

TOWN OF TIMNATH

ORDINANCE NO. 111, SERIES 2011

AN ORDINANCE AMENDING CHAPTER 10 ARTICLE VIII OF THE TOWN OF TIMNATH MUNICIPAL CODE CONCERNING ALCOHOL AND DRUGS BY ADDING A SECTION PROVIDING A DEFINITION OF PARAPHERNALIA AND THE UNLAWFUL POSSESSION OF PARAPHERNALIA, AND AUTHORIZING PROSECUTION IN THE TIMNATH MUNICIPAL COURT FOR THE UNLAWFUL POSSESSION PARAPHERNALIA.

WHEREAS, Colorado Revised Statutes § 18-18-426, defines the term “drug paraphernalia” to mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this State; and

WHEREAS, Colorado Revised Statutes § 18-18-428 (1) makes unlawful the possession of drug paraphernalia; and

WHEREAS, Colorado Revised Statutes § 18-18-428 (2) classifies unlawful possession of drug paraphernalia a class 2 petty offense and, upon conviction thereof, punishable by a fine of not more than one hundred dollars; and

WHEREAS, the Town of Timnath Municipal Code, Section 1.4.2, provides for penalization of any violation of the Code constituting an offense, nuisance, or misdemeanor; and

WHEREAS, unlawful possession of drug paraphernalia constitutes an offense within the jurisdictional limits of the Town of Timnath Municipal Code; and

WHEREAS, the Town of Timnath Municipal Code presently does not define drug paraphernalia and does not make unlawful the possession of drug paraphernalia; and

WHEREAS, Chapter 10, Section VIII of the Town of Timnath Municipal Code concerns drugs and alcohol; and

WHEREAS, by amending Chapter 10, Section VIII of the Town of Timnath Municipal Code to include a definition of drug paraphernalia and make unlawful the possession of drug paraphernalia, the Town may be able to address the violation more efficiently and effectively at the municipal level; and

WHEREAS, the Town Council wishes to amend Chapter 10, Article VIII of the Town of Timnath Municipal Code to include a definition of drug paraphernalia and make unlawful the possession of drug paraphernalia; and

✓ **Please Return to:**
Town of Timnath
4800 Goodman Street
Timnath, CO 80547

WHEREAS, the Town Council finds that such amendment would benefit the health, safety, and welfare of the Town's residents and, therefore is in the Town's best interest.

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

Section 1. That Chapter 10, Section VIII of the Timnath Municipal Code, which addresses those ordinances concerning drugs and alcohol, is hereby amended to add a Section 10.147 addressing the unlawful possession of drug paraphernalia which shall read as follows:

10.147. Possession of drug paraphernalia

A. For the purposes of this Section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of the State of Colorado.

B. It is unlawful for any person to possess any item of drug paraphernalia when he knows, or reasonably should know, the item could be used for illegal purposes.

C. Upon a plea of guilty or no contest thereto or conviction thereof, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

D. The provisions of this Section shall not apply to any person who possesses or uses paraphernalia pursuant to Colorado Medical Marijuana Code and for a purpose authorized by Amendment 20.

Section 1. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or any parts be declared unconstitutional or invalid.

Section 2. 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 3. Effective Date. This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, SET FOR PUBLIC HEARING AND SECOND READING AT 7:00 P.M. ON JUNE 7, 2011 AT THE TIMNATH TOWN HALL, 4800 GOODMAN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 17th DAY OF MAY, 2011.

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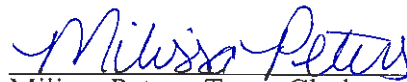
**MOVED , SECONDED AND FINALLY ADOPTED ON SECOND READING
FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JUNE 7,
2011.**

TOWN OF TIMNATH

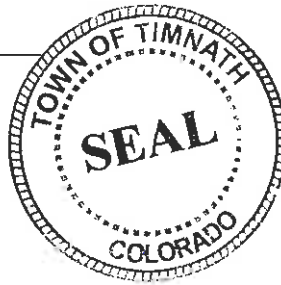


Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, Town Clerk



APPROVED AS TO FORM:

Thomas M. Rogers III, Town Attorney