

**TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 2, SERIES 2026**

**AN ORDINANCE AMENDING MUNICIPAL CODE
TO PROVIDE THAT TOWN PENALTIES FOR CRIMINAL VIOLATIONS MAY NOT
EXCEED PENALTY FOR IDENTICAL CONDUCT UNDER STATE STATUTE**

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 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, on December 22, 2005, the Colorado Supreme Court issued an Opinion in case No. 2025 CO 64, *In re People v. Camp* and *In re People v. Simons*, finding that municipal ordinances which set criminal penalties in excess of maximum sentences under state law for identical conduct were preempted by state law; therefore, the Council wishes to clarify that penalties for Town Code criminal violations shall not exceed penalties set by state law, where the state law prohibits identical conduct; 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, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO,
ORDAINS:**

ARTICLE 1 – MUNICIPAL CODE AMENDMENT

The Town Council hereby amends Section 1-4-20 of the Code, as follows (*new additions are underlined and deleted items have a strikethrough*):

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 or imprisonment of not more than the maximum amount permitted under Sec. 13-10-113, C.R.S., ~~misdemeanor amount~~ 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. Notwithstanding anything to the contrary in this Code, if any person is found to have committed a criminal violation under 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 and there is a Colorado state offense prohibiting identical conduct, any fine and/or imprisonment imposed for the Town violation shall not exceed the penalty imposed under the Colorado Revised Statutes for the same offense. Court costs and expenses may be imposed in addition to such penalty.

- (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 permitted under Sec. 13-10-113, C.R.S. ~~recognized under Title 13, C.R.S.;~~ ~~except a~~ 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 permitted under Sec. 13-10-113, C.R.S. ~~recognized under Title 13, C.R.S.,~~ or by imprisonment not exceeding ~~364 days one year,~~ or by both fine and imprisonment; however, if there is a Colorado state offense prohibiting identical conduct, any imprisonment imposed for the Town violation shall not exceed the maximum imprisonment under the Colorado Revised Statutes for the same offense. Court costs and expenses may be imposed in addition to such penalty.
- (c) Except as hereinafter provided, the municipal judge, may, in their sole discretion punish violations of the Model Traffic Code for Colorado as follows:
- (1) 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 calendar days prior to the appearance date, the municipal judge may, for traffic offenses of not more than four points (except for compulsory insurance), or a six point offense of speeding, not more than 24 miles over the posted speed limit, or a zero point parking violation, enter judgment and impose sentence, including costs against the defendant.
 - (2) 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 points (except for compulsory insurance) or a six point offense of speeding not more than 24 miles over the posted speed limit, or a zero point parking violation, and upon entry of such default, the judge may impose sentence including costs against the defendant.
 - (3) 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 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.
 - (4) Any default entered in accordance with this section, with the exception of zero point parking violations, shall be certified to the Colorado State Motor Vehicle Division for enforcement.

- (5) 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 assigning 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 – EFFECTIVE DATE

This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.

INTRODUCED, MOVED, ADOPTED BY THE TIMNATH TOWN COUNCIL ON FIRST READING, AND ORDERED PUBLISHED BY TITLE JANUARY 27, 2026, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON FEBRUARY 10, 2026 AT THE TIMNATH ADMINISTRATION BUILDING, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO.

MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON FEBRUARY 10, 2026.

TOWN OF TIMNATH, COLORADO



Robert Axmacher, Mayor

ATTEST:



Milissa Peters, MMC
Town Clerk

