

**ORDINANCE 11- 2006**

**AN ORDINANCE AMENDING CHAPTER  
11 OF THE TIMNATH MUNICIPAL CODE,  
ESTABLISHING AN ART IN PUBLIC  
PLACES PROGRAM**

**WHEREAS**, the Board of Trustees desires to enhance the quality of life in the Town of Timnath; and

**WHEREAS**, it is desirable to have works of art to beautify those areas of the Town which are accessible to the public; and

**WHEREAS**, the Town of Timnath believes that the image of the Town is more than just its physical attributes and can be enhanced through the creation and placement of artwork throughout the community.

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF  
TIMNATH, COLORADO, HEREBY ORDAINS:**

**Section 1.** Chapter 11 of the Timnath Municipal Code is amended by adding thereto a new Article IV, as follows:

**Article IV Art in Public Places**

**11.81. Purpose**

**A.** The purpose of this article is to provide a means to fund the acquisition of works of art by the Town, which shall become the Town's collection, to provide a means to select works of art for the collection, to provide for the display of the collection and to provide for the maintenance and repair of the works of art in the collection; and enables the Town to require that any new building project or renovation project undertaken by the Town of Timnath must have one percent of total design and estimated construction costs set aside for the commissioning of a work of art to be incorporated as a part of the project or contributed to the Art in Public Places program.

**11.82. Definitions**

**A.** For the purpose of this article the following words or phrases shall be defined as set out below:

**1.** "Art in Public Places" means any visual work of art incorporated as a part of any Town-owned facility, or displayed for two weeks or more in an open Town-owned area, on the exterior of any Town-owned facility, inside any Town-owned facility in areas

designated as public areas, or on non-municipal property if the work of art is installed or financed, either wholly or in part, with public funds or grants procured by the Town.

2. "Commission" means the "Arts Commission" created by a separate ordinance.
3. "Construction cost" means actual cost of any construction project with an estimated construction cost of \$250,000 or more, excluding, however, engineering and administrative costs, costs of fees and permits and indirect costs, such as interest during construction, advertising and legal fees.
4. "Construction project" means the construction, rehabilitation, renovation, remodeling, equipping or improvement of any building, street, park or other public improvement by or for the Town, including all associated landscaping, parking and the like, but excluding any improvements made by any special improvement district and any other improvements exempted by the Town Board from the requirements of this Chapter 11, Article 4 after a public hearing thereon.
5. "Reserve account" shall mean the Art in Public Places Reserve Account established by this article.
6. "Work of art" includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, textile, carving or stained glass. Works of art would not normally include paving or signs.

#### **11.83. Funds for works of art**

A. There shall be included in all estimates of necessary expenditures and all requests for authorizations or appropriations for construction projects an amount for works of art equal to at least one (1) percent of the total construction cost. If any project is partially funded from any source which precludes the expenditure of funds for art, then this section shall apply only to the amount of funds not so restricted. All funds set aside for works of art shall be paid into the reserve account except when works of art are created for, and installed as part of, the actual construction of the project. When the creation and installation of the artwork is part of the actual construction expense, the one (1) percent set-aside shall be applied to the project cost without transfer to the reserve account.

#### **11.84. Account established**

A. There is hereby established a reserve account within the General Fund – Capital to be known as the Art in Public Places Reserve account. Said reserve account shall be credited with such funds as determined by the Town Board and with all funds received by the Town for visual art in public places, whether contributed, earned, secured through grants or otherwise obtained. Monies so dedicated and/or credited to such account shall be expended only for acquisition of works of art, and expenses of administration of this article.

No initial expenditures shall be made from this account until the total funds credited to said account equal \$15,000.00. The annual budget presented by the Commission shall maintain a minimum account balance equal to the costs of maintenance and insurance of all municipally owned artworks for a twelve month period.

#### **11.85. Administration**

A. The Commission shall advise the Town Board and Town staff on the provisions of this article relating to the acquisition of works of art and their display. With the advice of the Commission, the Town Board shall act on all matters pertaining to the acquisition and display of works of art.

With the assistance of the Commission, Town staff shall compile a report of all activities and expenditures related to the Art in Public Places program for the prior calendar year. Said report shall be presented to the Town Board no later than each April 1.

#### **11.86. Guidelines**

A. The Commission shall propose guidelines that address items 1 – 5 below, subject to approval of the Town Board:

1. To identify suitable art objects for display in public places;
2. To facilitate the preservation of art objects and artifacts that may be displayed in public places;
3. To prescribe a method or methods for competitive selection of art objects for display;
4. To prescribe policies and procedures for the acceptance of donated objects of art; and
5. To prescribe procedures for the selection, commission, acquisition and display of Art in Public Places.

#### **11.87. Selection and display standards**

A. In providing advice to the Town Board with respect to Art in Public Places installations, the Commission shall give special attention to the following matters:

1. Conceptual compatibility of the design with the immediate environment of the site;
2. Appropriateness of the design to the function of the site;
3. Compatibility of the design and location with a unified design character or historical character of the site;
4. Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
5. Preservation and integration of natural features for the project;
6. Appropriateness of the materials, textures, colors and design to the expression of the design concept; and

7. Representation of a broad variety of tastes within the community and the provision of a balanced inventory of Art in Public Places to insure a variety of style, design and media throughout the community.

### **11.88. Display of Art in Public Places**

A. Works of art selected and implemented pursuant to the provisions of this chapter may be placed in, on or about any public place or, by agreement with the owner thereof, on any private property with substantial public exposure in and around the Town of Timnath. Works of art owned by the Town may also be loaned for exhibition elsewhere, upon such terms and conditions as deemed necessary by the Commission. Town officials responsible for the design and construction of public improvements in the Town shall make appropriate space available for the placement of works of art, in consultation with the Commission. For any proposed work of art requiring an extraordinary operation or maintenance expense, the Commission shall obtain prior approval of the Town Board.

B. All Art in Public Places shall receive the prior review and recommendation of the Commission. Except in the event of an obvious threat to public safety, no piece of art acquired through the Art in Public Places program shall be removed, altered or changed without Commission recommendation and the approval of the Town Board.

C. No work of art financed or installed either wholly or in part with Town funds or grants procured by the Town shall be installed on privately owned property without a written agreement between the Town and the owner specifying the proprietary interests in the work of art and specifying other provisions deemed necessary or desirable by the Town attorney. In addition, such written agreements shall specify that the private property owner shall assure:

1. That the installation of the work of art will be done in a manner which will protect the work of art and the public;
2. That the work of art will be maintained in good condition; and
3. That insurance and indemnification will be provided as is appropriate.

D. Installation, maintenance, alteration, refinishing and moving of Art in Public Places shall be done in consultation with the artist whenever feasible.

E. Town staff shall maintain a detailed record of all the Art in Public Places, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. The Town shall attempt to give appropriate recognition to the artists and publicity and promotion regarding Art in Public Places.

### **11.89. Ownership**

A. All works of art acquired pursuant to this chapter shall be acquired in the name of, and the title shall be held by the Town of Timnath, Colorado.

## 11.90. Exemptions

- A. The following are exempt from the provisions of this chapter:
1. All works of art in the collections of, or on display at, or under the auspices of, museums and public libraries; and
  2. All works of art on display in private town offices or other areas of town-owned facilities which are not generally frequented by the public.

11.91. – 11.99. Reserved

**Section 2. Repeal.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portions thereof are hereby repealed to the extent of such inconsistency or conflict.

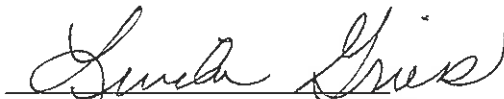
**Section 3. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 4. Safety.** This Ordinance is deemed necessary for the preservation of the public peace, health or safety of the community.

**INTRODUCED, READ, PASSED AND ADOPTED BY A VOTE OF THE BOARD OF TRUSTEES OF THE TOWN OF TIMNATH AS AN ORDINANCE AND ORDERED PUBLISHED THIS 19<sup>th</sup> DAY OF July, 2006.**

  
Donna Benson, Mayor

**Attest:**

  
Linda Griess, Acting Town Clerk