



# Town of Johnstown

## TOWN COUNCIL AGENDA COMMUNICATIONS

---

**AGENDA DATE:** February 22, 2023

**SUBJECT:** Ordinance 2023-242 Amending Article II of Chapter 11 of the Johnstown Municipal Code concerning Use and Excavation of Public Right-of-way

**ACTION PROPOSED:** Approval of Ordinance 2023-242 Amending Article II of Chapter 11 of the Johnstown Municipal Code concerning Use and Excavation of Public Right-of-way

**ATTACHMENTS:** 1. Ordinance 2023-242

**PRESENTED BY:** Troy White, Public Works Director

---

### AGENDA ITEM DESCRIPTION:

Ordinance 2023-242 will provide Town Staff the means to regulate unauthorized obstructions of, excavations in, and use of the Town's rights-of-way by requiring permits for ALL construction activities within the Johnstown rights-of-way. A Right-of-Way Use Permit grants a permit holder permission to occupy, excavate, survey, perform locations, or construct facilities within the Town's rights-of-way, and provides for the subsequent restoration upon completion.

As part of the permit process, the applicant will be responsible for submitting a temporary traffic control plan (TCP). The TCP describes temporary traffic control measures to be used for facilitating road users (drivers, bicyclists, and pedestrians) through a work zone. The TCP plays a vital role in providing continuity of safe and efficient road user flow when a work zone temporarily disrupts normal road user flow.

Over the past several months the Town has observed unauthorized use of our public right-of-way. Currently, the Town has no enforcement authority to penalize such unauthorized use. Ordinance 2023-242 will provide the Town with the authority necessary to levy fines and order a cease and desist of such unauthorized use of the Town's right-of-way. In addition, Ordinance 2023-242 provides measures for Town staff to have improperly installed TCPs corrected, thus avoiding potentially serious safety issues. The Ordinance also allows staff to request additional

*The Community That Cares*

[www.TownofJohnstown.com](http://www.TownofJohnstown.com)

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

safety measures be installed if deemed necessary to protect the public or workers (i.e. jersey barricades).

Permit fees associated with Ordinance 2023-242 will be included in the Town of Johnstown Fee Schedule. In addition to updating our Municipal Code, the fee structure for permits has also been updated. The new fee structure will make it easier for the applicant to understand the upfront cost and is more in line with surrounding communities. The Town's current fee structure is based off a percentage of actual cost of materials being used in the public right-of-way. This results in some permits being issued for free if there are no materials being used (i.e., Potholing), which means that for "no materials" permits, costs associated with staff time (issuing the permit and inspecting the roadway repairs) is not being recovered. Furthermore, there is no way for the Town to ascertain if the cost of materials being submitted is adequately represented by the applicant and would be a very cumbersome process to do so. The new fee structure is based off actual Town Staff time reviewing the application and associated work to be completed, reviewing and adjusting the proposed TCP, issuing the permit, and inspecting repairs after the work is complete. The Town Fee Schedule is set for presentation next month which would coincide more appropriately with the effective date of this ordinance given the need for two (2) readings of this ordinance.

Town Staff believes that Ordinance 2023-242 is in the best interest of the public and will ensure our roads remain as safe as possible during right-of-way construction activities.

This Article does not apply to conduct regulated by a Town-issued special event permit.

**LEGAL ADVICE:**

Legal has reviewed and approved Ordinance 2023-242.

**FINANCIAL ADVICE:**

NA

**RECOMMENDED ACTION:** Approval of Ordinance 2023-242 Amending Article II of Chapter 11 of the Johnstown Municipal Code concerning Use and Excavation of Public Right-of-way

---

**SUGGESTED MOTIONS:**

**For Approval**

I move to approve Ordinance 2023-242 Amending Article II of Chapter 11 of the Johnstown Municipal Code concerning Use and Excavation of Public Right-of-way upon first reading.

*The Community That Cares*

<https://johnstown.colorado.gov>

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

**For Denial**

I move we deny Ordinance 2023-242 Amending Article II of Chapter 11 of the Johnstown Municipal Code concerning Use and Excavation of Public Right-of-way upon first reading.

*Reviewed and Approved for Presentation,*



---

Town Manager

*The Community That Cares*

<https://johnstown.colorado.gov>

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141