

## ORDINANCE NO. 2025-019

### AN ORDINANCE AMENDING CHAPTER 3.04, ARTICLE I OF THE CASTLE ROCK MUNICIPAL CODE BY PROVIDING FOR A TOWN SALES TAX CREDIT AGAINST CERTAIN PUBLIC IMPROVEMENT FEES PAID AT BRICKYARD

**WHEREAS**, the Town of Castle Rock, Colorado (the “Town”) has entered into a Public Finance Agreement (the “Public Finance Agreement”) with CD-Acme, LLC, Brickyard Metropolitan District No. 1, and the Castle Rock Urban Renewal Authority, concerning the finance and construction of certain public improvements in association with the development of a mixed-use project known as the Brickyard (the “Property”); and

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

**WHEREAS**, pursuant to Section 6.2 of the Public Finance Agreement, the Town Council of the Town has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of 2.4% against the collection of Taxable Transactions to the extent that a public improvement fee in the amount of 2.4% (the “Credit PIF”) has been collected on Taxable Transactions occurring within the Property, subject to the terms and limitations set forth in the Public Finance Agreement; and

**WHEREAS**, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Transactions occurring within the Property will substantially aid in the finance and development of necessary public improvements that will benefit the residents of the Town and patrons of the Property, 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, Article I of the Castle Rock Municipal Code is hereby amended by the addition of a new Section 3.04.160, which Section shall read as follows:

#### **3.04.160 Tax Credit against payment of public improvement fees in Brickyard.**

A. Notwithstanding any other provisions of this Article to the contrary, and in order to implement the provisions of the Public Finance Agreement dated July 3, 2025, and entered into by the Town of Castle Rock, CD-Acme, LLC, Brickyard Metropolitan District No. 1, and the Castle Rock Urban Renewal Authority (the “Public Finance Agreement”), there is hereby granted to each person or entity obligated to pay, collect, or remit the sales tax on the sale of tangible personal property at retail or the furnishing of services that are subject to the Town’s sales tax described in this Article occurring within the property known as Brickyard, and more particularly described in Exhibit “A” of the Public Finance Agreement (the “Property”), a tax credit against the collection of the sales tax as hereinafter set forth.

Such tax credit shall be granted in the form of a reduction in the applicable sales tax rate in an amount equal to 2.4%, 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 2.4%, 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 Public Finance 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 Public Finance Agreement and shall thereafter automatically terminate.
- C. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Public Finance Agreement, as amended from time to time.

**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, Article I 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 ("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 construed to revise any bylaw, order, resolution, ordinance, or part thereof, heretofore repealed.

**Section 6. Effective Date.** This amendment 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 provision of this Ordinance or the application of such provision to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision or application of this

Ordinance that can be given effect without the invalid provision 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 bears a rational relationship to the legislative object sought to be obtained.

**APPROVED ON FIRST READING** this 20th day of May, 2025, by the Town Council of the Town of Castle Rock, Colorado, by a vote of 6 for and 0 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 3rd day of June, 2025, by the Town Council of the Town of Castle Rock, Colorado, by a vote of \_\_\_\_ for and \_\_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

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Lisa Anderson, Town Clerk

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Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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Michael J. Hyman, Town Attorney

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Trish Muller, CPA, Finance Director