

**TOWN OF JOHNSTOWN, COLORADO  
ORDINANCE NO. 2023-242**

**AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 11 OF  
THE JOHNSTOWN MUNICIPAL CODE CONCERNING USE  
AND EXCAVATION OF PUBLIC RIGHTS-OF-WAY**

**WHEREAS**, the Town of Johnstown, Colorado (“Town”) is a Colorado municipality duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

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

**WHEREAS**, Article II of Chapter 11 of the Johnstown Municipal Code regulates excavations in the public rights-of-way in the Town; and

**WHEREAS**, Town staff recommends that the Article II of Chapter 11 of the Code be expanded to include, among other provisions, the requirement that persons conducting work in the public right-of-way obtain a permit and a Town-approved traffic control plan and pay a permit fee; and

**WHEREAS**, to effectuate the foregoing, the Town Council desires to amend and modify Article II of Chapter 11 of the Code; 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, AS FOLLOWS:**

**Section 1.** Article II of Chapter 11 of the Code shall be deleted and replaced in full with the following:

**ARTICLE II Use and Excavation of Public Rights-of-Way**

**Sec. 11-21. Work and conduct in public right-of-way.**

All construction, excavation and work of any kind and any conduct in, above or under any public right-of-way, including but not limited to any street, sidewalk, curb, gutter, alley or other public place, shall be subject to the provisions of this Article. This Article does not apply to conduct regulated by a Town-issued special event permit.

### **Sec. 11-22. Rules and Regulations.**

The Town Manager shall adopt rules and regulations describing the procedures and specifications under which work in the public right-of-way shall be conducted. Such rules and regulations shall be on file and available for public examination in the office of the Town Clerk. The failure to comply with any rule or regulation promulgated under this Article, as amended from time to time, shall be deemed a violation of the Code. The Town Manager may delegate any duty specified in this Article to a qualified employee, contractor or agent of the Town.

### **Sec. 11-23. Right-of-way permit.**

Except an employee or contractor of the Town, unless a written exemption is provided by the Town Manager, all persons seeking to conduct work of any kind in the public right-of-way shall obtain a right-of-way permit from the Town prior to the commencement of such work and shall comply with the terms of the right-of-way permit when conducting such work. The right-of-way permit shall be available at the job site and produced upon request. The work authorized by the right-of-way permit shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law or any other unexpected obstacle causes work to be stopped for so long a time that public travel would be unreasonably obstructed, the Town Manager may require that the work cease and, if applicable, the excavation refilled and repaved.

### **Sec. 11-24. Traffic control plan.**

- (a) Except an employee or contractor of the Town, unless a written exemption is provided by the Town Manager, all persons seeking to conduct work of any kind in the public right-of-way shall obtain approval of a traffic control plan from the Town prior to the commencement of such work and shall comply with the approved traffic control plan when conducting such work.
- (b) Except an employee or contractor of the Town, unless a written exemption is provided by the Town Manager, no person shall close or restrict any public right-of-way without the written consent of the Town Manager and without obtaining approval of a traffic control plan from the Town prior to such closure or restriction.

### **Sec. 11-25. Right-of-way permit fee.**

Unless a written exemption is provided by the Town Manager, upon the issuance of a right-of-way permit, the permittee shall pay a fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

### **Sec. 11-26. Acts in the public-right-way.**

No person shall intentionally take any action in the public right-of-way that creates a risk to the public health, safety or welfare.

**Sec. 11-27. Violation.**

Any person violating any provision of this Article shall be deemed guilty of such violation and, upon conviction thereof, shall be penalized as provided in Article IV of Chapter 1 of the Code.

**Section 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.

**Section 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 be altered by such changes.

**Section 4. Publication; Effective Date; Recording.** This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town’s Home Rule 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 Home Rule Charter of the Town of Johnstown, Colorado. 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 \_\_\_\_\_, 2023.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

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

By: \_\_\_\_\_  
Gary Lebsack, Mayor

**PASSED UPON FINAL APPROVAL AND ADOPTED** on second reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2023.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

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

By: \_\_\_\_\_  
Gary Lebsack, Mayor