

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 16, SERIES 2023**

**A RESOLUTION APPROVING AMENDMENTS TO TIMNATH
SPECIAL DISTRICT POLICY**

WHEREAS, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions;

WHEREAS, the Town Council adopted a Timnath Special District Policy pursuant to Resolution No. 9, Series 2019; and

WHEREAS, the Town Council would like to amend the Special District Policy to clarify the timing and requirements for filing a Service Plan with the Town, the requirements related to reimbursement of Town costs, and to more closely match the Special District Act requirements for approval and material modifications of Service Plans; and

WHEREAS, the Town Council is familiar with the proposed amended Special District Policy, and finds its adoption to be in the best interest of the Town, its residents, and the general public.


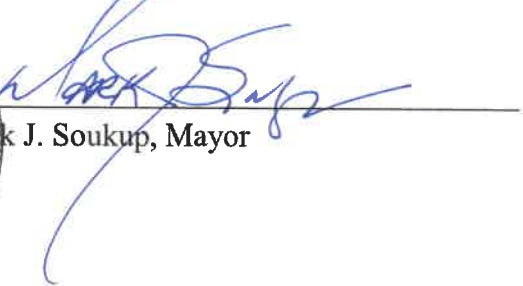
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOW:

Section 1. Approval

The updated Timnath Special District Policy is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON FEBRUARY 28, 2023.

TOWN OF TIMNATH, COLORADO

 
Mark J. Soukup, Mayor

ATTEST:



Milissa Peters-Garcia, CMC

Town Clerk

EXHIBIT A

TIMNATH SPECIAL DISTRICT POLICY

Timnath Special District
Policy
Proposed Amendments Marked (2-28-23)

1. Legislative declaration.

- a. The Town Council recognizes that the general assembly has adopted legislation for the organization of title 32 districts to facilitate the elimination of the overlapping of services provided by local governments and the double taxation that may occur, because of annexation or otherwise, when all of the taxable property of a title 32 district lies within the boundaries of the Town.
- b. The Town Council declares that the primary purpose of title 32 districts within the Town shall be to fund the local and regional public improvements and facilities necessary for the development of private property. Title 32 districts may provide for the continued operation and maintenance of such improvements and facilities only as provided in their respective approved service plans.
- c. The Town Council, in furtherance of the best interests of the Town and the preservation and protection of the health, safety, prosperity, security, and general welfare of Town residents declares its intent:
 - i. To prevent the indebtedness incurred by title 32 districts from adversely affecting the credit worthiness and credit ratings of the Town;
 - ii. To ensure that the cost burden of infrastructure in newly developed areas is placed upon those benefiting from such infrastructure improvements;
 - iii. To prevent the shifting of development risk to residents and nondevelopers;
 - iv. To minimize the likelihood of excessive tax and fee burdens upon Town residents located within title 32 districts;
 - v. To require facilities and services to be provided efficiently;
 - vi. To prevent the shifting of costs of title 32 districts to residents of the Town who do not live within the geographic boundaries of a title 32 district; and
 - vii. To permit the use of title 32 districts to serve only those residential, commercial, or industrial developments that will enhance the quality of the entire community.
- d. The Town Council further declares that it recognizes that the formation of title 32 districts requires the Town Council to adopt procedures for the orderly processing of proposals for the organization of these districts in order to

protect the health, safety, prosperity, security, and general welfare of Town residents.

2. **Application of state statute.** In addition to the power, authority, and protection set forth in this Policy, the Town Council shall have all the power, authority and protection granted to municipalities by Article I, Title 32, Colorado Revised Statutes (the "Special District Act"), in effect as of the effective date of the Resolution adopting this Policy and as amended from time to time; provided, however, where any conflicts exist between such state statute and this Policy, such inconsistencies are specifically intended and the provisions of this Policy shall control, it being the intention that all requirements for the processing of proposed service plans for title 32 districts within the Town's boundaries are contained in this article.

