

**TOWN OF JOHNSTOWN, COLORADO**

**ORDINANCE NO. 2023-243**

**AN ORDINANCE CONCERNING MUNICIPAL COURT PROCEDURES; AMENDING SECTIONS 2-74, 8-26 AND 8-83 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING RESPECTIVELY FINES, COURT COSTS AND SURCHARGES, JUDGMENTS OF LIABILITY BY DEFAULT AND MANDATORY TRUCK ROUTE FINES; ADDING SECTIONS 2-75 AND 2-76 TO THE JOHNSTOWN MUNICIPAL CODE CONCERNING RESPECTIVELY ALTERNATIVES IN SENTENCING AND COLLECTION OF UNPAID MONETARY SENTENCES; OMITTING SECTIONS 8-46, 8-81 AND 8-82 FROM THE JOHNSTOWN MUNICIPAL CODE**

**WHEREAS**, the Town of Johnstown, Colorado is a municipal corporation 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**, the Town staff recommends that the Town Council adopt amendments to the Johnstown Municipal Code (“Code”) concerning Municipal Court procedures, including, among others, authorization for the municipal court judge to impose alternative sentencing and enter judgments of liability by default, allowing the Town to retain a collection agency to collect unpaid municipal court monetary sentences, and the omission of sections of the Code that are duplicative of provisions contained in the Town-adopted Model Traffic Code for Colorado; and

**WHEREAS**, based on the recommendation of Town staff, the Town Council desires to: amend Section 2-74 (“Fines, court costs and surcharge imposed by the Municipal Court”), Section 8-26 (“Penalties”) and Section 8-83 (“Mandatory routes for overweight trucks”) of the Code; add Section 2-75 (“Alternatives in sentencing”) and Section 2-76 (“Collection of unpaid municipal court monetary sentences”) to the Code; and omit Section 8-46 (“Violation; penalty”), Section 8-81 (“Compulsory proof of insurance”) and Section 8-82 (“Mandatory use of safety belt”) from 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.** Section 2-74. Section 2-74 of the Johnstown Municipal Code shall be amended to in full to read as follows:

**Sec. 2-74. Fines, court costs and surcharge imposed by the Municipal Court.**

(a) *Sentencing.* For each person who is convicted or enters a plea of guilty or nolo contendere to a violation of the Charter, ordinances or other enactments of the Town, the municipal judge shall, except as otherwise provided in this Article:

- (1) Impose a fine in an amount not to exceed the maximum fine permitted under state law;
- (2) Assess court costs in the amount provided by resolution of the Town Council in the Town Fee Schedule; and
- (3) Assess a surcharge in the amount provided by resolution of the Town Council in the Town Fee Schedule.

(b) *Disposition of surcharge proceeds.* All proceeds of the surcharges shall be paid into the General Fund of the Town to be used for the purpose of law enforcement training or for the purchase of equipment for traffic enforcement and traffic safety.

**Section 2.** Section 2-75. Section 2-75 shall be added to the Johnstown Municipal Code to read as follows:

**Sec. 2-75. Alternatives in sentencing.**

When a person is convicted or enters a plea of guilty or nolo contendere to a violation of the Charter, ordinances or other enactments of the Town, the municipal judge may:

- (a) Sentence the defendant as provided in this Article;
- (b) Suspend all or part of the defendant's sentence;
- (c) Defer the entry of judgment;
- (d) Order that the defendant make restitution to the victim who suffered damages as a result of defendant's conduct;
- (e) Require the defendant to attend a driver-training course or other appropriate class or program;
- (f) Require the defendant to perform a specified number of hours of useful public service;
- (g) Require the defendant to participate in a mental health or drug and alcohol evaluation and rehabilitation class or program; and/or
- (h) Impose additional sentencing orders as the municipal judge deems reasonable and appropriate, including restorative justice.

**Section 3.** Section 2-76. Section 2-76 shall be added to the Johnstown Municipal Code to read as follows:

**Sec. 2-76. Collection of unpaid municipal court monetary sentences.**

In the event a defendant fails to pay any fine, cost, surcharge or restitution ordered by the municipal judge by the date so ordered, the Town may employ any method available to collect the past due funds, including, but not limited to, assignment of all or a portion of the receivables to a collection agency or private counsel. The collection agency or private counsel tasked with collection of the receivables may add collection costs to the amount due to the Town, but such collection costs shall not exceed twenty-five percent (25%) of the total amount assigned for collection.

**Section 4.** Section 8-26. Section 8-26 of the Johnstown Municipal Code shall be amended to in full to read as follows:

**Sec. 8-26. Penalties.**

- (1) It is unlawful for any person to violate any of the provisions adopted in this Chapter.
- (2) Every person convicted of a violation of any of the provisions stated or adopted in this Chapter shall be punished by a fine not exceeding the maximum amount permitted under state law.
- (3) For each person who fails to appear for an arraignment or trial, the municipal judge may enter judgment of liability by default for traffic infractions, assess the appropriate fine, court costs and surcharge and report the judgment to the state motor vehicle division who may assess points against the defendant's driver license and take any other action permitted by law.

**Section 5.** Section 8-46. Section 8-46 of the Johnstown Municipal Code shall be omitted from the Code and marked "Reserved."

**Section 7.** Section 8-81. Section 8-81 of the Johnstown Municipal Code shall be omitted from the Code.

**Section 8.** Section 8-82. Section 8-82 of the Johnstown Municipal Code shall be omitted from the Code.

**Section 9.** Section 8-83. Section 8-83 of the Johnstown Municipal Code shall be renumbered to Section 8-81 and Subsection (a) contained therein shall be amended to remove the last sentence and shall thereafter read as follows:

**Sec. 8-81. Mandatory routes for overweight trucks.**

(a) All trucks weighing over seven thousand (7,000) pounds empty weight are prohibited from traveling on all streets, alleys, viaducts, bridges or other public ways in the Town except on designated truck routes. Trucks of larger sizes may use the prohibited streets to make deliveries on such streets or nearby streets, provided that such trucks use the shortest route between an established truck route and point of delivery.

**Section 10.** 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 11. 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.

**Section 12. Publication; Effective Date.** This Ordinance, after its 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 \_\_\_\_\_, 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