entitled General Offenses; and

WHEREAS, the Town Council finds that there are no defined requirements for camping on public and private lands, appropriate use of waterways, and panhandling; and

WHEREAS, the Town Council desires to ensure that the residents of Timnath shall be protected from pollution of waterways, inappropriate camping and potential harassment from panhandlers.

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

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

Section 2. Section 10 of the Code, concerning panhandling, camping and misuse of waterways as set forth in Chapter 10, is hereby amended by the addition of new sections 10.26, 10.27, 10.28, 10.134 and 10.135 as set forth on **EXHIBIT A**, attached hereto and fully incorporated herein by this reference.

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 part or any parts be declared unconstitutional or invalid.

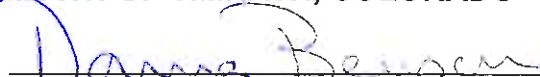
Section 4. Police Power Finding. The Town Council hereby finds, determines, and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote prosperity, and improve the order, comfort and convenience of the Town of Timnath and the inhabitants thereof.

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. Emergency Declared; Effective Date. Pursuant to Section 3.6 of the Charter, the Council finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of the public peace, health and safety in order to prevent persons from camping, panhandling or inappropriately using waterways throughout Town. The Town Council finds, determines and declares that an emergency exists requiring the passage and immediate effectiveness of this Ordinance in that the Town presently has no Code requirements governing these matters, and the lack of such control exposes the residents of the Town to immediate harm. The Town Council further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Timnath. This Ordinance shall be effective upon adoption.


MOVED , SECONDED AND FINALLY ADOPTED ON SINGLE READING, AS PERMITTED BY SECTION 3.6 OF THE CHARTER FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON THIS 16TH DAY OF SEPTEMBER, 2009.

TOWN OF TIMNATH, COLORADO



Donna Benson, Mayor

ATTEST:



Milissa McGuire, Town Clerk



EXHIBIT A

10.26. Camping on public property restricted.

It shall be unlawful for any person to camp or pitch a tent, or knowingly permit any person to camp or pitch a tent, on public property within the Town. *Camping*, for the purposes of this Section, shall mean to sleep, spend the night, reside or dwell temporarily with or without bedding or other camping gear and with or without shelter, or to conduct activities of daily living such as eating or sleeping, in such place unless such person is camping in compliance with the Town Council authority in a natural or recreation area. *Camping* shall not include incidental napping or picnicking.

10.27. Camping on private property restricted; exceptions.

It is unlawful for any person to camp or to knowingly permit any person to camp, as defined in § 10.26, on private property within the Town, except on the premises of a residential dwelling with the permission of the property owner. Any such camping must be temporary in nature and must not exceed a period of seven (7) consecutive days or a total of fourteen (14) days in a calendar year.

10.28. Misuse of public waters.

No person shall swim in, bathe in, wash dishes in, or otherwise use the waters of any stream, lake, reservoir, pool, fountain, or other body of water in any public place or on property belonging to the Town or under the possession and control of the Town, unless such body of water is designed, intended and made available to the general public for such use.

10.134. Panhandling.

A. When used in this Section, the following words, terms and phrases shall have the meanings ascribed to them in this Subsection (a):

1. *At-risk person* shall mean a natural person who is sixty (60) years of age or older, under eighteen (18) years of age, or who is a person with a disability. A *person with a disability* shall mean, for purposes of this Paragraph (1), a natural person of any age who suffers from one (1) or more substantial physical or mental impairments that render the person significantly less able to defend against criminal acts directed toward such person than he or she would be without such physical or mental impairments. A *substantial physical or mental impairment* shall be deemed to include, without limitation, the loss of, or the loss of use of, a hand or foot; loss of, or severe diminishment of, eyesight; loss of, or severe diminishment of, hearing; loss of, or severe diminishment in, the ability to walk; and any developmental disability, psychological disorder, mental illness or neurological condition that substantially impairs a person's ability to function physically or that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.

2. *Knowingly* shall mean, with respect to the conduct or circumstances described in this Section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With respect to a result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.

3. *Obscene* shall mean a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

4. *Obstruct* shall mean to render impassible or to render passage unreasonably inconvenient or hazardous.

5. *Panhandle* shall mean to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.

B. It shall be unlawful for any person to panhandle if such panhandling occurs:

1. Any time from one-half ($\frac{1}{2}$) hour after sunset to one-half ($\frac{1}{2}$) hour before sunrise;

2. In a manner that involves the person panhandling knowingly engaging in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;

3. In a manner that involves the person panhandling knowingly directing fighting words to the person solicited;

4. In a manner that involves the person panhandling knowingly touching or grabbing the person solicited;

5. In a manner that involves the person panhandling knowingly continuing to request the person solicited for a gift of money or thing of value after the person solicited has refused the panhandler's initial request;

6. In a manner that involves the person panhandling knowingly soliciting an at-risk person;

7. On a sidewalk or other passage way in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;

8. Within one hundred (100) feet of an automatic teller machine or of a bus stop;

9. On a public bus;

10. In a parking garage, parking lot or other parking facility; or

11. When the person solicited is entering or exiting a parked motor vehicle, in a motor vehicle stopped on a street, or present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink.

10.135. Obstructing a highway or passageway.

A. No person acting without legal privilege shall:

1. Obstruct a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, hallway or any other place used for the passage of persons, vehicles or conveyances to which the public or a substantial group of the public has access, whether the obstruction arises from that person's acts alone or from that person's acts and the acts of others; or

2. Disobey a reasonable request or order to move issued by one whom the person knows to be a peace officer, a firefighter, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

B. For purposes of this Section, the term *obstruct* shall mean to render impassable or to render passage unreasonably inconvenient or hazardous. The term *unreasonably inconvenient or hazardous* shall include, but not be limited to, sitting or lying within twenty (20) feet of the entrance to any business establishment during the business hours of that establishment, except on a bench, seat or other structure made available for such purpose by the property owner or the Town.

C. The foregoing prohibition against sitting or lying within twenty (20) feet of the entrance to a business establishment during business hours shall not apply to any person:

1. Who, as a result of a disability, utilizes a wheelchair, walker or similar device to move about the public sidewalk;

2. Sitting or lying down due to a medical emergency;

3. Participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted pursuant to a street use or other applicable permit;

4. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.