

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-264

An Ordinance Submitting To The Registered Electors Of The Town Of Johnstown
At The General Municipal Election To Be Held On April 2, 2024, A Charter
Amendment Conforming The Limits On Allowing Persons With Felony Convictions
To Hold Council Office To Those Set Forth In The Colorado Constitution

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a municipal corporation duly organized and existing under its Home Rule Charter (“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, Section 2.3.D of Article 2 of the Charter disqualifies a person convicted of a felony from serving as the Mayor or a Councilmember; and

WHEREAS, the U.S. Court of Appeals for the Tenth Circuit and the Colorado Supreme Court have determined that the right to seek and hold public office is a fundamental civil right under federal and state law; and

WHEREAS, under Colorado law, individuals lose the rights to vote and run for public office during their incarceration for a felony conviction, and upon completion of a sentence, rights of citizenship, such as the right to run for public office, are restored; and

WHEREAS, Colorado Constitution Article XII, Section 4, provides a permanent exception to the restoration of rights where the underlying felony conviction was for: (i) embezzlement of public monies; (ii) bribery; (iii) perjury; (iv) solicitation of bribery; or (v) subornation of perjury; and

WHEREAS, broad and permanent disqualifications from office for any felony conviction, like that included in the Charter, have been subject to criticism and legal attack in recent years; and

WHEREAS, the City of Aurora recently lost a lawsuit challenging its broad disqualification provision based on the conflicting provision in the Colorado Constitution; and

WHEREAS, the Town Council desires to amend the Charter to address the legal issue posed by the current overbroad disqualification of those with any felony conviction from running for or serving on the Town Council; 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. The Town Council hereby submits and refers to the registered electors of the Town a proposed amendment to Article 2 of the Charter to amend Section 2.3.D, to read in its entirety as follows:

ARTICE 2 – TOWN COUNCIL

Section 2.3. - Mayor and Councilmembers – Qualifications

...

D. No person prohibited by the Colorado Constitution from serving in public office or who has been convicted of a willful violation of this Charter shall be qualified to serve as Mayor or Councilmember.

Section 2. The question of amending the Charter for the purposes stated herein shall be submitted to the registered electors of the Town in substantially the following form:

SHALL SECTION 2.3.D OF ARTICLE 2 OF THE JOHNSTOWN HOME RULE CHARTER, DISQUALIFYING A PERSON CONVICTED OF A FELONY FROM SERVING ON THE TOWN COUNCIL, BE AMENDED TO CONFORM THE CHARTER TO THE COLORADO CONSTITUTION, WHICH SPECIFIES THE FELONIES RESULTING IN DISQUALIFICATION FROM SERVING IN PUBLIC OFFICE (CURRENTLY INCLUDING EMBEZZLEMENT OF PUBLIC MONIES, BRIBERY, PERJURY, SOLICITATION OF BRIBERY AND SUBORNATION OF PERJURY)?

___ YES

___ NO

Section 3. The election shall be a general municipal election conducted by mail ballot on April 2, 2024. Pursuant to Section 6.4 of Article 6 of the Charter, the Town Clerk is hereby authorized to be in charge of all activities and duties related to the election. In addition, the officers and employees of the Town are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Ordinance.

Section 4. 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 5. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the 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 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 18 day of December, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



By: Troy D. Mellon
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor