

**TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 15, SERIES 2024**

**AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 4 OF
THE TIMNATH MUNICIPAL CODE REGARDING
MUNICIPAL COURT PARKING VIOLATIONS AND TO
AUTHORIZE THE ENTRY OF A JUDGMENT OF LIABILITY
BY DEFAULT**

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"). Pursuant to the Charter, the Code and the authority given home rule municipalities, the Town may adopt and amend ordinances; and

WHEREAS, the Town Municipal Court has jurisdiction over violations of the Code, including but not limited to, traffic violations, parking violations, code enforcement, and misdemeanor criminal matters; and

WHEREAS, the Town Council seeks to amend the Code for parking violations under Chapter 1, Article 4, of the Timnath Municipal Code and to provide that a judgment of liability by default may enter for a defendant's failure to appear along with the associated, fine, surcharge and costs; 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 property and that this Ordinance is necessary for the protection of public convenience and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF TIMNATH, COLORADO, THAT:

Section 1. Timnath Municipal Code § 1-4-20 of the Timnath Municipal Code is hereby amended in full to read as follows:

Sec. 1-4-20. - General penalty for violation.

(a) Unless otherwise specifically provided, whenever in this Code or any other ordinance of the Town or any order, rule or regulation promulgated under the provisions of this Code or other ordinance of the Town, any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor, any person who is convicted of the violation of any such provision of this Code or other ordinance of the Town or of such orders, rules or regulations shall be punished by a fine of not more than the maximum misdemeanor amount recognized under Title 13, C.R.S., or by imprisonment for a period not exceeding one year, or both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees.

(b) Except as hereinafter provided, every person convicted of a violation of the Model Traffic Code for Colorado, as adopted by this Code, may, in addition to administrative court costs which may be imposed, be punished by a fine not exceeding the maximum misdemeanor amount recognized under Title 13, C.R.S.; except any person convicted of violating Section 1101, Speed limits, when such person exceeded the lawful speed limit by 25 miles per hour or greater; Section 1105, Speed contest; Section 1401(1), Reckless driving; Section 1409, Compulsory insurance; or Section 1413, Eluding or attempting to elude a police officer, all being violations of the Model Traffic Code for Colorado as adopted by the Town, may be punished by a fine not exceeding the maximum misdemeanor amount recognized under Title 13, C.R.S., or by imprisonment not exceeding one year, or by both fine and imprisonment.

(c) Except as hereinafter provided, the municipal judge, may, in their sole discretion punish violations of the Model Traffic Code for Colorado as follows:

(i) Upon the date and at the time for appearance, if the defendant fails to appear and if the municipal judge determines that the venue is proper and that the defendant was served a summons and complaint at least ten (10) calendar days prior to the appearance date, the municipal judge may, for traffic offenses of not more than four (4) points (except for compulsory insurance), or a six (6) point offense of speeding, not more than twenty-four (24) miles over the posted speed limit, or a zero (0) point parking violation, enter judgment and impose sentence, including costs against the defendant.

(ii) Failure to appear on any date scheduled for trial shall constitute cause for entering a default judgment for all traffic offenses of not more than four (4) points (except for compulsory insurance) or a six (6) point offense of speeding not more than twenty-four (24) miles over the posted speed limit, or a zero (0) point parking violation, and upon entry of such default, the judge may impose sentence including costs against the defendant.

(iii) On the grounds of excusable neglect, the municipal judge may, by motion of the defendant, set aside an entry of default and the judgment entered thereon. Such motion must be filed with the court within seven (7) calendar days of the entry of judgment for such matter. A motion under this section shall not affect the finality of a judgment or suspend its operation.

(iv) Any default entered in accordance with this section, with the exception of zero (0) point parking violations, shall be certified to the Colorado State Motor Vehicle Division for enforcement.

(v) The court shall not issue a warrant for the arrest of any defendant against whom a default is entered and upon which a sentence is imposed thereon.

(d) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by any such person and shall be punished accordingly.

(e) To collect past due fines, penalties, costs, fees, surcharges and restitution, the Town may employ any method available to collect receivables including assign[ing] such accounts to private counsel or a private collection agency. Any fees or costs of the private counsel or private collection agency shall also be added to the amount due, but such fees and costs shall not exceed 25 percent of the amount due.

ARTICLE 2 – 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 3 – CODE REVISIONS

Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

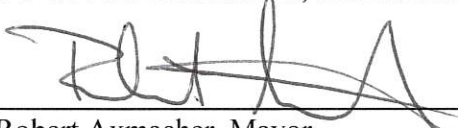
ARTICLE 4 – EFFECTIVE DATE

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 OCTOBER 8, 2024, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON OCTOBER 22, 2024, AT THE TIMNATH TOWN CENTER BUILDING, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO AND ORDERED PUBLISHED BY TITLE THIS 8TH DAY OF OCTOBER 2024.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON OCTOBER 22, 2024.

TOWN OF TIMNATH, COLORADO



Robert Axmacher, Mayor

ATTEST:



Milissa Peters, CMC
Town Clerk

