

ORDINANCE NO. 2017-013

**AN ORDINANCE AMENDING CHAPTER 3.04 OF THE CASTLE ROCK
MUNICIPAL CODE CONCERNING THE TOWN'S SALES TAX,
BY PROVIDING FOR A SALES TAX CREDIT AGAINST CERTAIN
PUBLIC IMPROVEMENT FEES PAID AT THE RIVERWALK PROJECT**

WHEREAS, the Town of Castle Rock, Colorado (the "Town") has entered into the Downtown Redevelopment Agreement (Riverwalk) (the "Redevelopment Agreement") with CD Wilcox, LLC ("Owner") and the Castle Rock Downtown Development Authority ("DDA") in association with the development of a mixed-use project known as the Riverwalk (the "Property"); and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Redevelopment Agreement; and

WHEREAS, pursuant to Section 4.03 of the Redevelopment Agreement, the Town Council of the Town has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of 2.7% against the collection of Taxable Transactions to the extent that a public improvement fee in the amount of 2.7% (the "Credit PIF") has been collected on Taxable Transactions occurring within the Property, subject to the terms and limitations set forth in the Redevelopment Agreement; and

WHEREAS, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Transactions occurring within the Project will substantially aid in the finance and development of the Project, and will protect and promote the public health, safety and general welfare of the residents of the Town.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Amendment. Chapter 3.04 of the Castle Rock Municipal Code, concerning the Town's sales tax, is hereby amended by the addition of a new Section 3.04.153 to read as follows:

3.04.153 Tax Credit Against Payment of Public Improvement Fees in the Riverwalk.

A. Notwithstanding any other provisions of this Chapter to the contrary, and in order to implement the provisions of the Redevelopment Agreement dated _____ and entered into by the Town of Castle Rock, CD Wilcox, LLC, and the Castle Rock Downtown Development Authority, as it may be amended (the "Redevelopment Agreement"), there is hereby granted to each person or entity obligated to pay, collect or remit the sales tax on the sale or provision of goods or services which are subject to the Town's sales taxes described in this Chapter occurring within the property known as the Riverwalk, and more

particularly described in Exhibit “4” of the Redevelopment Agreement (the “Property”), a tax credit against the collection of the sales taxes as hereinafter set forth. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Redevelopment Agreement, as amended from time to time. Such tax credit shall be granted in the form of a reduction in the applicable sales tax rate in an amount equal to 2.7%, and shall attach to a particular transaction only to the extent that the Credit PIF Revenue is collected and received by the PIF Collection Agent for such transaction. Notwithstanding the foregoing, in the event that the Credit PIF is imposed at a rate less than 2.7%, the tax credit shall be accordingly reduced to the amount of the Credit PIF so imposed. The tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction, but shall be subject to the applicable retailer’s remittance to and receipt by the PIF Collection Agent of the Credit PIF Revenue in accordance with the Credit PIF Covenant and the Redevelopment Agreement (as reflected on the retailer’s periodic sales tax report).

B. The sales tax credit granted pursuant this Section shall remain in effect for the period set forth in the Redevelopment Agreement and shall thereafter automatically terminate.

Section 2. Invalidity. In the event the sales tax credit established herein or the Credit PIF is determined by a final court decision to be unconstitutional, void or ineffective for any cause, retailers shall immediately be required to collect and remit the full Town sales tax as provided in Chapter 3.04 of the Castle Rock Municipal Code.

Section 3. Change in Tax Rate. Nothing contained in this Ordinance shall prohibit the Town, after complying with all requirements of law, from increasing or decreasing the Town’s sales tax rate.

Section 4. Effect of Credit, Applicability of TABOR. The Town Council hereby determines that the creation or termination of this tax credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the Town, and that nothing herein creates a multiple fiscal year financial obligation or other indebtedness of the Town, nor does the tax credit established by this Ordinance and the termination of such credit meet any of the other criteria requiring approval by the electors pursuant to Article X, Section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights (TABOR).

Section 5. Repealer. Any bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be constructed to revise any bylaw, order, resolution or ordinance or part thereof, heretofore repealed.

Section 6. Effective Date. The amendment to Chapter 3.04 of the Castle Rock Municipal Code shall become effective on the later of: (i) thirty (30) days following publication of this Ordinance, and (ii) the Effective Date of the Agreement.

Section 7. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. Safety Clause. The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 2nd day of May, 2017 by a vote of ____ for and ____ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 16th day of May, 2017 by the Town Council of the Town of Castle Rock, Colorado, by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Sally Misare, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney