

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2020-187

AN ORDINANCE REPEALING AND READOPTING CHAPTER 2 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING ADMINISTRATION AND PERSONNEL AND, AS A PART THEREOF, ADDING PROVISIONS CONCERNING MUNICIPAL CAMPAIGN FINANCE, AND MAKING RELATED AMENDMENTS TO SECTION 1-21 OF ARTICLE II OF CHAPTER 1 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING GENERAL DEFINITIONS

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, Chapter 2 of the Johnstown Municipal Code (“Code”) regulates administration and personnel matters in the Town; and

WHEREAS, Chapter 2 was adopted prior to adoption of the Town’s Home Rule Charter and certain of the provisions contained therein conflict with the provisions of the Home Rule Charter; and

WHEREAS, to harmonize Chapter 2 with the Home Rule Charter and to otherwise revise and amend certain administrative and personnel policies and procedures, the Town Council desires to repeal and readopt Chapter 2 in its entirety and to make related amendments to the general definitions contained in Section 1-21 of Article II of Chapter 1 of the Code; and

WHEREAS, as a part of the revisions and amendments to Chapter 2, to effectuate Senate Bill 19-232, signed by the Governor on May 29, 2019, amending the Fair Campaign Practices Act, Section 1-45-101, *et seq.*, C.R.S., to provide that complaints arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the municipality, rather than with the Colorado Secretary of State, the Town Council desires to include a new article, Article VII entitled “Municipal Campaign Finance,” creating a process for the filing of municipal campaign finance complaints and the resolution of such alleged violations; 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 1-21. Section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code is hereby amended to read in full as follows:

Sec. 1-21. Definitions.

In the construction of this Code and of all ordinances and resolutions passed by the Town Council, the following terms and rules shall have the meanings set forth herein, unless otherwise provided or unless such meaning would be inconsistent with the manifest intent of the Town Council:

Board of Trustees means the Council or Town Council of the Town of Johnstown, Colorado.

Charter means the Town of Johnstown Home Rule Charter, as amended from time to time.

Code means the Johnstown Municipal Code as designated in Section 1-1.

Computation of time means, in computing any period of time prescribed within this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. As used in this Section, legal holiday includes New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Veteran's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving, Friday following Thanksgiving, Christmas Eve, Christmas and any other day appointed as a holiday by the President or the Congress of the United States or pursuant to state statute. When an authorized holiday occurs on a Saturday or Sunday, the official observance shall be the previous Friday or the following Monday, respectively.

Council or Town Council means the elected or appointed governing body constituting the Town Council of Johnstown, and includes the Mayor and the Councilmembers.

Councilmember means each member of the Town Council, except the Mayor.

County means the County of Weld or the County of Larimer, State of Colorado, as appropriate.

C.R.S. means the Colorado Revised Statutes.

Law denotes applicable federal law, the constitution and statutes of the State of Colorado, the ordinances of the Town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

Mayor means the Mayor of the Town.

Misdemeanor means and is to be construed as meaning a violation and is not intended to mean crime or criminal conduct.

Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

Officer, board or commission shall be construed as if followed by the words of the Town.

Ordinance means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

Owner, applied to a building or land, shall include any part owner, joint owner, tenant in common or joint tenant, of the whole or of a part of such building or land.

Person means associations, corporations, firms, partnerships and bodies politic and corporate as well as individuals.

Personal property includes all property other than real property.

Preceding, following means next before and next after, respectively.

Property includes real, tangible and intangible personal property.

Real property includes lands, tenements and hereditaments.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall is mandatory; *may* is permissive.

Sidewalk means any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

State means State of Colorado.

Street includes any highway, alley, street, avenue, public place, square, bridge, viaduct, underpass, overpass, tunnel or causeway in the Town, dedicated or devoted to public use.

Tenant or occupant, applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Town means the Town of Johnstown, Colorado, or the area within the territorial limits of the Town of Johnstown, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

Town Fee Schedule means a schedule of the Town's fees, rates and charges adopted by resolution of the Town Council.

Section 2. Repeal and Readoption of Chapter 2. Chapter 2 of the Johnstown Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

Chapter 2 – Administration and Personnel

ARTICLE I Mayor and Town Council

Sec. 2-1. Corporate authority.

Sec. 2-2. Time for regular elections; procedure for special elections.

Sec. 2-3. Filling of vacancies.

Sec. 2-4. Write-in candidate's affidavit.

Sec. 2-5. Election may be cancelled; when.

Sec. 2-6. Mayor.

Sec. 2-7. Mayor pro tem.

- Sec. 2-8. Councilmembers.
- Sec. 2-9. Candidate nomination procedures for mail ballot elections.
- Sec. 2-10. Town Council authority.
- Sec. 2-11. Vacation of office by moving from Town.
- Sec. 2-12. Authority to enter into intergovernmental contracts.
- Sec. 2-13. Time and place for regular meetings.
- Sec. 2-14. Special meetings.
- Sec. 2-15. Remote meetings.
- Sec. 2-16. Quorum; authority to demand attendance of absent members.
- Sec. 2-17. Agenda.
- Sec. 2-18. Resolution or motion required; roll call vote.
- Sec. 2-19. Adoption of ordinances.
- Sec. 2-20. Mayor to vote; votes required for passage.
- Sec. 2-21. Recording and authentication of ordinances.
- Sec. 2-22. Suspension of the rules.
- Sec. 2-23. Financial disclosure by elected officials.
- Sec. 2-24. Compensation.
- Sec. 2-25. Town Fee Schedule.
- Secs. 2-26 - 2-40. Reserved.

Sec. 2-1. Corporate authority.

The corporate authority of the Town is, by state law and by the Charter, vested in the Town Council, consisting of one (1) Mayor and six (6) Councilmembers.

Sec. 2-2. Time for regular elections; procedure for special elections.

Each regular election shall be held on the first Tuesday in April in even-numbered years. All special elections called by the Town Council for any purpose shall be called by a resolution adopted not less than thirty (30) days before the election. The resolution calling a special election shall describe the purpose of the election.

Sec. 2-3. Filling of vacancies.

The Town Council shall have power, by appointment, to fill all vacancies of the Town Council if the vacancy occurs more than ninety (90) days before the next general municipal election. The appointee shall be selected by a majority vote of the remaining members of the Council and such appointment shall be made within thirty (30) days after such vacancy occurs. If the Mayor or a Councilmember is not able to attend a meeting wherein an appointee is to be selected, the Mayor or such Councilmember may provide his or her ballot, duly signed, to the Town Clerk prior to the meeting and the Town Clerk shall retain such ballot as part of the record of the proceedings in the same manner as other ballots are retained. [All such appointments shall continue until a successor is elected at the next regular election.](#) If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three (3) candidates for Councilmember receiving the highest number of votes shall be elected to four (4) year terms, and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms. If three or more vacancies exist at any one time and there will not be a regular municipal election within the ninety (90) days immediately after the date that the third vacancy occurred, Town Council shall call a special election.

Sec. 2-4. Write-in candidate's affidavit.

No write-in vote for a Town office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person who desires the office and is qualified to assume the duties of that office if elected. The affidavit of intent shall be filed with the Town Clerk no later than sixty-four (64) days before the day of the election.

Sec. 2-5. Election may be cancelled; when.

- (1) If the only matter before the voters is the election of persons to office and if, at the close of business on the sixty-fourth (64th) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the Town Clerk shall certify such fact to the Town Council. The Town Council shall thereafter hold a meeting and, by resolution, instruct the Town Clerk to cancel the election and declare the candidates elected.
- (2) Notice of such cancellation shall be published and shall be posted at each polling place and in not less than one (1) other public place.

Sec. 2-6. Mayor.

- (1) Qualifications. The Mayor shall be a registered elector who has resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that, in case of annexation, any person who has resided in the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.
- (2) Election and term of office. At the regular municipal election every four (4) years, a Mayor shall be elected to serve a four (4) year term.
- (3) Powers and duties generally:

- (a) The Mayor shall preside over the meetings of the Town Council and shall perform such duties as may be required of him or her by the Charter, the provisions of the Code or other ordinances of the Town.
- (b) Insofar as required by the Charter, and for all ceremonial purposes, the Mayor shall be the executive head of the Town and shall be the presiding officer of the Town Council.
- (c) The Mayor shall execute and authenticate by his or her signature such instruments as the Council or any statutes or ordinances shall require.
- (d) Except as may be required by the Charter or statute, the Mayor shall exercise only such powers as the Council shall specifically confer upon him or her.

Sec. 2-7. Mayor Pro Tem.

- (1) At its first meeting following each election, the Town Council, by the affirmative vote of a majority vote of the entire Town Council, shall choose one (1) of the Councilmembers as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Town Council, or during the Mayor's absence from the Town or his or her inability to act, shall perform the duties of Mayor.
- (2) If the entire Town Council is not present at such first meeting and the members of the Town Council who are present, after duly voting, are not able to choose a Mayor Pro Tem by the required majority vote, then the most senior Councilmember shall be deemed to be the temporary Mayor Pro Tem until the first meeting wherein the entire Town Council is present, at which time the Town Council shall choose a Mayor Pro Tem.
- (3) For purposes of this Section, seniority shall be determined by the number of consecutive years a Councilmember has served on the Town Council. If two or more Councilmembers have served the same amount of consecutive years, then seniority shall be determined by the number of cumulative years that a Councilmember has served on the Town Council.

Sec. 2-8. Councilmembers.

- (1) Councilmember election and terms of office. At each regular municipal election, three (3) members of the Town Council shall be elected to serve four (4) year terms.
- (2) Qualifications. Councilmembers shall be registered electors who have resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that, in case of annexation, any person who has resided within the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.

Sec. 2-9. Candidate nomination procedures for mail ballot elections.

Any person who desires to be a candidate in a mail ballot election conducted during a regular municipal election shall comply with the nominating procedures set forth in the Colorado Municipal Election Code of 1965, except that:

- (1) Candidate nomination petitions may be circulated and signed beginning on the ninety-first (91st) day prior to the day of election and ending on the seventy-first (71st) day prior to the day of the election.

- (2) Each candidate nomination petition shall be filed with the Town Clerk no later than the seventy-first (71st) day prior to the day of the election.
- (3) Any candidate nomination petition may be amended to correct or replace those signatures which the Town Clerk finds are not in apparent conformity with the requirements of the Colorado Municipal Election Code by filing such changes no later than the close of business on the sixty-third (63rd) day before the election.
- (4) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination by filing a written and signed affidavit withdrawing from such nomination with the Town Clerk at any time prior to sixty-three (63) days before the election. If the only matter before the voters is the election of persons to office and if the withdrawal results in there not being more candidates than offices to be filled at such election, then the election may be cancelled as otherwise set forth in this Article.

Sec. 2-10. Town Council authority.

The Town Council shall constitute the legislative body of the Town and shall have power and authority to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

Sec. 2-11. Vacation of office by moving from Town.

If any Councilmember shall move from, or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office. Such vacancy shall be filled as provided in the Charter and in this Article.

Sec. 2-12. Authority to enter into intergovernmental contracts.

- (1) The Town may cooperate or contract with other local governments to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes or the incurring of debt, only if such cooperation or contracts shall be authorized by each party thereto with the approval of the Town Council and the other legislative body or other authority having the power to so approve.
- (2) Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties.
- (3) Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.
- (4) Any such contract may provide for the joint exercise of the function, service or facility, including the establishment of a separate legal entity to do so.

Sec. 2-13. Time and place for regular meetings.

The Town Council shall hold regular meetings on the first and third Monday of each month at 7:00 p.m.; provided, however, that when the day fixed for any regular meeting of the Town Council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the following Wednesday. Except as otherwise provided in this Article, all regular meetings of the Town Council shall be held in the Town Hall.

Sec. 2-14. Special meetings.

Special meetings shall be called by the Town Clerk at the request of the Mayor and two Councilmembers or at the request of three Councilmembers. A special meeting shall be held on notice to each Councilmember and the Mayor, either personally, in writing or by electronic or telephonic means. The Town Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the advance notice of the meeting or authorized by unanimous vote of all Councilmembers and the Mayor present at such special meeting.

Sec. 2-15. Remote meetings.

- (1) Authorization for a remote meeting. When an in-person meeting is not reasonable or prudent to protect the public health, safety or welfare, the Mayor may, by providing written notice to the Town Manager and each Councilmember, direct that a Town Council meeting be conducted remotely. The Mayor's written notice shall be provided by hand delivery or electronic mail, be posted on the front entryway of Town Hall and, as soon as practicable, on the Town's website and be included in the minutes of the remote meeting. A remote meeting shall be considered a regular meeting or special meeting, as applicable, and, except as set forth herein or otherwise impractical, all meeting requirements shall apply to the remote meeting.
- (2) Type of remote meeting; notice. In the discretion of the Town Manager, remote meetings may be conducted by telephone, video conferencing or other electronic means. The Town Manager shall endeavor to ensure that Town Council, Town staff and the public are able to hear or read the discussion and testimony presented during the remote meeting. The Town Manager shall provide direct notice regarding the manner in which to participate in the remote meeting to Town Council and Town staff and shall post notice for the benefit of the public on the front entryway of Town Hall and, as soon as practicable, on the Town's website.
- (3) Public participation. The Town Manager shall take reasonable and practical measures to ensure that each remote meeting is open to the public and provides the public with an opportunity to be heard, unless public participation is not practicable or feasible due to the emergency situation. If public participation is not available, any action taken at the remote meeting shall be effective only until the next meeting that allows for public participation. At that next meeting, Town Council may ratify any action taken at the remote meeting that did not allow for public participation. If Town Council fails to ratify the action, such action shall be deemed rescinded.
- (4) Voting. All votes during a remote meeting shall be conducted by roll call.
- (5) Minutes. Minutes of the remote meeting shall be taken and retained in the records of the Town and shall be open to public inspection.
- (6) Public meeting with remote public participation. To protect the public health, safety or welfare, in lieu of a remote meeting, the Mayor may request, but not require, that members of the public participate in a public meeting remotely. In such case, the Mayor shall direct the Town Manager to provide notice to the public that attendance at a public meeting is discouraged by posting such message on the front entryway of Town Hall and on the Town's website. The Town Manager's notice shall include the manner in which the public may attend and be heard at the meeting remotely.

Sec. 2-16. Quorum; authority to demand attendance of absent members.

No action shall be taken by the Town Council at a meeting unless a quorum is present. A majority of the Town Council shall constitute a quorum. A lesser number may adjourn from time to time and

compel the attendance of absent members. Any member of the Town Council, at any regular or special meeting, may, in writing, demand the attendance of the absent members, which demand shall be entered on the record forthwith by the Town Clerk, who shall thereupon notify the absent members of the time and place of the meeting.

Sec. 2-17. Agenda.

All reports, communications, ordinances, resolutions, contracts, documents or other matters to be submitted to the Town Council shall, prior to each meeting, be delivered to the Town Clerk, who shall immediately arrange a list of such matters according to the order of business. Each Councilmember, the Mayor, the Town Manager and the Town Attorney will be furnished with a copy of the order of business, together with a copy of the minutes of the last preceding meeting, prior to the Town Council meeting and as far in advance of the meeting as time for preparation shall permit.

Sec. 2-18. Resolution or motion required; roll call vote.

Every subject coming before the Town Council meeting for its action shall be submitted by ordinance, resolution or motion. On consideration of every ordinance and of every resolution authorizing the expenditure of money or the entering into of a contract, the yeas and nays shall be recorded.

Sec. 2-19. Adoption of ordinances.

Introduction, adoption, approval and publication of ordinances enacted by the Town Council shall be in accordance with the Charter.

Sec. 2-20. Mayor to vote; votes required for passage.

The Mayor shall be considered a member of the Town Council and shall have the same voting powers as any member of the Town Council. Except where a greater number is required by the Charter, the final adoption of any ordinance shall require the affirmative vote of a majority of the Council, and resolutions and motions shall require the affirmative vote of a majority of the Council present at the meeting adopting such resolutions and motions. An emergency ordinance necessary for the immediate preservation of public property or assets, health, welfare, peace, or safety shall require the affirmative vote of five (5) members of Town Council.

Sec. 2-21. Recording and authentication of ordinances.

All ordinances shall be numbered, authenticated by the signature of the Mayor and Town Clerk and recorded by the Town Clerk in the official records of the Town.

Sec. 2-22. Suspension of the rules.

Any of the provisions of this Article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths ($\frac{3}{4}$) of the members of the Town Council present at a meeting wherein such suspension is voted upon, except that this shall not be construed to permit any action that is contrary to the Charter.

Sec. 2-23. Financial disclosure by elected officials.

- (1) Application. The provisions of this Section shall apply to the Mayor, Councilmembers and all candidates for election to the aforementioned offices.
- (2) Definitions. In this Section, unless the context otherwise requires:

Business means any activity which is engaged in for the purpose of earning a profit.

Business entity includes a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association, real estate investment trust or other business trust.

Business with the Town shall mean any one (1) or any combination of sales, purchases, leases or contracts to, from or with the Town, or agency thereof, involving consideration of five hundred dollars (\$500.00) or more on a cumulative basis during the calendar year for which a required statement is to be filed. As of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included.

Description of any real property means a legal description of the property, or the address of the property if such address is sufficient to enable a reasonable person to locate and identify the property.

Interest shall mean:

- (a) Any legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or part, jointly or severally, directly or indirectly, at any time during the calendar year from which a required statement is to be filed;
- (b) An interest in: any stock or similar security, preorganization certificate or subscription, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust, or certificate of interest or participation in a profit-sharing agreement or in an oil, gas or other mineral royalty or lease; or any other equity interest, however evidenced, which entitles the owner or holder thereof, directly or indirectly to receive or direct any part of the profits from, or to exercise any part of the control over, a business entity, as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto;
- (c) An interest in a note, bond, debenture or any other evidence of a creditor interest;
- (d) However, it shall not include an interest held solely in the capacity of a personal representative, agent, custodian, fiduciary or Council member, nor an interest in a time or demand deposit in a financial institution, nor an interest in an insurance or endowment policy or annuity contract.

Legal or equitable interest does not include any interest over which the owner of the interest exercises only ministerial control or from which the owner of the interest derives no tangible benefit. Without limitations, such interests shall not include title, rights or interests held by one as agent, executor or Council member, or in another fiduciary capacity, unless coupled with a beneficial interest in the subject matter.

Person includes any natural person, corporation, partnership, trust, unincorporated association, or other organization, entity or enterprise.

Source of income means any source from which a person obtained income, except that, in the case of income received in pursuit of a business or profession in the course of which income is received from a number of clients, patients or customers, the source of the income shall be deemed to be the business or profession and not the individuals from whom the income is received.

(3) Information to be disclosed.

- (a) Every person described in Subsection (1) above shall disclose the following information:
- (i) Any source of income from which the person, his or her spouse or minor children residing with the person derived more than five hundred dollars (\$500.00) during the preceding year.
 - (ii) The name of any business, however organized, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest or serve as a director or fiduciary or is a member.
 - (iii) A description of any real property located in Weld or Larimer County, Colorado, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest.
 - (iv) The name of any client, patient, customer or other single source which provides twenty percent (20%) or more of the total income of individual, his or her spouse or minor children residing with the person.
 - (v) The name of each creditor for the person, his or her spouse or minor children residing with the person, to whom is owed an amount in excess of five hundred dollars (\$500.00), including the interest rate, excluding customary household expenses, retail credit accounts, contracts for commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
- (b) A schedule of the identity of the person to whom a liability is owed doing business with the Town, owed at any time during the year for which the statement is filed, excluding customary household expenses, retail credit accounts, contracts for a commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
- (c) Notwithstanding the requirements of Subsection (3)(a) above, no person shall be required to disclose any interest which could not be affected materially by any action, failure to act or decision of the person making disclosure, acting within the scope of the official duties of the office which the person holds or seeks.

(4) Procedure for making disclosure. Every person required by this Section to make disclosure shall file a completed financial disclosure statement in the office of the Town Clerk at the following stated times:

- (a) Every candidate for election to the offices named in Subsection (1) above shall file a completed financial disclosure statement on the date upon which such candidate files a nomination petition for election to municipal office, except that no person shall be required by this Section to file a financial disclosure statement during the same year the person filed an affidavit pursuant to Subsection (4)(b) below.
- (b) The Mayor and each Councilmember shall submit an affidavit on or before April 15 of each year during which the official holds office, averring that the financial disclosure statement, as may be amended from time to time, is substantially correct and that there are no material changes; provided, however, that no official whose term of office expires before April 15 of any year shall be required to file such affidavit.

- (c) If the disclosable information required by this Section materially changes at any time during an official's term, the Mayor or the Councilmember, as the case may be, shall file an updated financial disclosure statement within seven (7) days after such disclosable change to the financial information occurs.

(5) Duties of Town Clerk.

- (a) Within thirty (30) days of the effective date of the ordinance codified in this Section, the Town Clerk shall prepare and have available in the office of the Town Clerk a form to be entitled "Financial Disclosure Statement." Said form shall contain instructions, consistent with the provisions of this Section, explaining the manner in which the form is to be filled out. There shall be designated spaces on the form for disclosure of each matter required by this Section to be disclosed, and a space sufficient for an acknowledgment before a notary public. The form shall also contain a place for the signature of the person making disclosure; an affidavit that the information disclosed is true, accurate and complete to the best knowledge of the party making disclosure, and a place for the date upon which the statement was completed and the date upon which the statement was received by the Town Clerk. The Town Clerk shall also prepare and have available in the office of the Town Clerk a form entitled "Annual Affidavit." The Annual Affidavit shall contain a statement that the information provided on the Financial Disclosure Statement, as may be amended from time to time, is substantially correct and that there are no material changes to the disclosed information. The Annual Affidavit form shall contain a place for the signature of the official making the foregoing statements and a notary block.
 - (b) Any financial disclosure statement filed by any person required by this Section to make disclosure shall be preserved by the Town Clerk until six (6) months after:
 - (i) The defeat of the person making disclosure, in the case of an unsuccessful candidate for elective municipal office;
 - (ii) The date upon which the person leaves office, in the case of an elected or appointed municipal official; or
 - (iii) Receipt by the Town Clerk of a more current disclosure statement.
 - (c) The Town Clerk shall permit any person who requests permission to inspect any financial disclosure statement on file in the office of the Town Clerk to inspect or copy the same during normal business hours of the office of the Town Clerk. A reasonable charge may be assessed for any copy provided by the office of the Town Clerk.
 - (d) If any person required to file a financial disclosure statement fails to file the same, the Town Clerk shall, within three (3) days of the deadline for filing, notify the person that such person may be in violation of this Section.
- (6) Affirmative defense. It shall be an affirmative defense to any prosecution under this Section that, within seven (7) days after receipt of notice pursuant to Subsection (5)(d) above, the person filed a completed financial disclosure statement, and no prosecution under this Section shall be initiated until such seven-day period has passed.
- (7) Rules of construction. This Section shall be construed in such a way as to ensure that the electorate is fully and effectively informed of all matters required by this Section to be disclosed.

If any portion of this Section is adjudged invalid or unenforceable for any reason, the remainder of the Section shall continue in force unless to give effect to the remaining provisions would defeat the policy embodied in this Section.

- (8) Appointment of special associate municipal judge. If any charge of violation of this Section is filed in the Municipal Court, the presiding municipal judge shall forthwith notify the court administrator of the state and request the court administrator to furnish to the presiding municipal judge the name or names of one (1) or more municipal judges of the state who may be available to try such case; and the presiding municipal judge shall determine the availability of such judge or judges to try such case and shall designate a municipal judge whose name is furnished by the court administrator to try such case. Such judge shall be an associate municipal judge of the Town during and for all the purposes of such case and the trial and decision thereof, upon taking an oath of office as an associate municipal judge of the Town. Such judge shall be paid reasonable compensation for services rendered.

Sec. 2-24. Compensation.

- (1) ~~Pursuant to the Charter, the~~ Mayor shall receive the sum of two hundred dollars (\$200.00) and each Councilmember shall receive the sum of one hundred twenty-five dollars (\$125.00) such salary and benefits as prescribed by ordinance for each regular meeting of the Town Council that he or she attends, but no compensation shall be given for attendance at special meetings or work sessions.
- (2) To be eligible for compensation, the Mayor and each Councilmember must be present for at least three-fourths ($\frac{3}{4}$) of the votes taken at the meeting attended, the roll call counting as one (1) vote. Votes missed as a result of a conflict of interest by a Councilmember shall not be counted in the total against that member.
- (3) The Mayor Pro Tem, if acting as Mayor for three-fourths ($\frac{3}{4}$) of the meeting, shall receive the compensation of the Mayor for the meeting.

Sec. 2-25. Town Fee Schedule.

Town Council shall have the power to establish, modify and amend by resolution a schedule of the fees, rates and charges levied and assessed by the Town for municipal services, which shall be known as the Town Fee Schedule.

Secs. 2-26 - 2-40. Reserved.

ARTICLE II Officers and Employees

Sec. 2-41. Intent of Article.

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Secs. 2-52 – 2-70. Reserved.

Sec. 2-41. Intent of Article.

Nothing in this Article shall impair the responsibility of the Town Council for the overall operation of the Town government as required by the Charter and state law.

Sec. 2-42. Appointment of Town Manager.

- (1) There is hereby created the position of Town Manager. The Town Manager shall serve at the pleasure of the Town Council. The appointment or removal of the Town Manager shall require the affirmative vote of a majority of the entire Town Council.
- (2) The Town Manager shall be hired without regard to any consideration other than fitness, competency, training and experience in professional administration. The Town Council shall be authorized to establish the beginning and continuing salary of the Town Manager. The Town Council may, in its discretion, enter into a contract with the Town Manager. Upon termination, the Town Council may, in its discretion, provide termination pay.
- (3) At the time of his or her hiring, the Town Manager need not be a resident of the Town or State, but, during tenure of office, he or she shall reside within the Town.
- (4) Before entering upon the duties of the office, the Town Manager shall take an oath of office.
- (5) The Town Council may require the Town Manager to furnish a bond conditioned upon the faithful performance of his or her duties in such amounts and with such sureties as appropriate.

Sec. 2-43. Duties of Town Manager.

- (1) The Town Manager shall have the power to hire and remove employees of the Town, except for elected officials and Councilmembers or Commission appointees, including the Town Attorney and the Municipal Judge. He or she shall have the power to suspend and discipline affected employees in accordance with written personnel policies and procedures adopted by the Town Council or personnel rules and regulations established by the Town Manager pursuant to the Charter.
- (2) In addition to those powers enumerated in Subsection (1) above and those set forth in the Charter, the Town Manager shall have the following powers:

- (a) To supervise the administration of the enforcement of all laws and ordinances of the Town, except to the extent that the administration of such enforcement is confided to other Town officials by law or ordinances;
- (b) To be responsible to the Town Council for the administration of all departments of the Town, save and except those departments confided to the supervision of other Town officers by law or administrative functions of such departments to the extent requested or delegated by the Town officers having primary responsibility for the operation of such departments;
- (c) To issue such administrative regulations and outline general administrative procedures applicable to areas and departments confided to his or her supervision in the form of rules which are not in conflict with the Charter or the Town ordinances;
- (d) To assist in preparing the budget and to submit the same to the Town Council;
- (e) In cooperation with the Town Treasurer, to keep the Town Council fully informed as to the financial condition of the Town;
- (f) To recommend to the Town for adoption such measures as he or she may deem necessary or proper for the efficient and proper operation of the Town;
- (g) To prepare and submit to the Town Council for each regular meeting a report of the Town's affairs, including a summary of the reports of the operations of all Town departments;
- (h) Subject to the requirements of state law, if applicable, the Charter and ordinances, and in accordance with rules and regulations now or hereafter promulgated by the Town Council, to purchase materials and authorize budgeted expenditures of funds on behalf of the Town;
- (i) To develop proposals to achieve intergovernmental cooperation between the Town and other units of local government regarding growth concerns and to such areas as joint purchasing, law enforcement, street repairs and maintenance, animal control and the like as directed by the Town Council;
- (j) To work with department heads and employees to solve internal organizational problems both within departments and across departmental lines;
- (k) To meet with individuals, groups, community or regional organizations and business or industrial concerns to represent the Town and discuss Town policies;
- (l) To attend conferences and seminars to keep abreast of current trends in the field of municipal management;
- (m) To review and update personnel policies;
- (n) To attend Town Council meetings; and
- (o) To perform such other duties as may be prescribed by ordinance or by direction of the Town Council.

Sec. 2-44. Plan of administrative organization.

The Town Manager may propose a plan of administrative organization to the Town Council, which, if approved by the Town Council, may be adopted by ordinance or resolution. The administrative plan shall provide for such departments and officers as may be deemed necessary for the efficient administration of the Town.

Sec. 2-45. Relationship of the Town Council to Town Manager.

Neither the Mayor nor any Councilmember shall in any way interfere with the Town Manager in his or her exercise of the powers and duties granted by the Charter and this Article. Except for the purpose of inquiry, the Mayor and Councilmembers shall deal with the Town Manager solely through the Town Council, and neither the Mayor nor any Councilmember shall give orders to any of the subordinates of the Town Manager.

Sec. 2-46. Appointment of Town Attorney.

The Town Council, by a majority vote, shall appoint a qualified attorney at law admitted to practice in Colorado as the Town Attorney and shall fix his or her compensation. The Town Attorney shall serve at the pleasure of the Town Council. The removal of the Town Attorney shall require the majority vote of the entire Council. Before entering upon the duties of the office, the Town Attorney shall take an oath of office.

Sec. 2-47. Duties of Town Attorney.

The Town Attorney shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Act as legal advisor to, and be attorney and counsel for, the Town Council and be responsible solely to the Town Council. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Town Council or the Town Manager or his or her designee;
- (2) Prosecute ordinance violations and conduct for the Town cases in Municipal Court, unless a Town Prosecutor is appointed as provided in the Charter. He or she shall file with the Town Clerk copies of such records and files relating thereto;
- (3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Town Council or the Town Manager or his or her designee, and promptly give his or her opinion as to the legal consequences thereof;
- (4) Call to the attention of the Town Council all matters of law, and changes or developments therein, affecting the Town; and
- (5) Perform such other duties as may be prescribed for him or her by the Town Council.

Sec. 2-48. Appointment of Town Clerk.

The Town Manager shall appoint a Town Clerk to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Clerk shall take an oath of office. The Town Manager may require, upon conferral with Town Council, that the Town Clerk furnish a bond conditioned upon the faithful performance of his or her duties as Town Clerk in such amounts and with such sureties as appropriate.

Sec. 2-49. Duties of Town Clerk.

The Town Clerk shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Be the Town Clerk of the Town Council, attend all meetings of the Town Council and keep a permanent journal of its proceedings;
- (2) Be the custodian of all of the Town's records, and, except as otherwise required by law, allow that such records be open at all reasonable times for inspection;
- (3) Certify by his or her signature all ordinances and resolutions enacted or passed by the Town Council;
- (4) Provide and maintain in his or her office a supply of forms required by the Town to be filed for any purpose;
- (5) Be the custodian of all bonds of all officers or employees of the Town; and.
- (6) Perform such other duties as may be prescribed for him or her by law or by the Town Manager.

Sec. 2-50. Appointment of Town Treasurer.

The Town Manager shall appoint a Town Treasurer to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Treasurer shall take an oath of office and shall furnish a bond conditioned upon the faithful performance of his or her duties as Town Treasurer in such amounts and with such sureties as appropriate.

Sec. 2-51. Duties of Town Treasurer.

In addition to other duties that may be prescribed pursuant to this Article, the Town Treasurer shall perform the following duties:

- (1) The Town Treasurer shall receive all monies belonging to the Town and give receipts therefor; shall keep his or her books and accounts in such manner as may be prescribed by the Town Council; shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto; and shall report to the Town Council, at each regular monthly meeting thereof, the state of the Treasury at the date of such account and the balance of money in the Treasury. He or she shall also accompany such statement of accounts with a statement of all monies received in the Treasury and on what account, during the preceding month, together with all warrants redeemed and paid by him or her, and such warrants and their supporting vouchers shall be delivered and filed in the Town Clerk's office upon every day of such statement. All books and accounts of the Town Treasurer shall always be subject to inspection of the Mayor or any Councilmember;
- (2) If there shall be no funds in his or her hands for the payment of any Town warrant presented to him or her for such payment, it shall be his or her duty to register such warrants in a book to be kept by him or her for that purpose, and the Town Treasurer shall endorse upon all such warrants so presented to him or her the time and date of such registry. Whenever the Town Treasurer shall pay such warrant, he or she shall enter the payment and the amount of interest allowed or paid on such warrant in the registry;

- (3) The Town Treasurer shall perform all other duties, keep all records and make all reports that are required by other provisions of the Charter, the Code, other ordinances of the Town or state law; and
- (4) When the Town Treasurer shall vacate such office, he or she shall turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the Town and remaining in his or her charge as Treasurer.

Secs. 2-52 – 2-70. Reserved.

ARTICLE III Municipal Court

Sec. 2-71. Municipal Court created; jurisdiction.

Sec. 2-72. Appointment of Municipal Court judge.

Sec. 2-73. Procedure governed by Colorado Municipal Court Rules and the court; maximum penalty for contempt.

Sec. 2-74. Fines imposed by the Municipal Court.

Secs. 2-75—2-90. Reserved.

Sec. 2-71. Municipal Court created; jurisdiction.

As further provided in the Charter, there is hereby created and established a Municipal Court in and for the Town. The Municipal Court shall have jurisdiction to hear, try, and determine all alleged violations of the Charter, ordinances and other enactments of the Town. In addition to persons over the age of eighteen (18) years, the Municipal Court shall have jurisdiction over juveniles between the ages of ten (10) and eighteen (18) years.

Sec. 2-72. Appointment of Municipal Court judge.

The Town Council shall appoint, by a majority vote of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two-year term.

Sec. 2-73. Procedure governed by Colorado Municipal Court Rules and the court; maximum penalty for contempt.

The procedure in the Municipal Court shall be governed by Colorado Municipal Court Rules. The Municipal Court may make rules for procedures which are not inconsistent with such Colorado Municipal Court Rules, including powers incident to compelling attendance of witnesses, punishment for contempt and enforcement of orders of court.

Sec. 2-74. Fines imposed by the Municipal Court.

- (1) Surcharges.

- (a) For parking citations, a surcharge in the amount provided by resolution of the Town Council in the Town Fee Schedule shall be added to the fine.
 - (b) For traffic citations that do not require a mandatory court appearance, a surcharge in the amount provided by resolution of the Town Council in the Town Fee Schedule shall be added to the fine.
 - (c) For all other citations, after determining the appropriate fine for each person convicted of violating an ordinance of the Town, the Municipal Judge shall add thereto a surcharge calculated as a percentage of the total fine, which percentage shall be provided by resolution of the Town Council in the Town Fee Schedule.
- (2) Maximum fine. The total fine, including the surcharge, shall not exceed the maximum fine permitted under state law.
- (3) 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.

Secs. 2-75—2-90. Reserved.

ARTICLE IV Police Department

Sec. 2-91. Created; composition.

Sec. 2-92. Rules and regulations.

Sec. 2-93. Employment, oath, powers and duties of Chief of Police.

Sec. 2-94. Duties of police officers.

Sec. 2-95. Oath for police officers.

Sec. 2-96. Extraterritorial duty on request.

Sec. 2-97. Removal, disposition of lost, abandoned or confiscated property.

Secs. 2-98—2-110. Reserved.

Sec. 2-91. Created; composition.

There is hereby created a Police Department for the Town which shall consist of one (1) Chief of Police and as many police deputies, officers and personnel as may from time to time be deemed necessary for the safety and good order of the Town.

Sec. 2-92. Rules and regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Town Council, the Town Manager or the Chief of Police.

Sec. 2-93. Employment, oath, powers and duties of Chief of Police.

The Town Manager shall hire a Chief of Police who shall be the head of the Police Department and report directly to the Town Manager. Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, Constitution of the United States and ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

It shall be the duty of the Chief of Police to, among others as may be prescribed by the Town Manager:

- (1) Enforce the ordinances of the Town, the laws of the state and the rules and regulations of the Police Department, and perform such duties as may be required by the Town Council acting through the Town Manager;
- (2) Direct the operations of the Police Department, subject to the rules and regulations thereof;
- (3) When appropriate, arrest any person violating any of the Town ordinances or state laws; and
- (4) Reconcile and keep records of the accounts of the Police Department.

Sec. 2-94. Duties of police officers.

All members of the Police Department shall:

- (1) Perform all duties required by the Chief of Police;
- (2) Suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town and pursue and arrest any person fleeing from justice;
- (3) Enforce the ordinances of the Town and the laws of the state and, when appropriate, arrest any person violating any of the Town ordinances or state laws;
- (4) Report offenses as may come to their knowledge to the proper Town official or the Municipal Judge and, if appropriate, endeavor to secure a warrant for the arrest of offenders; and
- (5) Execute and return all writs and processes directed by the Municipal Judge, and serve the same in any part of the County.

Sec. 2-95. Oath for police officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution and laws of the state, the Constitution of the United states and the ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

Sec. 2-96. Extraterritorial duty on request.

The Chief of Police may, in his or her discretion, upon request of a chief of police or person exercising the functions thereof in any other jurisdiction, assign police officers under his or her control together with such equipment as he or she shall deem to be proper to perform temporary duty in the requesting jurisdiction.

Sec. 2-97. Removal, disposition of lost, abandoned or confiscated property.

The Police Department is authorized to remove and dispose of all property, other than automobiles, which is found to be lost or abandoned, or which is confiscated, upon the streets or alleys of the Town or upon private property within the Town limits. Disposal of such removed or confiscated property shall be in accordance with policies and procedures prescribed by the Chief of Police and in accordance with state law. All proceeds from the sale of such property, if at all, shall be placed in the General Fund of the Town.

Secs. 2-98—2-110. Reserved.

ARTICLE V Fire Department

Sec. 2-111. Fire prevention.

Sec. 2-112. Appeals.

Secs. 2-113—2-130. Reserved.

Sec. 2-111. Fire prevention.

The International Fire Code adopted by the Town pursuant to Chapter 18 of the Code shall be enforced by the Front Range Fire Rescue Fire Protection District or the Loveland Fire Rescue Authority, as appropriate.

Sec. 2-112. Appeals.

Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the International Fire Code do not apply or that the true intent and meaning of the International Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Chief to the Board of Appeals within thirty (30) days from the date of the decision appealed.

Secs. 2-113—2-130. Reserved.

ARTICLE VI Social Security

Sec. 2-131. Participation authorized.

Sec. 2-132. Payroll deductions and contributions.

Sec. 2-133. Agreements authorized.

Secs. 2-134—2-140. Reserved.

Sec. 2-131. Participation authorized.

The Town is hereby authorized to extend social security coverage and the benefits related thereto to employees of the Town and do all other necessary things to effectuate such coverage.

Sec. 2-132. Payroll deductions and contributions.

The Town Manager, or his or her designee, is hereby authorized to establish a system of payroll deductions and make all required payments into the appropriate social security contribution fund.

Sec. 2-133. Agreements authorized.

The Town Manager, or his or her designee, is hereby authorized to execute a plan and agreement to extend coverage to the employees of the Town in accordance with federal and state law. Such plan and agreement shall provide that the participation of the Town shall be in effect as of April 1, 1951.

Secs. 2-134—2-140. Reserved.

ARTICLE VII Municipal Campaign Finance

Sec. 2-141. Definitions.

Sec. 2-142. Complaints; duties of Town Clerk.

Sec. 2-143. Hearing Officer.

Sec. 2-144. Enforcement by Town Clerk.

Secs. 2-145 - 2-150. Reserved.

Sec. 2-141. Definitions.

For the purposes of this Article, the following terms shall have the meaning set forth herein:

Article XXVIII shall mean Article XXVIII of the Colorado Constitution, entitled Campaign and Political Finance, as amended from time to time.

Town Clerk shall mean the Town Clerk of the Town of Johnstown or such person's designee.

FCPA shall mean the Fair Campaign Practices Act, Section 1-45-101, et seq., C.R.S., as amended from time to time.

Sec. 2-142. Complaints; duties of Town Clerk.

- (1) Any person who believes a violation of Article XXVIII or the FCPA has occurred related to a Town election may file a written complaint with the Town Clerk.
- (2) Complaints must be filed in writing with the Town Clerk no later than thirty (30) calendar days after the complainant knew or should have known by the exercise of reasonable diligence of the alleged violation.
- (3) A written complaint filed with the Town Clerk shall include the following information:
 - (a) The name, address, e-mail address, telephone number and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, e-mail address, telephone number and signature);
 - (b) The name of the person alleged to have committed a violation (the "respondent"); and

- (c) The particulars of the violation and any available documentation or evidence supporting the allegation.
- (4) If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the Town Clerk that the complaint was incomplete.
- (5) If the Town Clerk determines that the complaint was not timely filed, the Town Clerk shall dismiss the complaint and provide written notice to the complainant and respondent. The Town Clerk's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (6) If the Town Clerk determines that the complaint is timely filed, the Town Clerk shall provide notice along with a copy of the complaint to the respondent by personal service, regular mail or electronic mail.
- (7) The respondent shall have thirty (30) days from the date of the notice to cure the violation set forth in the complaint or respond to the complaint. If a response is filed, the respondent shall provide a copy of the response to the complainant by personal service, regular mail or electronic mail.
- (8) If the respondent does not cure the violation in the complaint, as determined by the Town Clerk, the Town Clerk shall appoint an independent hearing officer who is not an officer or employee of the Town.
- (9) In addition to the procedures set forth herein, the Town Clerk is authorized to adopt rules and regulations consistent with the provisions hereof as may be required to implement this Article.
- (10) For purposes of this Article, electronic mail delivery shall only be effective upon acknowledgment of receipt of the electronic mail by the intended recipient.

Sec. 2-143. Hearing Officer.

- (1) Upon appointment by the Town Clerk, the hearing officer shall determine whether the complaint identifies a violation of Article XXVIII or the FCPA and whether the complainant asserted facts to support the alleged violation. If the complaint does not meet that threshold, the hearing officer shall dismiss the complaint and provide written notice to the complainant and respondent. The hearing officer's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (2) If the complaint is not dismissed, an informal hearing shall be scheduled as soon as practicable but, unless an enlargement of time is granted for good cause, the hearing shall be held within forty-five (45) days of the referral of the complaint to the hearing officer.
- (3) Notice of the hearing and any applicable rules governing the hearing process shall be sent to the complainant and to the respondent.
- (4) The hearing officer shall have authority to issue administrative subpoenas requiring the attendance of a witness or party. It shall be unlawful for a witness or party to fail to comply with such subpoena, and any person convicted of a violation hereof shall be punished in accordance with Article IV of Chapter 1 of the Code, as amended from time to time.

- (5) At the hearing, the complainant and the respondent shall be allowed to be heard and may, in addition to testimony, present written documents and evidence. The complainant shall have the burden of proof by proving the alleged violation(s) by a preponderance of the evidence.
- (6) Following the conclusion of the hearing, the hearing officer shall issue a written order within twenty (20) calendar days.
- (7) If the hearing officer determines that a violation has occurred, the hearing officer's written order may include appropriate relief including, without limitation, any of the following:
 - (a) Order disclosure of the source and amount of any undisclosed contributions or expenditures;
 - (b) Order the return to the donor of any contribution made that was the subject of the violation;
 - (c) Order the respondent to reimburse the fund of the Town from which moneys were inappropriately diverted; and/or
 - (d) Impose a civil penalty in accordance with the Colorado Department of State's published guidelines or as otherwise appropriate.
- (8) The hearing officer's written order is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 2-144. Enforcement by Town Clerk.

If the Town Clerk has reason to believe that a violation of the FCPA or Article XXVIII has occurred, the Town Clerk may commence enforcement proceedings in accordance with the procedures set forth in this Article.

Secs. 2-145—2-150. Reserved.

ARTICLE VIII Disaster Emergency Preparedness

Sec. 2-151. Procedures

Sec. 2-152. Disaster emergency response powers.

Sec. 2-153. Compensation.

Sec. 2-154. Line of succession.

Sec. 2-155. Conflicting ordinances, orders, rules and regulations suspended.

Sec. 2-156. Violation of regulations.

Sec. 2-157. Penalty.

Sec. 2-158. Applicability of state law.

Secs. 2-159—2-180. Reserved.

Sec. 2-151. Procedures.

- (1) Declaration of disaster emergency. In compliance to the extent practicable with the Colorado Disaster Emergency Act, Section 24-33.5-701, et seq., C.R.S., as amended, the Mayor may declare that a disaster emergency exists when an emergency event has occurred, is occurring or is imminent. For the purposes of this Article, a disaster is the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to, fire, flood, earthquake, wind, storm, epidemic, pandemic, hazardous substance incident, oil spill or water contamination requiring action to avert danger or damage, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action or a condition of riot, insurrection or invasion existing in the Town and to protect the public peace, health, safety or welfare.
- (2) Declaration in writing. Declaration of a disaster emergency by the Mayor shall be in writing and shall describe the nature of the emergency, the area threatened, the conditions that have brought it about and, if known, the conditions that would remedy it. The Town Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the Town Clerk and forward a copy to the Colorado Division of Emergency Management. At the next meeting, to be held not more than seven days after the Mayor's declaration of emergency, Town Council shall ratify the declaration of emergency. If the declaration of emergency is not ratified, the declaration shall be rescinded, but there shall be no consequence for action taken in good faith prior to the rescission.
- (3) Effect of declaration. The issuance of a declaration of a disaster emergency shall empower the Town Manager to exercise any and all of the emergency powers permitted by state and local law. The Town Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the Town Manager and evaluate and enact policy and other incident support as required. In case of a disaster emergency requiring immediate action of the Town Council to protect public peace, health, safety or welfare, the Town Council may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or the Town Manager finds feasible in the circumstances, with public notice to be achieved as soon as possible and all action taken during an emergency meeting to be ratified at the next regular or special meeting wherein public notice is provided. If the action is not ratified, it shall be deemed rescinded, but there shall be no consequence for action taken in good faith prior to the rescission. Nothing in this Article shall abridge or curtail the powers of the Town Council.
- (4) Duration. A state of disaster emergency shall remain in effect until the Town Council or Town Manager declares in writing that the threat of danger has passed or that the disaster emergency conditions no longer exist. The Town Council may, by motion, terminate a state of disaster emergency at any time. Upon continuing or terminating a disaster emergency, the Town Manager shall immediately issue and publish a notice effecting the same. Any declaration continuing or terminating a state of emergency shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Emergency Management.

- (5) Resolution. Notwithstanding the foregoing, in lieu of a declaration of emergency by the Mayor, the Town Council may pass a resolution declaring an emergency and implementing the procedures set forth in this Article.

Sec. 2-152. Disaster emergency response powers.

- (1) Upon the issuance of the disaster emergency declaration and for as long as said declaration is in effect, the Town Manager shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.
- (2) During the course of a declared disaster emergency, a Town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.
- (3) During the course of a declared disaster emergency, the Town Manager may, on behalf of the Town, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (4) During the course of a declared disaster emergency, the Town Manager may promulgate such regulations as the Manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the Town Council, shall be circulated to the public and shall be disseminated to the news media. These regulations may include, but shall not be limited to, powers granted by applicable state law. Specifically, during the course of any declared disaster emergency, the Town Manager may:
 - (a) Suspend the provisions of the Code that prescribe procedures for conduct of Town business, if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency;
 - (b) Transfer, reassign or otherwise change the direction, personnel or functions of Town departments for the purpose of performing or facilitating emergency services;
 - (c) Direct and compel evacuation of persons from any stricken or threatened area within the Town if the Town Manager deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery measures;
 - (d) Prescribe routes, modes of transportation and destinations in connection with evacuation;
 - (e) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
 - (f) Make provisions for the availability and use of temporary emergency housing;
 - (g) Waive all provisions for competitive bidding and may direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices;
 - (h) Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster forces or to facilitate the mass movement of persons from critical areas within or without the Town;
 - (i) Declare a public curfew; or

(j) Cause to be carried out such other measures or regulations as are necessary to preserve public peace, health, and safety.

(5) During the course of a declared disaster emergency, the Town Manager is authorized to exercise all powers permitted by the Charter, Code and state law to require emergency services of any Town officer or employee and command the aid of as many citizens of the Town as the Town Manager deems necessary in the execution of the Town Manager's duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for civil defense workers.

Sec. 2-153. Compensation.

Compensation for services or private property used by the Town in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principles and procedures set forth in Section 24-33.5-711, C.R.S., and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

Sec. 2-154. Line of succession.

(1) If the Mayor is unable to perform the duties set forth in this Article, then the duties conferred upon the Mayor shall be performed by the Mayor Pro Tem. If the Mayor Pro Tem is unable to perform the duties set forth in this Article, then the most senior available member of the Town Council shall perform the duties. For purposes of this Section, seniority shall be determined by the number of consecutive years a Councilmember has served on the Town Council. If two or more Councilmembers have served the same amount of consecutive years, then seniority shall be determined by the number of cumulative years that a Councilmember has served on the Town Council.

(2) If the Town Manager is not able to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Chief of Police. If the Chief of Police is unable to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Public Works Director. If the Public Works Director is not able to perform the duties set forth in this Article, then the Mayor shall designate a Town staff member to perform the duties.

(3) The Town Council may, by motion, modify the succession of authority provided herein.

Sec. 2-155. Conflicting ordinances, orders, rules and regulations suspended.

Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, order, rules and regulations if a conflict arises.

Sec. 2-156. Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this Article or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Article, or to willfully obstruct, hinder or delay any person in the exercise of any duty or authority pursuant to the provisions of this Article. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the Town Manager in writing shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Article.

Sec. 2-157. Penalty.

Any person convicted of a violation of any provision of this Article or of any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine or by imprisonment or by both such fine and imprisonment pursuant to the provisions in Article IV of Article 1 of the Code.

Sec. 2-158. Applicability of state law.

The Colorado Disaster Emergency Act, Section 24-33.5-701, et seq., C.R.S., as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Article to the extent applicable.

Secs. 2-159—2-180. Reserved.

ARTICLE IX Planning and Zoning Commission

Sec. 2-181. Created.

Sec. 2-182. Composition; appointments; term.

Sec. 2-183. Qualifications of members; compensation.

Sec. 2-184. Officers; meetings; rules and records.

Sec. 2-185. Duties and powers

Sec. 2-186. Preparation and purpose of master plan

Sec. 2-187. Referral and adoption of master plan.

Secs. 2-188—2-200. Reserved.

Sec. 2-181. Created.

Pursuant to Section 31-23-201, et seq., C.R.S., as amended, there is hereby created a Planning and Zoning Commission for the Town.

Sec. 2-182. Composition; appointments; term.

The Planning and Zoning Commission shall consist of seven (7) members who shall be appointed at the discretion of the Town Council. The term of each appointed member shall be four (4) years or until his or her successor takes office. Members are not term limited.

Sec. 2-183. Qualifications of members; compensation.

All members of the Planning and Zoning Commission shall be residents in the Town. If any member ceases to reside in the Town, his or her membership shall immediately terminate. All members of the Planning and Zoning Commission shall serve as such without compensation.

Sec. 2-184. Officers; meetings; rules and records.

The Planning and Zoning Commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall

be two (2) years, with eligibility for re-election. The Planning and Zoning Commission shall hold at least one (1) regular meeting in each month, unless there is no Town business to come before the Commission during any such month. The Planning and Zoning Commission may adopt rules for the transaction of business and shall keep a record of the resolutions, transactions, findings and determinations.

Sec. 2-185. Duties and powers.

The Planning and Zoning Commission shall have all of the powers and perform each and all of the duties specified by Section 31-23-201, et seq., C.R.S., as amended, together with any other duties or authority which may hereafter be conferred upon it by state law. The performance of such duties and the exercise of such authority is to be subject to each and all of the limitations expressed in such legislative enactment or enactments.

Sec. 2-186. Preparation and purpose of master plan.

Consistent with Section 31-23-206, C.R.S., as amended, the Planning and Zoning Commission shall prepare a master plan and, after public hearing, refer such approved master plan to Town Council. In the preparation of a master plan, the Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Town and its environs, which will, in accordance with present and future needs, best promote health, safety, order, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public facilities and infrastructure.

Sec. 2-187. Referral and adoption of master plan.

Upon referral from the Planning and Zoning Commission, the Town Council shall conduct a public hearing to consider the master plan and thereafter adopt the master plan, adopt the master plan with modifications, deny adoption of the master plan or remand the proposed master plan to the Planning and Zoning Commission for further modifications and subsequent referral to Town Council for adoption.

Secs. 2-188—2-200. Reserved.

ARTICLE X Tree Board

Sec. 2-201. Creation.

Sec. 2-202. Functions.

Sec. 2-203. Operation.

Secs. 2-204—2-220. Reserved.

Sec. 2-201. Creation.

There shall be a Tree Board. Unless otherwise designated by ordinance or resolution, Town Council shall act as the Tree Board.

Sec. 2-202. Functions.

- (1) The Tree Board shall make recommendations concerning the purchase or disposition of trees, shrubs, vines, hedges or plants located upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (2) The Tree Board shall make recommendations concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (3) The Tree Board may make any other recommendations regarding the subject matter of trees and related vegetation in the Town.
- (4) Upon direction of Town Council, Town staff shall implement the Tree Board's recommendations.

Sec. 2-203. Operation.

The Tree Board shall meet at least one time annually. A majority of the members of the Tree Board shall be a quorum for the transaction of business.

Secs. 2-204—2-220. Reserved.

ARTICLE XI Ethics Code

Sec. 2-220. Declaration of policy.

Sec. 2-221. Definitions.

Sec. 2-222. Code of ethics.

Sec. 2-223. Disclosure and resolution of conflict.

Sec. 2-224. Violations; penalty.

Sec. 2-225. Guideline violations.

Secs. 2-226—2-240. Reserved.

Sec. 2-220. Declaration of policy.

The proper operation of government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all Town officials and employees is adopted. The purpose of this ethics code is to establish guidelines for standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Town, by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Town and by imposing sanctions upon public officers or employees who violate the provisions of this Article.

Sec. 2-221. Definitions.

As used in this Article, the following words shall have the following meanings:

Business entity means any corporation, limited liability company, sole proprietorship, firm, partnership representation, association, venture, trust or corporation for profit.

Contract means any express or implied agreement which creates, modifies, or terminates a particular relationship with the Town, and shall include the designation of a depository for public funds.

Interest means a pecuniary or valuable benefit accruing to a public officer or employee, individually, as a result of a contract or transaction which is, or may be, the subject of an official act or action by or with the Town, except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

- (a) For the purposes of this Article, a public officer or employee shall be deemed to have an interest in the affairs of:
- (i) Any relative;
 - (ii) Any person or business entity with whom a contractual relationship exists with the public officer or employee;
 - (iii) Any business entity in which the public officer or employee is an officer, director, owner, employee or investor;
 - (iv) Any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent (5%) of the total legal and beneficial ownership, is controlled by or owned by the public officer or employee.

Official action means any legislative, administrative or appointive act of any officer or employee of the Town, or any agency, board, committee or commission thereof.

Public officer or employee means any person holding a position by election, appointment or employment in the service of the Town, whether paid or unpaid.

Relative means any person related to any public officer/employee by blood or marriage, to include, but not be limited to, parents, spouses, children, brothers and sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren, and children-in-law, and a divorce or separation between spouses shall not be deemed to terminate any such relationship.

Sec. 2-222. Code of ethics.

The following requirements shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the Town.

- (1) No public officer or employee having the power or duty to perform an official act, related to a contract or transaction which is the subject of an official act or action of the Town, shall:
- (a) Have or thereafter acquire an interest in such contract or transaction, unless said contract or transaction resulted from the proper bid process for the Town;
 - (b) Have an interest in any business entity representing, advising or appearing on behalf of any person involved in such contract or transaction with the Town;
 - (c) Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction with the Town, or;

- (d) Have solicited, accepted or granted a present or future gift, favor, service, or thing of value from or to a person involved in a contract or transaction with the Town, except that provisions of this Subsection shall not apply to an occasional nonpecuniary gift of fifty dollars in value or less, or to an award publicly presented in recognition of public service.
- (2) No public official or employee shall attempt to influence the hiring, rate of pay, or appointment of any relative by the Town.
- (3) No relative shall be hired into any position unless proper notification and advertisement has been made to insure all potential applicants receive an equal opportunity for employment.
- (4) No public officer or employee with respect to any contract or transaction which is, or may be, the subject of an official act or action of the Town shall personally acquire an interest in any property which may be affected by such action; nor disclose any confidential information concerning a contract or transaction which may involve the Town for the purpose of advancing any private interest.
- (5) No public employee shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
- (6) No public official shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless such official discloses the conflict for the public record and abstains from voting on such issue. Furthermore, the official shall remove himself or herself from the room where such discussion and voting takes place.
- (7) No public officer or employee shall appear on behalf of any person, other than himself or herself, his or her spouse, minor children, parents or grandparents before any Town agency. However, a member of the Town Council may appear before any municipal agency on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.
- (8) No public officer or employee who in his or her capacity as such officer or employee participates in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or her part shall enter into any contract with the Town unless the contract is awarded through proper bid process.
- (9) No public officer shall request or permit the unauthorized use of any Town-owned vehicles, equipment, personnel, materials or property for personal convenience or profit.
- (10) No public officer or employee shall request or grant a special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in similar circumstances or need.
- (11) A public official or employee shall not, at any time within two (2) years after his or her termination from his or her position with the Town, appear before any board, commission, committee, or agency of the Town in relation to or with respect to any matter in which he or she was directly involved in the review, acceptance, policy formulation, or administration of such matter while a Town official or employee.
- (12) At any meeting or gathering of three (3) or more members of the Town Council or any appointed board of the Town, the members shall not discuss any public business, nor shall matters pertaining to public business be presented unless such meeting is open to the general public and prior notice for such meeting has been given.

Sec. 2-223. Disclosure and resolution of conflict.

A public officer or employee shall remove himself or herself from any conflict or as follows:

- (1) Any elected or appointed public official or employee who has an interest in any proposed action before the Town Council or a board or commission of which the public official or employee is a member shall immediately disclose the nature and extent of such interest, which such disclosure being a matter of public record.
- (2) The public official or employee shall not vote on the proposed action before the Town Council, other board or commission.
- (3) Said public official or employee shall not participate in any discussion on the proposed action.

Sec. 2-224. Violations; penalty.

A public officer or employee who violates any of the provisions of this ethics code shall be subject to the following penalties:

- (1) In all cases, the determination of the Town Council as to whether there has been a violation shall be final.
- (2) In the case of a Town Council member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council.
- (3) In the case of a board member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council and grounds for termination of such person's appointment to any board of which he or she is a member. If the Town Council votes to terminate the appointment of a board member upon such grounds, the Town Council may appoint another person to fulfill the term of the individual removed from office.

Sec. 2-225. Guideline violations.

Any apparent violations of any of this Article may be referred to the Town Council for investigation. If, upon investigation, the Town Council finds that a violation of the guidelines contained in Section 2-222 has occurred, the Town Council may caution or reprimand the public officer or employee responsible thereof or take such other action as it deems to be in the best interests of the Town.

Secs. 2-226—2-240. Reserved.

Section 3. 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 4. 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 5. Publication; Effective Date. 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 and by the Certificate of Publication. This Ordinance shall become effective on January 1, 2021. Copies of the entire Ordinance shall be available at the office of the Town Clerk.

INTRODUCED, AND APPROVED, subject to amendments, on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED AS AMENDED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor