

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2023-248

AN ORDINANCE REPEALING ARTICLES I-VIII OF CHAPTER 6 OF THE JOHNSTOWN MUNICIPAL CODE AND READOPTING ARTICLES I-IV OF CHAPTER 6 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING RESPECTIVELY GENERAL BUSINESS LICENSING, SOLICITOR LICENSING, TREE CONTRACTOR LICENSING AND SHORT-TERM RENTAL LICENSING

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

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

WHEREAS, Chapter 6 of the Johnstown Municipal Code (“Code”) regulates business licensing and regulations in the Town; and

WHEREAS, the Town Clerk recommends that Chapter 6 be revised and amended to: (i) reflect new policies and procedures regarding general business, solicitor and tree contractor licensing; (ii) omit fireworks, auction and auctioneer, skating rinks, merry-go-rounds, show and exhibitions and coin-operated game machine licensing; and (iii) add short-term rental licensing; and

WHEREAS, based on the recommendation of the Town Clerk, the Town Council desires to repeal Articles I-VIII of Chapter 6 of the Code and readopt Articles I-IV of Chapter 6 of the Code concerning respectively general business licensing, solicitor licensing, tree contractor licensing and short-term rental licensing; 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. Repeal of Articles I-VIII of Chapter 6. Articles I-VIII of Chapter 6 of the Johnstown Municipal Code are hereby repealed in their entirety.

Section 2. Readoption of Article I-IV of Chapter 6. Articles I-IV of Chapter 6 of the Johnstown Municipal Code are hereby readopted to read in full as follows:

Article I – Business Licenses Generally

Sec. 6-1. - Purpose; administration.

- (a) The purpose of this Article is to require the registration of all businesses with a physical presence in the Town and to provide the Town with information concerning such businesses, including, but not limited to, the nature of the business operation, the number of employees and the place of business, in order to protect the health, safety and welfare of the Town's citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing business licensing that are not inconsistent with the provisions of this Article.

Sec. 6-2. - Definitions.

For the purposes of this Article, the following definitions shall apply:

Business means and includes all kinds of vocations, occupations, home occupations, professions, enterprises and establishments, any of which are conducted on premises in the Town and/or have a physical presence in the Town.

Owner means the person owning a business, or the operator, manager or lessee of a business.

Physical presence has the meaning ascribed by state law.

Premises means and includes the land and structures connected, used or occupied by a business in the Town.

Sec. 6-3. – License required; term.

- (a) Unless exempted by the Town Clerk, the owner of each business within the Town shall obtain a business license. A separate business license shall be obtained for each premises, regardless of ownership, wherein business is carried on in the Town.
- (b) It is unlawful for an owner to commence, carry on or establish any business within the Town without first obtaining a business license.
- (c) Each business license issued during a calendar year shall remain in effect until the earlier of the following: (i) December 31 of such year, (ii) the business no longer operates within the Town boundaries or (iii) the ownership of the business changes. At the end of each calendar year, the business license may be renewed upon payment of the business license renewal fee and the receipt of additional information, if any, required by the Town Clerk.

Sec. 6-4. - Application for license.

- (a) The owner of each business within the Town shall submit an application to the Town Clerk for a business license on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the business license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the business license. The owner shall thereafter post the business license in a prominent place at the premises.

- (c) If the Town Clerk determines that the issuance of the business license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any business license.

Sec. 6-5. – License Fee.

Upon the submission of an application for a business license, the owner of each business within the Town shall pay a license fee for the business license in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-6. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk’s decision, affirming the Town Clerk’s decision with conditions, or reversing the Town Clerk’s decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager’s decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council’s decision shall be final and conclusive.
- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-7. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article II – Solicitor Licenses

Sec. 6-20. Purpose; administration.

- (a) The purpose of this Article is to provide notice to the Town of the persons conducting solicitation activities within the Town boundaries for the health, safety and welfare of the Town’s citizens and residents. By issuance of a solicitor license, the Town does not intend to be, and shall not be, liable for actions or omissions of the solicitor.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing solicitor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-21. Definitions.

For purposes of this Article, the following definitions shall apply:

Solicitor means any person who solicits for the purchase or sale of goods or services of any nature whatsoever from any private residence.

Sec. 6-22. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the solicitor business in the Town shall obtain a solicitor license.
- (b) It is unlawful for any person to engage in the business of solicitor within the Town without first obtaining a solicitor license.
- (c) The term of the solicitor license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-23. Application for license.

- (a) Applicants for a solicitor license shall file an application with the Town Clerk on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the solicitor license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the solicitor license.
- (c) If the Town Clerk determines that the issuance of the solicitor license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any solicitor license.

Sec. 6-24. – License Fee.

Upon the submission of an application for a solicitor license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-25. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk's decision, affirming the Town Clerk's decision with conditions, or reversing the Town Clerk's decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager's decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council's decision shall be final and conclusive.

- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-26. Solicitations prohibited by posting of sign.

It shall be unlawful for any person engaged as a solicitor in the Town to call on or attempt to contact any person, by knocking, ringing the doorbell or any other method, at a premises displaying a “No Solicitation” sign, a “No Trespassing” sign or any other sign or notice which conveys said message with reasonable clarity. This provision shall apply to all solicitations, including, without limitation, those conducted by organizations eligible for tax exemption under Section 501(c) of the Internal Revenue Code.

Sec. 6-27. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article III – Tree Contractor Licenses

Sec. 6-40. Purpose; administration.

- (a) The purpose of this Article is to regulate and license tree maintenance activities in the Town for the health, safety and welfare of the Town’s citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing tree contractor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-41. Definitions.

For purposes of this Article, the following definitions shall apply:

Tree maintenance consists of tree pruning, tree removal and all other tree care activities. *Tree maintenance* does not include activities involving tree installations, tree stump grinding or pesticide applications if the business is licensed by the Colorado Department of Agriculture.

Sec. 6-42. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the tree maintenance business in the Town shall obtain a tree maintenance license.
- (b) It is unlawful for any person to engage in the business of tree maintenance within the Town without first obtaining a tree maintenance license.
- (c) The term of the tree maintenance license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-43. Application for license.

- (a) Applicants for a tree contractor license shall file an application with the Town Clerk on a form supplied by the Town.

- (b) Applicants shall be certified by the International Society of Arboriculture arborists or have equivalent certifications, shall maintain such certification during the term of the tree contractor license and shall provide a copy of such certification to the Town Clerk.
- (c) If the Town Clerk determines that the issuance of the tree contractor license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the tree contractor license.
- (d) If the Town Clerk determines that the issuance of the tree contractor license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (e) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any tree contractor license.

Sec. 6-44. – License Fee.

Upon the submission of an application for a tree contractor license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-45. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk’s decision, affirming the Town Clerk’s decision with conditions, or reversing the Town Clerk’s decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager’s decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council’s decision shall be final and conclusive.
- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-46. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article IV – Short Term Rental Licenses

Sec. 6-60. Purpose; administration.

- (a) The purpose of this Article is to regulate and license short term rental activities in the Town for the health, safety and welfare of the Town’s citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing short term contractor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-61. Definitions.

For purposes of this Article, the following definitions shall apply:

Short-term rental means any rental of a residential dwelling or portion thereof for less than thirty (30) days for residential purposes.

Sec. 6-62. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the short-term rental business in the Town shall obtain a short-term rental license.
- (b) It is unlawful for any person to engage in the business of short-term rental within the Town without first obtaining a short-term rental license.
- (c) The term of the short-term rental license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-63. Application for license.

- (a) Applicants for a short-term rental license shall file an application with the Town Clerk on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the short-term rental license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the short-term rental license. The license must be posted in a conspicuous location within the short-term rental property.
- (c) If the Town Clerk determines that the issuance of the short-term rental license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any short-term rental license.

Sec. 6-64. – License Fee.

Upon the submission of an application for a short-term rental license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-65. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk's decision, affirming the Town Clerk's decision with conditions, or reversing the Town Clerk's decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager's decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council's decision shall be final and conclusive.

(c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-66. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

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 Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor

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

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor