

**TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 14, SERIES 2024**

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6 OF
THE TIMNATH MUNICIPAL CODE
REGARDING SPECIAL USE PERMITS**

WHEREAS, the Town of Timnath (the “Town”) is a home rule municipality operating under the Timnath Home Rule Charter (the “Charter”) and the Town’s Municipal Code (the “Code”);

WHEREAS, pursuant to the Charter, the Code, and the authority given home rule municipalities, the Town may adopt and amend ordinances;

WHEREAS, with the completion of Timnath Community Park, improvements to the Timnath Reservoir, and a growing population, the Town has seen an increase in the amount of Special Use Permit requests; and

WHEREAS, the Town of Timnath would like to make changes to the Town Code requirements for Special Use Permits to better manage the events; and

WHEREAS, the Town changes are intended to minimize conflicts and better manage special events within the Town of Timnath.

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

Article 1. Chapter 6, Article 6 of Timnath Municipal Code is hereby amended as shown in Attachment A.

Article 2. Repealer. Any bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed only to the extent of such inconsistency. This repealer shall not be constructed to revise any bylaw, order, resolution or ordinance or part thereof, heretofore repealed.

Article 3. Effective Date. This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.3 of the Charter.


Article 4. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Article 5. Safety Clause. The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING ON SEPTEMBER 10, 2024 AND SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON SEPTEMBER 24, 2024 AT THE TIMNATH TOWN CENTER, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 10TH DAY OF SEPTEMBER 2024.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON SEPTEMBER 24, 2024.

TOWN OF TIMNATH, COLORADO



Robert Axmacher, Mayor

ATTEST:



Milissa Peters-Garcia, CMC
Town Clerk



Attachment A

ARTICLE 6 - Special Use Permits

Sec. 6-6-10. - Purpose.

A special use permit is required to provide for the temporary use of land within the Town for gatherings of 100 people or more, to provide for the orderly control of such events, to ensure that the promoter or sponsor of the event is aware of special circumstances, to minimize any negative impacts on surrounding properties, residents or businesses and to provide for appropriate traffic and safety controls. A special use permit is not the same as and does not supersede any requirement of the State, the County or the Town regarding special event permits related to alcoholic beverages. This permit does not supersede any requirements from the County Health Department.

(Prior code, § 6.7.1; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-20. - Permit required.

It is unlawful for any person or entity to allow a special use to occur within the Town without first having obtained a special use permit.

(Prior code, § 6.7.2; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-30. - Definition.

- (a) As used in this Article, *special use* means the use of any land, street, right-of-way, park, building or structure for a gathering where it is reasonably anticipated that attendance will exceed 100 people at any single time, at any location, for any purpose. Special uses include, but are not limited to: carnivals, circuses, concerts, revivals, flea markets, craft fairs, parades, fundraisers or parties; farmers' markets or stands for sale of seasonal products when sold other than on the site where the product is grown; a bicycle race or ride; a foot race or walk; or a motored vehicle event.
- (b) Any event that includes a temporary road closure other than normal highway uses or work subject to a right-of-way permit and any other event utilizing a Town road or right-of-way or other Town property that requires changing, restricting or adapting the normal traffic use of such a road or right-of-way also shall be considered a special use.
- (c) Special uses do not include gatherings at any regularly established permanent place of worship, school, stadium, athletic field, arena, auditorium, fairgrounds, government meetings, picnic or camping area, polling places for elections or other similar permanently established place of assembly; provided that such place is being used for its established and normal use allowed by zoning, attendance does not exceed the

maximum seating capacity of the structure or place where the gathering is held and the gathering complies with all other applicable Code provisions, resolutions and regulations.

- (d) A special use permit shall not exceed 30 days in duration, either consecutively or cumulatively, in any calendar year.

(Prior code, § 6.7.3; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-40. - Application process.

(a) *Application requirements.* The application shall contain the following:

- (1) The name, residence and mailing address of all the applicants, as well as a contact person, address and telephone number. In the case of a corporation, a copy of the articles of incorporation and certificate of good standing from the Colorado Secretary of State's office.
- (2) The address and legal description of all property upon which the event is to be held, together with the name, residence and mailing address of the record owners of the property.
- (3) A written description indicating the type of event, the event sponsors, the location of the event or event route, a list of all streets affected, the duration of the event, the hours of operation, the expected water requirements, including the source and supply of water, the number of employees and/or volunteers, the number and location of toilets, the maximum number of persons that will be permitted to attend at any single time, the methods the applicant will use to ensure that the maximum number of allowed attendees at any single time is not exceeded, food or alcoholic beverages to be served, temporary structures or fences proposed, the anticipated parking needs and how the need is to be addressed, a statement of expected impacts to the subject land and surrounding properties, and a statement describing how impacts on surrounding properties will be minimized.
- (4) A sketch with dimensions showing all of the following: existing and proposed buildings; internal streets on the event site; adjacent off-site streets; property lines of the proposed site and of abutting properties; the location of the event or event route; the location of proposed structures, including restrooms, storage bins, trash receptacles and temporary buildings; the location of traffic controls proposed, including road barriers, detour signs, traffic control lights, traffic personnel, etc.; access to and from the site; and parking areas showing access, number of parking spaces, parking barriers, surfacing and other plans for parking and activity areas (e.g., parking area, food and beverage areas, toilet facility areas, seating areas and other areas designated for a particular use).
- (5) A description of any signage associated with the event. Temporary signs to promote or identify an approved special use are subject to the following restrictions:
 - a. All special use signs must be located on the lot that is the site of the special use
 - b. The maximum sign size is 32 square feet;

- c. Each approved special use is limited to one sign per street frontage of the property that is the site of the special use;
 - d. Banners are permitted, as long as the total square footage of all banners does not exceed 100 square feet; and
 - e. Signs and banners promoting or identifying a special use are not subject to a separate permitting requirement, but all such signs and banners must be removed from the site within 24 hours of the end of the approved special use.
- (6) Written confirmation from the property owner agreeing to the use of the property for the special use or a copy of the lease agreement showing that the special use is allowed to occur on the property.
 - (7) Evidence that all other necessary permits or licenses have been or will be obtained, including but not limited to permits to serve alcoholic beverages, and that all applicable County Health Department requirements, such as food trucks requirements, shall be met.
 - (8) A nonrefundable application process fee in the amount set forth in Appendix 4-A to this Code.
 - (9) All applicants must provide the Town of Timnath with a certificate of general liability insurance policy covering claims that may arise during the event, including participant and spectator liability. The policy must have a minimum of \$1,000,000 per occurrence and name the Town of Timnath as additionally insured.

The applicant shall indemnify and hold harmless the Town, its officers, officials, employees, and insurance pool from and against any and all damages, penalties and loss to person (including injury or death) or property and shall defend the Town from any and all claims, demands, suits, actions, or proceedings of any kind, including cost of actions and reasonable expert fees and attorney fees incurred by the Town in any way resulting from the special use event.

A copy of the policy or the appropriate insurance certificate shall be provided to the Town and approved by the Town as a condition of the special use permit approval.

- (10) Any applicant wishing to utilize a road or right-of-way shall secure appropriate jurisdictional approval in writing from the Town, any county and/or the state for roads that may be part of a proposed event route.
- (11) Any applicant wishing to utilize a Town road, or right-of-way shall submit a detailed traffic control plan, including any alternative routes or detours, based on the current Colorado Department of Transportation Standards and the Manual on Uniform Traffic Control Devices. Installation and maintenance of the traffic control devices required on the traffic control plan shall be at the applicant's expense.
- (12) Any applicant wishing to utilize a Town road, or right-of-way shall erect and maintain, at the applicant's expense, the necessary barricades flashers and signs as approved by the Town Engineer and shall take all necessary precautions for public

safety and convenience. The traffic control devices must be removed immediately following the close of the event.

