



# Town of Castle Rock

## Agenda Memorandum

**Agenda Date:** 3/6/2018

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**Item #:** 27. **File #:** DIR 2018-008

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**To:** Honorable Mayor and Members of Town Council

**From:** Robert J. Slentz, Town Attorney

**Discussion/Direction: Proposed Ordinance Amending Sections 14.02.040 and 14.02.050 Concerning the Disposition and Lease of Real Property**

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### Executive Summary

Staff is requesting Town Council authorization to present the attached ordinance for formal consideration by Council at a later date. In brief, the ordinance broadens the circumstances under which Town-owned real property may be conveyed by ordinance, rather than requiring a vote of the people.

Currently the municipal code defaults to the state statutory scheme for disposition of real property applicable to municipalities (including home rule). The disposition of properties held for "park purposes" or "governmental purposes" must be approved by the voters §31-15-713(a) C.R.S. Other real property held by a local government may be conveyed by ordinance.

The proposed ordinance carves out an exception from the voter approval requirement for (i) property located outside the Town limits which is not envisioned for future municipal use, and (ii) off-street parking lots. However, disposition of these properties will still require authorization by Council ordinance, which is subject to citizen referendum, except in the event of emergency adoption. This revision is authorized by §31-1-102(1) C.R.S., allowing home rule municipalities to supersede this statutory provision by charter or ordinance.

The adoption of this ordinance will facilitate anticipated dispositions of real property that likely will be presented to Council later this year. It is important to note that there will remain a broad prohibition against the conveyance of parks and most Town building and facilities, absent voter approval.

### Proposed Motion

*"I move that the ordinance proposing amendments to the Castle Rock Municipal Code concerning the disposition and lease of real property be placed on the April 3, 2018 Town Council agenda for consideration on first reading.*

### Attachments

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Attachment A: Proposed Ordinance

**ORDINANCE NO. 2018-**

**AN ORDINANCE AMENDING SECTIONS 14.02.040 AND 14.02.050 OF  
THE CASTLE ROCK MUNICIPAL CODE CONCERNING THE DISPOSITION  
AND LEASE OF REAL PROPERTY**

**WHEREAS**, the disposition of Town-owned property is governed by Chapter 14.02 of the Castle Rock Municipal Code (CRMC), incorporating applicable provisions in state statutes,

**WHEREAS**, the administrative staff of the Town has recommended to Council to modify the CRMC to permit the conveyance of certain discrete categories of real property by ordinance without the necessity of obtaining voter approval of the proposed disposition,

**WHEREAS**, the limited modification of the CRMC to permit the conveyance of municipal parking lots and surplus extraterritorial real property will permit the expedient disposition of qualifying properties to meet market conditions or transactional expediencies, but still preserve the right of citizen referendum.

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

**Section 1. Amendment.** Section 14.02.040 of the Castle Rock Municipal Code is amended in its entirety to read as follows:

**14.02.040 Property disposition.**

A. The Town may dispose of a fee interest in real property upon such terms and conditions as the Town Council may determine, ~~but~~ in compliance with the provisions of Section 31-15-713, C.R.S. provided that the disposition of real property qualifying under the following subsections B and C may be approved by Town Council without voter approval.

~~Any such disposition which does not require voter approval shall be authorized by ordinance.~~

B. Any real property which is not within Town limits or contiguous with the Town boundary and is not currently utilized or planned for use in providing municipal services may be disposed of by ordinance.

C. Any real property utilized for off-street vehicular parking may be disposed of by ordinance provided such off-street parking is determined to be surplus to current or future municipal or public use, or the disposition will result in the development of alternate parking facilities.

**DB.** The Town may administratively grant an easement or license to real property, provided that the Town receives only nominal consideration for such grant. Such easement or license shall be approved by resolution of the Town Council if the Town is to receive compensation or other material consideration for the grant of the easement or license. The administrative grant of an easement or

license shall be by an instrument approved and executed by the Town Manager or designee and the Town Attorney or designee.

EC. In conjunction with a subdivision approval under Title 16 of this Code, an unimproved street right-of-way which has never been opened for public use, or access or utility tracts or easements previously dedicated or conveyed to the Town, may be abandoned in whole or in part, provided that adequate public access and municipal services within such platted area are preserved or relocated. Town ownership of right-of-way which has been improved or opened for public use may not be relinquished under this Subsection.

FD. Except for abandonment as authorized in Subsection C. above, Town right-of-way shall be vacated in accordance with the applicable statutory process.

**Section 2. Amendment.** Section 14.02.050 of the Castle Rock Municipal Code is amended in its entirety to read as follows:

**14.02.050 Lease of real property.**

The lease of ~~any~~ Town-owned real property interests for a term of less than one ~~(1)~~ year shall be authorized by Town Council resolution, or at the option of the Town Council, by ordinance. ~~The~~ Any lease of Town-owned real property interests for a term of greater than one year shall be authorized and approved ~~only~~ by ordinance.

**Section 3. Severability.** If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

**Section 4. 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 \_\_\_ day of \_\_\_\_\_, 2018 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 \_\_\_ day of \_\_\_\_\_, 2018, by the Town Council of the Town of Castle Rock by a vote of \_\_\_ for and \_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Lisa Anderson, Town Clerk

\_\_\_\_\_  
Jennifer Green, Mayor

**Approved as to form:**