

TOWN OF TIMNATH, COLORADO

ORDINANCE NO. 28, 2008

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
TIMNATH, COLORADO, ADOPTING ARTICLE V OF CHAPTER 11
OF THE TIMNATH MUNICIPAL CODE ENTITLED "OLD TOWN
SEWER PROJECT"**

WHEREAS, the Town Council of the Town of Timnath has authority pursuant to its Home Rule Charter and the Colorado Revised Statutes to provide for the health, safety and welfare of the citizens of the Town; and

WHEREAS, the Council finds that many existing structures located within the "Old Town" portion of the Town rely upon leach and septic systems to dispose of wastewater; and

WHEREAS, the Council finds that many of these systems are antiquated, and that given the small size of most lots in the Old Town area, the continued use of such systems is a threat to public health; and

WHEREAS, the Town Council finds that requiring connection to a sanitary sewer service line will eliminate this threat to public health.

THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO ORDAINS:

Section 1. Municipal Code Amended

A new Article V of Chapter 11, of the Timnath Municipal Code, entitled "Old Town Sewer Project", is adopted to read:

11.120: Purpose; findings:

The Town Council finds that many of the leach and septic wastewater systems in Old Town Area are antiquated, are used by structures on small lots, and that failure of such systems is a threat to public health. The Town Council finds that requiring all structures in the Old Town Area to connect to a public sewer service will remedy the threat to public health.

11.121: Definitions: As used in this Article, the following terms shall mean:

- A. Eligible Structure – a structure within Old Town Area served by leach and/or septic systems in existence as of January 1, 2008 and still in existence.
- B. Final Connection Deadline – Thirty (30) days after the applicable Town Connection Deadline.

RECEPTION#: 20080070317, 11/12/2008 at
11:05:45 AM,
1 OF 7, R \$36.00 TD Pgs: 0
Scott Doyle, Larimer County, CO

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



- C. Old Town Area – that area described on **Exhibit 1**, attached hereto a copy of which shall be maintained in the Office of the Town Clerk.
- D. Project – the Old Town Sewer Project requiring all structures in the Old Town Area currently operating on leach and/or septic systems to connect to a public sewer service subject to the conditions and restrictions of this Article V.
- E. Town Connection Deadline – The date by which and Eligible Structure must be connected to a public sewer service in order to be eligible for Town assistance. The sewer line will be built in phases, and the Town Completion Deadline will vary by phases as established by the Town Manager and communicated to owners of Eligible Properties by certified mail.

11. 122: Mandatory connection to the Project.

- A. All structures in Old Town Area currently operating on a leach and/or septic wastewater system shall be connected to the Project and have their existing septic system pumped and filled with sand by the Final Connection Deadline.
- B. It is unlawful and a violation of this Code for an owner of any structure served by a leach and septic system in the Old Town Area to fail to comply with Section 11.122A.

11.123: Town Assistance.

The Town will assist owners within the Old Town Area in complying with Section 11.122.A, subject to the following conditions and restrictions:

- A. Owners of an Eligible Structure which are connected to the Project by the Town Completion Deadline are entitled to the following:
 - 1. The Town will install sewer service without cost to the owner of the structure, including payment of tap fee and all costs associated with connecting an individual sewer service line not to exceed four (4) inches in diameter from the sewer main up to but not extending into the structure.
 - 2. Each owner of an Eligible Structure will be required to complete the connection from the structure to the sewer service line at the owner's expense.

3. Once connected to the sewer service line, the Town will pump the septic system and fill the septic system with sand without cost to the owner.
 4. The record owner of each Eligible Structure will be required to execute an indemnification and release of liability, and to the extent necessary for installation of sewer mains, an easement, all in a form approved by the Town Attorney.
 5. The Town will repair damage to concrete, driveways, sprinkler systems, and sod, but not trees or bushes that is a result of the work done in connecting the Eligible Structure to the public sewer line.
 6. The Town will arrange for inclusion of the property into the South Ft. Collins Sanitation District. The property owner's signature will be required on forms provided by the Town.
 7. The Town's obligations under Section 11.123.A are specifically subject to appropriation by the Town Council of sums necessary. The Town Council may, at any time and in its sole and exclusive discretion, elect not to fund all or any portion of its assistance under Section 11.123.A during all or any portion of any calendar year. The Town Council may, at any time and in its sole and exclusive discretion, elect to modify or terminate its assistance described in Section 11.123.A, impose additional conditions and restrictions upon owners of Eligible Structures, or extend or limit the benefits of the Town's assistance in Section 11.123.A to any property.
- B. An owner of an Eligible Structure who fails to connect to the Project by the Town Completion Date shall comply with the following prior to the Final Completion Deadline:
1. Install an individual sanitary sewer service line not to exceed four (4) inches from the sewer main to the structure at the owner's sole expense, including payment of tap fees.
 2. Once the structure is connected, the owner must pump the septic system and fill it with sand at the owner's sole expense.
 3. Petition for and obtain inclusion into the South Ft. Collins Sanitation District.
 4. The owner must provide sufficient documentation to the Town showing compliance with the requirements of this Article V.

- C. The Town Manager is authorized and directed to establish additional procedures to implement the Project.

11.124 Penalties for failing to connect to the Project, abatement.

- A. Any owner who fails to comply with Section 11.122.A shall be in violation of this Article and a citation for the same may be written into Timnath Municipal Court.
- B. Each day beyond the Final Completion Deadline that the owner fails to connect a structure to the Project as required shall constitute a separate offense.
- C. A violation of this Article V shall not constitute a criminal offense and no jail time shall be imposed.
- D. In addition to prosecution in the Municipal Court, failure to comply with Section 11.122.A will result in the Town performing the requirements of this Article and assessing the whole costs of such work upon the property as a lien to be collected in the same manner as property taxes. This assessment shall have priority over all other liens except general taxes.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

Section 3. 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 APRIL 16, 2008, AT THE TIMNATH TOWN HALL, 4100 MAIN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 2ND DAY OF APRIL, 2008.

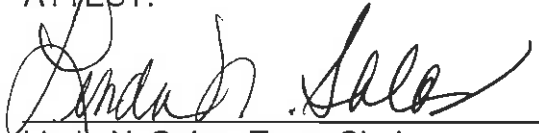
MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON THE 16TH DAY OF APRIL, 2008.

TOWN OF TIMNATH, COLORADO



Donna Benson, Mayor

ATTEST:

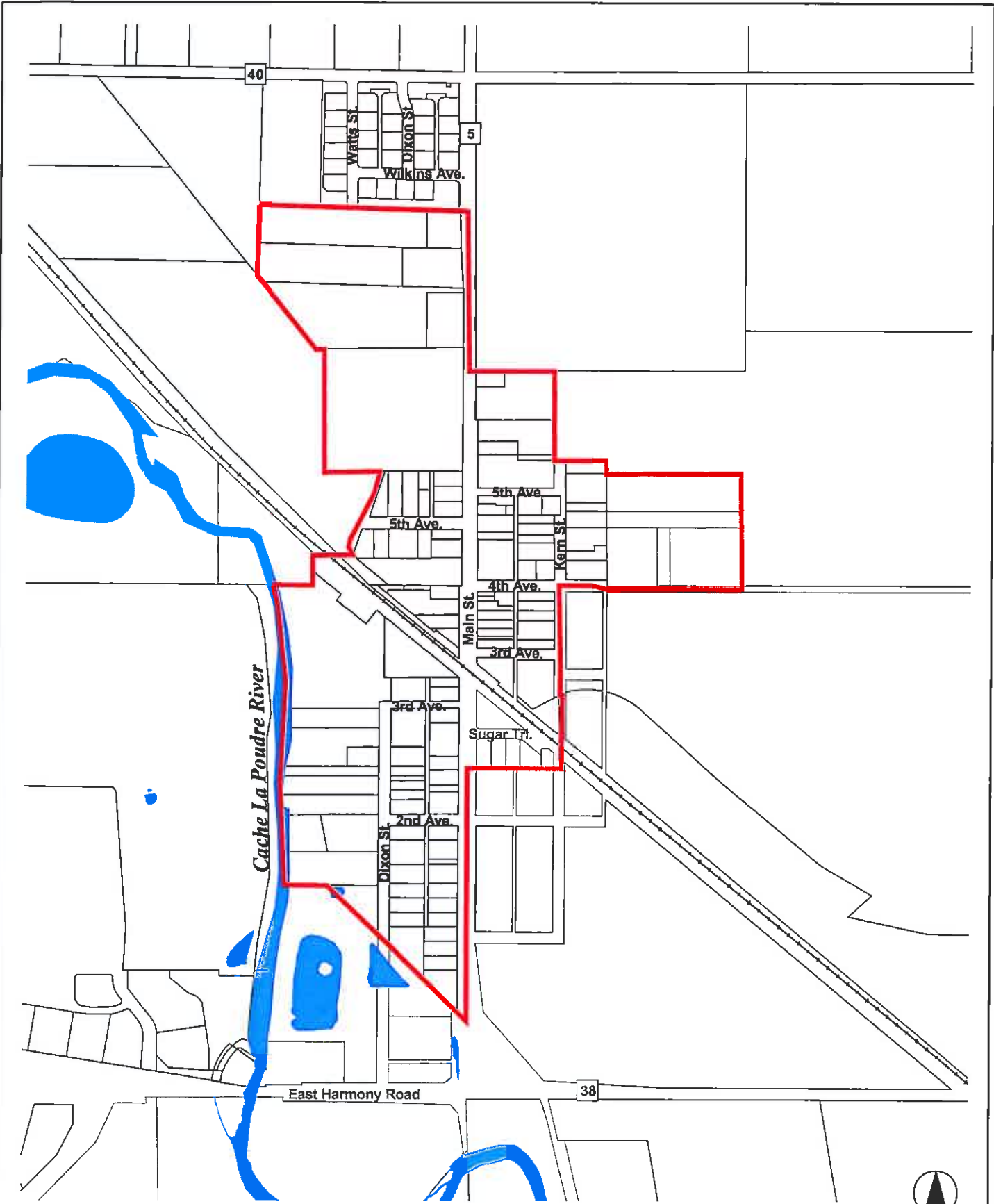


Linda N. Salas, Town Clerk

EXHIBIT 1

Map of Old Town Sewer Project Area

[attached]



**Old Town Sewer Improvement
Project Eligibility Area**



NORTH

March 5, 2008