- (13) Any applicant wishing to utilize a Town road, or right-of-way must notify all affected property owners a minimum of ten days prior to such an event. Said notice is subject to review by the Town and must be submitted to the Town Manager or designee 21 days prior to the event.
 - (14) Any applicant wishing to utilize a Town road, or right-of-way shall make any directional or other markings on the road surface temporary. Markings must be removable or of a material that will degrade or dissipate within seven days of the event. Use of permanent markings of any kind along the route of the event will result in the forfeiture of any guarantees provided by the applicant and possible additional charges assessed against the applicant to cover the cost of removing the road markings.
 - (15) Guarantees in the form of an irrevocable letter of credit, bond or cash retainer in an amount to be determined by the Town Manager or designee to cover the cost required for clean-up following the special use may be required. Any letter of credit, bond or cash retainer must be irrevocable for a period of 30 days after the completion of the event. The letter of credit, bond or cash retainer will be released by the Town as soon as possible after the event after determination that the site has been adequately cleaned up and restored from any impacts of the event. If the Town has not made a determination on retention or return of the guarantee within 30 days following the event, said guarantee will be returned to the applicant.
 - (16) Any additional information as the Town Manager or designee deems necessary to evaluate the special use.
- (b) *Application review.* Upon determining that the special use permit application is complete, the Town Manager or designee may refer the application to any other department, agency or official with jurisdiction whose consideration the Town Manager or designee deems essential to a full and complete assessment. In reviewing the application, the Town Manager or designee will consider the following:
- (1) The adequacy of the site sketch;
 - (2) The adequacy of the site to accommodate the special use proposed;
 - (3) The degree to which the special use complies or will be able to comply with the requirements of this Article; and
 - (4) The preservation of the health, safety and welfare of the public and surrounding properties and uses.
- (c) *Action on application.* Unless additional time is required for the Town Manager or designee to process the application, within 60 days of filing of a complete special use application, the Town Manager or designee will take one of the following actions:
- (1) The Town Manager or designee will issue the permit with any conditions deemed necessary to minimize potential adverse impacts and meet the intent and purpose of this Article; or
 - (2) If the proposed special use fails to conform with the applicable provisions, requirements or standards of this Article, the Town Manager or designee will deny the permit. If denied, the Town Manager or designee shall specify the reasons therefor in writing, citing specific provisions, requirements, and standards in this Article, or in other laws rules or regulations, that were not met.

- (d) *Appeals.* Any decision by the Town Manager or designee to either grant or deny the special use permit may be appealed. If denied by the designee, an appeal can be made to the Town Manager and if denied by the Town Manager an appeal can be made to the Town Council. The Town must receive the written appeal request within five calendar days following the date of the Town Manager's decision. The appeal must be in writing and state specifically why the Town Manager's or designee's decision is incorrect or inconsistent with the provisions, intent or purpose of this Article. The Town Council will consider the appeal at a meeting and may overturn or modify the Town Manager's or designee's decision if the Town Council determines that the Town Manager's or designee's decision is incorrect or inconsistent with the provisions, intent or purpose of this Article.
- (e) *Special use performance standards.* Special uses shall be required to comply with conditions adopted by the Town consistent with this Article, which conditions may include posting of cash or a letter of credit to ensure that cleanup after the event will occur.
- (f) *Site cleanup and restoration.* Within 48 hours of cessation of the event, the special use site shall be returned to its previous condition by the applicant. Cleanup and restoration shall include removal of all temporary buildings and structures, trash, debris, signage, attention-attracting devices or other evidence of the special use. In the event that such clean-up and resolution is not completed, the Town may require such clean-up or perform such work at the applicant's cost by use of the guarantee.

(Prior code, § 6.7.4; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-50. - Compliance with other regulations.

Special uses shall be subject to all applicable requirements of this Article, this Code and any other applicable laws, rules or regulations. Issuance of a special use permit shall not relieve the landowner or the applicant of the responsibility for security, other permits or approvals required by the Town or any other agency with jurisdiction.

(Prior code, § 6.7.5; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-60. - Enforcement.

- (a) *Inspections.* The Town may enter and inspect the special use site from time to time to ensure compliance with the special use permit conditions and to enforce the provisions of this Article.
- (b) *Permit available.* The special use permit issued by the Town must be available for inspection on the special use site at all times during the event.
- (c) *Suspension and revocation of permit.* The Town Manager or designee may suspend or revoke a special use permit for violation of any provision of this Article or any other applicable law rule or regulation, for violation of the permit conditions or for any misrepresentation by the applicant, its agents, employees or independent contractors under contract with the applicant. The decision of the Town Manager or designee to

suspend or revoke a permit may be appealed according to the appeals process as outlined under 6-6-40. d . No event shall occur while a suspension or revocation appeal is pending, except as authorized by the Town Manager or designee. By signing the application, the applicant agrees that the Town's designated law enforcement may enter the special use site and cause the special use to be stopped upon suspension, revocation or violation of the terms and conditions of the special use permit.

(Prior code, § 6.7.6; Ord. No. 11, § 1, 2015, 11-10-2015)

Sec. 6-6-70. - Penalty.

Any person convicted of a violation of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code; provided, however, that no person under the age of 18 years shall be subjected to imprisonment for a violation of this Article. Nothing in this Section shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity.

(Prior code, § 6.7.7; Ord. No. 11, § 1, 2015, 11-10-20)