TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 18, SERIES 2018

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE V, SECTION 50
OF THE TIMNATH MUNICIPAL CODE
REGARDING PANHANDLING

WHEREAS, the Town of Timnath (the "Town") is a home rule municipality operating under the Timnath Home Rule Charter (the "Charter") and the Town's Municipal Code (the "Code"). Pursuant to the Charter, the Code and the authority given home rule municipalities, the Town may adopt and amend ordinances; and

WHEREAS, as a home rule municipality, the Town Council (the "Council") has board authority to exercise its police power to adopt and enforce ordinances for the protection of the public health, safety and welfare of its residents; and

WHEREAS, Section 10-5-60 (the "Panhandling Ordinance") of the Code prohibits panhandling; and

WHEREAS, the Council desires to repeal portions of the Panhandling Ordinance, as shown in EXHIBIT A, attached hereto and incorporated herein, in order to more fully protect the appropriate balance of constitutional rights of individuals and the safety and well-being of the general public.

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

ARTICLE 1 – RECITALS INCORPORATED
The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Council.

ARTICLE 2 – ADOPTION
Section 10-5-60 of the Code is hereby repealed, as shown in EXHIBIT A, restated, and readopted to read as follows:

Sec. 10-5-60. - Panhandling.
   a) When used in this Section, the following words, terms and phrases shall have the meanings ascribed to them below:

   Knowingly means, with respect to the conduct or circumstances described in this Section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With
respect to a result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.

*Obscene* means a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

*Obstruct* means to render impassible or to render passage unreasonably inconvenient or hazardous.

*Panhandle* means to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.

b) It is unlawful for any person to panhandle if such panhandling occurs:

1) In a manner that involves the person panhandling to knowingly engage in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;
2) In a manner that involves the person panhandling to knowingly direct fighting words to the person solicited;
3) In a manner that involves the person panhandling to knowingly touch or grab the person solicited;
4) On a sidewalk or other passageway in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;

**ARTICLE 3 - SEVERABILITY**
If any article, section, paragraph, sentence, clause, or phrase or 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 face that one or more parts be declared unconstitutional or invalid.

**ARTICLE 4 – 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.

**ARTICLE 5 – 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 NOVEMBER 13, 2018, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON DECEMBER 11, 2018, AT THE TIMNATH ADMINISTRATION BUILDING, 4800 GOODMAN STREET, TIMNATH, COLORADO AND ORDERED PUBLISHED BY TITLE THIS 13TH DAY OF NOVEMBER, 2018.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON DECEMBER 11, 2018.

TOWN OF TIMNATH, COLORADO

Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters-Garcia, CMC
Town Clerk
EXHIBIT A
Redline of Timnath Municipal Code Section 10-5-60
Showing Repeal of Section 10-5-60

ARTICLE 5 – Public Peace, Order and Decency

Sec. 10-5-60. - Panhandling.

a) When used in this Section, the following words, terms and phrases shall have the meanings ascribed to them below:

At-risk person means a natural person who is 60 years of age or older, under 18 years of age or with a disability. A person with a disability means, for purposes of this definition, a natural person of any age who suffers from one or more substantial physical or mental impairments that render the person significantly less able to defend against criminal acts directed toward such person than he or she would be without such physical or mental impairments. A substantial physical or mental impairment shall be deemed to include, without limitation, the loss of or the loss of use of a hand or foot; loss of or severe diminishment of eyesight; loss of or severe diminishment of hearing; loss of or severe diminishment in the ability to walk; and any developmental disability; psychological disorder; mental illness or neurological condition that substantially impairs a person's ability to function physically or that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.

Knowingly means, with respect to the conduct or circumstances described in this Section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With respect to a result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.

Obscene means a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

Obstruct means to render impassible or to render passage unreasonably inconvenient or hazardous.

Panhandle means to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.

b) It is unlawful for any person to panhandle if such panhandling occurs:

1) Any time from one-half hour after sunset to one-half hour before sunrise;

2) In a manner that involves the person panhandling to knowingly engage in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;

3) In a manner that involves the person panhandling to knowingly direct fighting words to the person solicited;
4) In a manner that involves the person panhandling to knowingly touch or grab the person solicited;
5) In a manner that involves the person panhandling to knowingly continue to request the person solicited for a gift of money or thing of value after the person solicited has refused the panhandler's initial request;
6) In a manner that involves the person panhandling to knowingly solicit an at-risk person;
7) On a sidewalk or other passageway in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;
8) Within 100 feet of an automatic teller machine or a bus stop;
9) On a public bus;
10) In a parking garage, parking lot or other parking facility; or
11) When the person solicited is entering or exiting a parked motor vehicle, in a motor vehicle stopped on a street or present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink.