

TOWN OF TIMNATH, COLORADO

HOME RULE CHARTER

2015

**Adopted by the Electorate
of the Town of Timnath
on November 3, 2015**

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PREFATORY STATEMENT AND SYNOPSIS

1. On November 7, 2006, the Town of Timnath Home Rule Charter Commission submitted to the Board of Trustees and to the voters of the Town of Timnath a proposed Town of Timnath Home Rule Charter which was framed in conformity with Article XX of the Constitution of the State of Colorado and relevant state statutory provisions.

2. Mindful of the opportunities for growth and expansion and with a strong sense of desire to preserve the community that is known as the Town of Timnath, the Commission sought to prepare a Charter which provided a structure for the effective and efficient conduct of the Town government, and which also provided for ample opportunities for representation and participation in the affairs of the Town by every member of the Town.

3. In keeping with the above aims, the Charter vests all legislative powers in the Town Council composed of four (4) Councilmembers elected to serve four-year (4-year) overlapping terms, and one (1) Mayor elected to serve a four-year (4-year) term. Recognizing the potential for exponential growth of the Town, the Commission included a mechanism by which representation on the Town Council shall increase by two (2) Councilmembers at the point in time when the population of the Town has grown to twelve hundred (1,200) registered voters (this threshold was amended to 8,000 in 2015, see #10 below), thereby preserving effective representation of all citizens of the Town. This form of governance is meant to enhance opportunities of service and leadership in the Town.

4. The form of government provided by the Charter is a Council-Manager form of government. Executive, managerial and administrative responsibilities are to be exercised by the Town Manager, who is appointed by and serves at the pleasure of the Council.

5. The Commission recognized that the Charter is a document of limitation on the powers available to the Town and its citizens, and sought to include in the Charter important protections for the citizens. Provisions guaranteeing the citizen rights of initiative, referendum and recall are included.

6. Other matters covered in the Charter include: Council procedures, powers and duties; legal considerations; methods of Council action by ordinance, resolution and motion; redistricting; elections; finance and budget; amendment and repeal of the Charter and transitional provisions.

7. In 2015, the Timnath Town Council identified several proposed amendments that it believed would benefit the community and allow the Town to run more efficiently and effectively. The Council appointed a Charter Amendment Committee to gauge public support, and seek public input for the

proposed amendments. This committee was comprised of representatives of several areas in the community, including a member from the original charter committee, the districting committee, a Councilmember, and the chair of the Planning Commission.

8. On July 13, 2015, the Charter Amendment Committee held a public forum for the purpose of gathering public input regarding the proposed amendments.

9. On November 3, 2015, the Timnath Charter Amendment Committee submitted to the Timnath Town Council and to the voters of the Town of Timnath, proposed amendments to the Town of Timnath Home Rule Charter which were framed in conformity with Article XX of the Constitution of the State of Colorado and relevant state statutory provisions.

10. The 2015 Amendments include: (1) increase the elector threshold at which the Town Council membership will be increased from 1,200 electors to 8,000 electors; (2) reduce limitations on the Town's ability to appropriate funds for unanticipated expenditures; (3) extend the deadline for filing of the Town's annual audit so that it is consistent with state law; (4) remove lax Council Member meeting attendance requirements and delegate responsibility for setting such requirements to the Town Council; (5) provide more flexibility to the Council in addressing potential future budget shortfalls; (6) remove one year waiting period required between the end of a term as a council member and subsequent employment with the Town; (7) amend the procedural requirements for council removal of the Town Manager and Town Commission members from their positions; and (8) incorporate various administrative and grammatical recommendations made by Town staff and consultants.

11. The Charter Commission and Charter Amendment Committee members wish to express their appreciation to all Town personnel and all other members of the Timnath community who have contributed valuable time, energy and resources to aid in the creation and amendment of the Charter.

TOWN OF TIMNATH HOME RULE CHARTER COMMISSION (2006):

Donna Benson
Meg Corwin
Diane Fusaro
Del Miller
Susie Saunders
Charlie Snider
Kim Speaker
Raymond Wright
Dick Weiderspon

TOWN OF TIMNATH HOME RULE CHARTER AMENDMENT COMMITTEE
(2015):

Phil Goldstein – Chair of Charter Committee and Planning Commission
Raymond Wright – Committee Member and 2006 Charter Commission Member
Aaron Pearson – Committee Member and Council Member
Marty Jost – Committee Member and Districting Commission Member
John Cloudman – Committee Member and Districting Commission Member

TOWN OF TIMNATH TOWN COUNCIL (2015)

Jill Grossman-Belisle – Mayor
Bryan Voronin – Mayor Pro Tem
Aaron Pearson – Councilmember
Bill Neal – Councilmember
Paul Steinway – Councilmember

PREAMBLE

We, the people of the Town of Timnath, Colorado, in order to avail ourselves of self-determination in Town affairs to the fullest extent permissible under the Constitution and laws of the State of Colorado, to provide a less complicated government more responsive to the people, to provide for greater cooperation with all governmental entities, and to provide a more efficient and effective Town government, do hereby ordain, establish and adopt this Home Rule Charter for the Town of Timnath, Colorado.

**TOWN OF TIMNATH
HOME RULE CHARTER**

ARTICLE I – GENERAL PROVISIONS

Section 1.1 Name and Boundaries

The municipal corporation heretofore existing as the Town of Timnath, Larimer County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter, known as the Town of Timnath, (hereafter sometimes referred to as the Town) with boundaries the same as presently established, until changed in a manner authorized by law.

Section 1.2 Powers

The Town shall have all the powers of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers under this Charter is not exclusive of other powers not herein enumerated.

Section 1.3 Rights and Liabilities

By the name of the Town of Timnath, a municipal corporation, the Town: shall have perpetual succession; shall own, possess and hold all property, real and personal, theretofore owned, possessed, and held by the Town, and may purchase, lease, receive, sell, or dispose of such property; assumes and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the Town; shall acquire all benefits and assume and shall pay all bonds, obligations and indebtedness of the Town; may sue and defend in the name of the Town; may purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal property; may establish municipal utility systems; and shall have a common seal and alter the same at its pleasure.

Section 1.4 Form of Government

The municipal government provided by this Charter shall be known as a Council-Manager government. Pursuant to the provisions of this Charter and subject only to limitations imposed by the Constitution and laws of the State of Colorado, all powers shall be vested in an elected Town Council which shall enact local legislation, adopt budgets, determine policies and appoint the Town Manager who shall execute the laws and administer the Town government. All powers of the Town shall be exercised in the manner prescribed by this Charter, or if the manner be not so prescribed, then in such manner as may be prescribed by ordinance, resolution or motion, or as provided by other applicable law.

Section 1.5 References to Town Council

As of the effective date of this Charter, the Town Council (hereafter sometimes referred to as the Council) shall consist of four (4) Councilmembers and one (1) Mayor. The (prior) Board of Trustees and Mayor are hereby declared to be Councilmembers and Mayor, and collectively, the Town Council. The composition of the Council may be modified as permitted herein. Except as specifically provided in this Charter, all references to the Council shall be read to include Councilmembers and the Mayor.

ARTICLE II – TOWN COUNCIL

Section 2.1 Elected Officers

As of the effective date of this Charter, the elected officers of the Town shall be a Mayor and four (4) Councilmembers. Councilmembers and the Mayor shall be elected from the Town at large. Pursuant to Section 2.2, the number of Councilmembers shall be increased from four (4) to six (6).

Section 2.2 Council Districts

- 2.2.1 **Current and Future Districts:** As of the effective date of this Charter, there shall be one (1) district, which shall consist of the Town, as the Town limits are described in **Exhibit A**, hereto attached. Prior to the first Town election following a Town election for which the number of registered electors in the Town totals eight thousand (8,000), the Council shall create two (2) additional districts in the manner provided in Article V. Upon the creation of the two (2) additional districts, two (2) additional Councilmember positions shall be created. Of the six (6) Councilmember positions then established, three (3) Councilmembers shall represent the Town at large.
- 2.2.2 **Transition:** At the first regular Town election following creation of the two (2) additional Town districts described in Section 2.2.1, four (4) Councilmember positions shall be elected. Three (3) Councilmembers shall be elected to represent the Town by district, for four-year (4-year) terms. One (1) Councilmember shall be elected to represent the Town at large for a two-year (2-year) term.
- 2.2.3 **Staggered Terms:** Two (2) years after the election described in Section 2.2.2, and every four (4) years thereafter, three (3) Councilmembers shall be elected to serve the Town at large for four-year (4-year) terms. Four (4) years after the election described in Section 2.2.2, and every four (4) years thereafter, three (3) Councilmembers shall be elected to represent the three (3) Town districts for four-year (4-year) terms.

Section 2.3 Qualifications of Elected Officers

2.3.1 No person shall be eligible to be elected or appointed to the office of Mayor or Councilmember unless he or she is:

- A citizen of the United States of America;
- A registered elector of the Town;
- A resident of the Town for at least twelve (12) consecutive months immediately preceding the election. In the case of annexation, residence within the annexed territory for the prescribed period shall satisfy the residency requirements of this Section; and
- At least eighteen (18) years of age at the time he or she takes office.

2.3.2 Any Councilmember elected to represent a Town district shall live in that district throughout his or her term of office.

2.3.3 No person who has been convicted of a felony shall be eligible to be elected or appointed to the office of Mayor or Councilmember.

2.3.4 No person who is an employee of the Town may serve as Mayor or Councilmember. Any Town employee elected or appointed as Mayor or a Councilmember shall be deemed to have resigned as an employee of the Town on the date of taking office.

2.3.5 No person may be a candidate for both Mayor and Councilmember at the same election.

2.3.6 The Mayor and each Councilmember shall continue to meet the requirements of this Section throughout their term of office.

2.3.7 The Council shall be the judge of the election and qualifications of its own members, subject to judicial review.

Section 2.4 Powers of the Council

All powers of the Town not otherwise limited or conferred upon others by this Charter shall be vested in the Town Council. Without limiting the generality of the foregoing, the Council shall have the power to:

- Enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;
- Declare, prevent and summarily abate and remove nuisances;

- Preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;
- Enforce ordinances and regulations by ordaining fines, imprisonment, public service or any combination thereof;
- Appoint and remove the Town Manager, Town Attorney, and Municipal Judge as herein provided;
- Purchase or contract for supplies, material, equipment or improvements under such requirements with respect to competitive bidding or alternative contract award procedures as the Council may prescribe by ordinance;
- Exercise, subject to applicable restrictions in the Colorado Constitution, the full powers of eminent domain for public uses of the Town either within or without the limits of the Town. A public use for which eminent domain may be exercised does not include transferring private property to another private entity for economic development purposes or to generate additional tax revenue. The Council shall not have authority to delegate this power;
- Receive on behalf of the Town, bequests, gifts and donations of any real or personal property, and to manage, sell, lease, or otherwise dispose of the same within the limitations of Section 15.4;
- Provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and
- Delegate to staff, officers, boards and commissions within limitations of the Colorado Constitution and this Charter, such functions, powers and authority as the Council deems proper and advisable.

No enumeration or particular powers granted to the Council shall be construed to impair any general grant of power herein contained or granted by the Constitution of the State of Colorado, nor to limit any such grant of power.

Section 2.5 Terms of Office

- 2.5.1 All terms of office for the Mayor and all Councilmembers shall be four (4) years. Any elected officer of the Town may succeed himself or herself in office.
- 2.5.2 For the purposes of this Charter, notwithstanding Article XVIII Section 11 of the Colorado Constitution and as permitted thereby, no term limits shall be placed on any Town elected officers.
- 2.5.3 It is the intent of this Charter to provide for staggered terms for all elected officers (i.e., councilmembers and the mayor). Vacancies shall be filled in such a manner

that preserves the staggered schedule of terms of office, as provided by Sections 2.2.3, 2.6.3 and 2.6.4.

Section 2.6 Vacancies

2.6.1 An elected officer shall continue to hold office until his or her successor is duly qualified and elected. An elected office shall become vacant before the expiration of the term of office, on the happening of any one (1) of the following events:

- Death of the officer;
- Resignation of the officer;
- Failure of any candidate to run for the available office;
- Removal of the officer from office;
- Officer ceasing to be a resident of the Town (or the district, if any, from which the officer is elected);
- Officer's refusal or neglect to take the oath of office;
- Decision of a competent tribunal declaring void the officer's election or appointment;
- Officer is declared incapacitated to an extent which prohibits him or her from properly performing his or her duties as an elected officer;
- Officer fails to meet the meeting attendance requirements established by the Town Council from time to time by ordinance or resolution; or
- Officer is convicted by a court of competent jurisdiction of any act constituting misconduct in office or a felony.

2.6.2 The existence of a vacancy shall be established by competent evidence thereof placed on record in the Council minutes. The Council shall determine the validity of the evidence and decide when a vacancy exists.

2.6.3 Not less than ten (10) days nor more than ninety (90) days after a vacancy in an elected office has been determined to exist by the Council, the remaining Councilmembers shall appoint an eligible person as defined by Sections 2.2 and 2.3 to fill such vacancy to serve until the end of the term for that position. Such appointment shall be decided by a majority vote of the members of the Council in office at the time the vote is taken. If there will be remaining unexpired time in

the term of office for which the appointment was made after the next regular election, candidates at that election shall run for a two-year (2-year) term.

- 2.6.4 In the event of a vacancy in the office of Mayor, the Council shall fill the vacancy by appointing one (1) of the members of the Council to serve as Mayor until the next Town election. In the event there will be remaining unexpired time in the then current mayoral term after the next Town election, candidates for the office of Mayor at that election shall run for a two-year (2-year) term. The vacancy in the office of Councilmember created by such appointment shall be filled in the manner set forth in Section 2.6.3; provided, however, that if there will be remaining unexpired time in the term of the Councilmember appointed as Mayor after the next Town election, said Councilmember shall have the automatic right to be restored to his or her Councilmember position to serve the remainder of his or her original term following that date.

Section 2.7 Mayor

- 2.7.1 The Mayor shall be elected from the Town at large, and must receive a majority of the votes cast for all candidates for that office. In the event no candidate for Mayor receives a majority of the votes cast, a runoff election between the two (2) candidates receiving the two (2) highest numbers of votes shall be held within ninety (90) days of the Town election. The candidate receiving a majority of votes at the runoff shall be elected Mayor.

- 2.7.2 The powers, duties and responsibilities of the Mayor shall be to:

- Preside at meetings of the Council;
- Exercise such powers and perform such other duties as are or may be conferred and imposed by this Charter or by ordinance or other applicable law;
- Have all the powers, rights and privileges of a Councilmember, including the right to vote;
- Be counted as a member of the Council for purposes of achieving a quorum for calculating the required number of votes to approve any given matter;
- Be recognized as the head of the Town government for all ceremonial and legal purposes, execute and authenticate those legal instruments which require signature by the Mayor, and administer (or delegate administration of) oaths of office; and
- Countersign all checks expending Town funds which shall exceed the limit to be set by the Town Council from time to time, except those items identified by ordinance as not requiring such signature.

Section 2.8 Mayor Pro Tem

A Mayor Pro Tem shall be elected by the Council from its own membership at the first meeting following each regular Town election. The Mayor Pro Tem shall serve until the Council meeting following the next regular Town election, and shall act as Mayor during the absence or disability of the Mayor. In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Council shall designate another of its members to serve as Acting Mayor during such absence or disability. Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all powers granted herein to Councilmembers.

Section 2.9 Conflict of Interest

Neither the Mayor nor any member of the Council shall vote or participate in discussion or deliberation of any question in which he or she has a substantial personal or financial interest, direct or indirect, including an interest held through a spouse or family member, other than the common public interest, or on any question concerning his or her own conduct. In the event the Mayor or any Councilmember has such an interest, he or she shall declare such interest. Whether or not such declaration is made, the remaining members of the Council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the Mayor or Councilmember affected shall not participate further in the matter, and the remaining Councilmembers shall take any further action they deem to be in the best interest of the Town. This Section and any ordinance adopted in furtherance thereof shall abrogate and replace any common law doctrine on the subject.

Section 2.10 Oath of Office

Before entering upon the duties of his or her office, the Mayor and every Councilmember shall take, subscribe and file with the Town Clerk an oath or affirmation that he or she will support the Constitution of the United States of America, the Constitution of the State of Colorado, this Charter, and the ordinances of the Town and will faithfully perform the duties of the office.

Section 2.11 Compensation of Mayor and Councilmembers

The Mayor and Councilmembers shall receive such compensation as the Council shall by ordinance prescribe; provided, however, no increase or decrease in the compensation of any member of the Council shall take effect during his or her present term of office. Neither the Mayor nor any Councilmember shall be an employee of the Town during his or her term of office. Neither the Mayor nor any Councilmember shall perform personal services for the Town during his or her term of office for which he or she is compensated other than as provided in this Section. The Mayor and/or Councilmembers may, upon order of the Council, be paid such necessary bona fide

expenses incurred in service on behalf of the Town as are authorized by the Council within the constraints of the annual budget and appropriation ordinance.

ARTICLE III – COUNCIL ACTIONS

Section 3.1 Form of Action

The Council shall act only by ordinance, resolution, or motion. All legislative enactments of a permanent nature shall be by ordinance. All other actions, except as provided in the Charter, may be in the form of a resolution or motion. Ordinances, resolutions and motions are not required to be confined to one (1) subject; provided, however, ordinances making appropriations shall be confined to the subject of the appropriation, but may include more than one (1) appropriation.

Section 3.2 Voting

A vote shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the minutes of the Council proceedings. Every ordinance, resolution and motion shall require the affirmative vote of a majority of the members present and constituting a quorum unless otherwise required in this Charter or by ordinance. Except as permitted after the Council has determined a conflict of interest to exist under Section 2.9, abstention shall not be allowed. At the request of any member of the Council, any vote shall be taken simultaneously in a manner prescribed by the Council; provided, however, that the vote of each member shall be publicly announced immediately thereafter.

Section 3.3 Action by Ordinance Required

In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, the following acts shall be by ordinance:

- Creating an indebtedness extending beyond December 31 of the current year;
- Referring the question of a tax levy to an election; and
- Establishing any rule or regulation the violation of which carries the possibility of imprisonment.

Section 3.4 Form of Ordinances

The enacting clause of all ordinances shall be: "THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:"

Section 3.5 Procedure for Passage of Ordinances

The procedure for passage of an ordinance shall be:

- 3.5.1 **First reading:** Introduction at a regular or special meeting by any member of Council. The ordinance shall be read in full, or in cases in which copies of the ordinance are available to the public at the meeting, the ordinance may be read by title only. The ordinance shall be approved or disapproved, with or without amendment by the Council. If disapproved, the ordinance shall not proceed further. With the exception of emergency ordinances, in no event shall any ordinance be introduced at a regular or special meeting by any member of the Council unless the Council has had copies of the entire text of the ordinance available to it at least twenty-four (24) hours prior to said meeting.
- 3.5.2 **Publication:** Upon approval at first reading, the title only of the ordinance shall be published in the manner set forth at Section 3.5.6 at least five (5) days prior to the Council meeting at which it will first be considered on second reading (or shall otherwise be made public in a time and manner established by ordinance).
- 3.5.3 **Second Reading and Public Hearing:** After approval on first reading, the ordinance shall be considered on second reading at a public hearing. After the hearing, the ordinance shall be approved or disapproved, with or without amendment by the Council. If disapproved, the ordinance shall not proceed further.
- 3.5.4 **Final publication:** After final passage on second reading, the ordinance shall be published by title only in the manner set forth at Section 3.5.6; provided, however, that in the event the ordinance was amended during second reading, the full text of the ordinance as amended, shall be published in the manner set forth in Section 3.5.6.
- 3.5.5 **Effective date:** An ordinance when finally passed shall take effect and be in force upon adoption at second reading unless otherwise stated in the ordinance. Emergency ordinances shall take effect immediately upon passage.
- 3.5.6 **Manner of Publication:** For the purposes of this Charter, the term “publication” shall mean a minimum two (2) of the following three (3) methods, as the Council shall designate from time to time:
- Posting on the Town's internet location;
 - Physical posting at locations to be designated by the Council from time to time;
 - Publication in a newspaper of general circulation in the Town.

Section 3.6 Emergency Ordinances

Emergency ordinances for the preservation of public health, welfare, peace, safety or property shall be approved by a majority vote of a quorum of members of the Council present at any meeting at which said ordinance is introduced. Only one (1) reading shall be required. The facts showing the emergency shall be specifically stated in the ordinance itself. No ordinance making, renewing or amending a grant of any franchise, special privilege or fixing rates charged by any Town-owned utility shall be adopted as an emergency ordinance. An emergency ordinance shall take effect upon passage and for informational purposes shall be published in full in the manner set forth at Section 3.5.6. A statement in any such ordinance that the Council deems the passage of said ordinance to be for the immediate preservation of the public health, welfare, peace, safety or property shall be conclusive.

Section 3.7 Enactment of Codes and Amendment Thereof by Reference

Standard codes promulgated by the federal government, the State of Colorado or by any agency of either of them, or by any municipality, or by any recognized trade or professional organization, or amendments or revisions thereof, or any codification of the Town code, may be adopted with or without amendment by reference using the procedure of Section 3.5; provided that publication of the ordinance adopting any such code shall advise that copies and amendments are available for inspection at the office of the Town Clerk, and provided that any penalty clause in any code may be adopted only if set forth in full in the adopting ordinance and published.

Section 3.8 Recording of Ordinances; Public Records

3.8.1 All ordinances shall be recorded by the Town Clerk in a book called the "Ordinance Book." It shall be the duty of the Mayor and Town Clerk to authenticate such ordinances by their official signatures thereon, but the failure to so record and authenticate any ordinance shall not invalidate it nor suspend its operation.

3.8.2 No ordinance, section or subsection thereof shall be amended, superseded or repealed except by an ordinance regularly adopted.

3.8.3 All public records of the Town shall be open for inspection by any person at reasonable times by appointment in accordance with applicable law.

Section 3.9 Severability of Ordinances

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstance shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portion or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable. To this end all ordinances are declared to be severable.

Section 3.10 Resolution and Motions

The Council may act by resolution or motion with respect to any matter not specifically required to be acted upon by ordinance by this Charter, by any ordinance of the Town, or by applicable law. Resolutions shall be written. Motions may be oral or written. Unless otherwise provided herein, the procedure for adoption of resolutions and motions shall require a majority vote of a quorum of members of the Council present.

Section 3.11 Council Meetings

3.11.1 Regular Meetings: The Council shall meet regularly at least once each month at a day, hour and place to be fixed by the Council. The Council shall prescribe the rules of procedure governing meetings. All meetings of the Council shall be open to the public, except as provided in this Section. The public, citizens and Town employees shall have a reasonable opportunity to be heard at regular Council meetings pursuant to procedures and limitations imposed by the Council. Written minutes of each meeting shall be kept by the Clerk and signed by the Mayor.

3.11.2 Special Meetings: Special meetings of the Council shall be called by the Town Clerk on the oral request of the Mayor or of any two (2) Councilmembers with at least forty-eight (48) hours oral or written notice to each member of the Council. Written notice of any special meeting shall be posted in two (2) public places at least twenty-four (24) hours prior to the meeting. No business shall be transacted at any special meeting of the Council unless the subject thereof has been stated in the notice of such meeting. Written minutes of each meeting shall be kept by the Clerk and signed by the Mayor.

3.11.3 Emergency Meetings: An emergency meeting may be held if a quorum of the Council consents and all Councilmembers are notified where practical. Such meetings may be called for the purpose of preservation of public health, welfare, peace, safety or property. Maximum practical notice shall be given to the public stating the purpose, time and place of any such meeting. The requirements of Section 3.11.2 shall not apply to such notice. Written minutes of each meeting shall be kept by the Clerk and signed by the Mayor.

3.11.4 Work Sessions: The Council may hold such work sessions as the Mayor or any Councilmember may request and the Council may approve. No quorum shall be required at any work session and no legally binding or formal action shall take place at any session.

3.11.5 Executive Sessions: The Council may hold executive sessions only at a regular or special meeting. Upon a vote of two-thirds (2/3) of the quorum present, the Council may exclude the public and citizens from such sessions, after first stating the subject matter to be discussed. No formal action or decision may be passed, adopted, approved or finally decided in a session which is closed to the public.

Section 3.12 Quorum

Upon the effective date of this Charter, three (3) members of the Council shall constitute a quorum for the transaction of business at all Council meetings. At such future time as there are six (6) Councilmembers and one (1) Mayor, four (4) members of the Council shall be a quorum for the transaction of business at all Council meetings. If a quorum is not present, the members of the Council present may continue the meeting to a future date and time by a majority vote of those present.

ARTICLE IV – ELECTIONS

Section 4.1 Colorado Municipal Election Laws Adopted

Town elections shall be governed by the Colorado municipal election laws as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance hereafter enacted.

Section 4.2 Registration of Electors, Judges, Clerks and Election Commission

The Council may by ordinance establish the method for the registration of electors and the qualifications and compensation of election judges and clerks. The Council may by ordinance establish an Election Commission consisting of the Town Clerk as chair and two (2) additional members to be appointed by the Council, with such powers, duties, terms and qualifications as provided by such ordinance. In lieu of an Election Commission, the Council may vest any or all of the powers herein granted in the Town Clerk alone.

Section 4.3 Election Day

A regular Town election shall be held on the Tuesday following the first Monday in April commencing in the year 2008, and in each even numbered year thereafter.

Section 4.4 Nonpartisan Elections

All Town elections shall be nonpartisan. No candidate for any municipal office shall run under any party label.

Section 4.5 At Large and District Elections

4.5.1 As of the effective date of this Charter, all elections shall be at large.

4.5.2 At the first Town election following a Town election for which the number of registered electors within the Town totals eight thousand (8,000) and two (2) additional Councilmember districts are created pursuant to Section 2.2, the three

(3) Councilmember positions which shall then be created and designated as district Councilmember positions, shall be elected by district.

4.5.3 Upon annexation of real property into the Town, the Council shall determine by ordinance into what district or districts the annexed property shall be included.

Section 4.6 Election Precincts

As of the effective date of this Charter, the Town shall constitute one (1) voting precinct, provided that the Council may by ordinance establish for the convenience of electors additional precincts ninety (90) days or more prior to any election. The precincts so established shall remain for subsequent elections unless cancelled or amended by ordinance. Precincts shall be continuous and compact wherever possible and shall have approximately the same number of electors.

Section 4.7 Nominating Petitions; Sufficiency

4.7.1 As of the effective date of this Charter, the nomination petition for each candidate for Mayor or Councilmember shall be signed by not fewer than ten (10) registered electors. At the first Town election following a Town election for which the number of registered electors of the Town totals eight thousand (8,000), the nomination petition for each candidate for Mayor or Councilmember shall be signed by not fewer than twenty-five (25) registered electors. Petitions shall not be circulated nor signatures obtained prior to fifty (50) days before the date of the election. Petitions shall be filed with the Town Clerk not later than thirty (30) days before the election.

4.7.2 Every petition to nominate a candidate shall state the name of the office for which the person is a candidate and the candidate's name and address. No petition shall contain the name of more than one (1) person for the same office. A person signing a candidate's petition must be a registered elector of the Town and a resident of the district, (if any) from which the candidate is running. Such person need not state that he or she intends to vote for the candidate at the election and may sign petitions of any other candidates for the same office.

Section 4.8 Write-in Candidates

Write-in candidates shall be allowed. A write-in candidate must sign an affidavit that if elected he or she will serve in the office for which he or she is running. Such affidavit must be submitted to the Town Clerk no less than twenty (20) days prior to the election, and if not so submitted, write-in votes for such candidate shall not be counted.

Section 4.9 Special Elections

Any special Town election may be called by resolution of the Council at least thirty (30) days in advance of such election. The resolution calling a special Town election shall

set forth the purpose or purposes of such election. The timing and manner of special elections shall otherwise be provided by the Colorado municipal election laws.

Section 4.10 Watchers

Candidates shall be permitted to maintain watchers in any election, subject to procedures and requirements imposed by the Town Clerk.

Section 4.11 Listing of Candidates

In the event of more than one (1) candidate for any elected office, the names of such candidates shall be placed on the ballot in order as established by lot conducted by the Town Clerk or his or her designee.

ARTICLE V – REDISTRICTING

Section 5.1 Redistricting Commission and Determination of Population

The Council shall appoint a Redistricting Commission prior to June 15 of the year in which at the time of a regular Town election, the number of registered electors in the Town totals eight thousand (8,000). Pursuant to C.R.S. § 31-2-213, or any successor provision, the determination of the number of registered electors shall be made upon the best information readily available to the Council, Redistricting Commission, Town Clerk or court of competent jurisdiction. Subsequent to the initial redistricting, the Council may appoint a Redistricting Commission following a decision by the Council that shifts in population merit redistricting. Any such Redistricting Commission may only be appointed subsequent to the date of a regular Town election and prior to June 15 of that year. Any such Redistricting Commission shall be appointed and shall perform the duties as set forth in this Article.

Section 5.2 Number and Qualification of Members

The Redistricting Commission shall consist of five (5) members. Following the initial redistricting of the Town into three (3) districts, the Council shall appoint one (1) member resident within each existing district to the Redistricting Commission and two (2) members to serve at large. Members of the Redistricting Commission must be registered electors of the Town and a resident in the district (if any) from which he or she is appointed. No member of the Council or any other elected or appointed Town officer shall be appointed to the Redistricting Commission.

Section 5.3 Removal

No member of the Redistricting Commission shall be removed from office by the Council except for cause and upon notice and a hearing.

Section 5.4 Vacancies

In the event of a vacancy on the Redistricting Commission, the Council shall appoint a new member from the same district (if any) from which his or her predecessor was selected, to serve the balance of the term remaining.

Section 5.5 No Compensation for Service

The members of the Redistricting Commission shall serve without compensation, except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other Town charges.

Section 5.6 Commission May Hire Staff

The Redistricting Commission may hire or contract for necessary staff assistance and may require agencies of Town government to provide technical assistance. The Redistricting Commission shall have a budget for its work as provided by the Council.

Section 5.7 Duties of the Commission

5.7.1 The duties of the initial Redistricting Commission shall be to:

- Review the population of the Town; and
- Produce a redistricting plan containing three (3) Councilmember districts.

5.7.2 Following the initial redistricting, the duties of subsequent Redistricting Commissions shall be to:

- Review the population of the three (3) Councilmember districts;
- Determine whether redistricting should occur to ensure the equality of population of all districts; and
- Produce a redistricting plan.

Section 5.8 Redistricting Guidelines

To the greatest extent possible, the following guidelines shall be followed by the Redistricting Commission in developing the redistricting plan:

5.8.1 **Original Town as District Whenever Possible:** To the greatest extent possible, recognizing both the community and historical significance of the original Townsite of the Town of Timnath, as described on **Exhibit B**, attached hereto, the original Townsite shall either constitute one (1) district or it shall be wholly contained within one (1) district.

- 5.8.2 **Equality of Population:** All three (3) districts shall be as nearly equal in population as possible.
- 5.8.3 **Communities of Interest:** Communities of interest, including but not limited to ethnic, cultural, economic, trade area, geographic and demographic factors shall be preserved within each district to the greatest degree possible.
- 5.8.4 **Compactness and Contiguity:** Each district shall be as compact as possible. To the greatest degree possible, no part of one (1) district may be completely separate from any other part of the same district.
- 5.8.5 **Minimal Boundary Crossing:** Districts shall not cross subdivision boundaries except to meet equal population requirements.

Section 5.9 Redistricting Plan

The Redistricting Commission shall produce a redistricting plan, consisting of a map and description of the districts recommended. The Commission shall hold one (1) or more public hearings not less than two (2) weeks before it submits the plan to the Council. The Commission shall make the plan available to the public for inspection and comment not less than two (2) weeks before the first such public hearing. The Redistricting Commission shall submit its plan to the Council by November 15 of the year in which it was appointed.

Section 5.10 Adoption by the Council

Upon receipt of the plan, the Council shall consider it at a public meeting and act to either adopt or reject it. The plan shall be deemed adopted by the Council unless rejected within three (3) weeks by the vote of the majority of all members of the Council.

Section 5.11 Rejection by the Council

If the Council rejects the plan, it shall return the plan to the Redistricting Commission with its objections. The Redistricting Commission shall then prepare a revised plan and shall submit such revised plan to the Council prior to February 15 of the year following the year of its appointment. Such revised plan shall be deemed adopted by the Council unless within two (2) weeks of its receipt of the revised plan the Council votes to file a petition in the District Court of Larimer County, for a determination that the plan fails to meet the redistricting guidelines of Section 5.8. The Council shall file its petition no later than ten (10) days after its vote to file the same. Upon a final determination upon appeal, if any, that the plan meets the redistricting guidelines of Section 5.8, the plan shall be deemed adopted by the Council and the Redistricting Commission shall deliver the plan to the Town Clerk. Upon final determination upon appeal, if any, that the plan fails to meet the redistricting guidelines of Section 5.8, the Redistricting Commission shall be deemed dissolved and the proposed plan rejected. Upon dissolution of the Redistricting Commission, the Council shall, within thirty (30) days, appoint a new

Redistricting Commission. Such new Redistricting Commission shall contain none of the same members as the Redistricting Commission directly preceding it.

Section 5.12 Effect of Approval of Plan

On the date the redistricting plan is approved by the Council, the new districts shall become effective and supersede previous districts.

Section 5.13 Dissolution of Redistricting Commission

Upon adoption of a redistricting plan by the Council and its delivery to the Town Clerk, or a final decision by the court, the Redistricting Commission shall be dissolved.

Section 5.14 Redistricting or Transition Not to Affect Current Terms of Office

No redistricting or transition to the six (6) Councilmember system as set forth in this Article or in Section 2.2 shall disqualify a Councilmember from completing his or her term of office.

ARTICLE VI – INITIATIVE, REFERENDUM, RECALL AND REFERRAL

Section 6.1 Initiative

- 6.1.1 The registered electors of the Town may initiate a proposed ordinance, pursuant to the initiative power reserved by Article V, Section 1 (9) of the Constitution of the State of Colorado, as to any legislative matter which is subject to said initiative power. Any initiated measure shall be in the form of an ordinance. The ordinance shall be initiated pursuant to the state statutes which establish procedures for a municipal initiative, except as otherwise provided in this Charter.
- 6.1.2 No petition for initiative shall be submitted to the registered electors of the Town if the measure contains more than one (1) subject. As used in this section, the single-subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected, and are not disconnected or incongruous.
- 6.1.3 No initiative petition may be circulated until it has been approved as to form by the Town Clerk. An initiative petition shall be signed by registered electors of the Town equal in number to at least fifteen percent (15%) of the total number of electors of the Town registered to vote as of the date established by the state statutes for determining such percentage.
- 6.1.4 The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

- 6.1.5 The Town Clerk shall not count as valid any signature on an initiative petition if more than one hundred eighty (180) days have elapsed between the date the form of the petition was approved by the Town Clerk and the date of filing of the petition with the Town Clerk.
- 6.1.6 A proposed ordinance which fails at the election held to consider it shall not be refiled as an initiative petition for at least one (1) year after the election held to consider said ordinance.

Section 6.2 Referendum

- 6.2.1 The registered electors of the Town may require an adopted ordinance to be referred to them at an election, pursuant to the referendum power reserved by Article V, Section 1 (9) of the Constitution of the State of Colorado, to the extent the ordinance constitutes a legislative matter which is subject to said referendum power. Such ordinance shall be referred pursuant to the state statutes which establish procedures for a municipal referendum, except as otherwise provided in this Charter. The referendum power shall not apply to any emergency ordinance.
- 6.2.2 No referendum petition may be circulated until it has been approved as to form by the Town Clerk. A referendum petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of electors of the Town registered to vote as of the date established by the state statutes for determining such percentage.
- 6.2.3 The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.
- 6.2.4 The Town Clerk shall not count as valid any signature on a referendum petition if more than thirty (30) days have elapsed between the date the form of the petition was approved by the Town Clerk and the date of filing of the petition with the Town Clerk.
- 6.2.5 A proposed referendum which fails at the election held to consider it shall not be refiled as a referendum petition for at least one (1) year after the election held to consider said referendum.

Section 6.3 Action on Petitions; Withdrawal of Petitions

- 6.3.1 **Action by the Town Clerk:** The Town Clerk shall determine the sufficiency of all initiative and referendum petitions and shall certify the same to the Council.
- 6.3.2 **Action by the Council:** When an initiative or referendum petition has been finally determined sufficient by the Town Clerk, the Council shall, within thirty (30) days of the Town Clerk's certification of the same to the Council, either:

- Adopt the ordinance as submitted by the initiative petition;
- Repeal the ordinance, or part thereof, referred to it by referendum petition; provided, however, that repeal of any referred ordinance may be effected only by a majority vote of the entire Council; or
- Determine to submit the proposal provided for in the petition to the registered electors of the Town.

6.3.3 **Submission to Voters:** The election on an initiated or referred ordinance shall be held not less than thirty (30) days and not more than ninety (90) days from the date of the final Council action under Section 6.3.2 unless otherwise required by the Constitution of the State of Colorado. If no regular Town election is to be held within the period prescribed in this Section, the Council shall provide for a special election; otherwise, the election on the petition shall be held at the same time as such regular election. The Council may at its discretion provide for a special election at an earlier date within the prescribed period. The initiated or referred ordinance shall be published in the manner provided in Section 3.5.6 no later than ten (10) days before the election.

6.3.4 **Withdrawal of Petition:** No initiative or referendum petition may be withdrawn once it has been deemed sufficient by the Town Clerk.

Section 6.4 Effect of Referendum Petitions on Ordinance

When a valid and sufficient referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

- The Council shall suspend the ordinance pending an election;
- The ordinance shall be repealed in a referendum election held for that purpose; or
- A court order reverses the ordinance.

Section 6.5 Prohibited Action By Council

6.5.1 No initiated ordinance adopted by the registered electors of the Town may be substantively amended or repealed by the Council during a period of one (1) year after the date of the election on the initiated ordinance.

6.5.2 No referred ordinance repealed by the registered electors of the Town may be readopted by the Council during a period of one (1) year after the date of the election on the referred ordinance.

Section 6.6 Recall

Every elected officer may be recalled from office after holding office for at least six (6) months. The procedures to effect the recall of any elected officer shall be as follows:

- 6.6.1 A petition shall be signed in accordance with Article XXI, Section 4 of the Constitution of the State of Colorado. The petition shall contain a general statement of not more than two hundred (200) words setting forth the specific factual reasons for the recall of the officer sought to be removed. The petition shall be signed by not less than twenty-five percent (25%) of the registered electors who cast votes for all candidates for that particular office at the last preceding election at which the person sought to be recalled was elected to office. No recall petition may be circulated until it has been approved as to form by the Town Clerk. The petition shall be filed with the Town Clerk not more than sixty (60) days from the date on which the Town Clerk approved the petition form. The only valid grounds for recall are willful misconduct or failure to perform duties.
- 6.6.2 When such petition is filed, the Town Clerk shall notify the Council and the Council shall by resolution call a recall election to be held within ninety (90) days after the filing of the petition, if such petition is found to meet all the requirements of this Charter and the Constitution of the State of Colorado.
- 6.6.3 The ballot upon which the proposed recall is submitted shall be prepared by the Town Clerk, shall summarize and state the grounds set forth in the petition for demanding such recall, and there shall also be printed thereon the words, "Shall [name of person against whom the recall petition is filed] be recalled from the office of [title of office]?" Following such question shall be the words "Yes" and "No" and a mechanism for indicating the vote for or against such recall.
- 6.6.4 In the event an officer is recalled by a majority vote of those voting on the question, the office shall be deemed vacant and shall be filled as provided in Section 2.6, except that the officer recalled shall not be appointed to fill the vacancy.
- 6.6.5 In the event an officer is not recalled after an election pursuant to this Section, no petition for the recall of the same officer for the same reason or reasons shall be accepted for filing by the Town Clerk for a period of six (6) months from the date of the recall election.

Section 6.7 Petition Forms to be Provided

The Town Clerk shall provide upon request sample forms of initiative, referendum and recall petitions that conform to the requirements of this Charter.

Section 6.8 Petitioners' Committee Affidavit

Any five (5) registered electors of the Town may commence initiative, referendum or recall proceedings by filing with the Town Clerk an affidavit stating:

- They will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form; and
- The names and street addresses of the members of the committee, with the specified address to which all notices to the committee are to be sent. The petition shall set out in full the proposed initiative ordinance, the ordinance sought to be reconsidered or the name and office of the person sought to be recalled.

Promptly after the affidavit is filed, the Town Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Section 6.9 Referral

The Council shall have the power to submit to a vote of the registered electors of the Town, without receipt of any petition, any proposed or adopted ordinance or any question.

ARTICLE VII – TOWN MANAGEMENT

Section 7.1 Town Manager - Appointment and Removal

7.1.1 The Town Council, by the affirmative vote of two-thirds (2/3) of the entire Council, or by two-thirds (2/3) vote of the remaining eligible voting councilmembers should a councilmember recuse him or herself, shall appoint a Town Manager to serve at the pleasure of the Council.

7.1.2 The removal of the Town Manager shall require the affirmative vote of two-thirds (2/3) of the entire Council, or two-thirds (2/3) vote of the remaining eligible voting councilmembers should a councilmember recuse him or herself.

Section 7.2 Acting Town Manager

The Town Council shall designate a qualified Town employee to serve as Acting Town Manager during the Town Manager's absence or disability, or during times when the position is vacant.

Section 7.3 Powers and Duties of Town Manager

The powers and duties of the Town Manager shall be as follows:

7.3.1 Be responsible for the enforcement of the ordinances, resolution, franchises, contracts and other enactments of the Town;

- 7.3.2 Establish and implement personnel policies for Town employees. Such policies shall provide for the selection, promotion and retention of Town employees on the basis of ability, training, experience and performance;
- 7.3.3 Sign contracts within budgeted amounts and limited by term of appropriation;
- 7.3.4 Prepare a proposed budget and submit it to the Council and administer the adopted budget;
- 7.3.5 Prepare and submit to the Council at the end of each fiscal year a complete report on the finances and administrative activities of the Town and upon request of the Council, report on the affairs of the Town supervised by the Town Manager;
- 7.3.6 Advise the Council of the financial condition of the Town and make recommendations to the Council for future Town needs;
- 7.3.7 Except as to the Municipal Court and the office of the Town Attorney, exercise supervision and control over all Town departments, including both staff and contract positions, and make recommendations to the Council concerning the establishment, consolidation or abolition of such departments;
- 7.3.8 Attend meetings of the Council and participate in discussions with the Council in an advisory capacity;
- 7.3.9 Be responsible for informing the public on, and involving the public in, Town functions, plans and activities; and
- 7.3.10 Perform such other duties as prescribed in this Charter or as prescribed by ordinance or by the Council and that are not in conflict with this Charter.

Section 7.4 Council's Relationship to Town Employees

Neither the Council, the Mayor, nor any Councilmember shall dictate or interfere with the appointment, removal or duties of any Town employee or contracted consultant subordinate to the Town Manager, the Town Attorney, or Municipal Judge, or prevent or interfere with the exercise of judgment in the performance of the employee or consultant's Town responsibilities. The Council, the Mayor and each Councilmember, shall deal with such employee or consultant solely through the Town Manager and shall not give orders to or reprimand any such employee or consultant. The Town Manager alone shall be responsible to the Council for the proper administration of all matters placed in the Town Manager's charge by or pursuant to this Charter.

Section 7.5 Town Clerk

The Town Manager shall appoint a Town Clerk, who shall be custodian of the Town seal and who shall keep a journal of Council proceedings and record in full all ordinances, motions and resolutions. He or she shall have power to administer oaths and take acknowledgments under seal of the Town, and shall perform such other duties as required by this Charter, by ordinance or by the Town Manager.

ARTICLE VIII – LEGAL AND JUDICIARY

Section 8.1 Town Attorney

The Town Manager shall recommend, and the Council shall appoint, a Town Attorney. The Town Attorney shall serve at the pleasure of the Council and may be terminated at any time by a majority vote of the entire membership of the Council. The Town Attorney shall be an attorney at law admitted to practice in Colorado. The Town Attorney shall be the legal representative of the Town and shall advise the Council and Town officials in matters relating to their official powers and duties and shall perform such other duties as required by the Charter, by the Town Manager, or as the Council may direct. The Town Attorney's client shall be the Council.

Section 8.2 Municipal Court

There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the Town. The powers of and the procedure in the Municipal Court and the manner of enforcement of its orders and judgments shall be as provided for under the statutes of the State of Colorado unless superseded by ordinance. The Municipal Court shall be a qualified municipal court of record and all proceedings therein and evidence at trial shall be kept by verbatim record by either electronic or stenographic means.

Section 8.3 Municipal Judge

8.3.1 The Municipal Court shall be presided over by a judge who shall be an attorney at law admitted to practice in Colorado. The judge shall be appointed by the Council to serve for a term of two (2) years, unless otherwise provided by ordinance. The Municipal Judge shall receive a fixed salary or compensation as determined by the Council, not dependent upon the outcome of the cases or matters to be decided. The Council may appoint as many municipal judges as it deems necessary for the proper function of the Court. If, however, the Council shall appoint more than one (1) judge it shall designate who shall be the chief or senior judge. Prior to any reappointment of a municipal judge the Council shall provide a forum for public comment on such judge.

8.3.2 In the event all regularly appointed judges are absent, disqualified, or unable to act in any particular case the Council may call any eligible person, as defined in Section 8.3.1, to act and serve temporarily as a substitute judge.

- 8.3.3 The forms of summons and complaint, and all rules, procedures and proceedings in the Municipal Court shall be fixed and determined by the presiding Municipal Judge unless the Council, by ordinance, determines otherwise.
- 8.3.4 The Municipal Judge shall determine the method of summoning jurors and witnesses, of securing the presence of accused persons and shall determine the costs for docket fees, witness fees, transcript costs, appeal costs and other fees and costs. A schedule of such fees and costs shall be provided to the Council biannually for its review and approval.
- 8.3.5 The Municipal Judge may be removed during his or her term of office only for cause. A judge may be removed by a majority vote of the entire membership of the Council for cause if:
- He or she is found guilty of a felony or any other crime involving moral turpitude; or
 - He or she has willfully or persistently failed to perform his or her duties; or
 - He or she has a disability which interferes with the performance of his or her duties, which disability is or is likely to become of permanent character.

ARTICLE IX – BOARDS AND COMMISSIONS

Section 9.1 In General

Unless otherwise provided by this Charter or by ordinance, all boards and commissions shall be appointed by the Council and shall have such qualifications and powers and perform such duties as are provided by this Charter or by ordinance. Initial appointments by the Council shall specify the term of office of each individual and provide for overlapping tenure, and thereafter all appointments shall be for the full term specified. Members of all boards and commissions shall be residents of the Town at the time of this appointment and continuously during their service. All members of any board or commission shall be subject to removal by a two-thirds (2/3) vote of the entire Council, or two-thirds (2/3) vote of the remaining eligible voting councilmembers should a councilmember recuse him or herself. The Council shall make appointments to fill vacancies for any unexpired terms. Each board and commission shall choose its own chair and vice chair, and shall adopt its own rules of procedure for the proper conduct of its business.

Section 9.2 Planning Commission

9.2.1 The Planning Commission shall consist of not less than five (5) nor more than seven (7) regular members as the Council may determine by ordinance from time to time. The members of the Commission in office on the date of adoption of this Charter shall continue in office until the end of their present terms at which time they shall be eligible for reappointment. Members of the Planning Commission

shall be appointed by the Council for overlapping terms of four (4) years. The Council shall also provide for and appoint two (2) alternate members, who shall attend meetings of the Commission and vote in the case of absence of a regular Commission member. The Council shall fill all vacancies on the Commission.

9.2.2 The Planning Commission shall exercise the functions and powers and perform the duties assigned to it by the ordinances of the Town. It shall prepare and submit to the Council for its approval a comprehensive or master plan for the physical development of the Town and areas adjacent thereto.

Section 9.3 Board of Adjustment

9.3.1 The Council shall function as the Board of Adjustment, or by ordinance may delegate the function of the Board of Adjustment to a separate body or individual, or may abolish the Board of Adjustment. The Council shall specify by ordinance the qualifications of Board members (if appointed by the Council) and the procedure to be followed by the Board in performing its function.

9.3.2 The Board of Adjustment, however constituted, shall have and exercise only the power to grant a variance from land use, building or construction ordinances of the Town where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or exceptional topographic conditions, or other extraordinary and exceptional conditions with respect to such property, not shared in common with other conforming properties, strict application of such ordinances would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

9.3.3 The Board of Adjustment, whether constituted as the Council or as an appointed Board, shall not have power to grant variances in the use of property, or which would in any way constitute rezoning or reversal or modification of any zoning action or ordinance of the Council.

ARTICLE X – FINANCE AND BUDGET

Section 10.1 Fiscal Year

The fiscal year of the Town and all of its agencies, boards, commissions and advisory bodies shall begin on the first day of January and end on the thirty-first of December of each calendar year.

Section 10.2 Annual Budget

A proposed budget for the ensuing fiscal year shall be presented to the Council at least forty-five (45) days prior to the date provided by law for its approval by the Council.

Section 10.3 Scope of Annual Budget

The budget shall provide a complete financial plan of all Town funds and departments for the ensuing fiscal year and, except as required by law or in this Charter, shall be in such form as the Town Manager deems desirable or the Council may require. The budget shall indicate in separate sections:

- Anticipated revenues using adequate categories;
- Proposed expenditures for current operations during the ensuing fiscal year, detailed by fund and department;
- A reasonable provision for contingencies;
- Required expenditures for debt service; and
- Proposed capital expenditures during the ensuing fiscal year, detailed by fund and department and including proposed maintenance requirements.

The total of proposed expenditures and provision for contingencies shall not exceed the total of estimated revenues and reserves.

Section 10.4 Adoption of Budget and Appropriation

Not later than the date required by law for certification of the mill levy, the Council shall adopt on final reading an ordinance adopting the budget and appropriating monies for the purposes described therein. Copies of the budget as adopted shall be part of the public records and shall be made available to the public in the office of the Town Clerk. If the Council fails to adopt a budget in any year, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the Council adopts a budget for the current fiscal year.

Section 10.5 Certification of Tax Levy

As required by law, and within the limitations imposed by the Colorado Constitution, the Council shall fix the amount of tax levy which shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and shall cause the same to be certified to the county as required by law. If the Council should fail in any year to make such levy, the rate shall be fixed and levied as provided by law.

Section 10.6 Increase or Reduction of Appropriations

10.6.1 The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures.

10.6.2 If at any time during the fiscal year it appears probable to the Town Manager that the revenues available will be significantly insufficient to meet the amount appropriated, he or she shall provide a report to the Council without delay indicating the estimated amount of deficit and his or her recommendations as to any steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one (1) or more appropriations or take such other action as it deems prudent.

Section 10.7 Departmental Appropriations Revert

Any annual departmental appropriation or any portion thereof remaining unexpended and unencumbered at the close of the fiscal year shall revert to fund balance.

Section 10.8 Independent Audit

An independent audit shall be made of all Town accounts at least once annually and more frequently as deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Council who shall complete the audit within one hundred eighty (180) days after the close of the fiscal year, unless otherwise authorized by council upon a showing of good cause or a necessary late amendment. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.

ARTICLE XI – TOWN OWNED UTILITIES

Section 11.1 Authority and Powers

The Town shall have and exercise all the authority and powers provided by the Colorado Constitution, statutes, and other applicable laws in any matter pertaining to Town owned utilities, including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith.

Section 11.2 Utility and Finances

11.2.1 The Town Council shall from time to time fix, establish, maintain, and provide for the collection of rates, fees, and charges for water, sewer, and other utility services furnished by the Town.

11.2.2 Such rates, fees, and charges shall be sufficient in the Town Council’s judgment to: provide good service to the customers; pay all bonded indebtedness; pay legally required refunds; cover the cost of operation, maintenance, additions, extensions, and improvements; provide a reasonable return on the Town’s investment in utility properties and capital investments; and reimburse the general fund for administrative services and overhead provided and incurred by

the Town on behalf of each utility, as allowed by the Colorado Constitution and other applicable laws.

11.2.3 The provisions of this Section shall be subject at all times to the performance by the Town of all covenants and agreements made by it in connection with the issuance, sale, or delivery of any bonds or other indebtedness of the Town, payable out of the revenues derived from the operation of its water, sewer, and other utilities.

Section 11.3 Separate Utility Accounting

11.3.1 All monies derived from Town owned utilities shall be accounted for separately from other monies of the Town.

11.3.2 Any loan of money derived from a Town owned utility to any other Town owned utility, or to any other Town fund, shall be approved by ordinance which shall specify the terms of the loan.

ARTICLE XII – FRANCHISES AND PERMITS

Section 12.1 New Franchises and Renewals

12.1.1 A franchise may be granted or renewed for a period of twenty-five (25) years or less.

12.1.2 Any franchise, and any renewal of or amendment to a franchise, shall be granted by the Town Board by ordinance. Any ordinance granting, renewing or amending a franchise shall be subject to referendum, notwithstanding any emergency declaration in the ordinance, if a proper referendum petition is filed in accordance with the procedures and requirements set forth in this Charter. If such a referendum election is ordered, the grantee of such franchise shall deposit the cost of the election with the Town Clerk in an amount determined by the Town Clerk.

Section 12.2 Revocable Permits or Licenses

Except as otherwise provided in this Charter, the Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town owned place. Any such permit or license shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

ARTICLE XIII - MUNICIPAL BORROWING AND TAXATION

Section 13.1 Forms of Borrowing

Subject to any applicable limitations in the Colorado Constitution, the Town may borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be advantageous to the Town.

Section 13.2 Municipal Taxation

The Town Council may adopt, by ordinance, such taxes as are not prohibited for home rule municipalities by the Colorado Constitution, subject to any applicable limitations in said Constitution, including any applicable voter approval requirements.

ARTICLE XIV – IMPROVEMENT DISTRICTS

Section 14.1 Power to Construct Improvements and Create Improvement Districts

14.1.1 The Town shall have the power to create improvement districts within the Town and to contract for, construct or install improvements of every character within the Town and within designated districts within the Town. The Town shall have the authority to assess the cost of improvements wholly or in part upon property specially benefited in such district and to issue bonds or other indebtedness for the entire cost thereof.

14.1.2 The Council shall by ordinance prescribe the procedure for: creation of districts; notice; the method and time for filing protest and disposition thereof; the method and manner of making such improvements; letting contracts therefore, assessing the cost thereof; and issuing and paying bonds or other indebtedness for costs and expenses of the organization of said districts and of construction and installation of said improvements.

14.1.3 The Council may adopt by ordinance procedures for: the conduct of elections, if any; for the creation of districts; issuance of bonds or other indebtedness; or levy of special assessments.

Section 14.2 Review of Improvement District Proceedings

A challenge to any resolution or ordinance adopted under this Article shall be brought within thirty (30) days after the passage of the resolution or ordinance being challenged.

ARTICLE XV – MISCELLANEOUS

Section 15.1 Interpretation

15.1.1 Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular shall include the plural, the plural shall include the singular and the

masculine shall extend to and include the feminine and “person” may extend to and be applied to bodies politic, corporate partnerships, corporations, associations, other business organizations, and individuals.

15.1.2 If the last day of any period required to be computed under this Charter is a Saturday, Sunday, or Town holiday, the period shall be extended to include the next day which is not a Saturday, Sunday, or Town holiday.

15.1.3 The titles and subheadings herein are for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision hereof.

Section 15.2 Charter Amendments

This Charter may be amended or repealed in the manner provided by Article XX of the Colorado Constitution and by Section 31-2-201 *et seq.*, Colorado Revised Statutes or any successor statute on the same subject.

Section 15.3 Purchase, Sale or Lease of Real Property

The Council by resolution may purchase, sell, exchange or dispose of any interest in real property, except that any sale of any property actively in use as the Town hall, recreation center or all or part of any public park shall first be approved by a vote of the registered electors of the Town at a regular or special election. For the purposes of this Section “public park” shall mean real property which is in active use by the public for park purposes. By resolution the Council may lease any real property of the Town to any person, firm or corporation, public or private for a term of more than five (5) years. The Council may lease any real property of the Town for a term of five (5) years or less by motion adopted by a majority of the entire Council.

Section 15.4 Effect of State Statutes

The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town acting by ordinance subject only to restrictions of the Colorado Constitution and subsequent amendments to this Charter and by ordinance. Unless otherwise provided by this Charter or by ordinance adopted by the Council hereunder, the statutes of the State of Colorado shall be in effect.

Section 15.5 Effective Date

The effective date of this Charter shall be November 3, 2015.

Section 15.6 Exhibits

Exhibit A: Timnath Town Limits: November 2015

Exhibit B: Timnath Town Limits: October 2004

ARTICLE XVI - TRANSITIONAL PROVISIONS

Section 16.1 Continuation of Present Elected Officers

The present Town Council and the Mayor in office at the time of the adoption of this Charter shall continue to serve and carry out the functions, powers, and duties of those offices under this Charter until their successors assume such duties as provided herein.

Section 16.2 Continuation of Appointed Officers and Employees

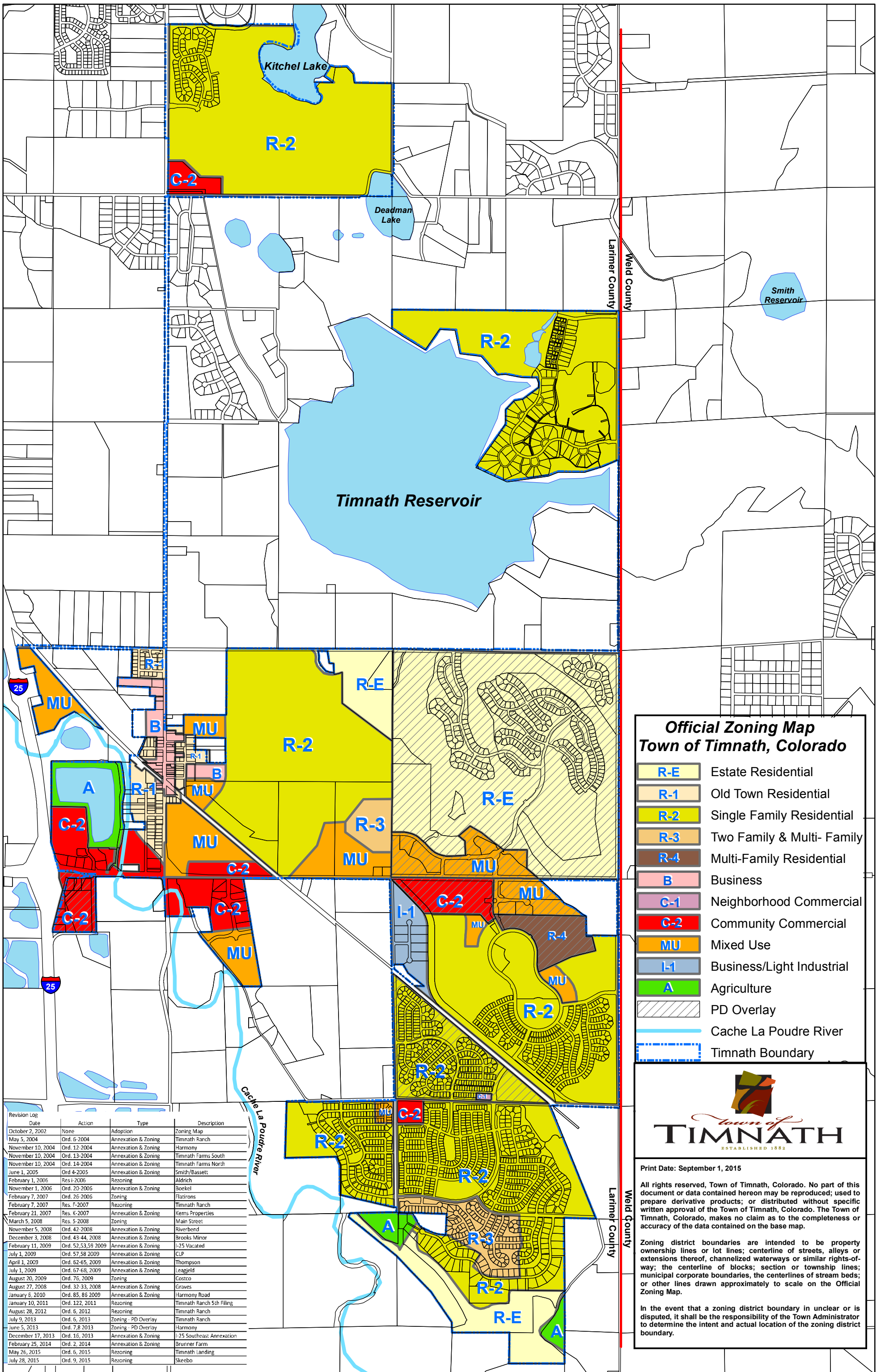
All appointed officers and employees of the Town at the time this Charter is adopted shall continue in that office or employment which corresponds to the Town office or employment which they held prior to the effective date of this Charter, as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position which this Charter provides to be held at the pleasure of the Council shall hold such position only at such pleasure regardless of the term for which he or she was originally appointed.

Section 16.3 Continuation of Prior Legislation and Obligations

All ordinances, resolutions, contracts, rules and regulations of the Town in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter. This Charter shall not affect any contractual relationships existing on the effective date of this Charter between the Town and any officer or employee by reason of any retirement or pension plans in effect.

EXHIBIT A

Timnath Town Limits: November 2015



**Official Zoning Map
Town of Timnath, Colorado**

- R-E Estate Residential
- R-1 Old Town Residential
- R-2 Single Family Residential
- R-3 Two Family & Multi- Family
- R-4 Multi-Family Residential
- B Business
- C-1 Neighborhood Commercial
- C-2 Community Commercial
- MU Mixed Use
- I-1 Business/Light Industrial
- A Agriculture
- PD Overlay PD Overlay
- Cache La Poudre River
- Timnath Boundary



Print Date: September 1, 2015

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Zoning district boundaries are intended to be property ownership lines or lot lines; centerline of streets, alleys or extensions thereof, channelized waterways or similar rights-of-way; the centerline of blocks; section or township lines; municipal corporate boundaries, the centerlines of stream beds; or other lines drawn approximately to scale on the Official Zoning Map.

In the event that a zoning district boundary is unclear or is disputed, it shall be the responsibility of the Town Administrator to determine the intent and actual location of the zoning district boundary.

Revision Log	Date	Action	Type	Description
	October 2, 2002	None	Adoption	Zoning Map
	May 5, 2004	Ord. 6-2004	Annexation & Zoning	Timnath Ranch
	November 10, 2004	Ord. 12-2004	Annexation & Zoning	Harmony
	November 10, 2004	Ord. 13-2004	Annexation & Zoning	Timnath Farms South
	November 10, 2004	Ord. 14-2004	Annexation & Zoning	Timnath Farms North
	June 1, 2005	Ord. 4-2005	Annexation & Zoning	Smith/Bassett
	February 1, 2006	Res. i-2006	Rezoning	Aldrich
	November 1, 2006	Ord. 20-2006	Annexation & Zoning	Boekel
	February 7, 2007	Ord. 26-2006	Zoning	Flatirons
	February 7, 2007	Res. F-2007	Rezoning	Timnath Ranch
	February 21, 2007	Res. K-2007	Annexation & Zoning	Kerns Properties
	March 5, 2008	Res. 5-2008	Zoning	Main Street
	November 5, 2008	Ord. 42-2008	Annexation & Zoning	Riverbend
	December 3, 2008	Ord. 43-44, 2008	Annexation & Zoning	Brooks Minor
	February 11, 2009	Ord. 52,53,55 2009	Annexation & Zoning	I-25 Vacated
	July 1, 2009	Ord. 57,58 2009	Annexation & Zoning	C/P
	April 1, 2009	Ord. 62-65, 2009	Annexation & Zoning	Thompson
	July 1, 2009	Ord. 67-68, 2009	Annexation & Zoning	Leagfield
	August 20, 2009	Ord. 76, 2009	Zoning	Costco
	August 27, 2008	Ord. 32-33, 2008	Annexation & Zoning	Graves
	January 6, 2010	Ord. 85, 86 2009	Annexation & Zoning	Harmony Road
	January 10, 2011	Ord. 122, 2011	Rezoning	Timnath Ranch 5th Filing
	August 28, 2012	Ord. 6, 2012	Rezoning	Timnath Ranch
	July 9, 2013	Ord. 6, 2013	Zoning - PD Overlay	Timnath Ranch
	June 5, 2013	Ord. 7, 8 2013	Zoning - PD Overlay	Harmony
	December 17, 2013	Ord. 16, 2013	Annexation & Zoning	I-25 Southeast Annexation
	February 25, 2014	Ord. 2, 2014	Annexation & Zoning	Brunner Farm
	May 26, 2015	Ord. 6, 2015	Rezoning	Timnath Landing
	July 28, 2015	Ord. 9, 2015	Rezoning	Skeebo

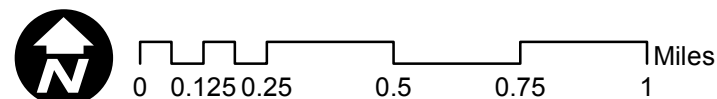
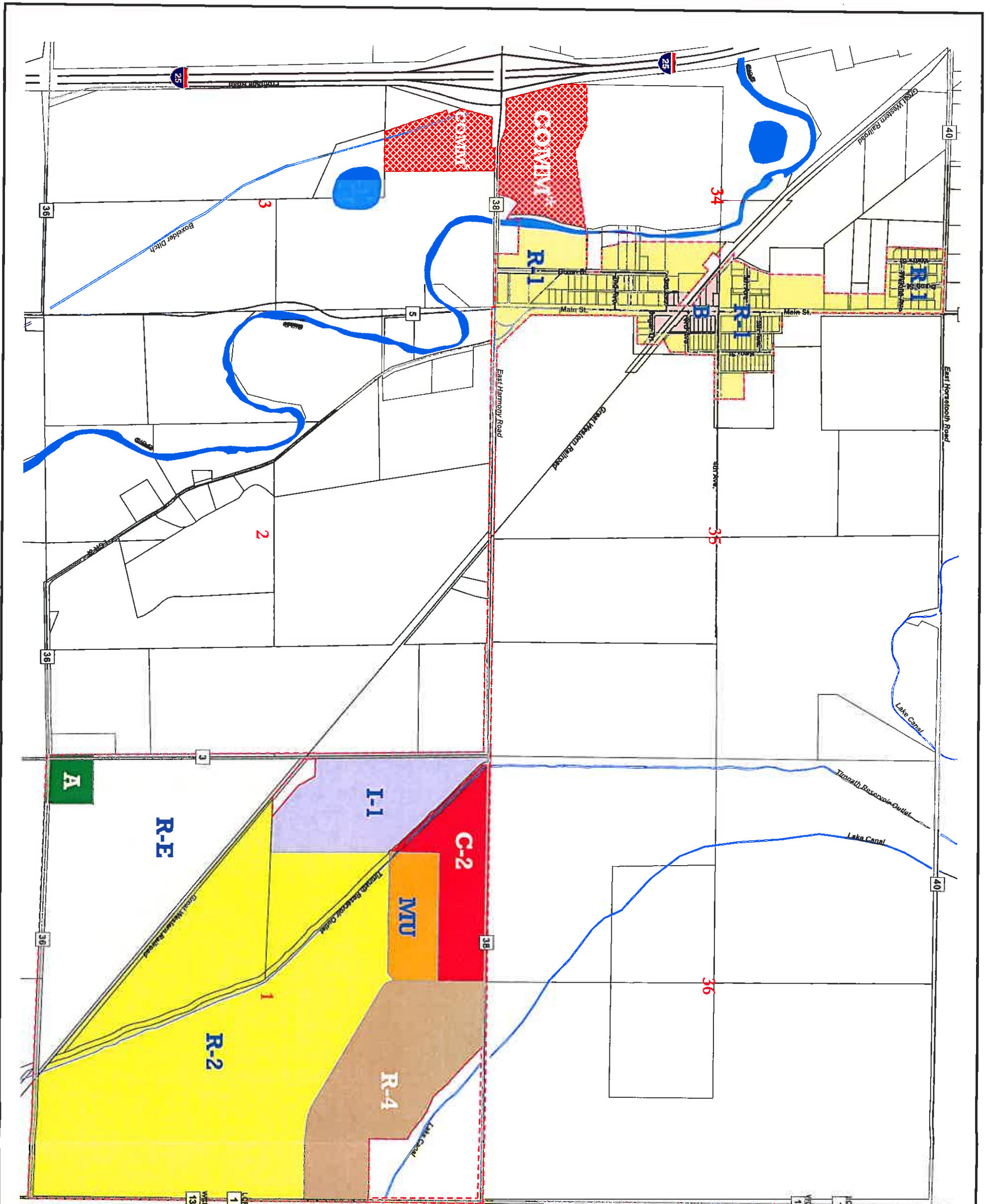


EXHIBIT B

Timnath Town Limits, October 2004



OFFICIAL ZONING MAP

Town of Timnath, Colorado

Zoning Districts

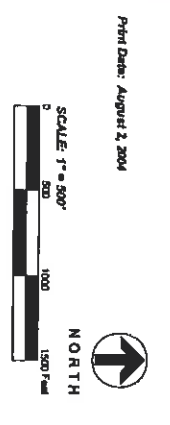
- RE Estate Residential
- R-1 Old Town Residential
- R-2 Single Family Residential
- R-3 Two Family and Multi Family Residential
- R-4 Multi Family Residential
- MH Mobile Home
- B Business
- C-1 Commercial *
- C-2 Neighborhood Commercial
- C-3 Community Commercial
- C-4 Commercial *
- MTU Mixed Use
- I-1 Business/Light Industrial
- I-2 Industrial
- A Agriculture
- A Planned Development Overlay

* Final Zoning Subject to Annexation Agreement.

- Town Limits
- 00 Section Number
- 00 Road Number

REVISION LOG:

DATE	DATE	TYPE	DESCRIPTION
October 8, 2003			
May 3, 2004	Amendment #202-002 Zoning Ord. 15-001	Amendments and Codings	Timnath Home Rule Annexation 14



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Zoning district boundaries are intended to be primary, secondary, or tertiary. (Primary: change of district, industry or zoning; secondary: change of district, industry or zoning; tertiary: change of district, industry or zoning.)

By the approval of the Town Administrator to the extent of the powers and authority of the Town Administrator to amend the present Ordinance.