

**TOWN OF TIMNATH, COLORADO**

**ORDINANCE NO. 115, SERIES 2011**

**AN ORDINANCE OF THE TOWN OF TIMNATH TOWN COUNCIL  
ESTABLISHING A PROCESS FOR THE REFUND OF THE WIFI  
CAPITAL INFRASTRUCTURE IMPACT FEES FROM THE WIFI  
CAPITAL INFRASTRUCTURE EXPANSION ACCOUNT**

**WHEREAS**, on November 15, 2006, the Town Council of the Town of Timnath ("Town") approved Ordinance No. 21-2006, *An Ordinance of the Board of Trustees of the Town of Timnath Amending Article VII, Section 4.125 of the Timnath Municipal Code with Regard to Impact Fees for Particular Public Facilities and Establishing the WiFi Capital Infrastructure Expansion Account as the Depository Funds for the WiFi Capital Infrastructure Impact Fees Collected*, establishing a WiFi Capital Infrastructure Impact Fee and a separate account within the Town's capital improvement expansion fund known as the Wi-Fi Capital Infrastructure Expansion Account, for the purpose of funding capital improvements related to the provision of a Town-wide WiFi system; and

**WHEREAS**, the Town Council no longer wishes to impose a WiFi Capital Infrastructure Impact Fee or have a fund known as the Wi-Fi Capital Infrastructure Expansion Account; and

**WHEREAS**, on the date of adoption of this ordinance, the Town Council has also amended the schedule of capital improvement expansion fees to eliminate the WiFi Capital Infrastructure Impact Fee and eliminate the Wi-Fi Capital Infrastructure Expansion Account; and

**WHEREAS**, most of the funds previously collected pursuant to the WiFi Capital Infrastructure Impact Fee will not be expended or appropriated by the Town for the purposes of providing a Town-wide WiFi system; and

**WHEREAS**, the Town Council wishes to establish a process to refund the WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account to the record owner of the property for which the WiFi Capital Infrastructure Impact Fee was paid; and

**WHEREAS**, Paragraph A of Section 4.130 of the *Town Municipal Code* provides for refunds of impact fees for capital improvements that are not apportioned by the Town for expenditure within seven years from the date of payment of such fees, as follows:

Any fees not so appropriated or expended shall be refunded, upon application, to the record owner of the property for which the impact fee was paid, together with the interest calculated from the date of collection to the date of refund; provided however, that the Town shall retain an additional two percent of the fee to offset the cost of the refund

and

**WHEREAS**, the Town Council wishes to establish a process to refund the WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account to the record owner of the property for which the WiFi Capital Infrastructure Impact Fee was paid that (1) is similar to the process set forth in Paragraph A of Section 4.130; (2) sets forth the procedure for application for a refund; and (3) sets forth a process for the Town to determine that the identity of the applicant matches the record owner of the property for which the impact fee was paid; and

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

**Section 1. Amendment to the *Timnath Municipal Code*.**

A new Subsection E entitled "Refund of WiFi Capital Infrastructure Impact Fees," is hereby added to Section 4.130 ("Refunds") of Article VII of the *Timnath Municipal Code*, as follows:

**E. Refund of WiFi Capital Infrastructure Impact Fee.**

1. The provisions of this Subsection E of Section 4.130 of Article VII of the *Timnath Municipal Code*, shall apply to refunds of WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account.
2. As of August 2, 2011, in accordance with Ordinance No. 114, Sieres 2011, the WiFi Capital Infrastructure Impact Fee is no longer imposed by the Town of Timnath for the purpose of funding capital improvements related to the provision of a Town-wide WiFi system and most of the funds previously collected pursuant to the WiFi Capital Infrastructure Impact Fee will not be expended or appropriated by the Town for the purposes approved herein. The Town Manager shall determine the balance remaining in the in the Wi-Fi Capital Infrastructure Expansion Account as of January 1, 2012, after payment of all costs have been made by the Town as provided for in this Article. Upon application pursuant to the process set forth below, the funds shall be refunded on a pro-rata basis to the record owner of the property for which the impact fee was paid. The refund will consist of the applicant's pro-rata share determined by dividing the cash balance remaining in the Wi-Fi Capital Infrastructure Expansion Account, after payment of all costs have been made as provided for in this Article, by the total amount claimed for all approved applications received as of December 31, 2011. No applicant shall receive a refund in an amount greater than the impact fee paid for the property. Any checks from the Town for refunds not cashed within six months of issuance will be void and shall not be reissued. All funds remaining in the Wi-Fi Capital Infrastructure Expansion Account after all refunds have been paid will be deposited in the Town's General Fund.
3. Any application for a refund of WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account shall be submitted to the Town on or before December 31, 2011. An application for a refund of WiFi Capital

Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account must be labeled "Application for Refund of WiFi Capital Infrastructure Impact Fees" and include a statement by the current record owner of the property for which the impact fee was paid that he or she is the current record owner of the property for which the impact fee was paid. The statement must be signed by the current record owner of the property for which the impact fee was paid.

4. When the Town receives an application for a refund of WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account, the Town shall attempt to confirm that the identity of the applicant matches the identity of the record owner of the property for which the impact fee was paid by reference to the on-line records of the County Clerk and Recorder's Office, as appropriate, or by any other means deemed necessary by the Town Manager. Once ownership is confirmed, the Town shall issue a refund in accordance with paragraph E.2 of this Section 4.130. If the Town is unable to confirm that the identity of the applicant matches the identity of the record owner of the property for which the impact fee was paid, the Town shall ask the applicant to provide evidence of his or her ownership of the property for which the impact fee was paid. If the Town is unable to confirm that the identity of the applicant matches the identity of the record owner of the property for which the impact fee was paid, the Town is not required to issue a refund of WiFi Capital Infrastructure Impact Fees from the Wi-Fi Capital Infrastructure Expansion Account. The Town will only make one refund per property.

**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 Town 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 3. 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 4. Effective Date.**


This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Town's Home Rule Charter. The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

*[Signatures follow on page 4.]*

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, ON JULY 5, 2011, AND SET FOR PUBLIC HEARING AND SECOND READING AT 7:00 P.M. ON AUGUST 2, 2011 AT THE TIMNATH ADMINISTRATION BUILDING, 4800 GOODMAN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 5TH DAY OF JULY, 2011.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON AUGUST 2, 2011.

**TOWN OF TIMNATH, COLORADO**

  
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Jill Grossman-Belisle, Mayor

**ATTEST:**

  
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Milissa McGuire, Town Clerk