TOWN OF TIMNATH, COLORADO

ORDINANCE NO. 9 - 2007

AN ORDINANCE REPEALING AND REENACTING
CHAPTER 6, AND CHAPTER 8 OF THE MUNICIPAL
CODE OF TIMNATH.

WHEREAS, the Town Council (the “Council”) of the Town of Timnath (the “Town”) currently has a Municipal Code; and the Municipal Code is in need of revisions in order for the Municipal Code and the newly adopted Home Rule Charter to be consistent; and

WHEREAS, the Municipal Code is in need of updates to recognize current practices; and

WHEREAS, Codification of all of the laws adopted by the Town of a permanent and general nature allows for the publication of all laws of the Town affecting the citizens to be located in an organized printer or digital formal so citizens and any other interested individuals can more easily determine the laws of the Town.

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

Section 1. Chapter 6 of the official code of the Town of Timnath titled Licenses, Permits and Regulations is hereby repealed and reenacted as follows:

ARTICLE I - LICENSES

6.1.1: Purpose
The purpose of this Article is the regulation and registration of businesses operating within the Town.

6.1.2: License required
Every person must obtain a license from the Town before operating, conducting or carrying on any retail trade, profession or business within the Town provided, however, that nonprofit and charitable corporations, and federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article.

6.1.3: Separate license required for each trade or business
Any person operating, conducting or carrying on any retail trade, profession or business within the Town must obtain a separate license for each location of the business.

6.1.4: License application
An application for a license shall be made to the Town Clerk on forms provided by the Town. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.

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Scott Doyle, Larimer County, CO

Town of Timnath
Town Clerk
4800 Goodman Street
Timnath, CO 80547
6.1.5: License fees
Every person required to be licensed by the provisions of this Article shall pay the License fee as provided in Chapter 4.

6.1.6: Payment of fee
Before granting the license, the fee required for the license must be paid to the Town at the office of the Town Clerk.

6.1.7: Issuance
Upon receipt of the required fee and license application, the Town Clerk will issue a license, provided that the business is otherwise in compliance with this Code.

6.1.8: Carrying or posting license required
The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. Every licensee shall produce said license for examination when requested to do so by any person representing the Town.

6.1.9: License nontransferable and non-assignable
No license shall be assignable or transferable.

6.1.10: Period of license
All licenses shall expire June 1 of each calendar year.

6.1.11: Suspension  A license may be suspended:

A. When any money due the Town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town;

B. When any activity conducted by the licensee, the licensee’s employee or agent violates any federal, state or local rule, regulation or law;

C. Upon failing to comply with the terms and conditions of the license; or

D. Upon any grounds of suspension provided by ordinance.

6.1.12: Revocation of license:  A license may be revoked by the Town:

A. When it appears that the license was obtained by fraud, misrepresentation or false statements within the application;

B. When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, state or local rule, regulation or law;

C. Upon failing to comply with the terms and conditions of the license or paying the required license fee;
D. Upon finding nonconformance of the business, premises, building or land use with this Code; or

E. Upon any ground of revocation provided by this Code.

6.1.13: Notice and hearing prior to suspension or revocation
All hearings to revoke, or suspend a license shall be before the Town Manager. The suspension or revocation of any license shall not release or discharge any licensee from civil liability for the payment of the taxes, penalty and interest nor from the prosecution of the offense.

6.1.14: Cease and desist
If any business is operating without a license, the Town may issue an order to the business to cease and desist all further operation until a license is issued for the business. The order shall give the licensee the option to either:

1. Pay all amounts due to the Town within three (3) days; or
2. Post a bond in the amount owing the Town and to request in writing with the Town a hearing before the Town Manager.

If the business does nothing, it shall cease operations on the third day. These proceedings shall not relieve or discharge any licensee from the civil liability for the payment of the taxes, penalty and interest nor from the prosecution of the offense.

6.1.15: Penalty
Failure to comply with the terms of this Article shall constitute a civil infraction. Any person who is found guilty of, or pleads guilty or nolo contendere to the commission of, the civil infraction shall be subject to a civil penalty as set forth in this Code. For each day, or portion thereof, during which any violation continues, a person may be cited for a separate civil infraction. The penalties specified in this Section shall be cumulative and nothing shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity.

ARTICLE II - SALES TAX LICENSES

6.2.1: License required
A. It shall be unlawful for any person to engage in any business requiring the collection of sales and/or use tax in the Town without first obtaining a Sales Tax license pursuant to this Article.

B. A temporary license may be issued for temporary locations and/or special events for periods of seven (7) consecutive days or less, not to exceed a total of twenty-one (21) days per calendar year. The reporting period for temporary licenses shall end on the day the temporary location closes or special event concludes.

C. A licensee obtaining a Sales Tax license pursuant to this Article shall also obtain a license to engage in business pursuant to Article I.
6.2.2: Exemptions
No license shall be required for any governmental agency or exempt organization which is exempt from the taxes imposed by Chapter 4 of this Code.

6.2.3: License application and administration

A. An applicant for a license shall submit an application to the Town Clerk on forms provided by the Town, stating the business name and address, mailing address, type of business, and such other information as may be required by the Town.

B. An application for renewal shall be filed with the Town Clerk. Licenses shall be in effect for one year and shall be renewed annually. Renewal of a license may be denied as provided in Section 6.2.4.

C. Each license shall show the name, location, mailing address and character of business of the licensee and shall be posted in a conspicuous place at the business location for which it is issued.

D. No license shall be transferable. After any sale or transfer of a business, the new owner shall apply for a new license.

6.2.4: License denial, cancellation, suspension or revocation

A. A license may be denied for any violation of the provisions of this Article, or as listed below. The reason for the denial of the application shall be provided to the applicant in writing.
   1. The required fees have not been paid;
   2. The application is incomplete or contains false, misleading or fraudulent statements; or
   3. Nonconformance of the business, premises, building or land use with this Code.

B. The Finance Director may cancel any license:
   1. Upon receipt of a written notice that the taxpayer is no longer engaged in business in the Town; or
   2. Upon the taxpayer's failure to respond to three (3) consecutive notices of delinquency. The Finance Director shall give notice to the taxpayer that the license has been cancelled.

C. A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Article, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.

D. A license may be denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Finance Director.
E. An application for a new license may be denied by the Finance Director, pursuant to this Section. The applicant may appeal a denial to the Town Manager, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

F. A license may be summarily suspended for no more than thirty (30) days by the Finance Director when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

G. The Town Manager shall conduct an appeal of the denial of a new license or a hearing. The Town Manager shall deliver a decision in writing within thirty (30) days.

H. No licensee shall continue engaging in business in the Town after the licensee’s license has been cancelled or revoked.

6.2.5: Penalty
Any person convicted of violation of this Article shall be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for a period not exceeding one (1) year, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to imprisonment for violation of this Article. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued or permitted by any such person and shall be punished accordingly. Nothing in this Section shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity.

ARTICLE III — ALCOHOLIC BEVERAGES

6.3.1: Definitions
Those terms which are defined in the Colorado Beer Code and the Colorado Liquor Code, C.R.S. sections 12-46-101, et seq., and 12-47-101, et seq., shall have the same meaning when used in this Article, unless the context otherwise requires.

6.3.2: Local Licensing Authority

The Town Council shall serve as the local licensing authority of the Town, and shall have all of the powers and duties of the local licensing authority as provided by this Code and state law.

6.3.3: Applicability
In addition to any of the rules or laws which may be applicable, these rules shall govern all proceedings before the local licensing authority. If any of the rules contained herein shall conflict with any provisions of the laws of the State or the rules of the State Licensing Authority pertaining to the Colorado Liquor Code or to rules pertaining to the licensing or sale of fermented malt beverages, the provisions of state law or the rules of the State Licensing Authority shall govern.

6.3.4: Application for liquor license; renewal application; application fee; license fee
A. New applications, transfer of ownership, change of location. The applicant shall submit an application to the Town Clerk on forms provided by the State. The application shall include all applicable information, required by state statute. Applications shall not be considered complete until all required information has been received by the Town Clerk.

B. Application fee for new applications, transfer of ownership, change of location. At the time of submitting the application, the applicant shall pay an application fee to the Town. Such fee shall be used to defray the expense incurred by the Town for the review, investigation, supplies, posting and publication of premises and all other services of personnel of the Town which pertain to the application. Such application fee shall apply only to applications for new licenses and to applications for the transfer of ownership of an existing license or for transfer of the location of an existing license. The application fee is set forth in Chapter 4.

C. Application for renewal of existing liquor license. All applications for renewal of an existing liquor license shall be submitted to the Town Clerk on the form provided to the licensee by the State.

