

**RESOLUTION 10, SERIES 2023**  
**A RESOLUTION OF THE COUNCIL OF THE TOWN OF**  
**TIMNATH OPPOSING THE PROPOSED BALLOT**  
**INITIATIVE AMENDING THE TOWN CHARTER**  
**REGARDING APPROVAL PROTOCOLS FOR PROPOSED**  
**BUILDING SUBMITTALS OVER 60 FEET**

WHEREAS, the Town Clerk has certified the form of a petition to amend the Town Charter, which currently is being circulated for signature (the “Proposed Ballot Initiative”);

WHEREAS, the Council of the Town of Timnath has reviewed the substance of the Proposed Ballot Initiative which states, in part:

If any private development that requires review and approval by the Town of Timnath under the Town of Timnath’s town code contains permanent buildings or structures of any kind that are greater than 60 feet in height then, before any such development may actually be commenced after review and approval by the Town of Timnath, the approval of that development must be put to a vote of the people of the Town of Timnath and, only if a majority of those voting on the issue approve of that development, shall that development then be allowed to proceed. However, this section and majority vote requirement shall not apply to permanent buildings or structures that provide utilities for the common good for the people of the Town of Timnath; and

WHEREAS, the Town Charter currently recognizes the citizen’s powers of initiative and referendum as to legislative matters, consistent with the right reserved to registered electors of every town pursuant to Article V, Section 1 (9) of the Constitution of the State of Colorado, and the Proposed Ballot Initiative will amend this reserved right; and

WHEREAS, additionally, the Proposed Ballot Initiative will require multiple amendments to the Town’s Comprehensive Plan, Town Code and Land Use Code; and

WHEREAS, the Town’s Comprehensive Plan was adopted in 2020 after significant work by Town Staff, professional consultants, and citizens of the Town of Timnath, who all provided thoughtful input, guidance, and planning; and

WHEREAS, the purpose of the Town’s Land Use Code (“LUC”), is “to create vital, cohesive, well-designed community in order to enhance the Town’s character and further the citizens’ goals as identified in the Town of Timnath Comprehensive Plan,” and

WHEREAS, the LUC is specifically designed to encourage the most appropriate use of land in the Town and innovative, quality site design, architecture; and

WHEREAS, the Town’s LUC incorporates public input into development decisions through adoption of the Town’s Comprehensive Plan, implementation and updates to its LUC, notice of proposed development to affected parties, Neighborhood Meetings and Public Hearings; and

WHEREAS, the significant Planning Commission, Town Council and public participation and engagement in the development project approval process currently contained in the Town's LUC is undermined and potentially wasted by the Proposed Ballot Initiative; and

WHEREAS, the Town established specific levels of review for development projects through authority given to the Community Development Director ("Town Planner"), Board of Adjustment, Planning Commission and/or Town Council; and

WHEREAS, the Proposed Ballot Initiative seeks to undermine the lengthy analysis of a proposed development project under the LUC and divest the reviewing governmental and resident led Boards and Commissions of development review and approval authority; and

WHEREAS, the Proposed Ballot Initiative seeks to bestow the power to act in a quasi-judicial matter on the public generally, without any consideration given to the due process or property right concerns this may raise for those seeking to develop a project within the Town limits, thereby putting the Town at heightened risk for litigation; and

WHEREAS, in light of the foregoing, the Council seeks to express its opposition for the Proposed Ballot Initiative and the manner in which it usurps the Town's Comprehensive Plan, Town Code, Land Use Code, and comprehensive levels of development review.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF TIMNATH as follows:

Section 1. The Town Council hereby adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Town Council hereby establishes as the legislative policy of the Town, its objection to the Proposed Ballot Initiative and support for the current development review and quasi-judicial oversight of proposed development projects contained within the LUC.

Passed and adopted at a regular meeting of the Council of the Town of Timnath on this 24<sup>th</sup> day of January, A.D. 2023.

TOWN OF TIMNATH

  
Mark J. Soukup, Mayor

Attest:

  
Milissa Peters-Garcia, CMC  
Town Clerk

