

**TOWN OF JOHNSTOWN, COLORADO**

**ORDINANCE NO. 2024-255**

**AN ORDINANCE ADDING SECTION 7-43 TO THE JOHNSTOWN MUNICIPAL CODE PROHIBITING OPEN BURNING IN THE TOWN OF JOHNSTOWN**

**WHEREAS**, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

**WHEREAS**, the Town Council is vested with authority to administer the affairs of the Town; and

**WHEREAS**, the Town collaborates with its designated fire service agencies to adopt and enforce the International Fire Code; and

**WHEREAS**, the adopted International Fire Code does not specifically prohibit open burning within Town Limits; and

**WHEREAS**, Article I of Chapter 7 of the Johnstown Municipal Code (“Code”) provides for the administration and abatement of nuisances, which are defined as, among others, conditions that present a substantial danger or hazard to health, safety or welfare of the community, and Article II of Chapter 7 of the Code references specific nuisances; and

**WHEREAS**, based on the guidance and instruction of Town Staff, the Town Council finds that, with limited exception for recreational burning in certain enclosures, open burning presents a substantial danger and hazard to the health, safety and welfare of the community and meets the definition of a nuisance as set forth in Section 7-1 of the Code; and

**WHEREAS**, Town Staff recommends that the Town Council, for the health, safety and welfare of the community, adopt amendments to Chapter 7 of the Code to define open burning and prohibit unlawful open burning within Town; and

**WHEREAS**, based on the recommendation of Town Staff, the Town Council desires to add Section 7-43 to Article II of Chapter 7 of the Code to prohibit open burning; 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 the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:**

**Section 1.** Section 7-43. Section 7-43 is hereby added to the Johnstown Municipal Code to provide as follows:

**Sec. 7-43 – Open burning.**

- (a) For purposes of this section, the following terms shall have the meanings indicated:

*Open burning* means the burning of materials wherein products of combustion are emitted directly into ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include flames from road flares, smudge-pots or similar such devices associated with safety or occupational uses. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

*Recreational fire* means an outdoor fire contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit having a total fuel area of three feet or less in diameter and two feet or less in height where fuel, other than rubbish, is burned and that is ignited for pleasure, religious, ceremonial, cooking, warmth or similar such purposes.

- (b) Except as provided below, no person shall make, cause to be made, or allow to continue to make any open burning on private or public property in the Town. This prohibition includes, but is not limited to, the open burning of rubbish, trash, debris, litter, junk, weeds, brush, grass or other combustible or flammable material. There shall be a rebuttable presumption that, if open burning is occurring on private property, the owner caused and is responsible for, the open burning.
- (c) The prohibition concerning open burning set forth above shall not apply to recreational fires or to fires authorized by the Town or a fire protection district.

**Section 2. Severability.** If any part of 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 the Ordinance are declared to be severable.

**Section 3. Publication; Effective Date.** This Ordinance, after its final passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

**INTRODUCED AND APPROVED** on first reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Hannah Hill, Town Clerk

By: \_\_\_\_\_  
Michael P. Duncan, Mayor

**PASSED UPON FINAL APPROVAL AND ADOPTED** on second reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Hannah Hill, Town Clerk

By: \_\_\_\_\_  
Michael P. Duncan, Mayor