

**TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 10, SERIES 2013**

**AN ORDINANCE AMENDING CHAPTER 10, ARTICLE IV, SECTION 10.61
REGARDING THEFT, AMENDING CHAPTER 10, ARTICLE IV, SECTION 10.42
REGARDING CRIMINAL MISCHIEF, AND AMENDING CHAPTER 1, ARTICLE IV,
SECTION 1.4.2 REGARDING MUNICIPAL FINES**

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

ARTICLE 1 – AUTHORITY

The Town of Timnath (the "Town") is a home rule municipality operating under the Timnath Home Rule Charter (the "Charter") adopted on November 7, 2006 and the Town's Municipal Code (the "Code"). Pursuant to the Charter, the Code and the authority given home rule municipalities, the Town may adopt and amend ordinances.

ARTICLE 2 – DECLARATION OF POLICY

This Ordinance amends the Code to conform more closely to state laws regarding criminal mischief and theft, and municipal court fines, and to raise the monetary jurisdictional threshold for which each violation may be charged in under the Code.

ARTICLE 3 – SAFETY CLAUSE

The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of public health, welfare, peace, safety and property and that this Ordinance is necessary for the protection of public convenience and welfare.

ARTICLE 4 – ADOPTION

The Code is hereby amended as follows:

- A.** Section 10.42 of the Code is repealed, restated, and readopted to read as follows:

10.42. Criminal mischief.

(A) It is unlawful for any person to intentionally, knowingly, recklessly or negligently injure, damage or destroy the real or personal property of another; provided that this Section shall not apply to any person showing a legal right or authority to injure, damage or destroy such property. It is further provided that this Section shall not apply where the damage is effected by means of fire or explosives or with the intent to



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4800 Goodman Street
Timnath, CO 80547

defraud.

(B) This Section shall not apply when the aggregate value of the property damaged in any one (1) criminal episode is valued at a cost exceeding the maximum misdemeanor amount recognized under Title 18 of the Colorado Revised Statutes.

B. Section 10.61 of the Code is repealed, restated, and readopted to read as follows:

10.61. Theft generally.

(A) A person commits theft when he or she knowingly obtains or exercises control over any thing of value of another without authorization or by threat or deception when such person:

1. Intends to deprive the other person permanently of the use or benefit of the thing of value; or
2. Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit; or
3. Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use or benefit; or
4. Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(B) If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft.

(C) This Section shall not apply when the aggregate value of the property involved in any one (1) criminal episode is valued at a cost exceeding the maximum misdemeanor amount recognized under Title 18 of the Colorado Revised Statutes.

C. Section 1.4.2 of the Code is repealed, restated, and readopted to read as follows:

10.61. General penalty for violation.

1. Unless otherwise specifically provided, whenever in this Code or any other ordinance of the Town, or any order, rule or regulation promulgated under the provisions of this Code or other ordinance of the Town, an 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 Town or of such orders, rules or regulations shall be punished by a fine of not more than the maximum misdemeanor

amount recognized under Title 13 of the Colorado Revised Statutes, or by imprisonment not exceeding one (1) year, or by both 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.

2. Except as hereinafter 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 the maximum misdemeanor amount allowed under the Colorado Revised Statutes; 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); or 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 the maximum misdemeanor amount recognized under the Colorado Revised Statutes, or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

3. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by such person and shall be punished accordingly.

ARTICLE 5 – CAUSES OF ACTION RETAINED

Nothing in this Ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

ARTICLE 6 – SEVERABILITY

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 7 – 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, ON JULY 9, 2013, AND SET FOR PUBLIC

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HEARING, AND SECOND READING AT 6:00 P.M. ON JULY 23, 2013 AT THE
TIMNATH ADMINISTRATION BUILDING, 4800 GOODMAN STREET, TIMNATH
COLORADO AND ORDERED PUBLISHED BY TITLE THIS 9TH DAY OF JULY, 2013.

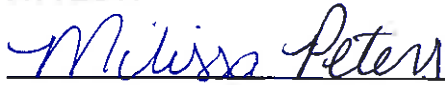
MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING
FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JULY 23,
2013.

TOWN OF TIMNATH, COLORADO



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, Town Clerk

