

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2019 -156

**AN ORDINANCE AMENDING CHAPTER 6 OF THE
JOHNSTOWN MUNICIPAL CODE TO INCLUDE
ARTICLE X, CONTRACTOR LICENSES**

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, Chapter 6 of the Johnstown Municipal Code regulates licensing in the Town; and

WHEREAS, the Town's building official, ProCode, Inc., recommends that the Town adopt contractor licensing procedures and requirements to ensure that contractors doing business within the Town have the minimum qualifications and maintain adequate liability insurance to perform construction work in the Town; and

WHEREAS, based upon recommendation of the Town's building official, the Town Council finds that it is in the best interest of the Town of Johnstown to amend Chapter 6 of the Johnstown Municipal Code to include Article X, Contractor Licenses.

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

Section 1. Chapter 6 of the Johnstown Municipal Code shall be amended to include Article X, Contractor Licenses, and shall read as follows:

ARTICLE X CONTRACTOR LICENSES

Sec. 6-181. Intent.

The intent and purpose of this Article is to ensure that contractors doing business within the Town have the minimum qualifications and maintain adequate liability insurance to perform construction by issuance of a contractor's license as set forth herein.

Sec. 6-182. General.

Except as delegated to the Town Manager herein, the Building Official shall administer the provisions of this Article. The Building Official may, with approval of the Town Manager, adopt reasonable rules and procedures for such purposes.

Sec. 6-183. Definitions.

For the purposes of this Article, the following terms shall have the following meanings:

Building Code means the International Building Code and all related uniform codes, including, but not limited to, the International Fire Code, International Plumbing Code and National Electrical Code as adopted by the Town in Chapter 18 of this Code and amended from time to time.

Building Official means the Building Official appointed by the Town Manager or, upon approval of the Town Manager, the Building Official's designee.

Building permit means the permit required by the Building Code adopted in Article II of Chapter 18 of this Code.

Code means the Johnstown Municipal Code.

Construction means the work, including the erection, alteration, demolition, movement, repair or remodeling, of any building or structure, or portion thereof, requiring a building permit pursuant to the Building Code and any work within the public ways or on any public facility in the Town.

Contractor means any person, firm, partnership, corporation, association, other organization or any combination thereof that performs construction work within the Town, unless otherwise specified in this Article.

Contractor's license means the license issued to a contractor performing construction work within the Town.

Employee means a person who is employed by a contractor to perform construction work that is paid a wage or salary and is eligible for Colorado workers' compensation insurance and unemployment insurance benefits. A worker who qualifies as an independent contractor under Colorado law is not considered an employee of a contractor.

Sec. 6-184. License Required.

- (a) Prior to performing construction work in the Town, a contractor shall obtain a contractor's license, except as otherwise permitted in this Article.
- (b) For any construction requiring a contractor's license, building permits shall only be issued to a property owner or to a contractor holding a contractor's license.

Sec. 6-184. Exemptions.

A contractor's license shall not be required for the following:

- (a) Construction that does not require a building permit.
- (b) Construction undertaken by the owner of a detached single-family dwelling and associated accessory buildings who personally performs construction on the dwelling and associated accessory buildings; provided that the owner may only commence construction on buildings located on a single parcel of real property in a 24-month period.
- (c) Construction undertaken by a person performing work as a contractor's employee on behalf of and in the name of the contractor holding a contractor's license.
- (d) Construction undertaken by a person performing work without pay or compensation of any kind who is supervised directly by a contractor holding a contractor's license.

Sec. 6-185. Building Official issuance of contractor license; variance by Town Manager.

- (a) The Building Official shall have the authority to issue contractor's licenses and, except as otherwise set forth herein, determine all matters related to the suspension or revocation of any contractor's license.
- (b) The Town Manager, in his or her discretion, is authorized to grant a variance from the terms of this Article in specific cases where the strict application of any provision of this Article would result in extraordinary practical difficulties or cause undue hardship or where, upon any other substantial reasonable basis, the Town Manager determines that a variance is warranted.

Sec. 6-186. Forms; fees; validity.

- (a) The Building Official shall prepare a contractor licensing application, which shall contain, among other potential requirements, the items required in Section 6-187, and is subject to approval of the Town Manager. The Building Official shall prepare any and all other forms necessary to satisfy the provisions of this Article, which are subject to approval of the Town Manager.
- (b) Prior to issuance of a contractor's license, the applicant shall complete the contractor licensing application.
- (c) The contractor shall pay a non-refundable fee of \$100.00, due and payable with the submission of the contractor licensing application, which fee shall be applied to offset the Town's costs associated with regulating the Building Code and administering the contractor licensing program.
- (d) A contractor's license is valid for a period of one year from the date of issuance, and may be renewed by payment of a renewal fee in the amount of \$100.00.
- (e) A contractor who performs construction prior to obtaining a contractor's license shall, in addition to the other remedies set forth in this Article, be required to pay an investigation fee in an amount equal to, and in addition to, the license fee, which fee shall be paid before a contractor's license may be issued.

Sec. 6-187. Application for contractor's license.

Prior to being issued any contractor's license, the applicant shall complete a contractor licensing application containing, among other potential requirements, the following information:

- (a) The applicant's business name, the names of all principals of the contractor, a current mailing address and telephone number.
- (b) A written summary documenting the applicant's relevant experience and identifying the last three construction projects. The Building Official may request references.
- (c) A copy of all licenses issued to the applicant by the State of Colorado.
- (d) Certificates of insurance setting forth the insurance maintained by the applicant for work performed within the Town, including, but not limited to, workers' compensation, builder's risk insurance, if any, and general liability coverage.
- (e) A signed statement by the applicant acknowledging the obligations associated with the contractor's license.

Sec. 6-188. Responsibilities of contractor.

The contractor shall observe the following standards:

- (a) The contractor shall obey all notices and orders issued by the Town Manager or the Building Official.
- (b) The contractor shall observe generally accepted safety standards.
- (c) The contractor shall maintain liability insurance and workers' compensation insurance as set forth in the contractor's application. Upon request, proof of insurance shall be provided to the Building Official.

- (d) Upon request, the contractor shall identify all subcontractors performing construction and contracting with the contractor.
- (e) The contractor shall maintain a current address and contact telephone number with the Building Official.
- (f) The contractor shall not proceed with construction until after the issuance of a building permit, and any other required permits, and shall obtain the required inspections and authorizations to proceed with the work authorized under the permit(s).
- (g) If a contractor is released from or abandons construction, the contractor shall immediately notify the Building Official in writing. No further work shall be done on a construction project until the Building Official is notified in writing of the intended resumption by an owner or a different contractor entitled to obtain a building permit and a contractor's license.

Sec. 6-189. Disciplinary procedures, violations and penalties.

- (a) Building Official. When the Building Official determines that a contractor has committed a violation of this Article, the Building Code or the Code, the Building Official may order a suspension or revocation of the contractor's license. Notification of the suspension or revocation shall be in writing and shall be delivered to the contractor by certified mail to the contractor's last known address, as contained on the contractor's application or as set forth in a written notice submitted subsequent to submission of the contractor's application, or by personal delivery to the contractor or to the contractor's representative at a construction project, and shall be effective within three days of mailing or upon personal delivery. The notification shall state in reasonable detail the essential facts and reasons for said action and shall advise the contractor of the right to submit a written appeal to the Town Manager within fifteen (15) days, setting forth in detail the basis of the appeal.
- (b) Town Manager. The Town Manager may, in his or her discretion, conduct a hearing or take any reasonable action to investigate the facts and circumstances giving rise to the Building Official's suspension or revocation of the contractor's license. The Town Manager shall have the power to affirm the suspension or revocation and take any other disciplinary action when the Town Manager determines that the contractor has committed any of the following:
 - (1) Knowing or deliberate disregard of this Article, the Building Code or the Code;
 - (2) Failure to comply with any lawful requirement of the Building Official;
 - (3) Misrepresentation of a material fact in obtaining a building permit or a contractor's license;
 - (4) Employing subcontractors to perform construction for which a contractor's license is required under this Article when such workers are neither employees nor exempt as defined under this Article; or
 - (5) Requesting repeated inspections when such inspections reveal that the work performed by the contractor fails to comply with the Building Code and such repeated noncompliance occurs in a manner or to an extent that demonstrates that the contractor either is negligent, not providing adequate supervision or not qualified to perform or supervise the work.

Within thirty (30) days of receipt of an appeal, the Town Manager shall provide notification to the contractor of the Town Manager's order. The notification shall be in writing and shall be delivered to the contractor by certified mail to the contractor's last known address, as contained on the contractor's application or as set forth in a written notice submitted subsequent to submission of the contractor's application, or by personal delivery to the contractor or to the contractor's representative, and shall be effective within three days of mailing or upon personal delivery. If the Town Manager affirms the suspension or revocations of the contractor's license, the notification shall state in reasonable detail the essential facts and reasons for said action and shall advise the

contractor of the right to submit a written appeal to the Town Council within fifteen (15) days, setting forth in detail the basis of the appeal.

- (c) Town Council. An appeal to the Town Council shall be in writing, filed with the Town Clerk and allege with particularity the errors and omissions contained in the Town Manager’s order. The contractor shall, at that time of making such appeal, pay to the Town Treasurer a docket fee in the amount of fifty dollars (\$50.00). Written notice of the hearing shall be given to the contractor and to any other parties concerned at least five (5) days prior to the hearing. The contractor shall have the burden of proof on appeal. Within thirty (30) days of the hearing, the Town Council shall make its final determination and affirm, modify or reverse the Town Manager’s order. The decision of the Town Council shall be final and conclusive, except as provided by the laws of the State of Colorado.
- (d) Effect of Revocation. When the contractor’s license is revoked as set forth herein, the contractor shall not be granted another contractor’s license without approval of the Town Manager. The Town Manager, in deciding whether to approve a new contractor’s license, shall determine whether the contractor has demonstrated that any previous governmental disciplinary action has resulted in the rehabilitation of the contractor to good and disciplined character for lawful conduct as a contractor.
- (e) Enforcement. In addition to the suspension or revocation of a contractor’s license as provided herein, any person violating any of the provisions of this Article shall be subject to the penalties set forth in Section 1-62 of the Code.

Secs. 6-190 - 6-199 Reserved.

Section 2. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the Town 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 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 _____, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor