

**TOWN OF TIMNATH, COLORADO  
ORDINANCE NO. 2, SERIES 2022**

**AN ORDINANCE REFERRING A BALLOT QUESTION TO THE ELECTORS TO RESTORE MUNICIPAL AUTHORITY TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES BASED ON NEW TECHNOLOGIES, TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES (COLLECTIVELY, “ADVANCED SERVICES”) TO TOWN USERS**

**WHEREAS**, the Town of Timnath (the “**Town**”) is a home rule municipality operating under the Timnath Home Rule Charter (the “**Charter**”) adopted on November 7, 2006 and amended on November 3, 2015, 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;

**WHEREAS**, Section 29-27-101 et seq., C.R.S. restricts the Town’s authority to provide Advanced Services, unless the question is submitted to the electors and approved by the majority of those voting on the ballot;

**WHEREAS**, April 5, 2022 (“**the Election**”) is the date of the next regular election in the Town;

**WHEREAS**, the Town Council would like to submit the ballot question to the registered electors of the Town, unless the election is cancelled pursuant to Sec. 31-10-507, C.R.S., because at the close of business on the sixty-fourth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing write-in affidavits;

**WHEREAS**, if the Election is cancelled as indicated in the forgoing recital, the Town would like to refer the ballot question to the registered electors of the Town, at the next election following the cancelled Election; and

**WHEREAS**, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of public health, welfare, peace, safety and/or property and that this Ordinance is necessary for the protection of public convenience and welfare.

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

**ARTICLE 1 – REFERRAL OF BALLOT QUESTIONS**

The Town Council hereby submits the following ballot question to the eligible electors of the Town in substantially the form set forth below, and the Town Council hereby sets the ballot title as set forth

in below. The Town Council authorizes the Town Attorney to finalize the language for the ballot questions.

Ballot Question \_\_\_\_

Without increasing taxes, shall the citizens of Timnath, Colorado re-establish Timnath’s right to provide any and all services and facilities restricted since 2005 by Title 29, Article 27 of the Colorado Revised Statutes, described as “Advanced Services” (high-speed internet), “Telecommunication Services,” and “Cable Television Services,” including but not limited to any new and improved broadband services and facilities based on future technologies, utilizing existing or new community owned infrastructure including but not limited to the existing fiber optic network, either directly, or indirectly with public or private sector partners, to potential subscribers that may include telecommunications service providers, residential or commercial users within the boundaries of Timnath, Colorado?

YES \_\_\_\_

NO \_\_\_\_

The ballot question will be submitted to the registered electors at the Election on April 5, 2022, provided that the Election is held. In the event that the April 5, 2022 Election is cancelled pursuant to Section 31-10-507, C.R.S. (because at the close of business on the sixty-fourth day before the Election, there are not more candidates than offices to be filled at such Election, including candidates filing write-in affidavits), the ballot question shall be automatically withdrawn and shall be referred to the registered electors at the next election after the cancelled Election.

#### **ARTICLE 2 – EFFECT OF PASSAGE**

If a majority of the votes cast on the ballot question are in favor of the ballot question, the Town shall proceed as set forth in the ballot question.

#### **ARTICLE 3 - CONTESTS**

Pursuant to § 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five (5) days after the title of the ballot issue or ballot question is set.

#### **ARTICLE 4 – RATIFICATION**

All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Town, the Council, and the Town Clerk, directed towards the Election and the objects and purposes stated herein is hereby ratified, approved and confirmed.

#### **ARTICLE 5 – SEVERABILITY**

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision,

or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

**ARTICLE 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, ON DECEMBER 14, 2021, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6 P.M. ON JANUARY 11, 2022 AT THE TIMNATH TOWN CENTER, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 14TH DAY OF DECEMBER, 2022.**

**MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 11, 2022.**

**TOWN OF TIMNATH, COLORADO**



Mark J. Soukup, Mayor

**ATTEST:**



Milissa Peters-Garcia, CMC  
Town Clerk