D. Application fee for renewal of existing liquor license. At the time of submitting the renewal application, the applicant shall pay a renewal application fee to the Town. Such fee shall be used to defray the expense incurred by the Town for the review, investigation, supplies, and all other services of personnel of the Town which pertain to the renewal application. The renewal application fee for such renewal application is set forth in Chapter 4.

E. Liquor license fee. At the time of submitting an application for a new liquor license, liquor license renewal, transfer of ownership or change of location, the applicant shall pay two (2) license fees: one (1) to the State of Colorado - Department of Revenue for state liquor license fees and one (1) to the Town for local liquor license fees. The state license fee is set forth in Section 12-46-107 and 12-47-505. The local license fee is set forth in Chapter 4.

F. The local license fees prescribed by C.R.S. Sections 12-46-107 and 12-47-505, as those Sections may be amended from time to time, shall be paid to the Town annually by the licensee. Such fees shall not be rebated or discounted on a proportionate basis for any license in existence or issued for less than a year. These fees shall be in addition to any license fees required to be paid directly to the State.

6.3.5: Classification

The following licenses may be issued by the Town under this Article

1. Fermented malt beverages:
   (a) For consumption off the premises of the licensee;
   (b) For consumption on the premises of the licensee;
   (c) For consumption both on and off the premises of the licensee.
   (d) Temporary Permit, for the continuance of the sale of fermented malt beverages by a transferee pending the transfer of the permanent license;
(e) Temporary License for the continuance of the sale of fermented malt beverages by a licensee whose license has expired where the licensee has applied for a permanent license;

2. Retail liquor store;
3. Liquor-licensed drugstore;
4. Beer and wine;
5. Bed and Breakfast Permit;
6. Hotel and restaurant;
7. Tavern;
8. Optional premises
9. Brew Pub;
10. Arts;
11. Racetrack;
12. Temporary Permit for the continuance of the sale of alcoholic beverages by a transferee pending the transfer of the permanent license;
13. Temporary License for the continuance of the sale of alcoholic beverages by a licensee whose license has expired where the licensee has applied for a permanent license;
14. Special event permit;
15. Brew Pub License; and
16. Vintner's Restaurant License

6.3.6: Civil action for collection
The Town shall have the right to recover all sums due by the terms of this Article by judgment and execution thereon in a civil action, in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article.

6.3.7: Suspension or revocation; fine

A. Whenever a decision of the local licensing authority, suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the local licensing authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the local licensing authority, may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

1. That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

2. That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

3. That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.
B. The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee’s estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars ($200.00) nor more than five thousand dollars ($5,000.00).

C. Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier’s check made payable to the Town and shall be deposited in the general fund of the Town.

D. Upon payment of the fine pursuant to this Section, the local licensing authority shall enter its further order permanently staying the imposition of the suspension.

E. In connection with any petition pursuant to this Section, the authority of the local licensing authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

F. If the local licensing authority does not make the findings required in Subsection (A) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the local licensing authority.

6.3.8: Term and renewal of liquor license

A. The Town Clerk shall submit the renewal application submitted by each liquor license holder, along with any reports of criminal activity or liquor violations on the site which is the subject of said renewal application, and any conditions imposed by the local licensing authority upon initially granting the license, to the local licensing authority.

B. The local licensing authority may either grant renewal of the license, or set a public hearing on the issue of renewing the license.
ARTICLE IV – PEDDLERS AND SOLICITORS

6.4.1: Purpose

The Town Council finds that it is in the interest of the health, safety, and welfare of the public to enhance privacy of persons in their homes by preventing solicitors from soliciting in residential areas where the resident has posted a "NO SOLICITING," "NO TRESPASSING," "NO HANDBILLS" or a sign with a similar meaning. Furthermore, the Council is desirous of establishing a permitting process for peddlers and solicitors engaged in business in the Town.

6.4.2: Prohibition

It shall be unlawful for any person to solicit or attempt to solicit or to invite or attempt to discuss, verbally or in written form, ideas and issues, or distribute written information, at any private residence which has been posted with a sign stating "NO SOLICITING," "NO TRESPASSING," "NO HANDBILLS" or a sign with a similar meaning. Peddling or soliciting without first complying with the provisions of this Article is prohibited.

6.4.3: Penalty for violation of this Article

Upon conviction, a violation of this Article shall be punished as stated in Chapter 1 of this Code. A violation at each residence or upon each day shall be considered a separate violation.

6.4.4: Definitions

As used in this Article, unless the context otherwise requires:

Peddler means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the Town, and who in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the Town for more than fifteen (15) minutes at a time. This definition does not include a Special Use Permit. This definition shall not include an individual who holds a business license from the Town and operates indoors.

Residence means the private residences of the Town, including, but not limited to, condominium units and apartments or the yards, grounds or hallways thereof.

Sales tax means the tax authorized and levied by and within the Town, pursuant to this Code.

Solicitor means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise.

6.4.5: Permit and applicable licenses required
A. Every peddler or solicitor shall register and obtain a permit from the Town Clerk and pay the permit fee as provided in this Article before engaging in peddling or soliciting activities. Such permit shall be in addition to licenses required pursuant to Articles I and II of this Chapter.

B. Solicitors shall be allowed to solicit in residential areas between the hours of 8:00 A.M. and 8:00 P.M.

6.4.6: Fees

The permit fee for each person engaging in peddling or soliciting shall be set forth in Chapter 4, and such permit shall be issued for one (1) month.

6.4.7: Application contents
Each applicant for a permit shall file with the Town Clerk:

1. The applicable licenses as required by Articles I and II of this Chapter;
2. Copies of any business or sales tax licenses required by the state; and
3. An affidavit on a form supplied by the Town Clerk stating:
   a. The full name of the applicant;
   b. The applicant’s business address;
   c. The applicant’s business telephone number;
   d. The applicant’s residential address (temporary and permanent);
   e. The applicant’s residential phone number;
   f. A description of the applicant, including height, weight, color of eyes and color or hair;
   g. The state of issuance and identification number of the applicant’s driver’s license or other picture identification;
   h. The number on and the state of issuance of the license places of any motor vehicle owned, rented or being driven by the applicant and of any motor vehicle which the applicant intends to use in the course of door-to-door sales, a description of any such motor vehicle, and the name and address of the owner of such motor vehicle;
   i. Whether the applicant is presently on parole or probation for any criminal violations;
   j. A brief explanation of the nature of the merchandise to be sold or other activity that requires a license or permit under this Article;
   k. If the applicant is an employee of a foreign corporation, the name, address and telephone number of an agent for process residing in the State; and
   m. The dates or length of time for which the right to do business is desired.

6.4.8: Permit; grounds for denial

A. The Town Clerk may deny the issuance of a permit for the following reasons:
   1. Any misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere;
2. Failure to comply with this Article or violation of any ordinance applicable to the other permitted activities;

3. Failure to obtain any license as required by the Town or failure of the applicant, the applicant's supervisor or the applicant's employer to remit any sales tax due the Town; or

4. Felony convictions for crimes against the person or property of another, or institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such felony convictions or institutionalization occurred within the five (5) years preceding the date of application.

B. For purposes of this Section:

1. Crimes or acts of violence against the person of another shall include homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar felonies involving moral turpitude by whatever name; and

2. Crimes or acts against the property of another shall include theft, burglary, breaking and entering, larceny and other similar felonies involving moral turpitude by whatever name.

C. Persons whose applications for permits have been denied shall be notified in writing the reason for such denial, and upon written request to the Town Clerk, are entitled to an administrative hearing with the Town Clerk, or another hearing officer as designated by the Town Clerk, serving as presiding officer. The presiding officer shall determine whether the reasons for permit denial exist.

6.4.9: Transfer of permits
No person shall transfer or attempt to transfer a permit to any other person, and no person shall use a permit issued to any other person.

6.4.10: Records
The Town Clerk shall maintain records showing each permit issued and the any alleged violations of this Article. (Ord. 11-2002)

6.4.11: Appeal
An applicant may appeal any decision relating to his permit by the Town Clerk to the Town Manager. If the applicant requests, the Town Manager shall hold a hearing pursuant to the procedures set forth in the ordinances of the Town.

6.4.12: Expiration of permit
Each permit shall expire on the date specified on the permit, and the Town Clerk shall issue no permit for a period longer than one (1) month. On the expiration of a permit, any person may apply for the issuance of a new permit and shall not peddle or solicit within the Town until the permit has been renewed or reissued.
6.4.13: Revocation of permit
If the Town Clerk finds that any of the grounds stated in Section 6.4.6 exist or that an applicant has made a false statement in his application, the Town Clerk shall revoke the permit; or for other just cause, communicated to the person, related to the health, safety or welfare of the citizens of the Town, the Town Clerk may revoke the permit. The hearing process set forth in Section 6.4.8 (C) and the appeals procedures set forth in Section 6.4.11 shall be applicable to the revocation process.

6.4.14: Exhibition of permit
Whenever requested by any customer or prospective customer, or any law enforcement officer, a peddler or solicitor shall exhibit the permit obtained pursuant to this Article.

6.4.15: Exemptions

The following classes of persons shall not be required to obtain a license or permit otherwise required by this Article: persons authorized by civic, religious, charitable or political organizations; provided, however, that all proceeds are retained by the organization, and nothing is retained by the individual.

ARTICLE V - SEXUALLY ORIENTED BUSINESSES

6.5.1: Purpose and intent
The purpose and intent of this Article is to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this Article are not intended to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.

6.5.2: Definitions The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section and in Chapter 16 of this Code, except where the context clearly indicates a different meaning:

Adult motel means a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic productions however produced which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.
Employee means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a sexually oriented business license.

Licensing Officer means the Town Clerk or his or her designee.

Manager means an operator, other than a licensee, who is employed by a sexually oriented business to act as a Manager or supervisor of employees or is otherwise responsible for the operation of the business.

Operator means and includes the owner, license holder, custodian, Manager, operator or person in charge of any licensed premises.

Peep booth means a room, semi-enclosure or other similar area located within a licensed premises wherein a person may view representations of specified anatomical areas or specified sexual activities.

Premises or licensed premises means any premises that requires a sexually oriented business license and that is classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business.

Principal owner means any person owning, directly or beneficially, ten percent (10%) or more of the ownership interests in any entity described in this Article.

Specified anatomical areas means and includes any of the following:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity, prostitution or pandering.

Specified sexual activities means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation, masturbation, sodomy, or bestiality;
3. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, or abuse;
4. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
5. Excretory functions as part of or in connection with any of the activities set forth in items 1 through 4 of this definition.

_Transfer of ownership or control of a sexually oriented business_ means and includes any of the following:

1. The sale, lease or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
3. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, including a transfer by bequest or operation of law.

6.5.3: Exemptions  The provisions of this Article regulating nude model studios do not apply to:

1. A college, junior college or university supported entirely or partly by taxation;

2. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

3. A business located in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises at any one (1) time.

6.5.4: Unlawful acts
It shall be unlawful for a licensee, Manager or employee to violate any of the requirements of this Article or to knowingly permit any patron to violate the requirements of this Article.

6.5.5: License fees

A. The annual fee for a sexually oriented business license is as set forth in Chapter 4.

B. The annual Manager's license fee is as set forth in Chapter 4.

C. An applicant for a sexually oriented business license shall pay a nonrefundable application fee as set forth in Chapter 4.
6.5.6: Inspection

A. An applicant or licensee or Manager shall permit representatives of the Licensing Officer, Building Official, the Planning Director, the Police Department or its designee, the applicable County Health Department and the Fire Department or district to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

B. Inspections shall be conducted in a reasonable manner and only as frequently as may be reasonably necessary.

C. Inspections shall take place during the regular business hours of the sexually oriented business or when any person is on the premises.

D. It shall be unlawful for any person, applicant, licensee or Manager who operates a sexually oriented business or his or her agent to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business.

6.5.7: Sexually oriented business license required

A. No sexually oriented business license shall be issued for any sexually oriented business located within any zone district other than the industrial zone.

B. No person shall operate a sexually oriented business without first having obtained a valid Type A or Type B sexually oriented business license issued by the Town.
   1. A Type A sexually oriented business license shall be required for sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, are allowed pursuant to a valid license issued under this Chapter.
   2. A Type B sexually oriented business license shall be required for all sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, are not allowed.

C. It shall be unlawful to operate or cause to be operated a sexually oriented business when said person knows or reasonably should know that:
   1. The business does not have a sexually oriented business license;
   2. The business has a sexually oriented business license which is under suspension;
   3. The business has a sexually oriented business license which has been revoked; or
   4. The business has a sexually oriented business license which has expired.
6.5.8: Application for sexually oriented business license

A. The Licensing Officer is responsible for granting, denying, revoking, renewing and suspending
sexually oriented business licenses for proposed or existing sexually oriented businesses.

B. The Police Department or its designee is responsible for providing information to the Licensing
Officer on whether an applicant has been convicted of a specified criminal act during the time
periods set forth in this Article.

C. Any person desiring to operate a sexually oriented business shall file with the Licensing Officer
an original and two (2) sworn copies of a sexually oriented business license application on the
standard application form supplied by the Licensing Officer.

D. The completed application shall contain the following information and shall be accompanied by
the following documents:
   1. If the applicant is an individual, the individual shall state the individual’s legal name and
      any aliases, and submit satisfactory proof that the applicant is twenty-one (21) years of age or older
      in the case of a Type A sexually oriented business license or eighteen (18) years of age or older in
      the case of a Type B sexually oriented business license.
   2. If the applicant is a legal entity, the application shall state the entity’s complete name, the
date and place of its organization, evidence that it is in good standing under the laws of the state in
which it is organized, and if it is organized under the laws of a state other than Colorado, that it is
registered to do business in Colorado, the names and capacity of all officers, directors, Managers and
principal owners, and the name of the registered agent and the address of the registered agent for
service of process, if any.
   3. If the applicant intends to operate the sexually oriented business under a name other than
that of the applicant, the sexually oriented business' proposed fictitious name must be stated.
   4. Whether the applicant or any of the other individuals listed pursuant to Subsections D(1)
or D(2) of this Section have been convicted of a specified criminal act as defined in this Article,
within the times set forth in this Article, and if so, the specified criminal act involved, the date of
conviction and the place of conviction.
   5. Whether the applicant or any of the other individuals listed pursuant to Subsections D(1)
or D(2) of this Section have had a previous license under this or other sexually oriented business
ordinance from another city, town or county denied, suspended or revoked and, if so, the name of the
city, town or county where the license was previously denied, suspended or revoked, and the name
and location of the sexually oriented business for which the license was denied, suspended or
revoked, as well as the date of the denial, suspension or revocation.
   6. Whether the applicant or any other individuals listed pursuant to Subsection D(1) or D(2)
of this Section has been a partner in a partnership or a principal owner of a corporation or other legal
entity whose license has previously been denied, suspended or revoked and, if so, the name of the
city, town or county where the license was previously denied, suspended or revoked, and the name
and location of the sexually oriented business for which the license was denied, suspended or
revoked, as well as the date of denial, suspension or revocation.
   7. Whether the applicant or any other individual listed pursuant to Subsections D(1) or D(2)
of this Section holds any other licenses under this Chapter or other sexually oriented business
ordinance from another city, town or county and, if so, the name of such city, town or county, and
names and locations of such other licensed businesses.

8. The location of the proposed sexually oriented business including a legal description of the
property, street address and telephone number(s).

9. Proof of the applicant's right to possession of the premises wherein the sexually oriented
business will be conducted.

10. The applicant's mailing address and residential address.

11. A sketch or diagram showing the configuration of the premises including a statement of
total floor space occupied by the business. The sketch or diagram need not be professionally
prepared, but it must be oriented to the North or to some designated street or object and shall be
drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an
accuracy of plus or minus six (6) inches. The Licensing Officer may waive the foregoing diagram
for renewal applications if the applicant adopts a diagram that was previously submitted and certifies
that the configuration of the premises has not been altered since it was prepared. If the sexually
oriented business has or will have a peep booth or booths, the sketch shall show the locations and
dimensions of any Manager's stations and demonstrate that there is an unobstructed view from at
least one (1) of the Manager's stations of every area of the premises to which any patron is permitted
access, excluding restrooms. The floor plan shall designate those rooms or other areas of the
premises where patrons are not permitted and shall also designate the use of each room or other area
of the premises.

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to an
initial application by a Colorado registered land surveyor depicting:
   (a) the property lines and the structures of the property to be certified;
   (b) the location of the property lines of any school within one thousand five hundred
       (1,500) feet of the property to be certified;
   (c) the location of the property lines of any church, dwelling or residential zone district
       within one thousand (1,000) feet of the property to be certified; and
   (d) the location of the property lines and structures of any other sexually oriented
       business within one thousand five hundred (1,500) feet of the property to be certified. For
       purposes of this Section, a use shall be considered existing or established if it is in existence or
       pending at the time an application is submitted.

13. If a person who wishes to operate a sexually oriented business is an individual, he or she
must sign the application for a sexually oriented business license as the applicant. If a person who
wishes to operate a sexually oriented business is not an individual, each principal owner of the
applicant must sign the application for a sexually oriented business license as the applicant.

E. In the event that the Licensing Officer determines or learns at any time that the applicant has
improperly completed the application for a proposed sexually oriented business, the Licensing
Officer shall promptly notify the applicant of such fact and allow the applicant ten (10) days to
properly complete the application. The time period for granting or denying a sexually oriented
business license shall be stayed during the period in which the applicant is allowed an opportunity to
properly complete the application.

F. The fact that an applicant possesses other types of state or city licenses does not exempt the
applicant from the requirement of obtaining a sexually oriented business license.
6.5.9: Duty to supplement application

A. Applicants for a sexually oriented business license shall have a continuing duty to promptly supplement any application information required by that section in the event that said information changes in any way from what is stated on the application.

B. The failure to comply with said continuing duty to supplement an application within thirty (30) days from the date of such change shall be grounds for suspension of a sexually oriented business license.

6.5.10: Investigation and application

A. Upon receipt of an application for a sexually oriented business license properly filed with the Licensing Officer and upon payment of the nonrefundable application fee, the Licensing Officer shall immediately stamp the application as received and send copies of the application to the Planning Director, the Building Official and the Police Department or its designee. The Planning Director, the Building Official and the Police Department or its designee, or their respective designees, shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with this Article. Investigations shall be completed within twenty (20) days of receipt of the application by the Licensing Officer. At the conclusion of their investigations, the Planning Director and the Building Official shall each indicate on the copy of the application his or her approval or disapproval of the application, date it, sign it and in the event of disapproval, state the reasons therefore. The Police Department or its designee shall only be required to provide the information specified in Subsection (B) of this Section, and shall not be required to approve or disapprove applications.

B. The Planning Director and/or the Building Official may disapprove an application if it is found that the proposed sexually oriented business will be or is in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the Town. After their investigations and review, the Planning Director, the Building Official and the Police Department or its designee shall immediately return the copy of the application to the Licensing Officer.

6.5.11: Issuance of sexually oriented business license

A. The Licensing Officer shall grant or deny an application for a sexually oriented business license within thirty (30) days from the date of its proper filing. Upon the expiration of the thirty (30) days, the applicant shall be licensed to begin operating the business for which the sexually oriented business license is sought, unless and until the Licensing Officer notifies the applicant of a denial of the application and states the reason(s) for that denial.

B. Grant of application for sexually oriented business license.
   1. The Licensing Officer shall grant the sexually oriented business license unless one (1) or more of the criteria set forth in Subsection C below is present.
2. The sexually oriented business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time.

C. Denial of application for sexually oriented business license.

1. The Licensing Officer shall deny the application for any of the following reasons:
   a. An applicant is under twenty-one (21) years of age in the case of an application for a Type A sexually oriented business license or under eighteen (18) years of age in the case of an application for a Type B sexually oriented business license;
   b. An applicant is overdue on his or her payments to the Town of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to a sexually oriented business;
   c. An applicant has failed to provide information required by this Section for the issuance of the sexually oriented business license or has falsely answered a question or request for information on the application form and has refused to provide corrected information;
   d. The premises to be used for the sexually oriented business have been disapproved by an inspecting agency;
   e. The application or sexually oriented business license fees have not been paid;
   f. An applicant for the proposed business is in violation of or is not in compliance with any of the provisions of this Article;
   g. The granting of the application would violate a statute, ordinance or court order;
   h. The applicant has a sexually oriented business license under this Section which has been suspended or revoked within the previous twelve (12) months; or
   i. An applicant has been convicted of a specified criminal act or acts for which:
      i. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense;
      ii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; or
      iii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanors. The fact that a conviction is being appealed shall have no effect of disqualification of the applicant. An applicant who has been convicted of a specified criminal act or acts may qualify for a sexually oriented business license only when the time period required has elapsed.

2. If the Licensing Officer denies the application, the Licensing Officer shall notify the applicant of the denial and state the reason(s) for the denial. A copy of such denial shall be forwarded to the Town Attorney.
6.5.12: Manager’s license required; change of Manager

A. A Manager or designee shall be on the premises of a sexually oriented business at all times during operation. It shall be unlawful for any person to work as a Manager of a sexually oriented business without first obtaining a Manager's license.

B. In the event a Manager ceases to be employed at the premises listed in his or her application, the Manager shall immediately report such change to the Licensing Officer within ten (10) days of such change.

6.5.13: Application for Manager’s license

A. A Manager shall submit an application for a Manager's license on a form to be provided by the Licensing Officer. The application shall contain the applicant’s name, date of birth, telephone number, address, the name and address of the sexually oriented business that the Manager proposes to manage and the information required in this Article.

B. The Police Department or designee shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in this Article.

C. The Licensing Officer shall grant the application within ten (10) days of its filing unless:
   1. The applicant is under the age of twenty-one (21) in the case of a Type A sexually oriented business license or under the age of eighteen (18) in the case of a Type B sexually oriented business license;
   2. The applicant has failed to provide the information required by this Section;
   3. The license fee has not been paid;
   4. The applicant has been convicted of a specified criminal act within the times set forth in this Article;
   5. The Licensing Officer requires additional time to process the application.

6.5.14: Interior lighting regulations

A. The interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5.0) foot-candles as measured at the floor level.

B. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
6.5.15: Stage required in adult cabaret and adult theater

Any adult cabaret or adult theater shall have one (1) or more separate areas designated as a stage in the diagram submitted as part of the application for the sexually oriented business license. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage.

6.5.16: Conduct in sexually oriented business

A. No licensee, Manager or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity. It is a defense to prosecution for a violation of this Subsection that an employee of a sexually oriented business exposed any specified anatomical area only during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room which is accessible only to employees.

B. No licensee, Manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus or specified anatomical areas of any person.

6.5.17: Employee tips

A. It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in Subsection (C) of this Section.

B. A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

C. A sexually oriented business that provides tip boxes for its patrons as provided in this Section shall post one (1) or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one (1) inch high to read as follows: "All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited."

6.5.18: Regulation of peep booths

A. It shall be unlawful for a person who operates or causes to be operated a sexually oriented business with peep booths to violate the requirements of this Section.

B. At least one (1) employee must be on duty and situated at each Manager's station at all times that any patron is present inside the premises. The interior of the premises shall be configured in such a manner that such employee shall be clearly visible from every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two (2) or more Manager's stations designated, then the interior of the premises shall be configured in such a manner
that there is an unobstructed view of the employee from at least one (1) of the Manager's station from each area of the premises to which any patron is permitted access for any purpose. The view required in this Subsection must be by direct line of sight from the Manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Article.

C. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a Manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the premises has two (2) or more Manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the Manager's stations. The view required in this Subsection must be by direct line of sight from the Manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Article.

D. No peep booth may be occupied by more than one (1) person at any one (1) time.

E. No door, two-way mirror, screen, opaque covering or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two (2) adjacent peep booths.

6.5.19: Hours of operation

It shall be unlawful for a sexually oriented business to be open for business or for the licensee, Manager or any employee of a licensee to allow patrons upon the licensed premises during the following time periods:

1. On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;
2. On any Monday, other than a Monday which falls on January 1, from 12:00 a.m. until 8:00 a.m.;
3. On any Sunday from 2:00 a.m. until 8:00 a.m.;
4. On any Monday which falls on January 1 from 2:00 a.m. until 7:00 a.m.

6.5.20: Minimum age

A. It shall be unlawful for any person under the age of twenty-one (21) years to be upon the premises of a sexually oriented business that operates pursuant to a Type A sexually oriented business license or for any person under the age of eighteen (18) years to be upon the premises of a sexually oriented business that operates pursuant to a Type B sexually oriented business license.
B. It shall be unlawful for the licensee, Manager or any employee of the licensee to allow anyone under the age of twenty-one (21) years to be upon the premises of a sexually oriented business operated pursuant to a Type A sexually oriented business license or to allow anyone under the age of eighteen (18) years upon the premises of a sexually oriented business that operates pursuant to a Type B sexually oriented business license.

6.5.21: Expiration of sexually oriented business license

A. Each sexually oriented business license shall expire on June 1 following issuance and may be renewed for the following year only by making application as provided in Section 6.5.8 (for renewals, filing of original survey shall be sufficient). Application for renewal of a sexually oriented business license shall be made at least thirty (30) days before the expiration date of the sexually oriented business license.

B. If, subsequent to denial of renewal application, the Licensing Officer finds that the basis for denial of the renewal of the sexually oriented business license has been corrected, the applicant shall be granted a sexually oriented business license if no more than ninety (90) days have elapsed since the date denial became final.

6.5.22: Suspension of sexually oriented business license

A. The Licensing Officer may suspend a sexually oriented business license for a period not to exceed one hundred fifty (150) days if the Licensing Officer determines that a licensee or an employee of a licensee has:
   1. Violated or is not in compliance with any section of this Article or any other section of this Code regulating sexually oriented businesses;
   2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Article;
   3. Knowingly allowed repeated disturbances of public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees or the licensee;
   4. Operated the sexually oriented business in violation of a building, fire, health or zoning code, ordinance or regulation whether federal, state or local, said determination being based on investigation by the department, division or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance or regulation violation, the Licensing Officer shall promptly notify the licensee of the violation and shall allow the licensee a twenty-day (20-day) period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the twenty-day (20-day) period, the Licensing Officer shall forthwith suspend the sexually oriented business license and shall notify the licensee of the suspension;
   5. Operated the sexually oriented business in violation of the hours of operation provisions set forth in this Article; or
   6. Transferred a sexually oriented business license contrary to the provisions of this Article.
In the event of such suspension, the Licensing Officer shall forthwith notify the original licensee and the transferee of the suspension. The suspension shall remain in effect until the applicable section of this Article has been satisfied.

B. The suspension shall remain in effect until and including the last day in the Licensing Officer's order and the violation of the statute, code, ordinance or regulation in question has been corrected.

6.5.23: Revocation of sexually oriented business license

A. The Licensing Officer shall revoke a sexually oriented business license upon determining that:

1. A cause of suspension as set forth in this Article occurred and the sexually oriented business license has been suspended within the preceding twelve (12) months;

2. A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a sexually oriented business license;

3. A licensee, Manager or an employee has knowingly allowed possession, use or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, C.R.S., or any successor provision) on the premises;

4. A licensee, Manager or an employee has knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises;

5. A licensee, Manager or an employee knowingly operated the sexually oriented business during a period of time when the licensee's sexually oriented business license was suspended;

6. A licensee has been convicted of a specified criminal act for which the time period set forth in this Article has not elapsed;

7. On two (2) or more occasions within a twelve-month (12-month) period, a person or persons committed an offense, occurring in or on the licensed premises constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the sexually oriented business license;

8. A licensee is delinquent in payment to the Town or State for any taxes or fees;

9. A licensee, Manager or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or

10. The licensee has operated more than one (1) sexually oriented business within the same building, structure or portion thereof.

B. When the Licensing Officer revokes a sexually oriented business license, the revocation shall continue for: one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective.

6.5.24: Suspension or revocation hearing

A. A licensee shall be entitled to a hearing before the Licensing Officer if the Town seeks to suspend or revoke the licensee's sexually oriented business license based on a violation of this Article or any other section of this Code regulating sexually oriented businesses. The business may continue to operate during the hearing process.
B. When there is probable cause to believe that a cause for suspension or revocation exists, the Town Attorney may file a written complaint with the Licensing Officer setting forth the circumstances of the alleged violation.

C. The Licensing Officer shall provide a copy of the complaint to the licensee, together with notice to appear before the Licensing Officer for the purpose of a hearing on a specified date to show cause why the licensee's sexually oriented business license should not be suspended or revoked.

D. At the hearing, the Licensing Officer shall hear such statements and consider such evidence as the Police Department or its designee or other enforcement officers, the owner, occupant, lessee or other party in interest or any other witness shall offer which is relevant to the violation alleged in the complaint. The Licensing Officer shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the Licensing Officer determines that a cause for suspension or revocation exists, the Licensing Officer shall issue an order suspending or revoking the sexually oriented business license within thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

E. The order of the Licensing Officer made pursuant to Subsection (D) above shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal said order constitutes a waiver by the licensee of any right he or she may otherwise have to contest the suspension or revocation of the sexually oriented business license.

F. The Licensing Officer shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing which the Licensing Officer conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Licensing Officer. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

G. All hearings held before the Licensing Officer regarding suspension or revocation of a sexually oriented business license issued under this Article shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the Licensing Officer, and shall pay all costs of preparing such record.

H. In the event of suspension, revocation or cessation of business, no portion of the sexually oriented business license fee shall be refunded.

6.5.25: Transfer of sexually oriented business license

A. A licensee shall not operate a sexually oriented business under the authority of a sexually oriented business license at any place other than the address designated in the application for the sexually oriented business license.
B. A licensee shall not transfer his or her sexually oriented business license to another person unless and until such other person satisfies the following requirements:
   1. Obtains an amendment to the sexually oriented business license from the Licensing Officer which provides that he or she is now the licensee, which amendment may be obtained only if he or she has completed and properly filed an application with the Licensing Officer setting forth the information called for under this Article in the application; and
   2. Pays a transfer fee of twenty percent (20%) of the annual sexually oriented business license fee.

C. No sexually oriented business license may be transferred when the Licensing Officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

D. Any attempt to transfer a sexually oriented business license either directly or indirectly in violation of this Section is hereby declared void.

6.5.26: Expiration of Manager's license

A. Each Manager's license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in this Article. Application for renewal of a Manager's license shall be made at least thirty (30) days before the expiration date of the Manager's license.

B. If, subsequent to denial of renewal the Licensing Officer finds that the basis for denial of the renewal of the Manager's license has been corrected, the applicant shall be granted a Manager's license if no more than ninety (90) days have elapsed since the date denial became final.

6.5.27: Suspension of Manager's license

A. The Licensing Officer may suspend a Manager's license for a period not to exceed ninety (90) days if the Licensing Officer determines that the Manager has:
   1. Violated or is not in compliance with any section of this Article;
   2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Article;
   3. Knowingly allowed repeated disturbances of public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees or the licensee; or
   4. Operated the sexually oriented business in violation of the hours of operation provisions set forth in this Article.

B. The suspension shall remain in effect until and including the last day in the Licensing Officer's order and the violation of the statute, code, ordinance or regulation in question has been corrected.

6.5.28: Revocation of Manager's license
A. The Licensing Officer shall revoke a sexually oriented business license upon determining that:
   1. A cause of suspension as set forth in this Article occurred, and the sexually oriented
      business license has been suspended within the preceding twelve (12) months;
   2. A licensee gave false or misleading information in the material submitted during the
      application process that tended to enhance the applicant's opportunity for obtaining a Manager's
      license;
   3. The Manager knowingly allowed possession, use or sale of controlled substances (as
      defined in Part 3 of Article 22 of Title 12, C.R.S., or any successor provision) on the premises;
   4. The Manager knowingly allowed acts of prostitution or negotiations for acts of prostitution
      on the premises;
   5. The Manager knowingly operated the sexually oriented business during a period of time
      when the sexually oriented business license was suspended;
   6. The Manager has been convicted of a specified criminal act for which the time period set
      forth in this Article has not elapsed;
   7. The Manager has knowingly allowed any specified sexual activity to occur in or on the
      licensed premises; or
   8. The Manager has knowingly allowed the more than one (1) sexually oriented business to
      be operated within the same building, structure or portion thereof.

B. When the Licensing Officer revokes a Manager's license, the revocation shall continue for one
   (1) year, and the licensee shall not be issued a Manager's license for one (1) year from the date
   revocation became effective.

6.5.29: Suspension or revocation hearing

A. A Manager shall be entitled to a hearing before the Licensing Officer if the Town seeks to
   suspend or revoke the Manager's license based on a violation of this Article or any other section of
   this Code regulating sexually oriented businesses. The Manager may continue to manage a sexually
   oriented business during the hearing process.

B. When there is probable cause to believe that a cause for suspension or revocation exists, the
   Town Attorney may file a written complaint with the Licensing Officer setting forth the
   circumstances of the alleged violation.

C. The Licensing Officer shall provide a copy of the complaint to the licensee, together with notice
   to appear before the Licensing Officer for the purpose of a hearing on a specified date to show cause
   why the licensee's license should not be suspended or revoked.

D. At the hearing, the Licensing Officer shall hear such statements and consider such evidence as
   the Police Department or its designee or other enforcement officers, the owner, employer, occupant,
   lessee or other party in interest or any other witness shall offer which is relevant to the violation
   alleged in the complaint. The Licensing Officer shall make findings of fact from the statements and
   evidence offered as to whether the violation occurred in or near the licensed establishment.
If the Licensing Officer determines that a cause for suspension or revocation exists, the Licensing Officer shall issue an order suspending or revoking the Manager's license within thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

E. The order of the Licensing Officer made pursuant to Subsection D above shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of the Manager's license.

F. The Licensing Officer shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing which the Licensing Officer conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Licensing Officer. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

G. All hearings held before the Licensing Officer regarding suspension or revocation of a Manager's license issued under this Article shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the Licensing Officer, and shall pay all costs of preparing such record.

H. In the event of suspension, revocation or cessation of business, no portion of the Manager's license fee shall be refunded.

6.5.30: Notice

Any notice required by this Article shall be deemed sufficient if it is deposited in first class mail, postage pre-paid, to the address on the application and shall be effective upon mailing.

6.5.31: Judicial review

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a license, such act shall be a final decision. Therefore, the applicant or licensee may seek judicial review of such administrative action pursuant to Colorado Rules of Civil Procedure. The court shall promptly review such administrative action.

ARTICLE VI - MISCELLANEOUS LICENSES AND PERMITS

6.6.1: Permits for amplified music

The Town Manager may grant permits for amplified music upon application of a property owner under the following conditions:

1. The amplified music shall not be allowed for more than four (4) hours total.
2. The amplified music shall not be allowed between 10:00 p.m. and 10:00 a.m.
3. For special use: maximum one (1) permit per property per year is allowed. (Ord. 11-2002)
ARTICLE VII - SPECIAL USE PERMITS

6.7.1: Purpose
A special use permit is required to provide for the temporary use of land within the Town for gatherings of 300 people or more, to provide for the orderly control of such events, to ensure that the promoter or sponsor of the event is aware of special circumstances to minimize any negative impacts on surrounding properties, residents or businesses, and to provide for appropriate traffic and safety controls. This permit is not the same as and does not supersede any requirement of the State of Colorado or the applicable County or the Town regarding Special Event permits related to alcoholic beverages. This permit does not supersede any requirements from the applicable County Health Department.

6.7.2: Permit Required
It shall be unlawful for any person or entity to allow a Special Use to occur within the Town without first having obtained a Special Use Permit.

6.7.3: Definition

A. Special Use means the use of any land, street, right of way, park building or structure for a gathering where it is reasonably anticipated that attendance will exceed 300 people at any single time, at any location, for any purpose. Special Uses include but are not limited to: carnivals, circuses, concerts, revivals, flea markets, craft fairs, parades, fundraisers, parties, or farmers markets or stands for sale of seasonal products when sold other than on the site where the product is grown, a bicycle race or ride, foot race or walk, a motored vehicle event a temporary road closure for purposes other than normal highway uses or any other event utilizing a Town road or other Town property that requires changing, restricting or adapting the normal traffic use of such a road.

B. Special Uses do not include: gatherings at any regularly established permanent place of worship, school, stadium, athletic field, arena, auditorium, fairgrounds, government meetings, picnic or camping area, polling places for elections or other similar permanently established place of assembly, provided that such place is being used for its established and normal use allowed by zoning, attendance does not exceed the maximum seating capacity of the structure or place where the gathering is held and the gathering complies with all other applicable Code provisions, resolutions and regulations.

C. A Special Use permit shall not exceed thirty (30) days duration either consecutively or cumulatively in any calendar year.

6.7.4: Application Process

A. Application requirements:
   1. The name, residence and mailing address of all persons signing the application, contact person, address and telephone number. In the case of a corporation, a copy of the Articles of Incorporation and Certificate of Good Standing from the Colorado Secretary of State's Office.
   2. The address and legal description of all property upon which the event is to be held together with the name, residence and mailing address of the record owners of the property.
3. A written description indicating the type of event, the event sponsor's, the location of the event or event route, a list of all streets affected, the duration of the event, the hours of operation, the expected water requirements including the source and supply of water, the number of employees, volunteers, the number and location of toilets, the maximum number of persons that will be permitted to attend at any single time, the methods applicants will use to insure the maximum number of allowed attendees at any single time is not exceeded, food or alcoholic beverages to be served, temporary structures or fences proposed, the anticipated parking needs and how the need is to be addressed, a statement of expected impacts to the subject land and surrounding properties and a statement describing how impacts on surrounding properties will be minimized.

4. A sketch with dimensions showing all of the following existing and proposed buildings, internal streets on the event site, adjacent off-site streets, property lines of the proposed site and on abutting properties, the location of the event or event route, the location of proposed structures including restrooms, storage bins, trash receptacles, and temporary buildings; the location of traffic controls proposed including road barriers, detour signs, traffic control lights, traffic personnel, etc; access to/from the site, parking areas showing access, number of parking spaces, parking barriers, surfacing and other plans for parking and activity areas (e.g. parking area, food and beverage areas, toilet facility areas, seating areas, and other areas designated for a particular use).

5. A description of any signage associated with the event. Temporary signs to promote or identify an approved Special Use are subject to the following restrictions:
   a. All Special Use signs must be located on the lot that is the site of the Special Use;
   b. The maximum sign size is thirty-two (32) square feet;
   c. Each approved Special Use is limited to one (1) sign per street frontage of the lot that is the site of the Special Use;
   d. Banners are permitted as long as the total square footage of all banners does not exceed 100 square feet; and
   e. Signs and banners promoting or identifying a Special Use are not subject to a separate permitting requirement, but all such signs and banners must be removed from the site within twenty-four (24) hours of the end of the approved Special Use.

6. Written confirmation from the property owner agreeing to the use of the property for the Special Use or a copy of the lease agreement showing that the Special Use is allowed to occur on the property

7. Evidence that all other necessary permits or licenses have been or will be obtained, including but not limited to permits to serve alcoholic beverages and meeting all applicable County Health Department requirements

8. A nonrefundable application process fee in the amount set forth in Chapter 4 of this Code

9. Any applicant wishing to utilize Town road right-of-way shall submit an application accompanied by an insurance certificate specifically naming the Town as additional insured on the sponsor organizers insurance policy. This certificate is to be specific to the event in the minimum amounts specified by the Town attorney

10. Any applicant wishing to utilize Town road right of way shall secure appropriate jurisdictional approval in writing for any county and or state roads that may be part of a proposed event route

11. Any applicant wishing to utilize Town road right of way shall submit a detailed traffic control plan, including any alternative routes or detours based on the current Colorado Department of Highways S Standards and the Manual on Uniform Traffic Control Devices MUTCD. Installation
and maintenance of the traffic control devices required on the traffic control plan shall be at the applicant’s expense.

12. Any applicant wishing to utilize Town road right of way, shall erect and maintain at applicant’s expense necessary barricades flashers and signs as approved by the Town Engineer and take all necessary precautions for public safety and convenience. The traffic control devices must be removed immediately following the close of the event.

13. Any applicant wishing to utilize Town road right-of-way must notify all affected property owners a minimum of ten (10) days prior to such event. Said notice is subject to review by the Town and must be submitted to the Town Manager fourteen (14) days prior to the event.

14. Any applicant wishing to utilize Town road right-of-way shall make any directional or other markings on the road surface temporary. Markings must be removable or of a material that will degrade or dissipate within seven (7) days of the event. Use of permanent markings of any kind along the route of the event will result in the forfeiture of any guarantees provided by the applicant and possible additional charges assessed against the applicant to cover the cost of removing the road markings.

15. Guarantees in the form of a Irrevocable Letter of Credit or bond or cash retainer in an amount to be determined by the Town Manager to cover the cost required for clean up following the Special Use may be required. Any letter of credit bond or cash retainer must be irrevocable for a period of thirty (30) days after the completion of the event. The letter of credit, bond or cash retainer will be released by the Town as soon as possible after the event, after determination that the site has been adequately cleaned up and restored from any impacts of the event. If the Town has not made a determination on retention or return of the guarantee within thirty (30) days following the event said guarantee will be returned to the applicant.

16. Any additional information as the Town Manager deems necessary to evaluate the Special Use.

B. Application Review: Upon determining that the Special Use Permit Application is complete the Manager may refer the Application to any other department agency or official with jurisdiction whose consideration the Manager deems essential to a full and complete assessment. The applicant is responsible for providing the necessary number of copies of the application for this referral. In reviewing the application the Manager will consider the following:

1. The adequacy of the site sketch;
2. The adequacy of the site to accommodate the Special Use proposed;
3. The degree to which the Special Use complies or will be able to comply with the requirements of this Article; and
4. The preservation of the health safety and welfare of the public and surrounding properties and uses.

C. Action on Application: Unless additional time is required for the Manager to process the application, within thirty (30) days of filing of a complete Special Use Application the Manager will take one of the following actions:

1. The Manager will issue the permit with any conditions deemed necessary to minimize potential adverse impacts and meet the intent and purpose of this Article; or
2. If the proposed Special Use fails to conform with the applicable provisions requirements or standards of this Article the Manager will deny the permit. If denied the Manager shall specify
the reasons therefore in writing citing specific requirements provisions and standards in this Article or in application provisions or other laws rules or regulations that were not met.

D. Appeals: Any decision by the Manager to either grant or deny the Special Use Permit may be appealed to the Town Council. The Town must receive the written appeal request within five (5) calendar days following the date of the Manager’s decision. The appeal must be in writing and state specifically why the Manager’s decision is incorrect or inconsistent with the provisions, intent or purpose of this Article. The Board will consider the appeal at a meeting and may overturn or modify the Manager’s decision if the Council determines the Manager’s decision is incorrect or inconsistent with the provisions, intent or purpose of this Article.

E. Special Use Performance Standards: Special Uses shall be required to comply with conditions adopted by the Town consistent with this Article which conditions may include posting of cash or a letter of credit to ensure that clean up after the Event will occur.

F. Site Clean Up and Restoration: Within forty-eight (48) hours of cessation of the event the Special Use site shall be returned to its previous condition by the applicant including removal of all temporary buildings and structures, trash, debris, signage, attention attracting devices, or other evidence of the Special Use.

6.7.5: Compliance with Other Regulations
Special Uses shall be subject to all applicable requirements of this Article, the Code and any other applicable laws, rules or regulations. Issuance of a Special Use Permit shall not relieve the landowner or the applicant of the responsibility for security, other permits or approvals required by the Town or any other agency with jurisdiction.

6.7.6: Enforcement

A. Inspections. The Town or its representatives may enter and inspect the Special Use site from time to time to ensure compliance with the Special Use Permit conditions and to enforce the provisions of this Article

B. Permit Available. The Special Use Permit issued by the Town must be available for inspection on the Special Use site at all times during the event.

C. Suspension and Revocation of Permit. The Manager may suspend or revoke a Special Use Permit for violation of any provision of this Article or any other applicable law rule or regulation for violation of the Permit conditions or for any misrepresentation by the applicant, its agents or employees, or independent contractors under contract with the applicant. The decision of the Manager to suspend or revoke a Permit may be appealed to the Town Council. No event shall occur while a suspension or revocation appeal is pending except as authorized by the Manager. By signing the application the applicant agrees that the Town’s designated law enforcement may enter the Special Use site and cause the Special Use to be stopped upon suspension or revocation or violation of the terms and conditions of the Special Use Permit.
6.7.7: Penalty
Any person convicted of violation of this Article shall be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for a period not exceeding one (1) year, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to imprisonment for violation of this Article. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued or permitted by any such person and shall be punished accordingly. Nothing in this Section shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity.

ARTICLE VIII - CONTRACTOR LICENSE

6.8.1: Intent
The intent and purpose of this Article is to ensure that Contractors doing business within the Town of Timnath Colorado have minimum qualifications and maintain adequate liability by issuance of Contractor licenses as provided for by this Article.

6.8.2: General
The Building Official shall administer the provisions of this Article and may adopt reasonable rules and procedures for such purposes.

6.8.3: Definitions
For the purpose of this Article the following terms shall have the meanings indicated

*Building Code* shall mean the Building Code and all related Codes including but not necessarily limited to the Fire Plumbing and Electrical Codes as adopted by the Town.

*Building Permit* shall mean the permit required by the Building Code as defined by this Article.

*Building Official* shall mean the building official appointed by the Town and/or the Building Official’s designee.

*Construction* shall mean the work, including erection, alteration, demolition, movement, repair, or remodeling of any building or structure or portion thereof requiring a building permit by the Building Code and any work within the public ways or on any public facility in the Town.

*Contractor* unless specifically exempted in this Article, Contractor shall mean any person, firm, partnership, corporation, association, other organization, or any combination thereof that performs Construction within the town.

*Contractor’s License* shall mean the license to be issued to Contractors operating within the Town.

*Council* shall mean the Town Council of the Town of Timnath, Colorado.

*Employee* shall mean a person who is eligible for Colorado Workers Compensation insurance and unemployment insurance benefits, is employed by a Contractor to perform construction work to
which person a wage or salary is directly paid as an individual. For purposes of this Article any worker who qualifies as an independent contractor under state law is not considered an employee of a contractor.

4.6.8.4: License required

A. Except as otherwise permitted in this Article no person may perform Construction or operate as a Contractor within the Town, unless such Contractor holds a valid Contractor’s License issued by the Town.

B. For any construction requiring a Contractor’s License, permits shall be issued only to a property owner or to a Contractor holding a Contractor’s License. If a Contractor is released from or abandons construction the Contractor shall immediately notify the Building Official in writing. No further work shall be done on such Construction until the Building Official is notified in writing of the intended resumption by an owner or Contractor entitled to obtain an original Building permit under this Article.

6.8.5: Exemptions

A Contractor’s License shall not be required for the following

1. Work performed that does not require a building permit;

2. An owner of a detached single family dwelling and associated accessory buildings or any unpaid volunteer under the continuous personal supervision of the owner of such buildings who personally performs Construction on the owner’s personal residence and associated accessory buildings provided that the owner commences construction of no more than one such dwelling within any twenty four month period or is replacing a building destroyed or damaged Prior to performing any such construction the owner must demonstrate sufficient knowledge and proficiency required to perform said construction as determined by the Building Official;

3. A person performing work as the Contractor’s employee on behalf of and in the name of the Contractor holding a Contractor’s License; or

4. Any person who is without pay or compensation of any kind performing Construction and who is supervise by a Contractor holding a Contractor’s License to ensure that such work conforms to the Building Code.

6.8.6: Duties of Building Official

The Building Official shall prepare licensing forms and subject to the right of appeal of any decision of the Building Official to the Town Manager shall determine all matters related to the suspension or revocation of any Contractor’s License. The Town Manager is authorized upon appeal in specific cases to grant variances from the terms of this Article where the strict application of any provision of this Article would result in peculiar or exceptional practical difficulties to or exceptional or undue hardship upon the person or applicant regulated or when such applicant can demonstrate to the satisfaction of the Town Manager that the applicant possesses other qualifications not specifically
listed in this Article such as specialized training education or additional experience which the Town Manager determines qualifies the applicant to perform in a competent manner any Construction.

6.8.7: Fees qualifications renewals

A. Prior to issuance of a Building Permit to any Contractor holding a Contractor’s License the licensee shall complete all application forms required by the Building Official.

B. A Contractor’s License is valid for a period of one (1) year from the date of issuance. The Contractor shall pay a fee as set forth in Chapter 4 to obtain a Contractor’s License which fee shall be applied to offset the Town’s costs associated with regulating the Building Code and administering the licensing program.

6.8.8: Applications; review and issuance

Prior to being issued any Contractor’s License, the applicant shall pay the required fee, and shall complete and submit to the Building Official an application including but not limited to the following information:

1. The Contractor’s business name and the names of all principals of the Contractor, subcontractors which the Contractor is associated with or will be working with a current mailing address and telephone number;

2. A written summary documenting the applicant’s relevant experience with at least three (3) separate construction projects and identifying an owner, general contractor, architect, professional engineer, or other person involved in each particular construction project, who has personal knowledge of the applicant’s responsibilities on said projects;

3. A copy statement setting forth all other Contractor’s Licenses issued by any other governmental authority related to Construction which the Contractor is licensed to perform which statement shall be accompanied by copies of such licenses;

4. A signed statement by the applicant acknowledging the obligations associated with the Contractor’s License; and

5. Certificates of insurance setting forth insurance maintained by the Contractor for work performed within the Town including but not limited to workers compensation, builder’s risk and general liability coverage maintained by the Contractor.

The Building Official shall issue a Contractor’s License to a Contractor upon the Contractor providing information required by this Article or upon the Town Council authorizing a Contractor’s License on appeal.

6.8.9: Responsibilities of Contractor

The Contractor shall be responsible for all work performed, which work will be completed without substantial departure from the drawings and specifications filed and approved by the Town, as specified on any Building Permit, subject to approved changes, and shall observe the following standards:

1. The Contractor of record shall obey all legal orders or notices issued by the Town or the Building Official;

2. The Contractor of record shall observe generally accepted safety standards;
3. The Contractor of record shall maintain liability insurance and workers compensation insurance as set forth in the Contractor’s application and such application may be amended and proof of such insurance be provided to the Building Official on request;

4. The Contractor shall identify all sub-contractors performing Construction and contracting with Contractor when so requested by the Building Official;

5. The Contractor representative shall maintain a contact current telephone number with the Building Official; and

6. The Contractor may proceed with work only after all required permits have been obtained and Contractor shall obtain required inspections and authorization to proceed with the work authorized under the permit.

6.8.10: Disciplinary procedures violations and penalties

A. When the Building Official determines that a Contractor has committed any violation of this Article the Building Official may order a suspension of all privileges granted under such license or certificate pending a hearing by the Town Manager. Such suspension shall not exceed a period of fifteen (15) days following the first commission of any such act and shall become effective immediately or when otherwise determined by the Building Official. Such fifteen (15) day suspension limitation shall not apply to any subsequent commission of any such act. Notification of said suspension shall be in writing and shall be promptly delivered to the certificate holder or an authorized person listed on such license application by certified mail to the last known address or by personal delivery. The notification shall state in reasonable detail the essential facts and reasons for said action and shall advise the Contractor of the right to appeal the decision of the Building Official to the Town Manager. A copy of any such suspension shall be placed in the public record of the Contractor. Failure of any such person to receive such notification of suspension shall not invalidate any suspension imposed hereunder. The Town Manager shall have the power to suspend or revoke or take other disciplinary action on any license or certificate when the Town Manager determines that a holder thereof has committed any of the following:

1. Knowing or deliberate disregard of this Article or the Building Code or any other Code adopted by the Town related to a specific construction project under the responsibility of the Contractor;

2. Failure to comply with any lawful order of the Building Official;

3. Misrepresentation of a material fact in obtaining a Building Permit or Contractor’s License;

4. Employing subcontractors to perform Construction for which a Contractor’s License is required under this Article when such workers are neither employees nor exempt as defined under this Article; or

5. Requesting of repeated inspections when such inspections reveal that the work performed by the Contractor fails to comply with the Building and such repeated noncompliance occurs in a manner or to an extent that demonstrates that the Contractor either is negligent, not providing adequate supervision, or not qualified to perform or supervise the work.

B. When a Contractor’s License is revoked, the holder shall not be granted another Contractor’s License without approval of the Town Manager. After revocation, the Town Manager in deciding whether to approve a new Contractor’s License shall determine whether the applicant has
demonstrated that any governmental disciplinary actions that have been taken against any
Contractor's License currently or previously held by the applicant have resulted in the rehabilitation
of the applicant to good and disciplined character for lawful conduct as a Contractor. When the
Town Manager suspends a Contractor's License the Town Manager shall state the period and
conditions of the suspension.

C. In addition to the suspension or revocation of a Contractor's License by the Town Manager as
provided herein, any person, firm, or corporation violating any of the provisions of this Article, or
any lawful rule, or regulation of the Town Council, or any lawful order of the Building Official or
the Town Manager shall be deemed guilty of a misdemeanor and subject to the penalties set forth in
this Code.

D. Any person, firm, organization, partnership, corporation, association or any other combination
thereof shall pay any investigation fee to the Building Official when such party performs or causes
Construction to be performed for which a Contractor's License is required without first obtaining the
required license. The fee shall be equal to and in addition to the license fee and shall be paid before
the applicable license may be issued.

Section 2. Chapter 8 of the official code of the Town of Timnath titled Vehicles and
Traffic is hereby repealed and reenacted as follows:

CHAPTER 8 - ARTICLE I - TRAFFIC CODE

8.1.1: Adoption
A. Pursuant to Timnath Home Rule Charter Section 3.7, there is hereby adopted by reference thereto the
2003 edition of the "Model Traffic Code for Colorado," promulgated and published as such by the State
Department of Transportation, 4201 E. Arkansas Ave., Denver, Colorado 80222; and hereby adopted by
reference Number 49, Code of Federal Regulations 102.1, Transportation, Parts 100 to 199, inclusive, revised
to December 13, 1976; and hereby adopted by reference Number 49, Code of Federal Regulations Federal
Motor Carrier Safety Regulations, revised to October 1, 1976, as promulgated and published as such by the
U.S. Department of Transportation, Federal Highway Administration.

B. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control
regulations for the Town. The subject matter of the Code of Federal Regulations and Federal Motor Carrier
Safety Regulations relates primarily to the operation of commercial motor vehicles within the Town.

C. The purpose of this Chapter and the Codes adopted herein is to provide a system of traffic regulations
consistent with state law and generally conforming to similar regulations throughout the State and the Nation.
One (1) copy of the Model Traffic Code adopted herein is now filed in the office of the Town Clerk and may
be inspected during regular business hours.

8.1.2. Additions or modifications
Section 225 of the Model Traffic Code, is hereby amended as follows:

(1) Every motor vehicle subject to registration and operated on a highway shall at all times be
equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or
unusual noise. No person shall operate a motor vehicle that is equipped with a straight pipe exhaust system, a cut-off, bypass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all of the requirements of this section.

(1.5) Any commercial vehicle, as defined in section 42-4-235(1)(a), subject to registration and operated on a highway, that is equipped with an engine compression brake device is required to have a muffler.

(2) A muffler is a device consisting of a series of chamber or baffle plates or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing noise. Straight pipe exhaust system shall mean any straight muffler that does not contain baffles, including but not limited to glass packs, steel packs and straight pipes.

(3) Any person who violates subsection (1) of this section commits a class B traffic infraction. Any person who violates subsection (1.5) of this section shall, upon conviction, be punished by a fine of five hundred dollars. Fifty percent of any fine for a violation of subsection (1.5) of this section occurring within the corporate limits of a city or town, or within the unincorporated area of a county, shall be transmitted to the treasurer or chief financial officer of said city, town, or county, and the remaining fifty percent shall be transmitted to the state treasurer and credited to the highway users tax fund.

(4) This section shall not apply to electric motor vehicles.

(5) The minimum fine for violation of this section shall be $50 per violation.

B. Pursuant to Section 1101(7) of the Model Traffic Code, the Town adopts the following maximum lawful speed limits:

1. Districts not posted, twenty-five (25) miles per hour.
2. The speed posted on standard signs erected by the Town.
3. Except when a special hazard exists that requires lower speed than is hereinabove set forth, the foregoing speed limits are reasonable and prima facie speed limits.

C. Section 508 of the Model Traffic Code is hereby amended to read in full:


(1) When official signs are erected giving notice thereof, no person shall operate any vehicle with a weight limit in excess of 7.5 tons on any public street within the Town.

(2) The provisions of this article governing size, weight, and load shall not apply to: fire apparatus, authorized emergency vehicles, public transportation vehicles operated by municipalities or other political subdivisions of the State, County road maintenance and County road construction equipment temporarily moved upon the highway, farm tractors, and implements of husbandry/agricultural equipment except that trucks and trailers used for transporting livestock and/or other agricultural projects must meet all size, weight, and load restrictions imposed by law unless exempt pursuant to this Section.

(3) Vehicles owned or operated by a resident of the Town of Timnath or a vehicle picking up or delivering goods, or being repaired or having other similar specific business within an area bounded by Harmony Road/County Road 38 on the South, Interstate 25 on the West, Prospect Road/County Road 44 on the North, and Weld County Line Road on the East, shall be exempt from the requirements of this Section.

(4) Any law enforcement officer having reason to believe that the weight of a vehicle may be unlawful, is authorized to require the driver to stop and submit to a weighing of the same, either by means of portable or stationary scales and may require that such vehicles be driven to the nearest public scales in the event such scales are within ten (10) miles.

8.1.3: Application
This Article shall apply to every public and private street, alley, sidewalk area, driveway, park and every other way, place or parking area open to the public, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate.

8.1.4: Interpretation
This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

8.1.5: Copy on File
At least one (1) copy of the Model Traffic Code for Colorado, 2003 Edition and the amendments thereto, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours.

8.1.6: Penalty
Violations of the Model Traffic Code shall be subject to the penalties specified in Section 17 of the Model Traffic Code and Chapter 1 of this Code.

8.1.7: Designation of school zones
The following are designated as school zones for purposes of the increased penalties provided for in Section 8.1.8 and any other provision of this Code related to school zones:

1. Main Street/County Road 5 adjacent to Timnath Elementary School. Such zones shall be posted with appropriate signs.

8.1.8: Increase in penalties for moving traffic violations in school zones
A. Any person who commits a moving traffic violation in a school zone is subject to increased penalties and surcharges which shall include a fine of at least double the fines set by the Municipal Judge for the same violation outside of a school zone.

B. A penalty assessment notice shall not be issued for traffic violations within school zones.

C. This Section shall not apply if the penalty and surcharge for a violation has been doubled pursuant to the Model Traffic Code because such violation also occurred within a highway maintenance, repair or construction zone.
Section 3. Code Revision: The Municipal Code is being revised in its entirety. As Chapters of the Municipal Code are reviewed and edited, minor changes such as the format, numbering and other changes necessary to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes provided that neither the intent nor substantive content will be altered by such changes.

Section 4. 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 or parts be declared unconstitutional or invalid. As Chapter of the Municipal Code are reviewed and changes, minor number and edit changes may be necessary, and the Acting Town Clerk is hereby allowed to make minor changes as necessary.

Section 5. 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 6. 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 MAY 16, 2007 AT THE TIMNATH TOWN HALL, 4100 MAIN STREET, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 17th DAY OF MAY, 2007, AS AMENDED.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON THIS 16th DAY OF MAY, 2007.

TOWN OF TIMNATH, COLORADO

Donna Benson, Mayor

ATTEST:

Linda Griess, Acting Town Clerk

TOWN OF TIMNATH SEAL