

**TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 1, SERIES 2024**

**AN ORDINANCE ADOPTING REGISTRATION AND CAMPAIGN FINANCE
REPORTING REQUIREMENTS FOR MUNICIPAL CANDIDATE COMMITTEES,
POLITICAL COMMITTEES, ISSUE COMMITTEES AND CANDIDATES, AND
ESTABLISHING PENALTIES FOR VIOLATIONS**

WHEREAS, the Town of Timnath (the “**Town**”) is a home rule municipality operating under the Timnath Home Rule Charter, adopted on November 7, 2006 and amended on November 3, 2015, April 5, 2022, and June 27, 2023 (the “**Charter**”), and the Town’s Municipal Code (the “**Code**”). Pursuant to the Charter, the Code, and the authority given home rule municipalities by the Colorado Constitution, the Town may adopt and amend ordinances; and

WHEREAS, the Colorado Fair Campaign Practices Act, Secs. 1-45-101, *et seq.*, C.R.S., (the “**FCPA**”) requires candidate committees, political committees and issue committees related to Town ballot issues or questions and candidates for Town offices to register and file campaign finance reports with the Town Clerk; and

WHEREAS, the Town Clerk is authorized to collect such reports as set forth in Section 1-45-108(2)(a)(II.5) C.R.S.; and

WHEREAS, home rule municipalities may adopt ordinances or charter provisions with respect to their local elections that address the matters covered in the FCPA, as set forth in Section 1-45-116 C.R.S.; and

WHEREAS, the FCPA does not contain an enforcement mechanism or penalty in the event of non-registration or reporting related to municipal ballot issues, ballot questions, and candidates; and

WHEREAS, the Town Council would like to adopt an Ordinance to amend the Town Code to add registration and reporting requirements as set forth below, as well as enforcement procedures and penalties for non-compliance; 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 – DEFINITIONS

The Timnath Municipal Code is hereby amended to add the following definitions to Section 1-2-10:

Ballot Issue means a ballot measure arising under Section 20 of Article X of the Colorado State Constitution that is submitted for a ballot in accordance with Town law, including referral by Ordinance, initiative, or referendum and has had a title set by the Town Council.

Ballot Question means a Town ballot question involving a citizen petition or referred measure, other than a ballot issue, including without limitation a ballot question for recall of a public office holder, amendment of the Town Code, or amendment of the Town Charter that has been submitted for the ballot by the Town Council.

Campaign committee means any candidate committee, political committee or issue committee.

Candidate means any person who seeks nomination or election to become a Town Officer, as defined in Sec. 12-1-120 of this Code. A person is a candidate for election if the person has: (a) publicly announced an intention to seek election to Town office, submitted a sufficient nomination petition to the Town Clerk pursuant to Sec. 4.7 of the Charter, or submitted a write-in candidate affidavit pursuant to Sec. 4.8 of the Charter, and (b) thereafter has received a contribution or made an expenditure in support of the candidacy. A person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to a Town office in the next or any subsequent election cycle, is a candidate. *Candidate* shall also mean any holder of a Town office, who is the subject of recall proceedings.

Candidate Committee means any person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee per office. A candidate committee shall be considered open and active until affirmatively closed by the candidate through a filing with the Town Clerk.

Contribution shall mean:

- (a) The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate or committee;
- (b) Any payment made to a third party for or on behalf of any candidate or committee;
- (c) Any gift or loan of any item of real or personal property, other than money, or any other item of value given, directly or indirectly, to or committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate. Personal services shall be considered a contribution in kind by

- the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used; or
- (d) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services or participation in a campaign-related event, mailing lists and other similar items of value, the amount equal to the value in excess of the amount of such compensation or consideration as reasonably determined by the committee based on market prices or other similar information.
 - (e) A Contribution is reportable if it is equal to or greater than \$20 as either a one-time payment or equaling \$20 or more in aggregate over the course of one calendar year.

Contribution shall not include services provided without compensation by a natural person volunteering their personal time on behalf of a candidate or committee.

Expenditure shall mean the payment, distribution, loan or advance of any money by any committee. Expenditure shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a Candidate or committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

Independent Expenditure shall mean an Expenditure that is not controlled by or coordinated with any committee, Candidate, or agent of such Candidate. Expenditures that are controlled by or coordinated with a committee, Candidate or Candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

Issue Committee means any person, other than a natural person, or any group of two or more persons, including natural persons, that has:

- (a) A major purpose of supporting or opposing any Town ballot issue or ballot question; and
- (b) Accepted or made contributions or expenditures in excess of \$100 to support or oppose any ballot issue or ballot question.

Political Committee means any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$100 to support or oppose the nomination or election of one or more candidates. Political committee does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

ARTICLE 2 – Campaign Finance, Registration and Reporting Requirements

The Timnath Municipal Code is hereby amended to add new Sections 2-1-30 and 2-1-40 to read as follows:

Sec. 2-1-30. Registration Requirements for Candidates and Committees

- (a) **Candidate Affidavit.** All candidates shall file an affidavit with the Town Clerk stating that they are familiar with the requirements of Sections 2-1-30 through 2-1-50 and 2-2-120 of this Code within 10 days of becoming a candidate, as defined in Sec. 1-2-10 of this Code.
- (b) **Registration.** All candidate committees, political committee in support of or in opposition to one or more candidates, and issue committee supporting or opposing a Town ballot issue or ballot question shall be required to register with the Town Clerk, on a form provided by the Town Clerk, within ten (10) calendar days of accepting or making contributions or expenditures in excess of \$100 to support or oppose any candidate, ballot issue or ballot question. Such committees must file any amendments or registration changes with the Town Clerk within 10 days of any change of information on the registration form.
 - (1) All registration forms shall be public records open for public inspection and may be posted on the Town's website.
 - (2) The registration of any committee required by this subsection (a) must include:
 - a. The committee's full name, spelling out any acronyms used in the name;
 - b. The name of a natural person authorized to act as a registered agent of the committee;
 - c. A street address for the principal place of business of the committee;
 - d. The purpose or nature of interest of the committee; and
 - e. The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.
 - (3) **Termination of Committees.**
 - a. A candidate committee account that was established for a candidate who was not elected must be terminated within one year following the election for which the candidate committee account was established unless there is an outstanding campaign finance complaint against the candidate committee that established the candidate committee account.
 - b. A candidate committee account that was established for a candidate who was elected must be terminated within one year following the date that the candidate who was elected leaves office unless there is an outstanding campaign finance complaint against the candidate committee that established the candidate committee account.
 - c. Unexpended contributions may be distributed as permitted by Sec. 1-45-106, C.R.S.
 - d. Any Committee listed in this section may be terminated by the filing of a letter with the Town Clerk with a final reporting of all contributions and expenditures, stating that the committee no longer intends to receive contributions or make expenditures and documenting that the committee has a zero balance in its financial accounts.
 - (4) All requirements and limitations on contributions from corporations, limited liability corporations and foreign persons or entities and regarding independent expenditures

contained in Sections 1-45-103.7(5)-(6) and 1-45-107, C.R.S., are hereby incorporated as if fully set forth herein.

- (5) In addition, candidates, committees, and donors shall be subject to all contribution prohibitions contained in the FCPA which are applicable to municipal officials and committees and do not conflict with the limitations set forth in this section.

Sec. 2-1-40. Campaign Finance Reporting Requirements and Communication Disclosures.

- (a) All committees must submit contribution reports to the Town Clerk, by the following dates:
 - (1) During election years: No later than sixty days before the election, thirty days before the election, fifteen days before the election and thirty days after the election.
 - (2) During off-election years: Annually on the first day of the month in which the anniversary of the election occurs.
 - (3) For a run-off election, runoff election reports must be filed no later than fifteen days before and fifteen days after the runoff election.
 - (4) For a recall election, reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.
 - (5) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.
- (b) The reporting period for all reports required to be filed with the Town Clerk and such reports shall close five calendar days prior to the effective date of filing.
- (c) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.
- (d) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.
- (e) Reports shall contain itemized contributions and expenditures during the reporting period, including the name and address of each individual making a Reportable Contribution and the occupation and employer of each individual making a contribution of \$100 or more. All reports shall be public records open for public inspection and which may be posted on the Town's website. The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of

expenditures made during the reporting period, and the name and address of the financial institution used by the committee or candidate.

(f) Communications.

- (1) Any committee that makes an expenditure for the purpose of financing communications expressly advocating a particular result in an election, or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication if paid for or authorized by a candidate, committee, or any agent for the same, shall clearly state that the communication is paid for by that candidate or political committee.
- (2) Whenever any individual makes an independent expenditure in excess of \$20 dollars for the purpose of financing communications expressly advocating for a particular result in an election, such communication shall clearly state that the communication is paid for by that person.

Sec. 2-1-50. Campaign Finance Violations, Enforcement and Penalties

- (a) Violations and Complaints.** Any person who believes a violation of Sections 2-1-30, 2-1-40 or 2-2-120 of this Code may file a complaint with the Town Clerk within 30 days of the alleged violation. A complaint must include the complainant's name, contact information, signature, name and contact information of each respondent alleged to have committed a violation, and sufficient facts to support a legal and factual basis for the complaint.
- (1) The Town Clerk will complete an initial review of the complaint within 10 business days of receipt of the complaint.
 - (2) If the Town Clerk determines that there is sufficient support for the allegation that a violation has occurred, the Town Clerk will notify the respondent, and the respondent shall be given the opportunity to cure the violation within 10 business days of being notified. If the Town Clerk determines that there is insufficient support for the allegation, he/she shall so notify the complainant, and the Town Clerk's decision shall be final.
 - (3) If the violation cannot be cured or a respondent does not cure the violation within such 10 business days, the Town Clerk may refer the matter to a hearing officer to hold a hearing and make a determination of whether a violation has occurred and to determine the penalty.
 - (4) If a hearing is held before a hearing officer, the committee or individual alleged to have violated the campaign registration, reporting or finance requirements may assert any facts or make any arguments and file any briefs and affidavits he or she believes are pertinent to his or her case. The respondent and complainant shall be notified of the name of the hearing officer 15 days before the hearing date, and any objection by the respondent to the hearing officer shall be filed in writing at least 48 hours prior to the hearing. The Town Clerk shall submit a certified copy of the reports received and the complaint to the hearing officer. The hearing officer shall set a date for a hearing, and accept written and

oral testimony from the complainant, the respondent and any witnesses, and make a determination as to whether a violation has occurred of the campaign finance and reporting requirements contained in the Town Code and, if so, as to the appropriate penalty, which may include any of the penalties listed in subsection (5) below. In setting the penalty, the hearing officer may consider aggravating and mitigating factors, such as number of violations, past history of violations, amount of the contribution or expenditure which was unlawful or reported incorrectly and evidence of intent by the violator. The decision of the hearing officer shall be final.

- (5) Penalties. Any candidate, individual or campaign committee that does not comply with the campaign finance limitations, registration, reporting or other requirements stated within this Code may be subject to any or all of the following penalties:
- a. Civil penalty of \$25-\$50 per day for each day that an affidavit, registration, report or other information required to be filed is not filed by the close of business on the day it is due;
 - b. Civil penalty of up to double the amount contributed, received, or spent in violation of any contribution prohibition or limitation or in violation of a contribution reporting requirements;
 - c. Order to disclose the source and amount of any undisclosed contributions or expenditures;
 - d. Order to return to the donor any contribution made which was the subject of the violation; and
 - e. Any other relief or order deemed appropriate.

ARTICLE 3 – 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 4 – 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 12, 2023, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6 P.M. ON JANUARY 9, 2024 AT THE TIMNATH TOWN CENTER, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 12TH DAY OF DECEMBER, 2023.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JANUARY 9, 2024.

TOWN OF TIMNATH, COLORADO

DocuSigned by:

Mark Soukup

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Mark J. Soukup, Mayor

DocuSigned by:

ATTEST:

Milissa Peters-Garcia

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Milissa Peters-Garcia, CMC

Town Clerk