3. **Filing of proposed service plan.**

- a. Time for filing. Petitioners may file a proposed service plan for organization of a new title 32 district at any time after the property proposed to be included within the initial boundaries of the district has been annexed into the Town and an application has been submitted for a preliminary plat for a significant portion of the property to be included within the initial boundaries of the district with sufficient detail to allow the Community Development Department to review the financial plan and the preliminary infrastructure plan. Approval of the service plan will typically be scheduled for the same meeting as or after approval of the preliminary plat. At the discretion of the Community Development Department, the Town may allow a proposed service plan to be filed prior to submission of a preliminary plat.
- b. Compliance with model plan. Petitioners shall file a proposed service plan with the Community Development Department. The proposed service plan shall substantially comply with the form and content of the Town's Model Service Plan. The Town Council shall have the sole discretion to determine whether the proposed service plan substantially complies with the form and content of the Town's Model Service Plan.
- c. Fee. At the time of filing the proposed service plan or proposed amendment to a service plan, petitioners shall pay a nonrefundable application fee to the Town. Such fee shall be established by the Community Development Department.
- d. Outside review. Petitioners shall pay all costs that the Town may reasonably incur in retaining an outside consultant or consultants for the purpose of reviewing any proposed service plan.
- e. Copies. The proposed service plan shall be submitted in Portable Document Form (PDF) with all exhibits attached. In addition, the petitioner shall submit a Microsoft Word or other editable, compatible version of the text of the

service plan, as well as a redline comparison of the service plan to the model service plan. A cover letter shall be submitted with the proposed service plan describing the purpose of the service plan, the development plan and status of development approvals from the Town, and how the service plan will enhance the quality of the entire community.

4. Town's Model Service Plan.

- a. On file. The Town's Model Service Plan is on file with the Community Development Department. The Town Manager may, from time to time, approve non-substantive administrative changes to the Town's Model Service Plan.
- b. Proposed service plan to comply. Any proposed service plan shall substantially comply with the Town's Model Service Plan.

5. Community Meeting Required for Districts with Residents.

- a. If there are residents living within the boundaries of the district at the time the district submits a service plan or service plan amendment, the petitioners must hold a community meeting prior to the public hearing. Notice of this community meeting shall be mailed, by first class mail, to the owners of record of all property within the district at least 20 days prior to the public hearing. Notice of the community meeting can be combined with the notice of public hearing.

6. Notice of public hearing.

- a. Published and mailed notice. The Community Development Department shall schedule a public hearing at a regular Town Council meeting. Notice of the hearing shall be published by the petitioners in an issue of the Coloradoan, a newspaper of general circulation within the Town, at least 20 days prior to the hearing date. Notice of the hearing shall also be mailed, by first class mail, on the date such notice is published to:
 - i. The owners of record of all property within the title 32 district as such owners of record are listed by the County Assessor for all property to be included within the initial and proposed inclusion areas as described in the proposed service plan.
 - ii. The division of local government.
 - iii. The governing body of any municipality or title 32 district which has levied an ad valorem tax within the next preceding tax year, and which has boundaries within a radius of three miles of the proposed district's boundaries.
- b. Contents of notice. The notice of hearing shall set forth the following:
 - i. The date, time, location, and purpose of the hearing.
 - ii. A general description of the land contained within the boundaries of the proposed title 32 district.
 - iii. Information outlining methods and procedures for the filing of a petition for exclusion pursuant to § 32-1-203(3.5), C.R.S.

- iv. A reference to the type of title 32 district to be organized.
- v. The maximum property tax levy for debt service to be imposed by the title 32 district and, if organized for the primary purpose of facilitating the development of residential property, the maximum period of time over which such levy shall be collected.
- vi. The place at which the proposed service plan may be examined.
- vii. A statement that all protests and objections must be submitted in writing to the Town Council at or prior to the hearing or any continuance or postponement thereof in order to be considered.
- viii. A statement that all protests and objections to the proposed title 32 district shall be deemed to be waived unless presented at the time and in the manner specified in this Policy.

iv. Records, evidence, postponement of hearing.

- a. The public hearing held by the Town Council shall be open to the public, and a record of the proceedings shall be made. Any testimony or evidence which, in the discretion of the Town Council, is relevant to the organization of the proposed title 32 district shall be considered.
- b. The Town Council may postpone or continue the public hearing until a later time or date or relocate the public hearing by announcing such postponement, continuance, or relocation of the public hearing or by posting notice at the originally scheduled time and place of the public hearing, and no further publication or mailing of the notice shall be necessary.
- c. All interested parties as defined in § 32-1-204, C.R.S. shall be authorized to address the Town Council.

v. Action by Town Council.

- a. Generally. Upon its review of the report presented by the Community Development Department, the proposed service plan, and any evidence presented at the public hearing, the Town Council shall have the authority to:
 - i. Approve without condition or modification the proposed service plan.
 - ii. Disapprove the proposed service plan.
 - iii. Conditionally approve the proposed service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan.
- b. Mandatory disapproval. The Town Council shall disapprove the proposed service plan unless evidence satisfactory to the Town Council of each of the following is presented:
 - i. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed title 32 district.

- ii. The existing service in the area to be served by the proposed title 32 district is inadequate for present and projected needs.
 - iii. The proposed title 32 district is capable of providing economical and sufficient service to the area within its proposed boundaries.
 - iv. The area to be included in the proposed title 32 district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
- c. Discretionary disapproval. The Town Council may disapprove the proposed service plan if evidence satisfactory to the Town Council of any one of the following, at the discretion of the Town Council, is not presented:
 - i. Adequate service is not, or will not be, available to the area through the Town, county, or other existing municipal or quasi-municipal corporations, including existing title 32 districts, within a reasonable time and on a comparable basis.
 - ii. The facility and service standards of the proposed title 32 district are compatible with the facility and service standards of the Town.
 - iii. The proposed service plan is in substantial compliance with the Town's comprehensive plan.
 - iv. The proposed service plan is in compliance with any duly adopted Town, regional, or state long-range water quality management plan for the area
 - v. The creation of the proposed title 32 district will be in the best interests of the area proposed to be served and the Town.
- d. Conditional approval. The Town Council may conditionally approve the proposed service plan, subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan. Final approval shall be contingent upon modification of the proposed service plan to include such changes or additional information as shall be specifically stated in the findings of the Town Council.
- e. Exclusion. The Town Council may exclude territory from a proposed title 32 district prior to approval of the proposed service plan. The petitioners shall have the burden of proving that the exclusion of such property is not in the best interests of the proposed title 32 district. Any person owning property in the proposed title 32 district who requests his or her property be excluded from such district prior to the approval of the proposed service plan shall submit such request to the Town Council no later than ten days prior to the public hearing. However, the Town Council shall not be limited in its action with respect to exclusion of territory based upon such request. Any request for exclusion shall be acted upon before final action of the Town Council.
- f. Basis of decision. The findings of the Town Council shall be based solely upon the proposed service plan, the report presented by the Community Development Department, and any evidence presented at the public hearing

by the petitioners, Town officials and staff, and interested parties.

vi. Written determination by Town Council.

- a. Time. Within 20 days after completing the public hearing held under this Policy, the Town Council shall adopt a resolution regarding the proposed service plan.
- b. Approval. If the proposed service plan is approved, a resolution of approval shall be adopted.
- c. Disapproval. If the proposed service plan is disapproved, a resolution of disapproval shall be adopted. The resolution shall include the reasons for such disapproval.
- d. Conditional approval. If the proposed service plan is conditionally approved, the amendments to be made in or additional information relating to the proposed service plan, together with the reasons for such amendments or additional information, shall also be set forth in writing, and the public hearing shall be continued until such amendments or additional information are incorporated in the proposed service plan. Upon the incorporation of such amendments or additional information in the proposed service plan, the Town Council shall adopt a resolution of approval.
- e. Appeal. A resolution passed by the Town Council shall document the Town Council's determination. No action or proceeding, at law or in equity, to review any acts or proceedings or question the validity of the Town Council's determination pursuant to this Policy, whether based upon irregularities or jurisdictional defects, shall be maintained in the district court of the relevant county unless commenced within 30 days after the passage of the Town Council's resolution or thereafter any legal proceedings shall be barred.
- f. Continuing jurisdiction over material modifications. In the manner and to the extent provided in this Policy, the Town Council shall maintain continuing jurisdiction over the operations and affairs of the title 32 district and shall exercise its rights in relation thereto.

vii. Compliance; modification; enforcement.

- a. Upon final approval by the district court of the organization of the title 32 district, the petitioner shall file written notice thereof with the Community Development Department.
- b. After the creation of a title 32 district, material modifications to the approved service plan may be made by the board of directors of the title 32 district only by petition to and approval by the Town Council. Such approval shall be in substantially the same manner as provided for in the approval for an original service plan. The application fee for a modification shall be established by the Community Development Department, and in addition, the District shall be

responsible for the actual costs incurred by the Town to review a proposed modification to an approved service plan. Such approval of modifications shall be required with regard to changes of a basic or essential nature, as outlined in the approved service plan, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area. Approval of a modification shall not be required for changes necessary only for the execution of the original service plan or for changes in the boundary of the special district to include property within the Service Area set forth in the existing service plan that has been annexed into the Town..

- c. Any departures from the approved service plan, except for changes necessary only for the execution of the original service plan as referred to in subsection (b) of this section or, if such has been modified, from the approved service plan as modified, shall be considered to be a violation of this section.
- d. Such unauthorized modifications may be enjoined by the district court upon application by the Town.
- e. All title 32 districts within the Town shall pay all costs that the Town may reasonably incur, including costs of an outside consultant or consultants for the purpose of reviewing any service plan changes or other approvals requested from the Town.