

ORDINANCE NO. 2015-47

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 2.01
OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING ELECTIONS**

WHEREAS, Article XX, Section 6 of the Colorado Constitution provides that a home rule municipality is vested with, and shall always have, the power to make, amend, and add to its home rule charter and ordinances, which shall be the municipality's organic law that extends to all its local and municipal matters; and

WHEREAS, Article XX, Section 6 of the Colorado Constitution further provides that such charter and ordinances shall, in local and municipal matters, supercede within the territorial limits of a home rule municipality any law of the state in conflict therewith; and

WHEREAS, Article XX, Section 6 of the Colorado Constitution further provides that all matters pertaining to municipal elections are local and municipal matters, which a home rule municipality has the power to legislate upon, provide, regulate, conduct and control; and

WHEREAS, pursuant to this home rule authority, the Home Rule Charter of the Town of Castle Rock provides in Section 4-1 that the Town Council may, by ordinances not inconsistent with the Charter, provide for the conduct of elections within the Town; and

WHEREAS, pursuant to the authority set forth in Article XX, Section 6 of the Colorado Constitution, C.R.S. § 1-45-116, and Section 4-1 of the Town Charter, the Town Council by Ordinance No. 2007-46 adopted Chapter 2.01 of the Castle Rock Municipal Code, which provides the exclusive manner by which Town elections are conducted and for securing the purity of Town elections; and

WHEREAS, in the ensuing years since Chapter 2.01 was enacted, the Town Council has identified certain revisions to Town election procedures, set forth herein, which are necessary or desirable to increase the efficiency of Town elections, facilitate participation in Town elections by active military and overseas voters, and preserve the integrity of and public confidence in the results of Town elections.

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

Section 1. Amendment. Chapter 2.01, Article I of the Castle Rock Municipal Code is hereby repealed and re-enacted to read as follows:

Article I. General

2.01.100 Town elections; Election Commission; powers of clerk and deputy.

- A. All Town elections shall be held pursuant to this Chapter.

B. In accordance with the Town Charter, the Election Commission shall have charge of all activities and duties required of it by the Charter and this Chapter relating to the conduct of election in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. The Election Commission shall have the power to adopt reasonable rules and regulations not inconsistent with the Constitution and the State of Colorado, the Town's Charter and this Chapter. It is unlawful for any person to violate any rule or regulation of the Election Commission.

C. Except where otherwise provided in this Chapter, the Town Clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this Chapter 2.01. All powers and authority granted to the Town Clerk by this Chapter may be exercised by a deputy clerk in the absence of the Town Clerk or in the event the Town Clerk for any reason is unable to perform his or her duties.

2.01.110 Computation of time.

Calendar days shall be used in all computation of time made under this Chapter. In computing time for any act to be done, the first day shall be included, and the last day shall be excluded. Saturdays, Sundays, and legal holidays, as recognized by the State of Colorado, shall be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, or a legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

2.01.120 Affidavit of intent.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person whose name is written in at least thirty-two days before the date of the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected. The Town Clerk shall maintain an appropriate form of affidavit in the Town Clerk's office.

2.01.130 Watchers.

A. Each candidate for office at an election is entitled to appoint one registered elector of the Town to act in his or her behalf at the ballot processing center and polling place.

B. Each interested party in the case of an issue in a Town election is entitled to appoint one (1) registered elector of the Town to act in his or her behalf at the ballot processing center and polling place. For purposes of this Section 2.01.130, an interested party is a petition representative or "registered agent" as

defined in Article V of this Chapter who has fulfilled the filing and other requirements of Article V, and who is a registered elector of the Town.

C. No watcher may be a person who is a candidate for office at the election at which the person desires to serve as a watcher.

D. Each candidate or interested party shall certify the name of the person appointed as a watcher, on forms provided by the Town Clerk. The candidate or interested party may also appoint a substitute watcher to act in the place of the designated watcher, should the designated watcher need to leave the ballot processing center. The completed form must be received in the office of the Town Clerk by no later than 5:00 p.m. on the day before the election. The completed form may be submitted in person, by mail, by facsimile, or by electronic mail. No person whose completed form is received after that time and date shall be permitted to serve as a watcher.

2.01.140 Ballot counting equipment.

Counting of paper ballots at any Town election shall be by AccuVote, unless otherwise approved by the Election Commission.

2.01.150 Election procedures.

No later than forty-five days prior to any regular or special election, the Town Clerk shall prepare policies and procedures for the conduct of the election, which shall be reviewed and approved by the Election Commission and which shall regulate the conduct of the election.

2.01.160 Election may be cancelled.

If the only matter before the voters in any district of the Town is the election of persons to office and if, at the close of business on the twenty-ninth day before the election, there are not more candidates than offices to be filled at such election for the district, including candidates filing affidavits of intent pursuant to Section 2.01.120 of this Code, the Town Clerk, if instructed by resolution of the Town Council either before or after such date, shall cancel the election for such district and by resolution declare the candidates elected. Notice of such cancellation shall be published in order to inform the electors of the Town. If the election was to be conducted as a polling place election pursuant to Article IV of this Chapter, notice of such cancellation shall also be posted at each polling place and in not less than one other public place.

2.01.170 Qualification and registration required; deadlines.

A. Every person who meets the qualifications set forth in C.R.S. § 31-10-201, as may from time to time be amended, shall be entitled to register to vote at Town elections.

B. No person shall be permitted to cast a regular ballot at any Town election without first having been registered on or before the date of the election. No charge shall be made for registration.

C. Any person may register to vote in the following manner:

1. By mailing an application to the Douglas County Clerk and Recorder or the Town Clerk or by submitting an application through a voter registration agency, a local driver's license examination facility, or a voter registration drive no later than twenty-two days before the election.

2. By registering through a high school, in accordance with C.R.S. § 1-2-401, et seq., no later than twenty-two days before the election.

3. By registering using the online voter registration system established pursuant to C.R.S. § 1-2-202.5(7)(c) no later than eight days prior to the election.

4. By appearing in person at the office of the County Clerk and Recorder or Town Clerk during regular business hours on or before the date of the election; or

5. By appearing in person at a voter service and polling center pursuant to C.R.S. § 1-2-217.7 at any time during which the voter service and polling center is open, including on election day.

2.01.180 Active military or overseas voters—timely mailing, casting and receipt of ballot.

A. As used in this Section, "ballot materials" means the standardized absentee-voting materials developed by the Secretary of State pursuant to C.R.S. § 1-8.3-104(4)(a), and the declaration form for the execution of the declaration described in C.R.S. § 1-8.3-104(5).

B. Except as otherwise provided in subsection C, below, the Town Clerk shall mail a ballot and ballot materials to any person designated as an active military or overseas voter in the computerized statewide voter registration list no later than forty-five days before any election conducted in accordance with this Chapter 2.01; except that, if the Town Clerk receives a certificate of new

registration, notification of change of address, or notification of other change in status from an active military or overseas voter after the forty-fifth day before the election, the Town Clerk shall mail a ballot and ballot materials to the voter as soon as practicable.

C. In any recall election, the Town Clerk shall mail a ballot and ballot materials to any person designated as an active military or overseas voter in the computerized statewide voter registration list as soon as practicable after ballot certification.

D. To be valid, a ballot shall be received by the appropriate local election official not later than the close of the polls, or the voter shall submit the ballot for mailing, electronic transmission, or other authorized means of delivery not later than 7:00 p.m. mountain time on the date of the election.

E. No later than sixty days before the election, the County Clerk shall forward to the Town Clerk a complete list of voters in the Town who are marked as active military or overseas voters in the computerized statewide registration list.

F. Any eligible elector who is designated as an active military or overseas voter in the computerized statewide voter registration list may use a federal write-in absentee ballot to vote for all offices and ballot measures in any election conducted under this Chapter 2.01, and such ballot shall be processed in accordance with subsection D of this Section.

Article II. Mail Ballot Elections

2.01.200 General.

Unless otherwise determined in a resolution or ordinance adopted by the Town Council no later than sixty days prior to the date of the election, all regular and special elections shall be conducted as mail ballot elections. Mail ballot elections, other than those conducted as part of a coordinated or contracted election pursuant to Article III of this Chapter, shall be conducted in accordance with this Article.

2.01.205 Definitions.

Active voter means a registered elector who is designated an “active” voter on the registration list prepared by the County Clerk and Recorder.

Ballot drop-off location means any location authorized by the Town Clerk to received voted ballots on behalf of the Town (i.e., the County Clerk and Recorder’s office).

Ballot processing center means the location at which ballots may be dropped off and voting may occur, and which may include a polling place.

Damaged ballot means a ballot that has been torn, bent, mutilated or otherwise rendered unreadable by a ballot tabulating machine, or that would prevent a ballot tabulating machine from accurately counting the ballot.

Duplicate ballot means a true copy of a damaged ballot made in order for the ballot to be properly processed and counted.

Election day means the date either established by law or determined by the Town Council to be the final day on which all ballots are determined to be due, and the date from which all other dates in this Article are set.

Inactive voter means a registered elector who is designated an “inactive” voter on the registration lists prepared by the County Clerk and Recorder.

Mail ballot election means an election for which eligible electors may cast ballots by mail in accordance with this Article.

Mail ballot packet means the packet of information provided by the Town Clerk to eligible electors in the mail ballot election.

Poll book means the list of registered electors who are permitted to vote at the mail ballot election. The Town Clerk may utilize the registration list received from the County Clerk and Recorder as the poll book. The poll book for each election shall show the ballot number assigned, the address to which the ballot was mailed and whether the elector is required to submit with his or her mail ballot a copy of valid identification as defined in the Uniform Election Code and rules promulgated by the Secretary of State.

Reactivated voter means a registered elector who was listed as “inactive” on the registration records, but who completed the required form supplied by the Town Clerk requesting his or her voting status be reactivated.

Registered elector means an elector who has complied with the registration requirements and who lives within the Town.

Registration list means the computer list of electors currently registered to vote as furnished and certified by the County Clerk and Recorder.

Return envelope means an envelope that is printed with spaces for the name and address of, and a self-affirmation to be signed by, an eligible elector voting in a mail ballot election, which is designed to allow election officials, upon examining the signature, name and address on the outside of the envelope, to

determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

Secrecy envelope or *secrecy sleeve* means a separate envelope or sleeve used for a mail ballot election, provided to eligible electors as part of the mail ballot packet ballot, which is designed to conceal and maintain the confidentiality of the elector's ballot during the processing of ballots and counting of votes for that particular election.

Spoiled ballot means any ballot returned by the voter, for which a replacement ballot may be issued. A ballot is considered spoiled if it is torn, damaged or improperly marked, or otherwise deemed unusable by the voter.

Voter service and polling center means a location, other than a polling place, established by the County Clerk and Recorder for holding a general election, which offers voter registration and other services as described in C.R.S. § 1-5-102.9.

2.01.210 Nominations.

A. Nominations shall be made by petition on forms provided by the Town Clerk signed by at least twenty-five registered electors residing within the nominee's district. A petition of nomination may consist of one or more sheets, but it shall contain the name and address of only one candidate. The petition may designate one or more persons as a committee to fill a vacancy in the nomination. The petition may be amended prior to the fortieth day before the election to correct or replace those signatures the Town Clerk finds are not in apparent conformity.

B. Each registered elector signing a petition shall sign his or her own signature and shall print or, if he or she is unable to do so, shall cause to be printed his or her legal name, the address at which he or she resides, including the street name and number, the town and the date of signing. The registered elector, or the person printing on behalf of the registered elector, may use any abbreviations that reasonably identify the residence of the registered elector and the date the registered elector signed the petition.

C. No registered elector shall sign more than one nomination petition for a candidate for the district in which the elector resides. If a registered elector's signature appears on more than one candidate nomination petition, all such signatures of the registered elector shall be rejected.

D. The time periods for circulation, submission and cure of nomination petitions for any Town mail ballot election shall be as follows, or as otherwise directed by Town Council resolution:

1. First day to pick up petition: ninety-one days before election.
2. Last day to file petition with Town Clerk: seventy-one days before election.
3. Last day to amend petition: sixty-three days before election.

E. At the time the nomination petition is filed with the Town Clerk, the candidate shall file an Acceptance/Affidavit of Nominated Candidate that the candidate is familiar with the provisions of Article V of this Chapter, concerning fair campaign practices, and accepts the nomination.

F. Any person who has been nominated and who accepted a nomination may cause his or her name to be withdrawn from such nomination at any time prior to sixty-three days before the election by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the Town Clerk.

G. All petitions of nomination and affidavits that are in apparent conformity with the provisions of this Section, as determined by the Town Clerk, are valid unless objection thereto is duly made in writing within three days after the filing deadline for the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. The Town Clerk shall decide objections within at least forty-eight hours after the same are filed, and any objections sustained may be remedied or defect cured upon the original petition, by amendment thereto, or by filing a new petition within three days after the objection is sustained, but in no event later than the sixty-fourth day before the day of the election. The Town Clerk shall pass upon the validity of all objections, whether of form or substance, and the Town Clerk's decision upon matters of form shall be final. The Town Clerk's decisions upon matters of substance shall be open to review if prompt application is made as provided in Section 2.01.650, but the remedy in all cases shall be summary, and the decision of the district court shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any proceeding in a summary way.

2.01.215 Submission of ballot issues and questions by Town Council.

The Town Council shall refer by ordinance any ballot issue or question no later than sixty days prior to the date of the election, and any such ordinance shall be deemed adopted on the date the Town Council has taken final action on such ordinance, irrespective of any provision of this Code.

2.01.220 Preparing and mailing ballot packets; notice of election.

A. The Town Clerk shall prepare, or cause to be prepared, mail ballot packets that include the ballot, instructions for completing the ballot, a return envelope, and a secrecy envelope.

B. Unless otherwise authorized in the policies and procedures approved by the Election Commission, not sooner than twenty-five days before the election, and no later than fifteen days before the election, the Town Clerk shall mail a mail ballot packet to each active registered elector, at the last mailing address appearing on the registration list. The mail ballot packet shall be marked “DO NOT FORWARD. ADDRESS CORRECTION REQUESTED,” or any other similar statement that is in accordance with United States Postal Service regulations. If the ballot is returned as undeliverable, the Town Clerk shall not be required to re-mail the ballot packet. A record shall be kept of the number of ballot packets returned as undeliverable.

C. The ballot shall contain a warning, in substantially the following form: “WARNING: Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates or tampers with a ballot is subject, upon conviction, to imprisonment, to a fine or both.”

D. The return envelope shall have printed on it a self-affirmation in substantially the following form:

“I state under penalty of perjury that I am an eligible elector; that my signature, name and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with applicable law.”

Date

Signature of Voter”

The signing of the self-affirmation on the return envelope shall constitute an affirmation by the eligible elector, under penalty of perjury, that the facts stated in the self-affirmation are true. If the eligible elector is unable to sign, the eligible elector may affirm by making a mark on the self-affirmation, with or without assistance, witnessed by another person.

E. When required by statute for electors who registered to vote by mail, the ballot packet shall contain written instructions advising the elector that he or she must submit with his or her mail ballot a copy of valid identification as

required by the Secretary of State, and the outside of the return envelope shall be marked to identify that the elector is required to provide such identification.

F. No later than twenty-five days before an election, the Town Clerk shall provide notice of the mail ballot election by publication and by posting at Town Hall, which notice shall state, as applicable for the particular election, the following:

1. The date of the election;
2. The address of the walk-in location and hours during which the walk-in location for the delivery of mail ballots and receipt of replacement ballots will be open;
3. The address of the location for application and the return of absentee ballots and the hours during which the office will be open;
4. The complete ballot content; and
5. That inactive voters may obtain a ballot from the Town Clerk.

G. No sooner than twenty-five days before the election, until 7:00 p.m. on election day, mail ballots shall be made available at the Town Clerk's office for registered electors who are not listed or who are listed as "inactive" on the registration list but who are authorized to vote. The Town Clerk shall keep a record of each such ballot issued. In order to receive a ballot, a registered elector who is listed as "inactive" on the registration list must first reactivate his or her voting status by completing the form supplied by the Town Clerk requesting this change in status.

2.01.225 Registration lists; supplemental ballot packets.

A. No sooner than thirty days before the election, the Town Clerk shall obtain from the County Clerk and Recorder a full and complete list of electors.

B. The Town Clerk shall obtain from the County Clerk and Recorder supplemental lists of electors fourteen days and seven days before the election, and shall mail ballot packets to newly registered electors whose names appear on these supplemental lists.

C. Ballot packets may be obtained by voters whose names do not appear on the registration lists provided by the County Clerk and Recorder by appearing in person in the office of the Town Clerk on or before election day and

registering with the Town Clerk or providing a copy of his or her voter registration done at another authorized location pursuant to Section 2.01.170.

2.01.230 Replacement ballots.

A. A registered elector may obtain a replacement ballot if the ballot was destroyed, spoiled or lost, or if for some other reason the ballot was not received. A registered elector may obtain a ballot if a mail ballot packet was not sent to the elector because the eligibility of the elector could not be determined at the time the mail ballot packets were mailed. A registered elector listed as “inactive” may also obtain a replacement ballot by first reactivating his or her voter status by completing the form supplied by the Town Clerk.

B. In order to obtain a replacement ballot, the registered elector must first sign and file with the Town Clerk or designee a sworn statement on a form to be provided by the Town Clerk, specifying the reason for requesting the ballot. Such form shall contain a statement in bold print advising that the original ballot may not be cast and that, if both the original and the replacement ballot are cast, neither ballot will be counted. The Town Clerk shall keep a record of each replacement ballot issued, including the reason a replacement ballot was requested, and the return envelope shall be stamped “REPLACEMENT.”

C. Replacement ballots may be provided by the Town Clerk directly to the registered elector or may be mailed to the registered elector at the address provided in the sworn statement. All replacement ballots must be cast no later than 7:00 p.m. on election day.

2.01.235 Absentee ballots.

A. Absentee ballots may be requested by a registered elector who requests to receive his or her ballot at an address other than that shown on the registration list.

B. Application for an absentee ballot shall be made in writing and shall be personally signed by the applicant or a family member related by blood or marriage to the applicant. If the applicant is unable to sign the application, the applicant shall make his or her mark on the application, which shall be witnessed by another person. Applications for absentee ballots shall be filed in person, by mail or by facsimile with the Town Clerk not earlier than ninety days before and no later than seven days before the election.

C. Before any absentee ballot is delivered or mailed, the Town Clerk shall record such elector’s name, district, the number appearing on the stub of the ballot and the date the ballot is delivered or mailed. This information shall be entered in the poll book before the poll book is delivered to the election judges.

D. Once an absentee ballot is mailed, any other ballot previously mailed shall be void and only the absentee ballot may be counted.

E. The Town Clerk or designee shall provide an absentee ballot by electronic means to any registered elector who is an absent uniformed services elector, a nonresident overseas elector or a resident overseas elector, as such terms are defined in state statute, who timely filed an absentee ballot application. Such registered elector may return the voted ballot to the Town Clerk by electronic means. The returned ballot shall be counted if it arrives in the Town Clerk's office by 7:00 p.m. on election day. When the ballot is received by the Town Clerk, the election judges shall duplicate the ballot in accordance with Section 2.01.240 below, and the ballot shall be counted as all other absentee ballots. The person who duplicates the ballot shall not reveal to any person how the elector has cast his or her ballot. The instructions for completing an absentee ballot pursuant to this subsection shall inform the elector that an absentee ballot returned by electronic means is not a confidential ballot. For purposes of this subsection, *electronic means* means facsimile transmission or electronic mail.

2.01.240 Duplicate ballots.

A. When necessary to properly count a damaged ballot in the ballot tabulating machine used for an election, a duplicate ballot may be prepared in accordance with this Section.

B. Using the damaged ballot as a guide, a blank ballot shall be marked by a duplicating team consisting of at least two election judges, so that the votes recorded are identical to those indicated on the damaged ballot. The duplicating team shall proof the duplicate ballot to ensure it was marked properly and accurately.

C. A unique number shall be assigned to both the original and duplicate ballot, which references the original damaged ballot and the duplicate ballot together and provides an audit trail. This information shall be entered into a separate log kept of duplicate ballots for each election, and members of the duplicating team shall each initial the entry in the log.

D. After logging the duplicate ballot, it shall be placed with all other ballots to be counted. The damaged ballot shall be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All damaged ballots that have been duplicated, along with the duplicate ballot log and any other applicable printed material, shall be placed in an envelope and clearly marked "BALLOTS THAT HAVE BEEN DUPLICATED" and shall be retained with all other election materials.

2.01.245 Election judges.

A. At least fifteen days before each election, the Town Clerk shall appoint the judges of election to perform one or more of the following: receive ballots after they are mailed, handle “walk-in” balloting and absentee ballots at the sites designated for “walk-in” balloting, check registrations, inspect, verify and duplicate ballots when necessary, count the ballots and certify the results and other tasks or duties as directed by the Town Clerk.

B. The Town Clerk shall appoint at least three election judges for each election and such additional judges as the Town Clerk deems necessary. Each election judge shall be registered elector of the County. The Town Clerk shall keep a list of all persons so appointed, giving their names and addresses. Such list shall be a public record and shall be subject to inspection, examination and copying during regular business hours.

C. Immediately after appointment, the Town Clerk shall notify by mail each person appointed and request that each judge accept the appointment by signing and returning the notice. Each person appointed as an election judge shall return this notice to the Town Clerk within seven days after the Town Clerk mailed the notice. Failure of any person appointed to return the notice within seven days shall result in a vacancy, which shall be filled by the Town Clerk.

D. Any election judge who has neglected his or her duty or has committed, encouraged or connived at any fraud in connection therewith, or who has violated any of the election laws, has knowingly permitted others to do so, has been convicted of any felony, has violated his or her oath or has committed any act that interferes or tends to interfere, in the sole discretion of the Town Clerk, with a fair and honest election, shall be summarily removed by the Town Clerk.

E. Before any ballots are processed or counted, the judges of election shall each take an oath or affirmation in a form to be provided by the Town Clerk. The election judges may administer the oaths or affirmations to each other, and each election judge shall record and sign any such oaths or affirmations administered by him or her.

F. The election judges shall each receive compensation for their services in an amount to be determined by the Town Clerk.

2.01.250 Receiving, verification and counting of ballots.

A. Mail ballots shall be received, verified and counted as provided in this Section and by procedures prepared by the Town Clerk and reviewed and approved by the Election Commission. A mail ballot shall be valid and counted only if it is returned in the return envelope, the self-affirmation on the return envelope is signed and completed by the eligible elector to whom the ballot was

issued, and the information on the return envelope is verified in accordance with this Section. If the Town Clerk determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the official shall not count any ballot cast by the elector.

B. Ballots may be returned to the Town Clerk by United States mail or by delivering the ballot to the office of the Town Clerk or any other location designated by the Town Clerk by no later than 7:00 p.m. on election day. The ballot must be returned in the return envelope. Any person may deliver in person to the Town Clerk's office any number of voted mail ballots for other voters. If an elector returns the ballot by mail, the elector must provide postage.

C. One or more judges may be appointed to receive ballots at the office of the Town Clerk. Each day when ballots arrive, the ballots shall be batched and the number of ballots received shall be recorded. The ballots shall be date-stamped when received. The ballots shall then be placed in a safe, secure place until the verification and counting of the ballots. If any ballot is received after 7:00 p.m. on election day, the ballot shall be date- and time-stamped, but the ballot shall not be counted.

D. Verification and counting of ballots may begin fifteen days prior to the election date and continue until counting is completed. Once the ballot is returned, an election judge shall first verify the submitted ballot by comparing the information on the return envelope with the registration records to determine whether the ballot was submitted by an eligible elector who had not previously voted in the election. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot, open the return envelope and deposit the ballot in an official ballot box. If more than one ballot is contained in the return envelope, neither ballot shall be counted and the poll book shall be marked accordingly.

E. If the self-affirmation on the return envelope has not been signed by the elector, an election judge will attempt to contact the elector by telephone to provide the elector the opportunity to appear in the office of the Town Clerk to sign the affirmation. The election judge shall not be required to contact the elector in writing, and the failure of the election judge to reach the elector by telephone shall not be grounds for challenge. After the elector signs the affirmation, the election judge shall indicate in the poll book that the elector cast a ballot and deposit the ballot in an official ballot box. If the elector does not sign the affirmation, the ballot shall be invalid and not counted.

F. If it appears to the judges verifying the self-affirmation on the return envelopes that members of the same household who have been sent mail ballot packets have inadvertently switched envelopes or ballots, the ballot or ballots may nonetheless be determined valid and counted upon further review by the election judge. In order to be considered valid and counted, all ballots and

ballot envelopes mailed to the address must have been returned and confirmed by the election judge as having been issued to voters at that address.

G. If the self-affirmation on the return envelope has been signed by the elector but no date of signing has been indicated, the ballot shall nonetheless be valid and counted so long as it was received prior to 7:00 p.m. on election day.

H. If the return envelope received from an eligible elector who was required to submit a copy of valid identification does not contain such identification, an election judge will attempt to contact the elector by telephone to provide the elector the opportunity to submit the identification. The election judge shall not be required to contact the elector in writing, and the failure of the election judge to reach the elector by telephone shall not be grounds for a challenge. If the elector provides a copy of valid identification, the election judge shall indicate in the poll book that the elector cast a ballot and deposit the ballot in an official ballot box. If the elector does not provide a copy of valid identification, the ballot shall be treated as a provisional ballot, the outside of the return envelope shall be marked "provisional" and the ballot shall be verified and counted with other provisional ballots.

I. If the return envelope contains a replacement ballot, it shall be set aside until 7:00 p.m. on election day. The information on the return verification envelope may be checked prior to 7:00 p.m. on election day, but the ballot may not be removed from the return envelope until the polls close. When all voted ballots have been received and the polls closed, the replacement ballots shall be checked to ensure that the elector only voted the replacement ballot. If it appears that the elector only voted with the replacement ballot and if all the information is complete on the return verification envelope, the ballot may be removed and counted as the other ballots.

J. During verification and counting, the election judges shall take precautions to ensure the secrecy of the counting procedures and no information concerning the count shall be released by the election officials or watchers until after 7:00 p.m. on election day.

K. No later than twenty-five days after the election, or in the event of a recount pursuant to 2.01.605, not later than five days after the completion of the recount, the municipal judge shall canvass the votes and shall make out statements from the abstract of votes that show the names of the candidates and any ballot questions or ballot issue submitted to voters and the whole number of votes given to each, and shall thereupon determine which persons have been, by the greatest number of votes, duly elected and which ballot questions or ballot issues have been approved, and shall endorse and subscribe on such statements a certificate of their determination. The Town Clerk shall transmit to each person thereby declared to be elected a certificate of his or her determination. The Town Clerk shall also forthwith

cause a copy of such certified statement and determination to be published in a newspaper of general circulation within the Town.

2.01.255 Rejected ballots.

All ballots rejected by the election judges in accordance with the provisions of this Article shall be returned to the Town Clerk and shall remain in the sealed return envelopes until the election records for the election are destroyed.

Article III. Coordinated and Contracted Elections

2.01.300 General.

A. The Town Council may determine that any regular or special election shall be conducted as a coordinated election by ordinance adopted no later than seventy days prior to the date of the election. Coordinated elections shall be conducted in accordance with an intergovernmental agreement between the Town and the County Clerk signed no later than seventy days prior to the election.

B. The Town Council may determine that any regular or special election shall be conducted through Douglas County on behalf of the Town by ordinance adopted no later than sixty days prior to the date of the election. Such elections shall be conducted in accordance with an intergovernmental agreement between the Town and the County Clerk signed no later than forty-five days prior to the election.

C. An ordinance is deemed adopted under this Section 2.01.300 on the date the Town Council has taken final action on such ordinance, irrespective of any provision in this Code.

IV. Polling Place Elections

2.01.400 General.

A. The Town Council may determine that any regular or special election shall be conducted as a polling place election by resolution or ordinance adopted no later than sixty days prior to the date of the election.

B. Polling place elections shall be governed by state statutes contained in the Colorado Municipal Election Code and any other applicable rules, as from time to time amended, except as otherwise provided in this Article.

2.01.410 Establishing polling places.

Not less than fifty days prior to the election, the Town Council shall designate as many polling places as it deems expedient for the convenience of the Town's electors. Polling places established by the Town Council shall remain until changed by the Town Council.

Article V. Fair Campaign Practices

2.01.500 Purpose and applicability.

A. The Town Council hereby finds and declares that preserving the integrity and openness in the political process is a matter of the highest public interest; that the people of the Town can be better served through a more informed electorate; that the trust of the people is essential to representative government; and that public disclosure of campaign contributions and expenditures is necessary to promote public confidence in government and to protect the integrity of the electoral process.

B. This Article shall apply to candidates, any measure put to a vote of the registered electors of the Town at any Town election, and the petition processes commenced by electors in exercising the powers of initiative, referendum, recall or Town Charter amendments.

C. The provisions of this Article shall supersede any and all conflicting constitutional provisions, state statutes and rules promulgated thereunder by the Secretary of State.

2.01.510 Definitions

Anything of value shall mean, by illustration only, goods, equipment, devices, products, in-kind services, labor assistance and professional advice.

Ballot issue, ballot question or issue shall mean any measure put to a vote of the registered electors of the Town at any election held under the provisions of the Town Charter. For purposes of this Chapter, *ballot issue, ballot question or issue* shall also mean any measure for which recall, initiative, referendum or Charter amendment petition proceedings have commenced. As used in this Section, *commenced* shall mean the date the form of the petition is approved by the Town Clerk.

Candidate shall mean any person who seeks nomination or election to the office of Town Council at any election. A person is a candidate if the person has filed a nominating petition with the Town Clerk for the office of the Town Council. *Candidate* shall also mean any elected official who is the subject of recall proceedings pursuant to the Charter and this Chapter.

Candidate committee shall mean a person, including the candidate, or person as designated by the candidate, with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one candidate committee. A contribution to a candidate shall be deemed a contribution to the candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the Town Clerk.

Contribution shall mean:

1. The payment, loan, pledge, gift or advance of money or guarantee of a loan, made to any candidate committee or issue committee.
2. Any payment of money made to a third party for the benefit of any candidate committee or issue committee.
3. Anything of value given, directly or indirectly, to a candidate committee for the purpose of promoting the candidate's nomination, retention, recall or election.
4. With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value for such contribution, including but not limited to items of perishable or nonpermanent value, good, supplies, services or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee or issue committee.

Contribution in kind shall mean the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate committee or issue committee for the purpose of influencing the nomination, retention, election or defeat of any candidate, ballot question, ballot issue or issue. Personal services shall be considered a contribution in kind by the person paying compensation therefor or by the person performing such services if no compensation is paid. Professional services, such as legal or accounting services, shall be considered a contribution in kind by the person paying compensation therefor or by the person performing such services if no compensation is paid. In determining the value to be placed on contributions in kind for which no compensation has been paid, a reasonable estimate of fair market value shall be used.

Expenditure shall mean the payment, distribution, loan or advance of any money by any candidate committee or issue committee. *Expenditure* shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a candidate committee or issue committee that is made with the

prior knowledge and consent of an agent or representative of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

Immediate family shall mean a spouse, child, brother, sister, parent, parent-in-law, uncle or aunt.

Independent expenditure shall mean the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not directed or controlled by, or coordinated with, any candidate or any agent or representative of such candidate.

Issue committee shall mean any person, other than a natural person, or any group of two or more persons, including natural persons: that has a major purpose of supporting or opposing any ballot issue or ballot question; or that has accepted or made contributions or expenditures in excess of two thousand five hundred dollars (\$2,500.00) to support or oppose any ballot issue or ballot question. *Issue committee* shall not include:

1. Candidate committees as otherwise defined in this Section.
2. Any partnership, committee, association, corporation, labor organization, or other organization or group of persons previously established for a primary purpose outside the scope of this Chapter.

An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

Loan shall mean delivery by one party to and receipt by another party of a sum of money or other thing of value upon agreement, express or implied, to repay or return it or its equivalent with or without interest. For purposes of this Article, a *loan* shall include any advance of money made by a candidate to his or her own candidate committee.

Person shall mean any natural person, partnership, committee, association, corporation, labor organization or other organization or group of persons.

Registered agent shall mean the person named on a committee registration form filed with the Town Clerk.

Termination report shall mean a final report prepared by a candidate committee or issue committee and filed with the Town Clerk that discloses the committee's contributions received, expenditures made and obligations entered into, when the committee no longer intends to receive contributions or make expenditures and a zero balance exists in any account established and maintained by the committee, and the committee has no outstanding debts or obligations.

Unexpended campaign contributions shall mean the balance of funds on hand with any candidate committee or issue committee following an election, less the amount of all unpaid monetary obligations incurred prior to the election.

2.01.520 Candidate affidavit.

A. When any individual becomes a candidate, such individual shall certify, by affidavit filed with the Town Clerk with the nomination petition, that the candidate is familiar with the provisions of this Article.

B. The requirements of this Section shall not apply to any election official who is the subject of recall proceedings.

2.01.530 Registration of committees.

All candidate committees and issue committees shall register with the Town Clerk before accepting or making any contributions. Registration shall be on forms supplied by the Town Clerk and must be complete in all respects.

2.01.540 Disclosure; filing of reports.

A. All candidate committees and issue committees, and all candidates without committees, shall file reports of contributions and expenditures with the Town Clerk showing contributions and contributions in kind received, including the name and address of each person who has made contributions or contributions in kind; all expenditures made; and all obligations entered into by the committee. All reports shall be submitted on forms provided by the Town Clerk, must be complete in all respects and must be filed even when no contributions were received or no expenditures were made. Copies of receipts must be attached to the form for all single expenditures exceeding one hundred dollars (\$100.00).

B. Reports shall be due on the thirty-second day prior to the election; the twenty-first day prior to the election; the eleventh day prior to the election; the Friday before the election; fifteen days after the election; and on the first day of each quarter (July 1, October 1, January 1 and April 1) following the election until a termination report is filed. If the reporting day is on a weekend or a legal holiday, the report shall be filed by the close of the next business day. The reporting period shall close five calendar days prior to the date the report is due.

C. A report required to be filed by this Article is timely if the original report is received by the Town Clerk not later than the close of business on the due date or if a copy of the report is sent by facsimile or electronic mail on or before the due date.

D. Any report that is deemed by the Town Clerk to be incomplete or inconsistent with the requirements of this Article shall be accepted on a conditional basis, and the registered agent shall be notified in writing as to any deficiencies. Such notice may be delivered in person, by mail, by facsimile or by electronic mail. The registered agent shall have seven business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report filed for the reporting period.

E. Any candidate committee or issue committee that has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during a reporting period shall file a report with the Town Clerk on the days specified in subsection B above, certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.

2.01.550 Reports to be public record.

A. Upon receipt of any campaign report submitted pursuant to this Article, the Town Clerk shall, in accordance with applicable law, make such report available for public inspection.

B. No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

2.01.560 Unexpended contributions.

In no event shall contributions to a candidate or issue committee be used for personal purposes. Unexpended campaign contributions to a candidate committee or an issue committee may be donated to a charitable organization recognized by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code or returned to the contributors.

2.01.570 Duties of the Town Clerk.

The Town Clerk shall:

A. Prepare forms and make them available with information about the provisions of this Article to assist candidates and the public in complying with the reporting provisions and requirements of this Article.

B. Develop a filing and indexing system consistent with the purposes of this Article.

C. Keep a copy of any report or statement required to be filed by this Article for a period of one year from the date of filing. In the case of candidates who were elected, each such candidate's reports and filings shall be kept until one year after the candidate leaves office.

D. Make reports and statement filed under this Article available for public inspection and copying not later than the end of the third business day after the date of filing.

E. Upon request by the Secretary of State or in response to any order issued by a court of competent jurisdiction, transmit records and statements filed under this Article to the Secretary of State or as otherwise directed by court order.

F. Notify any candidate who has failed, or whose candidate committee has failed, to fully comply with the provisions of this Article.

G. Process complaints of apparent or possible violations of this Article according to Section 2.01.580 of this Chapter.

The Town Clerk shall not be required to verify the accuracy of any information contained in reports filed pursuant to this Article.

2.01.580 Violations and complaints.

A. If the Town Clerk receives a written complaint pursuant to subsection C, below, alleging a violation of this Article, the Town Clerk shall:

1. Provide the person believed to have committed the violation with a copy of the written complaint.
2. Allow seven business days for correction of the violation or submission of written statements explaining the reason that support a conclusion that a violation was not committed.

B. If the person fails to correct the violation or offer a satisfactory explanation within the seven business days provided for in paragraph A.2 above, then the Town Clerk shall process a complaint pursuant to subsection D, below.

C. Any qualified elector may file a written complaint with the Town Clerk regarding a possible violation of this Article. The complaint shall include:

1. The name, address and signature of the complainant;
2. The name and address of each person alleged to have committed a violation; and

3. The particulars of the violation.

D. If the Town Clerk receives a written complaint that is not corrected or otherwise remedied as provided in paragraph A.2, above, the Town Clerk shall refer the matter to the Town's prosecuting attorney to review whether, under the circumstances and in accordance with all relevant laws, a complaint in the Municipal Court should be filed with regard to the alleged violation. Any person found by the Municipal Court to have violated the provisions of this Article shall be punished by a fine not to exceed three hundred dollars (\$300.00).

2.01.590 Immunity from penalty.

Any individual volunteering his or her time on behalf of a candidate or issue committee shall be immune from any liability for a penalty imposed if:

A. The volunteer was acting in good faith and within the scope of such volunteer's functions and duties for the candidate or issue committee; and

B. The violation was not caused by willful and intentional misconduct by such volunteer.

Article VI. Recount, Contest or Controversies

2.01.600 General.

A recount or contest of any Town election, other than those conducted as part of a coordinated or contracted election pursuant to Article III, shall be conducted in accordance with this Article VI.

2.01.605 Recount.

A. The Town Clerk shall conduct a recount of the votes cast in any election if it appears, as evidenced by the abstract of votes certified by the election judges ("Abstract Certification"), that the difference between the highest number of votes cast in the election and the next highest number of votes cast in the election is less than or equal to one-half of one percent of the highest number of votes cast in the election. Any recount conducted pursuant to this subsection (A) shall be completed no later than the fifteenth day following the Abstract Certification and shall be paid for by the governing body. The Town Clerk shall give notice of the recount by posting at the Town's official designated posting location (100 N. Wilcox Street, Castle Rock, Colorado) by U.S. mail, postage prepaid and electronic mail, to all candidates and, in the case of a ballot issue or question, to any petition representatives identified pursuant to C.R.S. §31-11-106(2). Any affected candidate, petition representative, certified watcher or media observer is allowed to be present during and observe the recount.

B. Whenever a recount of the votes cast in an election is not required pursuant to subsection (A) of this section, a registered elector of the Town, candidate for office or petition representative for a ballot issue or question, may submit to the Town Clerk a written request for a recount at the expense of the party making the request. This request shall be filed with the Town Clerk within ten days after posting of the Abstract Certification. Before conducting the recount, the Town Clerk shall give notice of the recount in accordance with the provisions of subsection (A) of this section, shall determine the cost of the recount, shall notify the party that requested the recount of such cost, and shall collect the cost of conducting the recount from such party. The party that requested the recount shall pay on demand the cost of the recount to the Town Clerk. If the party has not paid for the recount within five days of the request, then the request shall be deemed withdrawn. The funds paid to the Town Clerk for the recount shall be placed into a Town account for payment of all expenses incurred in the recount. If, after the recount, the result of the election is reversed in favor of the party that requested the recount or if the amended election count is such that a recount otherwise would have been required pursuant to subsection (A) of this section, the payment for expenses shall be refunded to the party who paid them. Any recount of votes conducted pursuant to this subsection (B) shall be completed as soon as practicable, but no later than seven business days after the payment for the recount is received by the Town Clerk .

C. The Town Clerk shall be responsible for conducting the recount and shall be assisted by those persons who assisted in preparing the official abstract of votes. If the person cannot participate in the recount, another person shall be appointed as provided in Section 2.01.245. The Town Clerk may appoint additional persons qualified to be the election judges who did not serve as judges in the election as assistants in conducting the recount. Persons assisting in the conduct of the recount shall be compensated as provided in Section 2.01.245.F.

D. The Town Clerk may require the production of any documentary evidence regarding the legality of any vote cast or counted and may correct the abstract of votes in accordance with the Town Clerk's findings based on the evidence presented.

E. The recounts shall be of the ballots cast, and the votes shall be tallied using the ballot counting equipment utilized in accordance with Section 2.01.140, and the election policies and procedures adopted by the Election Commission pursuant to Section 2.01.150.

F. After a recount conducted pursuant to this section has been completed, the Town Clerk shall notify the Town Council of the results of the recount.

G. All activities authorized under this Section 2.01.605 shall be held at the ballot processing center and shall be subject to all rules and procedures governing activities at the ballot processing center.

2.01.610 Who may contest –causes.

A. The election of any person declared duly elected to any municipal office may be contested by any registered elector of such municipality:

1. When the contestee is not eligible for the office to which he has been declared elected;
2. When illegal votes have been received or legal votes rejected at the polls in sufficient numbers to change the results;
3. For any error or mistake on the part of any of the judges of election or the Town Clerk and her assistant in counting or declaring the result of the election if the error or mistake would be sufficient to change the result;
4. For malconduct, fraud, or corruption on the part of the judges of election in any precinct or the Town Clerk or her assistant if the malconduct, fraud, or corruption would be sufficient to change the result;
5. For any other cause which shows that another was the legally elected person.

2.01.615 District judge to preside – bond.

A. All contested election cases of municipal officers shall be tried and determined in the Douglas County district court. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution thereon shall be according to the rules and practices of the district court.

B. Before the district court is required to take jurisdiction of the contest, the contestor must file with the clerk of said court a bond, with sureties, to be approved by the district judge, running to said contestee and conditioned to pay all costs in case of failure to maintain his contest.

2.01.620 Filing statement –contests.

The contestor shall file in the office of the clerk of the district court, within fourteen days after the expiration of the period within which a recount may be requested pursuant to Section 2.01.605.B, or within fourteen days after the conclusion of a recount conducted pursuant to Section 2.01.605, whichever is later, a written statement of the contestor's intention to contest the election, setting forth the name of the contestor, that the contestor is a registered elector of the Town, the name of the contestee, the office contested, the time of election, and the particular causes of the contest. The statement shall be verified by the affidavit of the contestor or some registered elector of the Town that the causes set forth in such statement are true to the best of the affiant's knowledge and belief.

2.01.625 Summons – answer.

A. The clerk of the district court shall thereupon issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court in which the action is brought and a brief statement of the causes of contest, as set forth in the contestor's statement. The summons shall be served upon the contestee in the same manner as other summonses are served out of the district court of this state.

B. The contestee, within fourteen days after the service of such summons, shall make and file his answer to the same with the clerk of said court in which he shall either admit or specifically deny each allegation intended to be controverted by the contestee on the trial of such contest and shall set up in such answer any counterstatement which he relies upon as entitling him to the office to which he has been declared elected.

C. When the reception of illegal votes or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted or offered to vote shall be set forth in the statement of contestor and shall be likewise set forth in the answer of contestee if any such cause is alleged in his answer by way of counterstatement.

D. When the answer of the contestee contains new matter constituting a counterstatement, the contestor, within fourteen days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counterstatement intended by him to be controverted on the trial, and file the same in the office of the clerk of the district court.

2.01.630 Trial and appeals.

Immediately after the joining of issue, the district court shall fix a day for the trial to commence as early as practical after the joining of issue. Such trial shall take precedence over all other business in said court. The testimony may be oral or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice thereof. The district judge shall cause the testimony to be taken in full and filed in said cause. The trial of such causes shall be conducted according to the rules and practice of the district court in other cases. Such proceedings may be reviewed and finally adjudicated by the supreme court of this state if application to such court is made by either party and if the supreme court is willing to assume jurisdiction of the case.

2.01.635 Judicial Recount.

If, upon the trial of any contested election under this Article VI of Chapter 2.01, the statement or counterstatement sets forth an error in canvass sufficient to change the result, the trial judge has the power to conduct a recount of the ballots cast or the votes tabulated. The court may also require the production before it of such witnesses, documents, records, and other evidence as may have or may contain information regarding the legality of any vote cast or counted for either of

the contesting candidates or the correct number of votes cast for either candidate and may correct the canvass in accordance with the evidence presented and its findings thereon.

2.01.640 Judgment.

The court shall pronounce judgment whether the contestee or any other person was duly elected. The person so declared elected is entitled to the office upon qualification. If the judgment is against the contestee and he has received his certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment shall be that the election be set aside and that a vacancy exists.

2.01.645 Ballot questions and ballot issues –how contested.

The results of an election on any ballot question or ballot issue may be contested in the manner provided by Sections 2.01.605 through 2.01.640. The grounds for such contest shall be those grounds set forth in Section 2.01.610.A.2, 2.01.610.A.3 and 2.01.610.A.4. The contestee shall be the appropriate election official. In addition to other matters required to be set forth by Section 2.01.610, the statement of intention to contest the election shall set forth the question(s) contested.

2.01.650 Controversies.

A. Excluding a contest which shall be brought under Section 2.01.645, when any controversy arises between any official charged with any duty or function under this Chapter 2.01 and any candidate or other person, the district court, upon the filing of a verified petition by any such official or person setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in such petition to appear before the court and answer under oath to such petition. It is the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with the provisions of this Chapter 2.01 by the parties to such controversy, and to make and enter orders and judgments and to follow the procedures of such court to enforce all such orders and judgments.

B. Such proceedings may be reviewed and finally adjudicated by the supreme court of this state if application to such court is made within fourteen days after the termination thereof by the court in which the petition was filed and if the supreme court is willing to assume jurisdiction of the case.

Article VII. Election Offenses

2.01.700 Prosecution of election offenses in the municipal court.

Any person may file with the Town Clerk an affidavit stating the name of any person who has violated any of the provisions of this Article and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the Town Clerk shall forthwith refer the same to the Town's prosecuting attorney who shall investigate and, if reasonable grounds appear therefor, shall prosecute the same in the Town's municipal court.

2.01.702 Sufficiency of complaint, judicial notice.

Irregularities or defects in the mode of calling, giving notice of, convening, holding, or conducting any regular or special election constitutes no defense to a prosecution for a violation of this Article. When an offense is committed in relation to any Town election, a complaint or summons and complaint for such offense is sufficient if it alleges that such election was authorized by law, without stating the call or notice of the election, the names of the judges of election holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any regular or special election.

2.01.704 Immunity of witnesses from prosecution.

Any person violating any provision of this Article is a competent witness to testify against any other such violator and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation in the same manner as any other person, but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to prosecution or punishment for the offense with reference to which his testimony was given and may plead or prove the giving of testimony accordingly in bar of such prosecution.

2.01.706 Penalties for election offenses.

Any person found by the Municipal Court to have violated the provisions of this Article shall be punished as set forth in Section 1.08.010.

2.01.708 Perjury.

Any person, having taken any oath or made any affirmation required by this Chapter 2.01, who swears or affirms willfully, corruptly, and falsely in a matter material to the issue or point in question or suborns any other person to

swear or affirm willfully, corruptly, and falsely commits perjury or subornation of perjury.

2.01.710 Forgery.

It is unlawful for any person to falsely make, alter, forge, or counterfeit any ballot before or after it has been cast, or to forge any name of a person as a signer or witness to a petition, or to forge the name of a registered elector to an absent voter's ballot.

2.01.712 Tampering with nomination papers.

It is unlawful for any person to, being in possession of nomination papers entitled to be filed under this Chapter, wrongfully or willfully destroy, deface, mutilate, suppress, neglect, or fail to cause the same to be filed by the proper time in the office of the Town Clerk or to file any such paper knowing the same, or any part thereof, is falsely made.

2.01.714 Bribery of petition signers.

It is unlawful for any person to offer or knowingly permit any other person to offer for his benefit any bribe or promise of gain to induce an elector to sign any nomination petition or other election paper or for any person to accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after signing.

2.01.716 Custody and delivery of ballots and other election papers.

A. It shall be unlawful for any election official having charge of official ballots, tally sheets, the registration book or list, and the poll book to destroy, conceal or suppress the same, except as expressly permitted by this Chapter.

B. It shall be unlawful for any election official who has undertaken to deliver the official ballots, the tally sheets, the registration book or list, and the poll book to the Town Clerk to neglect or refuse to do so within the time prescribed by law or to fail to account fully for all official ballots and other papers in his or her charge.

2.01.718 Destroying, removing or delaying delivery of ballots and other election papers.

It shall be unlawful for any person to willfully destroy or deface any ballot or tally sheet or to willfully delay the delivery of the ballots, tally sheets, registration book or list, or poll book, or to conceal or remove any ballot, ballot

box, or tally sheet from the polling place or from the possession of the person authorized by law to have custody thereof, or to aid, counsel, procure or assist any person in doing any of said acts.

2.01.720 Unlawfully refusing or permitting to vote.

It shall be unlawful for any election judge to willfully and maliciously refuse or neglect to receive the ballot of any registered elector or to knowingly and willfully permit any person to vote who is not entitled to vote at any election.

2.01.722 Revealing how elector voted.

It shall be unlawful for any election official, watcher, or person who assists an individual with a disability in voting to reveal how the elector voted.

2.01.724 Violation of duty.

It shall be unlawful for any Town election official or other person upon whom any duty is imposed by this Chapter to violate, neglect, or omit to perform such duty, or to engage in corrupt conduct in the discharge of the same, or for any notary public or other officer authorized by law to administer oaths to administer an oath knowing it to be false or to knowingly make a false certificate in regard to an election matter.

2.01.726 Unlawful receipt of money.

It is unlawful for any person, directly or indirectly, by himself or through another person:

A. To receive, agree to, or contract for, before or during any Town election, any money, gift, loan, or other valuable consideration for himself or any other person for voting or agreeing to vote, or for going or for agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting for any particular person or measure at any Town election.

B. To receive any money or other thing of value during or after any Town election on account of himself or any other person for voting or refraining from voting at such election, or on account of himself or any other person for voting or refraining to vote for any particular person at such election, or on account of himself or any other person for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

2.01.728 Disclosing or identifying vote.

Except in the case of disabled voters requiring assistance or voters with spoiled ballots, no voter shall show his or her ballot after it is prepared for voting to any person in such a way as to reveal its contents, and no person shall solicit or induce a voter to do so. No voter shall place any mark upon his or her ballot by means of which it can be identified as the one voted by him or her, and no other mark shall be placed upon the ballot to identify it after it has been prepared for voting.

2.01.730 Delivering and receiving ballots at polls.

A. No voter at a polling place election shall receive an official ballot from any person except one of the judges of election, and no person other than a judge of election shall deliver an official ballot to a voter.

B. No person except a judge of election shall receive from any voter a ballot prepared for voting in a polling place election.

C. Any voter at a polling place election who does not vote the ballot received by him shall return his or her ballot to the election judge from whom he or she received the same before leaving the polling place.

2.01.732 Voting twice.

It is unlawful for any person to vote more than once or, having voted once, to offer or attempt to vote again.

2.01.734 Voting in the wrong district.

It is unlawful for any person to fraudulently vote or offer to vote in any district in which he or she does not reside.

2.01.736 Electioneering near polls.

No person shall do any electioneering on the day of any election within any ballot processing center or polling place or in any public street or room or in any manner within 100 feet of the primary entrance to any building in which a ballot processing center, polling place, or ballot drop-off location is located. As used in this Section, the term *electioneering* includes campaigning for or against any candidate who is on the ballot or any ballot issue or ballot question that is on the ballot. *Electioneering* also includes soliciting signatures for a candidate petition, a recall petition or a petition to place a ballot issue or ballot question on a subsequent ballot. *Electioneering* shall not include a respectful display of the American flag.

2.01.738 Intimidation.

It is unlawful for any person directly or indirectly, by himself or any other person on his behalf, to make use of any force, violence, restraint, abduction, duress, or forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm, or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any qualified elector, or to compel, induce, or prevail upon any qualified elector either to give or refrain from giving his or her vote at any Town election or to give or refrain from giving his or her vote for any particular person, ballot question, ballot issue or other measure at any such election.

2.01.740 Corrupt means of influencing vote.

It is unlawful for any person, by bribery, menace, or other corrupt means or device whatsoever, either directly or indirectly, to attempt to influence any voter in giving his vote or ballot, or deter him or her from giving the same, or to disturb or hinder any voter in the free exercise of the right of suffrage at any Town election, or to fraudulently or deceitfully change or alter a ballot.

2.01.742 Interference with voter while voting.

It is unlawful for any person to interfere with any voter when inside the immediate voting area or when marking a ballot or operating a voting machine.

2.01.744 Introducing liquor into polls.

It is unlawful for any person to introduce into any polling place or to use therein or offer to another for use therein at any time while any election is in progress or the results thereof are being ascertained by the counting of the ballots any intoxicating malt, spirituous, or vinous liquors.

2.01.746 Inducing defective ballot.

It is unlawful for any person to willfully cause a ballot to misstate in any way the wishes of the voter casting the same or to cause any other deceit to be practiced with the intent to fraudulently induce a voter to deposit a defective ballot so as to have the ballot thrown out and not counted.

2.01.748 Personating elector.

It is unlawful for any person to falsely personate any registered elector and vote under the name of such elector.

2.01.750 Altering posted abstract of votes.

It is unlawful for any person to deface, mutilate, alter, or unlawfully remove the abstract of votes posted outside of a polling place.

2.01.752 Wagers with electors.

It is unlawful for any person, including any candidate for public office, before or during any Town election, to make any bet or wager with a qualified elector or take a share or interest in, or in any manner become a party to, any such bet or water or provide or agree to provide any money to be used by another in making such bet or wager upon any event or contingency whatever arising out of such election.

2.01.754 Tampering with notices or supplies.

It is unlawful for any person, prior to a Town election, to willfully deface, remove, or destroy any notice of election posted in accordance with the provisions of this Chapter, or to, during an election, willfully deface, remove, or destroy any card of instruction or sample ballot posted for the instruction of voters, or to, during an election, willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his or her ballot.

2.01.756 Tampering with registration book, registration list, or poll book.

It is unlawful for any person to mutilate or erase any name, figure, or word or any registration book, registration list, or poll book, or to remove such registration book, registration list, or poll book or any part thereof from the place where it has been deposited with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any registered elector from voting, or to destroy any registration book or poll book or any part thereof.

2.01.758 Interference with election official.

It is unlawful for any person to intentionally interfere with any election official in the discharge of his or her duty, or to induce any election official to violate or refuse to comply with his or her duty, or to aid, counsel, procure, advise, or assist any person to do so.

2.01.760 Absentee voting.

It is unlawful for any election official or other person to knowingly violate any of the provisions of this Chapter 2.01 relative to the casting of absent voters' ballots or to aid or abet in fraud in connection with any absent vote cast or to be cast.

2.01.762 Article to be liberally construed.

This article shall be liberally construed so that all legally registered electors may be permitted to vote and so that fraud and corruption in municipal elections may be prevented.

Section 2. 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 3. Safety Clause. The Town Council finds and declares 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.

Section 4. Effective Date. This ordinance shall become effective January 1, 2016.

APPROVED ON FIRST READING this 3rd day of November, 2015 by a vote of -4- for and - 1 - 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 17th day of November 2015, by a vote of the Town Council of the Town of Castle Rock, Colorado of ____ and ____.

ATTEST:

TOWN OF CASTLE ROCK

Sally Misare, Town Clerk

Paul Donahue, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney