

**TOWN OF JOHNSTOWN, COLORADO**

**ORDINANCE NO. 2021-194**

**AN ORDINANCE REPEALING AND READOPTING ARTICLE V  
OF CHAPTER 11 OF THE JOHNSTOWN MUNICIPAL CODE  
CONCERNING PUBLIC PARKS**

**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**, Article V of Chapter 11 of the Johnstown Municipal Code (“Code”) concerns public parks; and

**WHEREAS**, the Town staff recommends that Article V of Chapter 11 of the Code be revised to reflect new policies and procedures and replace the right to receive a “3.2% beer permit” in Hays Park with the right to consume “fermented malt beverages” in Hays Park; and

**WHEREAS**, based on the recommendations of Town staff, Town Council desires to repeal and readopt Article V of Chapter 11 of the Code; and

**WHEREAS**, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:**

**Section 1.** Repeal and Readoption of Article V of Chapter 11. Article V of Chapter 11 of the Johnstown Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

**ARTICLE V – Public Parks**

**Sec. 11-81. – Public parks.**

For purposes of this Article, the term *public park* or *park* shall mean a park, playground, or any other area in the Town owned or used by the Town for active or passive public recreation.

**Sec. 11-82. – Administration.**

The Town Manager is hereby delegated the authority to operate and maintain the public parks, which authority may be delegated to duly qualified employees and agents of the Town, and to

implement rules and regulations governing the public parks that are not inconsistent with the provisions of this Article. Such rules and regulations shall be on file and available for public examination in the office of the Town Clerk. The failure to comply with any rule or regulation shall be deemed a violation of this Article.

**Sec. 11-83. - Daily park hours.**

Public parks shall be open daily to the public from 5:00 a.m. until 10:00 p.m. and no person not an employee of the Town on official Town business shall remain in the parks at any other time; provided, however, that the Town may, by permit, extend or limit the time herein specified.

**Sec. 11-84. - Destruction of park property.**

It shall be unlawful to cut, mark, remove, break or climb upon, or in any way injure, damage or deface the trees, shrubs, plants, turf or any of the park facilities, buildings, equipment, fences, bridges or other structures or property within or upon the public parks, or in any other way injure or impair the natural beauty or usefulness of any public park.

**Sec. 11-85. - Erection of structures in park.**

It shall be unlawful to build or place any tent, booth, stand or other structure in or upon any public park except pursuant to written authorization by the Town.

**Sec. 11-86. - Alcohol.**

- (1) Alcoholic beverages prohibited. Except as provided below or pursuant to a special event liquor permit, it shall be unlawful to serve, consume or have an open container of alcoholic beverages in the public parks.
- (2) Hays Park. Upon approval of the Town and execution of a park reservation agreement, the Town may issue a permit for the consumption of fermented malt beverages in Hays Park. The Town shall collect a fee for the permit in the amount set forth by resolution of the Town Council in the Town Fee Schedule. The permit shall not be transferrable and shall be in the permittee's possession while at the park.

**Sec. 11-87. – Lake Park.**

- (1) Persons may fish in Lake Park pursuant to a permit issued by the Town. The Town shall collect a fee for the permit in the amount set forth by resolution of the Town Council in the Town Fee Schedule. The permit issued shall not be transferable and shall be in the permittee's possession while fishing. The Town may, in its discretion, revoke the permit if the permittee fails to comply with the park rules and regulations.
- (2) It shall be unlawful to:
  - (a) Fish in Lake Park except pursuant to a permit;
  - (b) Swim, wade or enter the water at Lake Park;
  - (c) Use a boat or floatation device in Lake Park; and
  - (d) Except for law enforcement, possess firearms at Lake Park.

**Sec. 11-88. – Violation.**

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

**Section 2. Severability.** If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

**Section 3. Code revisions.** Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

**Section 4. 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 upon final passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance shall be 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 16<sup>th</sup> day of March, 2021.

**TOWN OF JOHNSTOWN, COLORADO**



By: Diana Seele  
Diana Seele, Town Clerk

By: Gary Lebsack  
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 \_\_\_\_\_, 2021.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Diana Seele, Town Clerk

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

**PARK RESERVATION AGREEMENT**

Date Requested: \_\_\_\_\_ Time: \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm

Name or Organization \_\_\_\_\_

Address: \_\_\_\_\_

Phone/Cell # \_\_\_\_\_

Type of Function ("Event"): \_\_\_\_\_

Number of Participants \_\_\_\_\_ (100 or more Special Events Permit required)

Alcohol Requested (Hays Park ONLY) Yes / No \_\_\_\_\_  
(Fermented Malt Beverage Only)

Inflatables Requested Yes / No

Contact person and phone #: \_\_\_\_\_

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(office to complete section below)

Park \_\_\_\_\_ Fee: \_\_\_\_\_

Reserved \_\_\_\_\_

\_\_\_\_\_

Deposit: \_\_\_\_\_

**TOTAL DUE: \_\_\_\_\_**

Deposit check will be cashed. Deposit, or a portion thereof, will be reimbursed subsequent to the Event on the condition that the applicant complied with the provisions contained herein. Charges may be made against deposit for loss, damage, cleaning and/or additional time (additional time charged at 150% of reservation amount).

**Release of Liability and Agreement to Hold Harmless**

The applicant agrees to use the Park according to the Town's Rules and Regulations, which are attached hereto as Exhibit A. Among other obligations, the applicant agrees to be legally responsible for the conduct and control of both patrons and participants at the Event, to be financially responsible for any damages or injuries incurred arising from the use of the park, and to pay for repair or replacement, at the Town's discretion, for damage to the park property, including but not limited to the landscaping, facilities and equipment.

The applicant hereby agrees to release, indemnify and hold harmless the Town of Johnstown, its officials, employees and agents, for damage or loss of property within the park. The applicant further agrees to release, indemnify and hold harmless the Town of Johnstown, its officials, employees and agents, from and against all liability, claims or demands due to bodily injury, personal injury, sickness, disease or death, including attorney's fees, arising from or in any manner connected with the use of the park.

***THE UNDERSIGNED HAS CAREFULLY READ AND REVIEWED THIS AGREEMENT, UNDERSTANDS THIS AGREEMENT, IS AUTHORIZED TO EXECUTE THIS AGREEMENT AND AGREES TO THE ABOVE STATED CONDITIONS:***

If an individual:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

If an organization:

Name of Organization: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **PARK RULES AND REGULATIONS**

1. Reservations are available for attendance of 0 – 99 participants. If over 100 participants, a Special Events Permit must be applied for which may include requirements for port-a- potties and/or trash removal. Other events requiring a Special Events Permit include, but are not limited to, events which:
  - barricade or block any roadway
  - obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic
  - the public is invited or admission is charged
  - utilizes amplified sound due to its impact on the surrounding neighbors
  - alcohol is sold or served to the public
2. Deposits checks will be deposited into Town of Johnstown account.
3. Town sponsored or hosted functions are exempt from these fees.
4. The privilege to use the park in the future will be denied to persons and/or groups that fail to comply with the rules of this agreement.
5. During the time the park is being used by the Lessee, the Lessee is responsible for any and all accidents, injuries, damages or loss of property. The Town of Johnstown and its designated representatives shall be held harmless for any and all claims resulting from the use of the park.
6. Lessee shall provide proper supervision, ensuring the protection of persons and property in its care, enforcement of park rules and regulations and restriction of all participants to authorized areas only.
7. Lessee is responsible for proper cleaning of the park being used. This includes all decoration removal, clean up of the trash around the area and proper disposal of trash is required before vacating the premises. If additional cleaning is required, the Town reserves the right to forfeit the Lessee's damage deposit. Any additional charges incurred will be the responsibility of the Lessee.
8. Reservations are not considered complete until all fees or deposits have been paid.
9. Lessee's must be 18 years or older.
10. Lessee shall be held responsible if any person within their party breaks or climbs upon, damage or deface the trees, shrubs, plants, turf or any of the facilities, buildings, equipment or other structures or property within or upon park premises, or in any way injure or impair the natural beauty or usefulness of any park or recreation area.
11. Removal of any Town-owned property from any Town park is strictly prohibited; violators are subject to criminal prosecution.

### **PARK RULES**

1. No vehicles are to be driven or parked on grass at any time without written permission from the Town.
2. No tents, booths, stands or other structures shall be placed in the parks without pursuant written authorization by the Town. If stakes are to be driven into the ground, please be aware of any irrigation lines present, Lessee will be held liable for any damaged line.
3. Reservations are allowed for areas of the park and/or park shelters. Tot lots and playgrounds cannot be reserved. Please be aware that the park is a public place and

there may be other residents using other areas of the park including the playgrounds and restrooms.

4. Pick up all trash and debris and deposit in a trash receptacle.
5. If plastic or a "dance floor" is laid on the grass, it must be removed in a timely manner to prevent the grass from dying.
6. Parks can be reserved from 5:00 a.m. to 10:00 p.m., 7 days a week.
7. Failure to obey park closing time or allowing unruliness by members of the group will warrant forfeiture of all deposits.
8. Park use permits must be available at the facility during the time of use by the Lessee.