

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 10, SERIES 2024**

**A RESOLUTION SETTING BALLOT TITLE FOR CHARTER AMENDMENT
INITIATIVE**

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, as amended on November 3, 2015 and April 5, 2022, November 8, 2022 and June 27, 2023, and the Town’s Municipal code (the “**Code**”). Pursuant to the Charter, the Code and C.R.S. § 31-15-103, the Town has the power to pass resolutions; and

WHEREAS, the members of the Town Council (the “**Council**”) have been duly elected and qualified; and

WHEREAS, Section 15.2 of the Town Charter allows for citizens to initiate a Charter Amendment in a manner provided by Article XX of the Colorado Constitution and by C.R.S. §§ 31-2-201, *et seq.*, or any successor statute on the same subject; and

WHEREAS, pursuant to C.R.S. § 31-2-210(1), five registered electors of the Town (the “**Petitioners’ Committee**”) submitted a statement of intent to circulate a petition to amend the Town Charter (the “**Petition**”) to add a new Section which would provide, in part:

The Town shall not annex into the Town any real property that is encompassed by a permit issued under Colorado's mined land reclamation statutes C.R.S. §§ 34-32-101 to 34-34-102, and any successor statutes thereto; and where reclamation of the property, as required by those same statutes and any state agencies responsible for administering those statutes, has not been fully completed. For purposes of clarity and by way of example, under the version of Colorado's mined land reclamation statutes effective at the time of this charter amendment, the reclamation of a property shall not be considered fully completed until the state agency overseeing the permit terminates or otherwise finally closes the permit, or modifies the permit to exclude fully reclaimed property from the permit; and the state agency releases the permittee from any further performance and financial warranties under the permit for property that was encompassed by the permit.

With the full text of the proposed amendment set forth in **Exhibit A**, attached hereto; and

WHEREAS, the Petition states that the proposed Charter amendment is sought to be submitted at the Town’s next regular election on April 2, 2024; and

WHEREAS, the Town Clerk certified the Petition as to form on October 17, 2023, and the Petitioners submitted the signed Petition to the Town Clerk on December 11, 2023; and

WHEREAS, on December 21, 2023, the Town Clerk certified that the Petition was signed by at least five percent of the registered electors of the Town registered on the date of filing the statement of intent; and

WHEREAS, C.R.S. § 31-2-210(3) provides that if the Town Clerk finds that the petition is sufficient, the governing body shall set the ballot title for the proposed amendment at its next meeting, and the Council wishes to hereby set the ballot title; and

WHEREAS, C.R.S. § 31-2-210(3) provides that the Town Council shall public notice of an election on a Charter amendment, which shall contain the full text of the proposed amendment, within 30 days of the date of filing of the petition, and the Town Clerk plans to publish notice of the election on the proposed Charter Amendment no later than January 10, 2024; and

WHEREAS, C.R.S. § 31-2-210(4) provides that the election shall be held within 60 to 120 days after publication of the notice of election, and the Council determines that the proposed amendment shall be included on the ballot for the General Election on April 2, 2024; and

WHEREAS, the Council must approve a Ballot Title for the proposed amendment to the Town Charter.

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

Section 1. Ballot Title

The proposed Charter Amendment will be added to the ballot for the General Election on April 2, 2024. The Ballot Title that will appear on the ballot for the General Election for the initiated Charter Amendment shall read as follows:

Town of Timnath Ballot Question

Shall the Home Rule Charter of the Town of Timnath be amended to prohibit the Town from annexing any real property that is encompassed by a permit issued under Colorado's mined land reclamation statutes where reclamation of the property has not been fully completed, to apply such prohibition to pending annexation applications, and to provide that annexations are final and effective only if there are no legal routes to challenge the annexation process?

Section 2. Effect of Passage

If a majority of the votes cast on the ballot question are in favor of the ballot question, the Charter shall be amended to add the language contained in **Exhibit A**.

Section 3. Contests

Pursuant to C.R.S. § 1-11-203.5, any election contest arising out of a 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 question is set by this Resolution.

Section 4. Severability.

If any section, subsection, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of his Resolution, the intent being that the same are severable.

Section 5. Effective Date

This Resolution shall take effect upon adoption.

Section 6. Inconsistency.

All orders, resolutions, ordinances, or regulations of the Town, or parts thereof, inconsistent with this Resolution are hereby repealed to the extent only of such inconsistency.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON JANUARY 9, 204.

TOWN OF TIMNATH, COLORADO

DocuSigned by:

Mark Soukup

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Mark J. Soukup, Mayor

ATTEST:

DocuSigned by:

Milissa Peters-Garcia

07A5AF3B02114D7...

Milissa Peters-Garcia, CMC

Town Clerk

EXHIBIT A

Sec. 15.8 -Preserving the Environment, Nature, Wildlife, and Character of the Town of Timnath by Prohibiting the Annexation of Areas Used for Mining Until Reclamation of Those Areas Is Complete

5.8.1 The Colorado state legislature has recognized, through its enactment of Colorado's mined land reclamation statutes C.R.S. §§ 34-32-101 to 34-34-102, that, while mining activities play important economic roles in the state, such activities can have detrimental effects on the natural resources, wildlife, aquatic resources, and community planning and development in the state. Accordingly, the state legislature recognized that the proper reclamation of mined lands is important to protect and promote the health, safety, and general welfare of the people of the state. The people of the Town have similar concerns and hereby declare that; because mining activities can be harmful to the environment, nature, wildlife, and communities affected by such activities; because including mined areas in the Town that have not yet been properly reclaimed can result in detrimental effects to the Town and the people of the Town; and because there is good reason that state statutes and state regulatory authorities mandate and oversee the reclamation of mined areas to ensure proper reclamation of those areas before they are put to a different use; it is, therefore, important to prohibit the annexation of mined areas into the Town that have not been properly reclaimed. The people of the Town adopt this section 15.8 to protect and promote these interests; and to protect and promote the health, safety, and general welfare of the people of the Town.

15.8.2 The Town shall not annex into the Town any real property that is encompassed by a permit issued under Colorado's mined land reclamation statutes C.R.S. §§ 34-32-101 to 34-34-102, and any successor statutes thereto; and where reclamation of the property, as required by those same statutes and any state agencies responsible for administering those statutes, has not been fully completed. For purposes of clarity and by way of example, under the version of Colorado's mined land reclamation statutes effective at the time of this charter amendment, the reclamation of a property shall not be considered fully completed until the state agency overseeing the permit terminates or otherwise finally closes the permit, or modifies the permit to exclude fully reclaimed property from the permit; and the state agency releases the permittee from any further performance and financial warranties under the permit for property that was encompassed by the permit.

15.8.3 The people of the Town hereby declare that the interests of ensuring mined areas that have not been fully reclaimed are not annexed into the Town is an issue of local government concern. Accordingly, for purposes of this section 15.8 only, the people of the Town hereby declare that no person or legal entity has a vested right in any annexation proceedings that include real property encompassed by a permit issued under Colorado's mined land reclamation statutes

C.R.S. §§ 34-32-101 to 34-34-102, and any successor statutes thereto, where those annexation proceedings are not final and effective such that there are no legal routes remaining to challenge the annexation process. For purposes of clarity and by way of example, in applying this section 15.8 an annexation would not be considered final and effective where an annexation application has been submitted to the Town but no final decision has been made on annexation by the Town government; would not be considered final and effective where an annexation has been approved by the Town government but that decision is being challenged through the judicial process, including any applicable appeal routes and regardless of whether the annexation decision is stayed during those appeals; and would not be considered final and effective where an annexation has been approved by the Town government but is in the process of being put to a vote the people of the Town through the referendum process. Therefore in addition to this Section 15.8 applying to future annexations, this section shall also apply to any pending annexation proceedings encompassed by this subsection at the time this section becomes effective.

15.8.4 This section 15.8 shall become effective immediately upon voter approval by the people of the Town.

15.8.5 In addition to the Town government being able to enforce this section 15.8 pursuant to all powers the Town would normally have to enforce provisions of its charter; citizens and businesses of the Town shall also have private rights of action to enforce this section, including against the Town. Such private actions shall be limited to obtaining injunctive, declaratory, or equitable relief to stop an annexation or declare invalid an annexation that occurred in violation of this section 15.8.

15.8.6 If any part, section, subsection, sentence, clause, or phrase of this section 15.8 is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining parts, sections, subsections, sentences, clauses, or phrases of this section. The people of the Town hereby declare that they would have passed this section; including each part, section, subsection, sentence, clause, or phrase thereof; irrespective of the fact that one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid.