



Town of Castle Rock

Agenda Memorandum

Agenda Date: 11/14/2017

Item #: 7. File #: DIR 2017-048

To: Honorable Mayor and Members of Town Council

From: Bob Slentz, Town Attorney

Discussion/Direction: Charter Amendment Implementation

The Town Charter now provides for a Town Council consisting of a Mayor elected at-large, and six Councilmembers elected by district. The timing of the first election of the Mayor and the necessary re-districting to six Council districts is not addressed in the Charter. Consequently, it is important that the Council make concerted efforts to address the implementation of the recently voter-approved Charter change, referred to in this memorandum as a "transition plan." This memorandum addresses potential options for adoption of a transition plan.

1. Charter Amendment. A transition plan may be advanced to the voters at a regular or special municipal election as a Council-referred Charter amendment. A voter-approved amendment will conclusively resolve the issue of the effective date of the election of the Mayor with negligible risk of legal challenge or future uncertainties. In addition to the transition plan, certain related amendments may be submitted to the voters to clarify other provisions of the Charter affected by the transition.

Attached are those suggested revisions to the Charter, as well as a transition plan enabling the election of the Mayor and two Council seats at the November 2018 regular election. Absent such special election, the earliest date for the Mayor election is pushed to the 2020 regular election. Also note that under 2-5(a) of the Charter, there is no longer the express ability of the Council at the 2018 organizational meeting to appoint a Mayor, but only a Mayor pro-tem.

The timing of a call of a 2018 special election is addressed later in this memorandum.

2. Election Commission Referral. Section 4-4 of the Charter provides for an Election Commission of five registered electors whose primary responsibility is to independently draw district boundaries when required by the Charter. In addition, the Election Commission is granted this authority:

(b) The Election Commission shall have the charge of all activities and duties required of it by this Charter and by ordinances relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedures to be followed. (*emphasis added*)

May the Election Commission implement a transition plan at the request of Council under this provision?

It is the opinion of this office and Kathleen Kelly, special counsel to the Election Commission, that the Election Commission does not have the Charter power and authority to establish the date the Mayor will first be elected and undertake the necessary re-districting. Neither of these activities principally encompasses the "conduct of an election" or "election procedure" given the plain and usual meaning of those terms, or the proper construction of those terms in the context of 4-4. Put simply, the unresolved issue turns on when an election should be held, not how an election should be held.

Moreover, adoption of a transition plan by the Election Commission would result in a conflict with two other sections of the Charter. Section 2-3(a) prescribes the election of four and then three seats on the Council in successive even years, which cannot be accommodated with six Councilmember districts. Section 4-5(a) prescribes that the next re-districting is not to occur until 2021. A transition plan providing for election of a Mayor prior to 2022 would conflict with this provision. It is indisputable that the Election Commission may not by its actions, in effect amend the Charter.

3. Judicial Resolution. May the Council request that the Douglas County District Court devise a transition plan? There is a great deal of uncertainty as to whether the District Court has jurisdiction to consider Charter revisions at this time. There must be a "case or controversy" for the Court to decide a request for declaratory relief. It is not apparent that the lack of a transition plan creates a dispute, especially prior to the Council exhausting other avenues to put in place a transition plan. Judicial relief sought by the Town may be seen as a last resort rather than a first resort. Moreover, the time necessary to file and obtain a judicial ruling in 2018 would most certainly preclude proceeding with a special election in 2018. More probably, judicial resolution will come as a result of litigation initiated by interested parties challenging the Town's action or inaction in resolving the Charter questions. Should the Council desire to further explore this alternative additional legal research and analysis must be undertaken.

Please see the separate memorandum from the Town Clerk on the options and challenges to conducting a special election in 2018 as a coordinated election with Douglas County. If the Charter amendments submitted at the special election provide for a November 2018 Mayor election, the election must be held early in 2018 to allow sufficient time for the Election Commission to draw the new Council district boundaries, assuming the proposed amendments are approved. If this is to be pursued, the Council will need to adopt the ordinances calling the special election and referring the designated Charter amendments as early as January.

Proposed Motion

Move to direct staff to prepare draft ordinances calling for a 2018 Special Election and Referring necessary Charter amendments to such Special Election ballot for Council consideration at the December 5th Council meeting.

Attachments

Attachment A: Charter with proposed amendments

2017 Charter amendments are identified with CAPITALIZATION

Proposed amendments are identified with Boldface/Double Underline/~~Strikeout~~

11/14/17 DISCUSSION DRAFT

**CHARTER
for the
TOWN OF CASTLE ROCK, COLORADO**

as proposed by the
HOME RULE CHARTER COMMISSION
July 1, 1987

**HOME RULE CHARTER
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PREFATORY SYNOPSIS

The members of the Charter Commission of the Town of Castle Rock, Colorado, hereby submit to the Board of Trustees and to the voters a proposed Home Rule Charter which has been framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

The Commission members have sought to prepare a Charter which ensures that the government of the Town remains accountable to the citizens while providing a structure for quality government. In preparing this Charter, the Commission members have not limited themselves to a consideration of the present, but have considered the future needs of the Town, envisioning continued growth and progress.

In keeping with these principles, the Charter vests all policy-making and legislative powers in the Town Council composed of seven Councilmembers elected by district for two-year staggered terms. A Mayor is selected by the Council from its membership after each regular election.

The Commission members recognize that the Charter is a document of limitation on the home rule powers available to the Town and its Citizens, and so have sought to include in the charter important protections for the citizens. Provisions for initiative, referendum, and recall are included. Other protections include a mandatory public hearing on the proposed budget and on the proposed five-year capital program each year, an annual independent audit, limitations on annual property tax revenue increases, a mandatory election to approve increases in sales and use tax rates, and limits on the incurring of general obligation debt.

Other matters covered in the Charter include Council procedures, powers and duties; legal and judiciary; methods of Council action by ordinance, resolution and motion; elections; finance and budget; taxation; borrowing; improvement districts; franchises; boards and commissions; and transitional provisions.

It is hoped that the proposed Charter, while containing compromises reached during lengthy Commission deliberations, provides a structure for quality government in the Town of Castle Rock for now and the future.

ARTICLE I Name, Boundaries, Powers, and Form of Government

Section 1-1. Name, Boundaries.

Section 1-2. Powers of the Town.

Section 1-3. Form of Government.

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11/14/17 DISCUSSION DRAFT

Section 1-1. Name, Boundaries.

The municipal corporation now existing as the "Town of Castle Rock" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries until lawfully changed.

Section 1-2. Powers of the Town.

The Town shall have all the power of local self-government and home rule and all power possible for the Town under the Constitution of the State of Colorado. The Town shall also have all powers granted to municipalities by the laws of the State of Colorado. The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided ordinance or resolution.

Section 1-3. Form of Government.

The Town shall operate under the Council-Manager form of government.

Section 1-4. Eminent Domain.

The Town shall have all powers of eminent domain, within and without the limits of the Town, for all municipal purposes whatsoever.

(Added by Ord. 97-37, 10-7-97 election)

Section 1-5. Constitutional Rights.

Any restriction or limitation on the rights of citizens to keep and bear firearms enacted by the Town Council shall require the approval of the registered electors as a referred measure under Section 15-4 of this Charter. This Section shall not apply to Town County action which makes unlawful the discharge of brandishing of firearms. This Section shall govern and control over Articles II and VII or any other conflicting provision of this Charter, and shall apply only to Council action taken after its adoption.

(Added by Ord. No. 2014-16, § 1, 6-17-2014.)

ARTICLE II Town Council

Section 2-1. Powers of Council.

Section 2-2. Council Membership.

Section 2-3. Terms.

Section 2-4. Qualifications.

Section 2-5. Mayor.

Section 2-6. Vacancies.

Section 2-7. Oath of Office.

Section 2-1. Powers of Council.

The governing body of the Town shall be the Town Council. The Council shall have all the legislative powers and functions and all other powers possessed by the Town and not conferred by this Charter on others.

Section 2-2. - Council Membership.

Section 2-2. - Council Membership.

The Town Council shall consist of AN AT-LARGE MAYOR AND SIX Councilmembers, each of whom shall be elected from the district in which he or she resides.

Section 2-3. - Terms.

- (a) The Mayor shall be elected for a four-year term. The Councilmembers shall be elected for four-year overlapping terms. Four Councilmembers shall be elected at one regular election and two ~~three~~ Councilmembers shall be elected at the subsequent regular election.
- (b) The Councilmembers AND MAYOR shall take office at the first regular meeting in December following their election and compliance with Section 2-7 and shall continue in office until their successors have been elected or appointed as provided in this Charter and have complied with Section 2-7.
- (c) The Town Council shall hold an organizational meeting at the first regular meeting in December following the regular election.

(Amended by Ord. 97-36, 10-7-97 election; Ord. 2009-35, 4-6-10 election; Ord. No. 2015-30, 8-18-2015, passed at election, 11-3-2015)

Section 2-4. Qualifications.

The Mayor and each ~~Each~~ Councilmember shall be, at the time of nomination and election, or at the time of appointment, a registered elector of the Town and a citizen of the United States, and shall be a resident of the Town or of territory annexed to the Town for twelve consecutive months immediately preceding such election or appointment. In addition, each Councilmember shall be, at the time of nomination and election, or at the time of appointment, and throughout the term of office, a resident of the district from which elected or appointed. Neither the Mayor nor a ~~No~~ Councilmember shall be a paid employee of the Town during ~~the Councilmember's~~ such member's term of office.

Section 2-5. Mayor.

- (a) THE AT-LARGE MAYOR SHALL SERVE NO MORE THAN TWO FOUR-YEAR TERMS. AT THE ORGANIZATIONAL MEETING PROVIDED FOR IN SECTION 2-3(c), THE COUNCIL SHALL ELECT BY MAJORITY VOTE OF THE ENTIRE COUNCIL ONE OF ITS MEMBERS AS MAYOR PRO-TEM WHO WILL SERVE UNTIL THE NEXT ORGANIZATIONAL MEETING UNLESS REMOVED BY A MAJORITY VOTE OF THE ENTIRE COUNCIL.
- (b) The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as are conferred upon the Mayor by this Charter or the ordinances of the Town. The Mayor shall have all of the powers and responsibilities of a Councilmember. The Mayor shall be recognized as the head of the Town government for all ceremonial and legal purposes and shall execute and authenticate legal documents requiring the signature of the Mayor.
- (c) The Mayor pro-tem shall perform the duties and have the powers of the Mayor when the Mayor is unavailable.
- (d) If the office of Mayor or Mayor pro-tem becomes vacant, the Council shall elect a successor for the unexpired term.

Section 2-6. Vacancies.

- (a) A Councilmember OR MAYOR shall continue to hold office until a successor has been elected or appointed as provided in this Charter and has complied with Section 2-7. A vacancy in the office of Councilmember OR MAYOR exists when the Councilmember OR MAYOR is recalled, dies, is judicially declared incompetent, resigns, ceases to be a resident of the Town, ceases to be a resident of the district from which elected or appointed except as provided in Section 4-5(c), or is convicted of a felony.
- (b) Within thirty days after a vacancy occurs, the Council shall appoint a person to fill the vacancy until the next regular election. At that election a successor shall be elected for the unexpired term, if any, of the vacant position. The person appointed shall serve until the successor is elected and has complied with Section 2-7. The appointment shall be by majority vote of all remaining members of the Council. The Council shall not be required to appoint a person to fill a vacancy if the next regular election will be held within ninety days after the vacancy occurs.

Section 2-7. Oath of Office.

Before assuming office, every Councilmember AND MAYOR shall take and file with the Town Clerk or other designated person an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and ordinances of the Town, and to faithfully perform the duties of the office.

ARTICLE III Town Administration

Section 3-1. Town Manager.

Section 3-2. Absence of Town Manager.

Section 3-3. Powers and Duties.

Section 3-4. Other Offices.

Section 3-5. Relationship of Council to Administrative Service.

Section 3-1. Town Manager.

The Council shall appoint a Town Manager within a reasonable time after a vacancy occurs in the position. The Town Manager shall be the chief administrative officer of the Town. The Town Manager's appointment shall be at the pleasure of the Council and shall be at a salary to be fixed by the Council. The appointment or removal of the Town Manager shall require a majority vote of the entire Council. The Town Manager shall be appointed solely on the basis of professional and administrative qualifications. The Town Manager shall reside within the Town while holding the position. ~~No~~ Neither the Mayor nor any Councilmember shall be appointed Town Manager during the term for which such member ~~the Councilmember~~ was elected, nor within one year after the expiration of the Mayor or Councilmember's term.

Section 3-2. Absence of Town Manager.

The Council may appoint an acting Town Manager during the period of vacancy in the office, or during the absence of the Town Manager. During the period of such appointment, the acting Town Manager shall have all of the Town Manager's powers and duties.

Section 3-3. Powers and Duties.

- (a) The Town Manager shall be responsible to the Council for the proper administration of the matters placed in the Town Manager's charge. Except as otherwise provided by this Charter or by ordinances not inconsistent with this Charter, the Town Manager's responsibilities shall include the following:
- (1) Enforcement and administration of the ordinances and other enactments of the Town, and of the terms and conditions imposed in favor of the Town in any contract or franchise;
 - (2) The hiring, suspension, transfer and removal of Town employees, except that the appointment, suspension, transfer, or removal of any person designated as a department head shall require the Council's approval;
 - (3) Annual preparation and submission to the Council of a proposed budget and capital program as provided in this Charter, and administration of the same after their adoption;
 - (4) Preparation and submission to the Council, as of the end of the fiscal year, of a complete report on finances and administrative activities of the Town for the preceding year, and the provision of such other reports concerning the affairs of the Town as the Council may require;
 - (5) Advice and recommendations to the Council of the present condition and future needs of the Town;
 - (6) With Council approval, the establishment, consolidation, or abolition of Town departments;
 - (7) Supervision and control of Town departments except as otherwise provided in this Charter;

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- (8) Attendance at Council meetings and participation in discussions with the Council in an advisory capacity;
- (9) Establishment of a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town; and
- (10) Performance of such other duties as required by this Charter, or as required by the Council and not inconsistent with this Charter.

Section 3-4. Other Offices.

(a) The following offices are hereby created:

- (1) The Town Clerk, who shall be custodian of the Town seal, shall keep a journal of Council proceedings, and shall record in full all ordinances, resolutions, and motions. The Town Clerk shall have power to administer oaths and take acknowledgement under seal of the Town, and shall perform such other duties as required by this Charter, or as required by the Council or the Town Manager and not inconsistent with this Charter.
 - (2) The Police Chief, who shall be responsible for planning and directing the work of the police department, and shall perform such other duties as required by this Charter, or as required by the Council or the Town Manager and not inconsistent with this Charter.
 - (3) The Fire Chief, who shall be responsible for planning and directing the work of the fire department, and shall perform such other duties required by this Charter, or as required by the Council or the Town Manager and not inconsistent with this Charter.
- (b) Except as may otherwise be provided in this Charter or by ordinance, every officer of the Town shall serve at the pleasure of the Council. Every appointment of an officer shall be on the basis of the qualifications of the appointee. The appointment or removal of an officer shall require a majority vote of the entire Council.
- (c) The Council may require the bonding, at the Town's expense, of any officer or employee prior to the commencement of the duties of the office or position.
- (d) Before assuming office, every officer of the Town shall take and file with the Town Clerk or other designated person an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and ordinances of the Town, and to faithfully perform the duties of the office.

Section 3-5. Relationship of Council to Administrative Service.

No member of Council ~~Councilmember~~ shall direct or request the appointment of any person to, or removal from, employment by the Town Manager or in any manner take part in the appointment or removal of employees in the administrative service of the Town, except as otherwise provided in this Charter. Except for the purpose of inquiry, or to guide presentations of matters to the Council during its meetings, the Council and its members shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager, and neither the Council nor any ~~Councilmember~~ member of Council shall give orders to any employee of the Town either publicly or privately.

ARTICLE IV Elections

Section 4-1. Laws Governing Elections.

Section 4-2. Regular Elections.

Section 4-3. Special Elections.

Section 4-4. Election Commission.

Section 4-5. Districts.

Section 4-1. Laws Governing Elections.

- (a) Except for a special election conducted pursuant to Section 4-3 all Town elections shall be conducted under the Uniform Election Code of 1992, as from time to time amended. The Douglas County Clerk shall have all statutory power and authority to conduct such elections as coordinated elections.
- (b) In the event Douglas County is unable to conduct a special election in compliance with applicable Charter and ordinance requirements, then such special elections shall be conducted by the Town, as provided by ordinance not inconsistent with this Charter.

(Ord. No. 2015-30, 8-18-2015, passed at election 11-3-2015)

Section 4-2. Regular Elections.

A regular election shall be held each even-numbered year on the first Tuesday following the first Monday of November.

(Ord. 97-36, 10-7-97 election; Ord. 2009-35, 4-6-10 election; Ord. No. 2015-30, 8-18-2015, passed at election 11-3-2015)

Section 4-3. Special Elections.

Special elections shall be held on any Tuesday designated by the Town Council. No special election shall be called within sixty days before the date thereof. No special election shall be held within the one hundred twenty days before a regular election. The ordinance calling a special election shall set forth the purpose of the election.

(Ord. No. 2015-30, 8-18-2015, passed at election 11-3-2015)

Section 4-4. Election Commission.

- (a) An Election Commission is hereby created consisting of five registered electors of the Town. During their terms of office, the members shall not be Town officers, Town employees, or candidates for

elective Town office. The members shall be appointed for staggered terms of three years by the Council at the organizational meeting following the regular election. The Election Commission shall elect a Chairman from its members.

- (b) The Election Commission shall have charge of all activities and duties required of it by this Charter and by ordinances relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.
- (c) The Election Commission shall provide procedures for establishing proof of residency where there is a question of residency of a person who is registered to vote.
- (d) The Election Commission shall provide for ballots or voting machines, for determination of the winner by lot in the event of a tie vote, for canvass of returns, and for issuance of appropriate certificates.
- (e) The Election Commission shall have the power to adopt reasonable rules and regulations not inconsistent with the Constitution of the State of Colorado or the Charter and ordinances of the Town.

(Amended by Ord. 97-37, 10-7-97 election; Ord. 2004-41, 11-2-04 election)

Section 4-5. Districts.

- (a) The Town is hereby divided into ~~seven~~ six districts the boundaries of which shall be established and changed by the Election Commission as provided in this Charter. Districts shall be reviewed by the Election Commission in 2015, 2021 and every six years thereafter to determine if an adjustment in district boundaries is required in order to meet the requirements of subsection (b).
- (b) In each year a review of district boundaries is required under subsection (a), the Election Commission shall ascertain, based on the available election records, the number of registered electors in each district on January 15 of that year, or the next business day following January 15th if January 15 falls on a Saturday, Sunday, or legal holiday. If the number of registered electors in the district with the lowest number of registered electors is less than eighty-five percent of the number of registered electors in the district with the highest number of registered electors, the district boundaries shall be adjusted in accordance with subsection (c). If the least populated district has a number of registered electors equal to or greater than eighty-five percent of the registered electors of the most heavily populated district, no adjustment in district boundaries shall be made.
- (c) Not later than April 1 of the year in which an adjustment in district boundaries is required under subsection (b), the Election Commission shall change the boundaries of districts so that the number of registered electors calculated in accordance with subsection (b) is not less than eighty-five percent of the number of registered electors in the district with the highest number of registered electors. Districts shall be contiguous and compact whenever possible.
- (d) No change in district boundaries shall create a vacancy during the term of any Councilmember in office at the time of the change.

(Amended by Ord. 97-37, 10-7-97 election; Ord. 2004-42, 11-2-04 election; Ord. 2009-46, 4-6-10 election)

ARTICLE V Legal and Judiciary

Section 5-1. Town Attorney.

Section 5-2. Municipal Court and Municipal Judges.

Section 5-1. Town Attorney.

- (a) The Council shall appoint a Town Attorney to serve at the pleasure of the Council. The appointment or removal of the Town Attorney shall require a majority vote of the entire Council. The Town Attorney shall be at all times while serving as Town Attorney an attorney-at-law admitted to practice law in the State of Colorado, and shall have a minimum of five years' experience in the active practice of law at the time of appointment. The Town Attorney shall be the legal representative of the Town, shall advise the Council and officers of the Town in matters relating to their official powers and duties, and shall perform such other duties as Council may direct.
- (b) The Council may on its own motion or upon request of the Town Attorney employ special counsel.
- (c) The Council shall establish compensation for the Town Attorney and shall approve in advance the compensation of special counsel.
- (d) The Town Attorney shall have the authority to appoint, promote, suspend, transfer, and remove Town employees in the office of the Town Attorney, subject to the provisions of any personnel policies adopted by the Council.

Section 5-2. Municipal Court and Municipal Judges.

- (a) Except as may otherwise be provided by this Charter or by ordinance:
 - (1) The municipal court existing on the effective date of this Charter shall continue as the municipal court for the Town, with jurisdiction over all matters arising under the Charter, ordinances and other enactments of the Town; and
 - (2) The appointment, removal, term of office, powers and duties of municipal judges, and all other matters relating to municipal judges and to the municipal court, shall be as set forth in those state statutes, as from time to time amended, applicable to municipal judges and municipal courts.
- (b) Every municipal court judge shall throughout the term of office be an attorney-at-law admitted to practice law in the State of Colorado, and shall have a minimum of five years' experience in the active practice of law at the time of appointment.
- (c) The Town Council shall appoint a presiding municipal judge who shall be the chief administrative officer of the municipal court. The presiding municipal judge shall have the authority to appoint, promote, suspend, transfer, and remove employees of the municipal court, subject to the provisions of any personnel policies adopted by the Town Council.

ARTICLE VI Council Procedures

Section 6-1. Meetings.

Section 6-2. Quorum; Adjournment of Meeting.

Section 6-3. Voting.

Section 6-1. Meetings.

- (a) The Council shall establish by ordinance a schedule of regular meetings and procedures for holding special meetings.
- (b) All persons, including Town employees, shall have a reasonable opportunity to be heard during regular and special meetings of the Council under such procedures as the Council may prescribe.
- (c) All regular and special meetings of three or more members of the Council and of any board, commission, agency, or authority of the Town shall be open to the public, except that any Council meeting may be recessed by an affirmative vote of two-thirds of the entire Council and closed to the public for the following purposes only:
 - (1) To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop strategy, and to instruct negotiators;
 - (2) To consider the acquisition or disposal of property if, in the judgment of the members, premature disclosure of information might give any person an unfair competitive or bargaining advantage;
 - (3) For matters of attorney-client privilege;
 - (4) For matters required by federal law or nonsuperseded state law to be kept confidential, except that a public announcement shall first be made of the federal or state law which forms the basis of the confidentiality requirement;
 - (5) For matters critical to the personal safety of the members and for matters involving the protection and security of Town property;
 - (6) Personnel matters, unless the subject employee requests a public meeting; and
 - (7) To consider additional matters which, by statute or court decision, can be excluded from the open meeting requirements of those state statutes, as from time to time amended, which would apply to the Town but for the adoption and provisions of this Charter.
- (d) The topic for discussion of any closed session shall be stated in the motion calling for closure. Except to the extent specifically permitted in this Section, no formal action, no final policy decision, no resolution, rule, ordinance, or regulation, and no action approving a contract or calling for the payment of money, shall be adopted or approved at any session closed to the public.

(Amended by Ord. 97-37, 10-7-97 election)

Section 6-2. Quorum; Adjournment of Meeting.

A majority of the members of the Council holding office at the time shall be a quorum and necessary for the transaction of business at all Council meetings. In the absence of a quorum a lesser number shall adjourn any meeting to a later time or date.

Section 6-3. Voting.

- (a) A vote shall be taken on all ordinances, resolutions and motions. Except where otherwise specified in this Charter, every ordinance shall require a majority vote of the ~~Councilmembers~~ members of Council holding office, for final passage, and resolutions and motions shall require a majority vote of the members voting thereon if a quorum is present.
- (b) Except as otherwise required by this Section, each ~~Councilmember~~ member of Council who is present shall vote on all ordinances, resolutions, and motions.
- (c) No member of Council ~~Councilmember~~ shall vote on any question concerning such member's ~~Councilmember's~~ conduct. On such question such member of Council ~~Councilmember~~ shall abstain from voting after stating the reason for the abstention.
- (d) No member of Council ~~Councilmember~~ shall vote on or participate in any discussion on any question with regard to which such member of Council ~~Councilmember~~ has a conflict of interest pursuant to an applicable state statute, or as otherwise defined by ordinance. On such question such member of Council ~~Councilmember~~ shall abstain from voting after disclosing publicly the nature of the interest.

(Amended by Ord. 97-37, 10-7-97 election)

ARTICLE VII Ordinances, Resolutions and Motions

Section 7-1. Prior Town Legislation.

Section 7-2. Action by Ordinances, Resolutions and Motions.

Section 7-3. Procedure for Adoption and Effective Dates of Ordinances.

Section 7-4. Codification of Ordinances.

Section 7-1. Prior Town Legislation.

All ordinances, resolutions, rules and regulations of the Town which are not inconsistent with this Charter, and which are in effect on the effective date of this Charter, shall continue in full force after the effective date of this Charter until repealed or amended. The provision of any ordinance, resolution, rule or regulation which conflicts with this Charter is hereby repealed.

Section 7-2. Action by Ordinances, Resolutions and Motions.

- (a) The Council shall act only by ordinance, resolution, or motion. The Council may select the appropriate form for its action, except where a particular form of action is required by this Charter.
- (b) In addition to any other acts required by this Charter to be taken by ordinance, those acts of the Town Council shall be by ordinance which:
 - (1) Impose or increase rates for services provided by Town-owned utilities;
 - (2) Create a debt or authorize the borrowing of money;

- (3) Make an appropriation;
- (4) Impose, increase or decrease any tax;
- (5) Establish any regulation for violation of which a fine or jail sentence penalty may be imposed;
- (6) Place any direct burden upon or directly limit the use of private property; or
- (7) Call a special election.

Section 7-3. Procedure for Adoption and Effective Dates of Ordinances.

- (a) The procedure for the adoption, and the effective dates, of ordinances shall be as set forth in the state statutes applicable to cities, as from time to time amended, except as otherwise provided in this Charter or as provided in ordinances not inconsistent with this Charter.
- (b) Prior to the adoption of any ordinance, except an ordinance which is necessary for the immediate preservation of the public peace, health or safety and which contains a statement of the reasons therefor, the proposed ordinance shall be posted on the Town website along with a notice containing a summary of the subject matter of the proposed ordinance and identifying the location where the entire text of the proposed ordinance is available for public inspection. Following adoption, every ordinance shall be posted on the Town website along with a notice containing a summary of the subject matter of the ordinance and identifying the location where the ordinance is available for public inspection.
- (c) Unless otherwise provided by ordinance:
 - (1) No vote of the Town Council shall be required to introduce or read any proposed ordinance; and
 - (2) An ordinance may be both introduced and adopted during the same meeting of the Council.
- (d) The enacting clause of all ordinances shall be as follows: "It is ordained by the Town Council of the Town of Castle Rock, Colorado:".

(Amended by: Ord. No. 2015-31, 8-18-2015, passed at election 11-3-2015.)

Section 7-4. Codification of Ordinances.

The Town Council shall cause those ordinances and resolutions of the Town shall cause those ordinances and resolutions of the Town to be codified which are, in the Council's opinion, of a general and permanent nature, and such codification shall be maintained in as current a form as reasonably possible. In establishing the procedures permitted by Section 7-3, the Council may provide, among other matters, that ordinances and resolutions which are codified may be amended or repealed by reference to the Code rather than to the originally enacted ordinance or resolution. Copies of the Town Code shall be available to the public for inspection and for purchase.

ARTICLE VIII Water Rights

Section 8-1. Powers.

Section 8-2. Dedication of Water Rights.

2017 Charter amendments are identified with CAPITALIZATION

Proposed amendments are identified with Boldface/Double Underline/~~Strikeout~~

11/14/17 DISCUSSION DRAFT

Section 8-1. Powers.

The Town shall have the power to buy, sell, condemn, exchange, lease, own, control, and otherwise deal in water rights.

Section 8-2. Dedication of Water Rights.

Any person annexing land to the Town shall dedicate to the Town, at the time of annexation, all water rights appurtenant to such land, on such terms and conditions as are prescribed by ordinance.

(Amended by Ord. 97-37, 10-7-97 election)

ARTICLE IX Budget Control and Finance

Section 9-1. Fiscal Year.

Section 9-2. Submission of Budget and Budget Message.

Section 9-3. Budget Message.

Section 9-4. Budget Contents.

Section 9-5. Capital Program.

Section 9-6. Council Action on Budget.

Section 9-7. Contingent Expenditures.

Section 9-8. Council Action on Capital Program.

Section 9-9. Availability of Budget and Capital Program.

Section 9-10. Supplemental Appropriations.

Section 9-11. Emergency Appropriations.

Section 9-12. Reduction of Appropriations.

Section 9-13. Transfer of Appropriations.

Section 9-14. Limitation-Effective Date.

Section 9-15. Lapse of Appropriation.

Section 9-16. Administration-Work Programs and Allotments.

Section 9-17. Administration-Payments and Obligations Prohibited.

Section 9-18. Independent Audit.

Section 9-1. Fiscal Year.

The fiscal year of the Town shall begin on the first day of January and end on the last day of December.

Section 9-2. Submission of Budget and Budget Message.

No later than forty-five days prior to any date required by the state statutes for the certification to the county of the tax levy for the ensuing year, the Town Manager shall submit to the Council the proposed budget for the ensuing fiscal year and an accompanying message.

Section 9-3. Budget Message.

The Town Manager's message shall explain the proposed budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the Town's debt position, and include such other material as the Town Manager deems desirable or which the Council may require.

Section 9-4. Budget Contents.

(a) The proposed budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by this Charter, shall be in such form as the Town Manager deems desirable or the Council may require. In organizing the proposed budget, the Town Manager shall classify expenditures by fund, organization unit, program, purpose or activity, and object. The proposed budget shall begin with a clear general summary of its contents, shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year, and shall indicate in separate sections:

- (1) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amount to be received from property tax; cash surplus being defined for purposes of this Article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the ensuing fiscal year;
- (2) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (3) A reasonable provision for contingencies which shall not be available for expenditures except as provided in Section 9-7;
- (4) Required expenditures for debt service, judgments, cash deficit recovery and statutory expenditures;
- (5) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and
- (6) Anticipated net surplus or deficit for the ensuing fiscal year for each utility owned or operated by the Town and the proposed method of its disposition. Subsidiary budgets for each such utility

giving detailed income and expenditure information shall be attached as appendices to the budget.

- (b) The total of proposed expenditures and provision for contingencies shall not exceed the total of estimated revenue.

Section 9-5. Capital Program.

- (a) The Town Manager shall prepare and submit to the Council a proposed five-year capital program at least two months prior to the final date for submission of the proposed budget.
- (b) The proposed capital program shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, in order of recommended priority, with appropriate supporting information as to the necessity for the improvement;
 - (3) Cost estimates, method of financing and recommended schedules for each such improvement; and
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, and the proposed method of financing such costs.
- (c) The information required in this Section may be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 9-6. Council Action on Budget.

- (a) A public hearing on the proposed budget shall be held by the Council on any date at least fifteen days prior to the final day established by law for the certification of the ensuing year's tax levy to the county. Notice of the time and place of such hearing shall be published in a newspaper having general circulation in the Town one time at least five days prior to the hearing.
- (b) After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to any amount greater than the total of estimated revenue.
- (c) The Council shall adopt the budget by ordinance on or before the final day established by law for the certification of the ensuing year's tax levy to the county. If it fails to adopt the budget by that date, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the Council adopts the budget for the ensuing fiscal year.
- (d) Adoption of the budget constitutes appropriations of the amounts specified therein as expenditures from the funds indicated and constitutes a levy of the property tax therein proposed.

Section 9-7. Contingent Expenditures.

Appropriations for contingencies may not be expended or transferred except pursuant to ordinance.

Section 9-8. Council Action on Capital Program.

A public hearing on the proposed capital program shall be held by the Council on a date no later than the date of the public hearing on the proposed budget for the ensuing year. The Council may hold the public hearings on the capital program and on the budget at the same time. Notice of the time and place of such hearing shall be published in a newspaper having general circulation in the Town one time at least five days prior to the hearing. The Council shall adopt the capital program by resolution with or without amendment after the public hearing and on a date no later than the date of adoption by the Council of the budget for the ensuing year.

Section 9-9. Availability of Budget and Capital Program.

Copies of the budget and the capital program as adopted shall be made available to the public for inspection and acquisition.

Section 9-10. Supplemental Appropriations.

If during the fiscal year, the Town Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council may by ordinance make supplemental appropriations for the year up to the amount of such excess.

Section 9-11. Emergency Appropriations.

To meet a public emergency which the Council's judgment may affect life, health, property or the public peace, the Council may by ordinance make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Section 9-12. Reduction of Appropriations.

If at any time during the fiscal year, it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, The Town Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The Council shall take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

Section 9-13. Transfer of Appropriations.

At any time during the fiscal year, the Town Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Town Manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, agency or object to another.

Section 9-14. Limitation-Effective Date.

No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. A supplemental, emergency, reduced, or transferred appropriation made pursuant to Sections 9-10, 9-11, 9-12, or and 9-13 may be made effective immediately upon adoption.

Section 9-15. Lapse of Appropriation.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it has been made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 9-16. Administration-Work Programs and Allotments.

The Town Manager shall require each department, office and agency to submit work programs for the ensuing fiscal year showing the requested allotment of its appropriation by at least quarterly periods throughout the year. The Town Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The Town Manager may revise such allotments during the year if the Town Manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriation made pursuant to Sections 9-10, 9-11, 9-12, or 9-13.

Section 9-17. Administration-Payments and Obligations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Town Manager first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any person who knowingly authorized or made such payment or incurred such obligation, and such person shall also be liable to the Town for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, if such act was made or approved by ordinance.

Section 9-18. Independent Audit.

The Council shall provide for an independent annual audit of all Town accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no direct personal interest in the fiscal affairs of the Town government, or of any member of Council~~Councilmember~~, or of any other officer of the Town. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year.

ARTICLE X Municipal Borrowing

Section 10-1. Forms of Borrowing.

Section 10-2. Short-term Securities.

Section 10-3. General Obligation Securities.

Section 10-4. Revenue Securities.

Section 10-5. Refunding Securities.

Section 10-6. Limitations.

Section 10-7. Tabor Amendment Compliance.

Section 10-1. Forms of Borrowing.

(a) The Town may borrow money and issue the following securities to evidence such borrowing:

- (1) Short-term securities;
- (2) General obligation bonds and other like securities;
- (3) Revenue bonds and other like securities;
- (4) Local improvement district bonds and other like securities;
- (5) Any other lawfully recognized security.

Section 10-2. Short-term Securities.

The Town may, by ordinance and without any election, borrow money in anticipation of the collection of taxes or other revenues and issue short-term notes or other securities to evidence the amount so borrowed. Any such short-term securities shall mature before the close of the fiscal year in which the money is so borrowed.

Section 10-3. General Obligation Securities.

Except as provided in Section 10-2, Section 10-4, Section 10-5, and Article XI, no bonds or other evidence of indebtedness payable in whole or in part from the proceeds of general property taxes or to which the full faith and credit of the Town are pledged, shall be issued until the question of their issuance has been submitted to a vote of the registered electors at a regular or special election and approved by a majority of those voting on the question. However, such securities issued for acquiring water and rights thereto, or acquiring, improving or extending a municipal water system, or otherwise supplying water services, may be issued without an election, subject to a timely referendum, if one is filed in accordance with the procedures and requirements set forth in this Charter, notwithstanding any emergency declaration in this ordinance.

Section 10-4. Revenue Securities.

The Town may, by ordinance and without any election, borrow money and issue securities made payable solely from any revenues other than the proceeds of the general valorem property tax, including, without limiting the generality of the foregoing, revenues derived from the operation of the project or capital improvement acquired with the securities proceeds, or from any other projects or improvements, from any Town-imposed fees, from the proceeds of any sales, use, excise or other tax (other than a general ad valorem property tax), from the proceeds of any revenue received by the Town from the State or any other governmental entity, or from any part or combination of such sources. Interim securities not payable from a general ad valorem property tax may be issued without an election in anticipation of the securities described in this Section and may be made payable in whole or in part from the proceeds of the anticipated securities.

Section 10-5. Refunding Securities.

The Council may, by ordinance and without any election issue refunding bonds or other like securities for the purpose of refunding and providing for the payment of any outstanding bonds or other like securities of the Town as the same mature, or in advance of maturity by means of an escrow or otherwise. Such refunding securities may be issued in such amounts as the Council deems necessary to accomplish the purpose of the refunding.

Section 10-6. Limitations.

All securities issued pursuant to the provisions of this Charter shall be sold at public or private sale to the best advantage of the Town at, above or below par. Securities may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Section 10-7. Tabor Amendment Compliance.

In the event any language in this Article X is in direct conflict with Colorado Constitution, Article X, Section 20, the language of Colorado Constitution, Article X, Section 20 shall prevail.

(Added by Ord. 97-37, 10-7-97 election)

ARTICLE XI Improvement Districts

Section 11-1. Power to Create Districts.

Section 11-2. Improvement District Securities, Pledge of Credit.

Section 11-3. Reserved.

Section 11-4. Payment of Securities.

Section 11-5. Reserved.

Section 11-1. Power to Create Districts.

- (a) The Council shall have the power to create local improvement districts within the Town and to contract for, construct, acquire or install local improvements of every character within the districts, to assess the cost thereof, wholly or in part, upon the property benefited in such districts, and to issue local improvement bonds therefor.
- (b) The Council shall, by ordinance and consistent with this Charter, prescribe the method and manner of creating the districts, constructing or otherwise acquiring the improvements, letting contracts therefor, issuing and paying bonds for the construction, acquisition or installation of such improvements, including the costs incidental thereto, for assessing the costs thereof, the procedure for protesting the creation of a district, and for all other things in relation to local improvement districts. At a minimum, the ordinance shall require that:
 - (1) Written notice of a public hearing on the creation of any district shall be mailed to the last known address of the last known record fee title owners of all lands to be included in the district;
 - (2) Except when a district is created by petition, the question of creation of a district and of the method for assessing the costs thereof shall be subject to an election of the record fee title owners of the lands within the district if a petition requesting an election is signed by such owners comprising at least ten percent of the units proposed to be used for assessing the costs within the district;
 - (3) At any election required by paragraph (2) of this Subsection (b), each record fee title owner shall have one vote for each of the units proposed to be used for assessing the costs within the district;
 - (4) A district shall not be created pursuant to any election required by paragraph (2) of this Subsection (b) unless:
 - (a) The record fee title owners who voted in the election own a total of at least fifty percent of the lands to be included within the district;
 - (b) The record fee title owners who voted in favor of the creation of the district comprise at least a majority of the units to be used for assessing the proposed costs within the district; and
 - (c) Sixty-six and two-thirds percent of the record fee title owners who voted in the election voted in favor of the creation of the district; and
 - (5) In a creation of a district by a petition, the petition shall be signed by record fee title owners comprising at least sixty-six and two-thirds percent of the units to be used for assessing the proposed costs within the district.

Section 11-2. Improvement District Securities, Pledge of Credit.

Securities for any local improvement district payable from special assessments, which payment may be additionally secured as provided in this Charter and in ordinances not inconsistent with this Charter, shall not be subject to any debt limitation or affect the Town's debt-incurring power, nor shall such securities be required to be authorized at any election; and such securities shall not be held to constitute a prohibited lending of credit or donation, or to contravene any provision of the Constitution or State statutes, or any Charter limitation or restriction.

Section 11-3. Reserved.

Prior Section 11-3, Transfer of Unencumbered Money, was deleted by Ordinance 97-37, 10-7-97 election.

Section 11-4. Payment of Securities.

In addition to any other provisions for payment, whenever there have been paid and cancelled three-fourths of the securities issued for a local improvement district, and for any reason the remaining assessments are not paid in time to redeem the final securities for the district, the Town shall, if so provided in the ordinance authorizing such securities, pay the securities when due and reimburse itself by collecting the unpaid assessments due the district.

Section 11-5. Reserved.

Prior Section 11-5, Pledge of Property Taxes or Full Faith and Credit, was deleted by Ordinance 97-37, 10-7-97 election.

ARTICLE XII (Reserved)

ARTICLE XIII - Taxation

ARTICLE XIII Taxation

Section 13-1. Authority to Levy Taxes.

Section 13-2. Limitations on Future General Property Taxes.

Section 13-3. Limitations on Sales and Use Tax Rate.

Section 13-4. Limitations on Other Taxes.

Section 13-1. Authority to Levy Taxes.

Subject to the provisions of this Charter, the Council may by ordinance levy and collect taxes for municipal purposes.

Section 13-2. Limitations on Future General Property Taxes.

- (a) Except as provided in Subsections (b) and (c) of this Section, the annual general ad valorem property tax levied by the Town shall levy no more than the amount of revenue that was levied in the preceding year plus five and one-half percent, except to provide for the payment of securities issued pursuant to Articles X or XI and payable from general property taxes and interest on such securities, or for the payment of any contractual obligation which has been approved by a majority of the registered electors of the Town. In computing the limit, the following shall be excluded:
- (1) The increased valuation for assessment attributable to annexation or inclusion of additional land, the improvements thereon, and personal property connected therewith within the Town for the preceding year;
 - (2) The increased valuation for assessment attributable to new construction and personal property connected therewith within the Town for the preceding year;
 - (3) The increased valuation for assessment attributable to increased volume of production for the preceding year by a producing mine if said mine is wholly or partially within the Town and if said increase in volume of production causes an increase in the level of services provided by the Town; and
 - (4) The increased valuation for assessment attributable to previously legally exempt federal property which becomes taxable if such property causes an increase in the level of services provided by the Town.
- (b) If the state statutes which place an annual limit on general ad valorem property tax revenue increases, and which would apply to the Town except for the adoption of this Charter, are amended to provide for a lower percentage limit than the five and one-half percent limit provided for in Subsection (a) of this Section, the lower percentage limit shall apply.
- (c) The annual percentage limit on property tax revenue increases imposed pursuant to Subsections (a) or (b) of this Section may be exceeded only if approved by a majority of the registered electors of the Town voting thereon at a regular or special election.

Section 13-3. Limitations on Sales and Use Tax Rate.

No increase in the Town's sales or use tax rate, or extension of the period for which a temporary rate increase is effective shall take effect until approved at a regular or special election by a majority of the registered electors voting thereon. The limitation of this Section shall not be construed to otherwise limit the authority of the Town Council, without any election, to provide for the administration of, amend, revise, limit or take any other action affecting the Town sales or use tax.

(Amended by Ord. 2004-43, 11-2-04 election)

Section 13-4. Limitations on Other Taxes.

Any taxes which the Town Council may adopt shall be initially adopted, and the rate of the tax increased or decreased, only by ordinance which shall be subject to a timely referendum, if one is filed in accordance with the procedures and requirements set forth in this Charter, notwithstanding any emergency declaration in the ordinance.

ARTICLE XIV Franchises and Permits

Section 14-1. Present Franchises.

Section 14-2. New Franchises and Renewals.

Section 14-3. Revocable Permits or Licenses.

Section 14-1. Present Franchises.

All franchise ordinances and agreements of the Town in effect on the effective date of this Charter shall remain in force in accordance with their respective terms and conditions unless earlier modified by another franchise.

Section 14-2. New Franchises and Renewals.

- (a) No franchise shall be granted or renewed for a longer period than ten years.
- (b) Any franchise and any renewal of or amendment to a franchise shall be granted by the Town Council by ordinance. Any ordinance granting, renewing or amending a franchise shall be subject to a timely referendum, notwithstanding any emergency declaration in the ordinance, if one is filed in accordance with the procedures and requirements set forth in this Charter. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the Town Clerk in an amount determined by the Town Clerk.
- (c) The Council shall establish by ordinance procedures, terms, fees, compensation, conditions, and other matters related to the granting of franchises.

Section 14-3. Revocable Permits or Licenses.

The Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town-owned place. Any such permit or license shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

ARTICLE XV Initiative, Referendum and Recall

Section 15-1. Initiative.

Section 15-2. Referendum.

Section 15-3. Recall.

Section 15-4. Council Referendum.

Section 15-5. Prohibited Action by Town Council.

Section 15-6. Withdrawal of Petition.

Section 15-1. Initiative.

- (a) The initiative power is hereby extended to the Town's registered electors as to ordinances of every character, including legislative and administrative ordinances. Any initiated measure shall be in the form of an ordinance. The measure shall be initiated pursuant to the procedures set forth in this Charter and in those state statutes, as from time to time amended, which do not conflict with this Charter and which establish procedures for a municipal initiative.
- (b) An initiative petition shall be signed by registered electors of the Town equal in number to at least ten percent of the total number of electors of the Town registered on the date the form of the petition is approved by the Town Clerk. No signature on an initiative petition shall be valid if signed on a date prior to the date the form of the petition is approved by the Clerk or if signed on a date more than ninety days prior to the date the signed petition is filed with the Clerk.
- (c) A registered elector who has signed an initiative petition may request the removal of his or her signature from the petition any time on or before the date the initiative petition is filed with the Town Clerk. Such request shall be made on a form prescribed by Town Clerk and in accordance with the requirements of any applicable ordinance which is not inconsistent with this Charter.

(Amended by: Ord. No. 2015-35, 8-18-2015, passed at election 11-3-2015)

Section 15-2. Referendum.

- (a) The referendum power is hereby extended to the Town's registered electors as to ordinances of every character, including legislative and administrative ordinances, but not to any ordinance which is necessary for the immediate preservation of the public peace, health, or safety unless otherwise provided in this Charter. The ordinances to which the referendum power is extended may be referred pursuant to the procedures set forth in this Charter and in those state statutes, as from time to time amended, which do not conflict with this Charter and which establish procedures applicable to a municipal referendum.
- (b) A referendum petition shall be signed by registered electors of the Town equal in number to at least ten percent of the total number of electors of the Town registered on the date the form of the petition is approved by the Town Clerk.
- (c) A registered elector who has signed a referendum petition may request the removal of his or her signature from the petition any time on or before the date the initiative petition is filed with the Town Clerk. Such request shall be made on a form prescribed by Town Clerk and in accordance with the requirements of any applicable ordinance which is not inconsistent with this Charter.

(Amended by: Ord. No. 2015-32, 8-18-2015, passed at election 11-3-2015 election ; Ord. No. 2015-35, 8-18-2015, passed at election 11-3-2015)

Section 15-3. Recall.

- (a) Any person holding elective office, including the office of Mayor or Councilmember, may be recalled at any time after six months in office, pursuant to the procedures set forth in this Charter and in those state statutes, as from time to time amended, which do not conflict with this Charter and which establish procedures for the recall of municipal elective officers.
- (b) A recall petition of the Mayor shall be signed by registered electors of the Town. A recall petition of a Councilmember shall be signed by registered electors of the district from which the incumbent sought to be recalled was elected. The signers shall number at least twenty-five percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be recalled occupies. For the purpose of this Section, the "last preceding election" shall be the last preceding election at which the person sought to be recalled was elected to office, unless the person sought to be recalled was appointed to fill a vacancy, in which event it shall be the last preceding election at which the person who created the vacancy was elected to office.
- (c) No signature on a recall petition shall be valid if signed on a date more than thirty days prior to the date the signed petition is filed with the Clerk.
- (d) No recall election shall be held if the person sought to be recalled occupies one of the offices to be filled at a regular election which is scheduled within ninety days after submission of the recall petition.
- (e) After one recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least fifty percent of the votes cast at the last preceding election for all candidates for the office held by such person, the number to be determined in the manner described in this section.
- (f) Except as to requirements contained in this Charter and in the state statutes, as from time to time amended, applicable to the recall of municipal elective officers, the form, content, approval and other petition requirements in the municipal initiative statutes, as from time to time amended, shall apply as nearly as practicable to recall petitions.

Section 15-4. Council Referendum.

The Town Council shall have the power to submit to a vote of the registered electors, any proposed or adopted ordinance or any question, without receipt of any petition.

Section 15-5. Prohibited Action by Town Council.

- (a) No initiated ordinance adopted by the voters may be substantively amended or repealed by the Town Council during a period of six months after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by a majority of the registered electors voting thereon.
- (b) No referred ordinance repealed by the voters may be readopted by the Town Council during a period of six months after the date of the election on the referred ordinance, unless the readoption is approved by a majority of the registered electors voting thereon.

Section 15-6. Withdrawal of Petition.

- (a) An initiative, referendum, or recall petition may be withdrawn by all persons designated in the petition as petition representatives on matters affecting the petition within the timeframes prescribed in this Section 15-6 and in compliance with any ordinance which does not conflict with this Section 15-6. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.
- (b) An initiative petition may be withdrawn prior to the Town Council's first consideration of any initiated ordinance pursuant to statutory requirements. The petitioner(s) must submit the withdrawal of such petition no later than 12:00 P.M. on the date Town Council is scheduled to first consider the initiated ordinance.
- (c) A referendum petition may be withdrawn prior to the Town Council's reconsideration of the ordinance subject to the referendum, pursuant to statutory requirements. The petitioner(s) must submit the withdrawal of such petition not later than 12:00 P.M. on the date the Town Council is scheduled to reconsider such ordinance subject to the referendum.
- (d) A recall petition may be withdrawn prior to the twentieth day preceding the date of the recall election.

(Amended by: Ord. No. 2015-34, 8-18-2015, passed at election 11-3-2015)

ARTICLE XVI Miscellaneous Provisions

Section 16-1. Boards and Commissions.

Section 16-2. Severability of Charter Provisions.

Section 16-3. Interpretation.

Section 16-4. Definitions.

Section 16-1. Boards and Commissions.

All Town boards, commissions, and authorities, existing on the effective date of this Charter, shall continue until changed by action of the Council. The Council may, by ordinance, create, revise or abolish such boards, commissions, and authorities as it deems necessary or desirable, except that solely advisory boards, commissions, and authorities may be created, revised or abolished by resolution or motion. Boards, commissions, and authorities created by the Council shall have such powers and duties as the Council may from time to time provide.

Section 16-2. Severability of Charter Provisions.

If any part of this Charter, or the application thereof to any person or circumstance, is found invalid by a court, such invalidity shall not affect any remaining part of the Charter which can be given effect without the invalid part and to this end this Charter is declared to be severable.

Section 16-3. Interpretation.

- (a) Where any question exists as to the meaning of any portion of this Charter, it shall be interpreted consistently with the Charter's purpose to reserve to the Town of Castle Rock and its citizens the broadest possible powers of home rule and local self-government available under the Constitution of the State of Colorado, as limited only by the specific language of this Charter.
- (b) Except as otherwise specifically provided or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made. The singular number shall include the plural, and the plural shall include the singular.

Section 16-4. Definitions.

As used in this Charter, the following words shall have the following meanings unless the context otherwise indicates:

- (a) "Board of Trustees": Board of Trustees of the Town of Castle Rock, Colorado.
- (b) "Constitution": Constitution of the State of Colorado, as from time to time amended.
- (c) "Council" or "Town Council": Town Council of the Town of Castle Rock.
- (d) "Officer" or "Officer of the Town": Each member of the Town Council, the Town Manager, the Town Attorney, each municipal judge, each member of a Town board, commission, or authority, and each other person designated in this Charter or by ordinance as an officer of the Town.
- (e) "Qualified elector": A person who is qualified to register to vote pursuant to Section 4-1 of this Charter.
- (f) "Registered elector": A qualified elector who has registered to vote pursuant to Section 4-1 of this Charter.
- (g) "Regular election": The election held each year on the first Tuesday of April.
- (h) "State statutes": The statutes of the State of Colorado, as from time to time amended.
- (i) "Town": Town of Castle Rock, Colorado.

(Amended by Ord. 97-36 & Ord. 97-37, 10-7-97 election)

ARTICLE XVII Transition Period

Section 17-1. Purpose.

Section 17-2. Effective Date of Charter.

Section 17-3. Continuation of Present Council.

Section 17-4. First Election After Adoption of Charter.

Section 17-5. First Districts.

Section 17-6. Council Duties.

Section 17-7. Saving Clause.

Section 17-8. Transition to April Regular Election.

Section 17-9. Transition - Election Commissioners' Terms of Office.

Section 17-10. Transition to Tri-annual Review of District Boundaries.

Section 17-11. Transition to Four-year Terms of Office.

Section 17-12. Term Limits for Incumbents Reelected During the Transition to Four-year Terms.

Section 17-13. Transition to November Regular Elections.

Section 17-14. Transition to At-Large Mayor and Six Council Districts.

Section 17-1. Purpose.

The purpose of this Article is to provide for an orderly transition from the present Town government of Castle Rock to a home rule government under the provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.

Section 17-2. Effective Date of Charter.

This Charter shall become effective immediately upon filing of the Charter with the Secretary of State of Colorado, following voter approval.

Section 17-3. Continuation of Present Council.

The Board of Trustees in office on the effective date of this Charter shall become members of the Town Council and shall continue to serve and carry out the functions, powers and duties of their offices until their successors have been elected as provided in Section 17-4 and have complied with Section 2-7.

Section 17-4. First Election After Adoption of Charter.

Notwithstanding any other provision of this Charter to the contrary, the first regular election after the adoption of this Charter shall be held on November 17, 1987. At that election seven Councilmembers shall be elected, one from each of the districts established pursuant to Section 17-5(b) of this Charter. The time of taking office shall be as provided in Section 2-3(b). Three of the Councilmembers so elected shall continue in office until their successors have been elected at the 1988 regular election and have complied with Section 2-7. The Councilmembers shall cast lots to determine the terms of their offices. At each succeeding regular election after the 1987 regular election, Councilmembers shall be elected as provided in Section 2-3.

Section 17-5. First Districts.

- (a) At a regular or special meeting which shall be held within ten days after the effective date of this Charter, the Council shall appoint the Election Commission members provided for in Section 4-4 of this Charter. The members so appointed shall continue in office until their successors have been

appointed at the organizational meeting provided for in Section 2-3(c) following the 1987 regular election and have complied with Section 3-4(d).

- (b) Within twenty days after the effective date of this Charter, the Election Commission shall fix the initial boundaries of the districts provided for in Section 4-5 of this Charter.

Section 17-6. Council Duties.

- (a) In addition to any specific requirements of this Article, the Town Council shall proceed with due diligence to implement the requirements of the Charter and is authorized to take all action necessary to accomplish the orderly transition from the present Town government to a home rule government under the provisions of this Charter.
- (b) Except as otherwise specifically provided in this Charter, all officers and employees of the Town may continue in the office or employment which they held prior to the effective date of this Charter, as though they had been appointed or employed in the manner provided in this Charter, and they shall in all respects be subject to the provisions of this Charter.

Section 17-7. Saving Clause.

Neither the adoption of this Charter nor the repeal of any ordinance or resolution of the Town in conflict with the Charter shall be construed to destroy any property right, contract right, or right of action of any nature or kind, civil or criminal, vested in or against the Town. The adoption of the Charter shall not be construed to affect any such right between the Town and any person.

Section 17-8. Transition to April Regular Election.

Notwithstanding any other provision of this Charter to the contrary:

- (a) The Town shall continue to have an October regular election in 1997 and 1998 pursuant to Sections 4-2 and 16-4(g) (as said sections existed prior to their amendment at the October, 1997 regular election).
- (b) The first April regular election pursuant to Sections 4-2 and 16-4(g) (as said sections were amended at the October, 1997 regular election) shall take place in April, 1999.
- (c) Any member of the Town Council who was elected in October, 1996 shall hold office until January, 1999, any member of the Town Council who was elected in October, 1997 shall take office at the first regular Town Council meeting in January, 1998 and shall hold office until April, 2000, and any member of the Town Council who was elected in October, 1998 shall take office at the first regular meeting in January, 1999 and shall hold office until April, 2001.
- (d) The Town Council is hereby authorized to take such actions as are necessary to effect an orderly transition to an April regular election commencing in 1999.

(Added by Ord. 97-36, 10-7-97 election)

Section 17-9. Transition - Election Commissioners' Terms of Office.

Notwithstanding any other provision of this Charter to the contrary, the term of office of any member of the Election Commission provided for in Section 4-4(a) may be shortened or lengthened as specified by the Town Council as necessary to achieve the staggered terms of office required by said Section 4-4(a).

(Added by Ord. 97-37, 10-7-97 election; amended by Ord. 2004-41, 11-2-04 election)

Section 17-10. Transition to Tri-annual Review of District Boundaries.

Notwithstanding any other provision of this Charter to the contrary, the first tri-annual review of the district boundaries pursuant to Section 4-5(a) and any required adjustment of district boundaries pursuant to Section 4-5(b) shall first be undertaken with the 2007 regular municipal election. Sections 4-5(a) and 4-5(b) shall not be applied to the regular elections in 2005 and 2006, and the district boundaries as they exist on adoption of this Section 17-10 shall remain in place for the 2005 and 2006 elections.

(Added by Ord. 2004-42, 11-2-04 election)

Section 17-11. Transition to Four-year Terms of Office.

Notwithstanding any other provision of this Charter to the contrary:

- (a) A regular municipal election shall be held on the first Tuesday in April, 2011.
- (b) Councilmembers elected in Council districts 1, 2, 4 and 6 at the April 2010 regular election shall serve a term of two years ending in April 2012. Councilmembers elected in Council districts 3, 5 and 7 at the April 2011 regular election shall serve a term of three years ending in April 2014.

(Added by Ord. 2009-35, 4-6-10 election)

Section 17-12. Term Limits for Incumbents Reelected During the Transition to Four-year Terms.

An incumbent Councilmember reelected at the transition elections in 2010 and 2011 may serve three consecutive terms of office, irrespective of the limitations on service imposed by Section 11, Article XVIII of the Constitution of the State of Colorado. This section 17-12 shall have no application to a Councilmember elected in 2011 or 2012 who is not an incumbent Councilmember. The provisions of Section 11, Article XVIII of the Constitution which otherwise limit Council terms to two consecutive four-year terms shall apply to all Council terms, other than as expressly excepted and modified by this section 17-12.

(Added by Ord. 2009-35, 4-6-10 election)

Section 17-13. Transition to November Regular Elections.

Notwithstanding any other provision of this Charter to the contrary:

2017 Charter amendments are identified with CAPITALIZATION

Proposed amendments are identified with Boldface/Double Underline/~~Strikeout~~

11/14/17 DISCUSSION DRAFT

- (a) A regular municipal election shall be conducted as a coordinated election on November 8, 2106. The four-year Councilmember terms prescribed under Section 2-3(a) of the Charter applicable to Town Council Districts 1, 2, 4, and 6, shall extend to the organizational meeting of the Town Council in December 2016. The four-year Councilmember terms for Districts 3, 5, and 7 shall extend to the organizational meeting of the Town Council in December 2018.

17-14 Transition to At-Large Mayor and Six Council Districts.

Notwithstanding any other provision of this Charter to the contrary:

(a) The Mayor will be elected to a four-year term at the November 2018 regular election.

(b) In 2018 the Election Commission shall establish six Councilmember districts. The six districts shall be configured such that the least populated district has a number of registered electors equal to or greater than eighty-five percent of the registered electors in the district with the highest number of registered electors. Districts shall be contiguous and compact whenever possible. The Election Commission shall establish district boundaries not later than July 31, 2018. The Election Commission shall ascertain, based on the available election records, the number of registered electors in each district on May 1, 2018, or the next business day following May 1st if May 1 falls on a Saturday, Sunday, or legal holiday. The establishment of the six district boundaries in 2018 shall not create a vacancy during the term of any Councilmember in office as of the date the boundaries are drawn by the Election Commission. The subsequent review of District boundaries shall occur in 2021 and every six years thereafter in the manner provided in Section 4-5 of the Charter.

(c) Elections to fill two of the six new Councilmember districts for four-year terms shall be held at the November 2018 regular election.

(Added by: Ord. No. 2015-30, 8-18-2015, passed at election 11-3-2015)

CHARTER COMMISSION CERTIFICATE OF FINAL ADOPTION

We, the undersigned, representing the present members of the Castle Rock Charter Commission, duly elected by the Citizens of Castle Rock, at a special election held on March 2, 1987, to frame a Home Rule Charter for the Town, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Commission on the 29th day of June, 1987 for submission to the Board of Trustees and to the citizens of Castle Rock.

Dated this 1st day of July, 1987.

/s/ Stanley D. Mikelson, Co-Chairman

2017 Charter amendments are identified with CAPITALIZATION

Proposed amendments are identified with Boldface/Double Underline/~~Strikeout~~

11/14/17 DISCUSSION DRAFT

/s/ Earl L. Dazey

/s/ ~~James B. Kline~~ James B. Kline Chairman

/s/ ~~William A. Brubaker~~ William A. Brubaker

/s/ ~~Jerome B. Gordon, Sr.~~ Jerome B. Gordon, Sr.

/s/ ~~E. Dan Burgess~~ E. Dan Burgess

/s/ ~~Ken Barth~~ Ken Barth

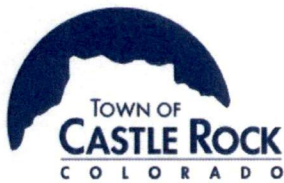
/s/ ~~Richard C. Miller~~ Richard C. Miller

/s/ ~~William L. Oschechter, Jr.~~ William L. Oschechter, Jr.

/s/ ~~Richard H. Temple~~ Richard H. Temple

/s/ ~~Harold F. Washburn~~ Harold F. Washburn

/s/ Keith A. Worley



TO: Honorable Mayor and Town Council

FROM: Lisa Anderson, Town Clerk

TITLE: **Update: Special Election Options**

Following the results of the November 7, 2017 Special Election; staff has researched parameters for holding a Special Election in 2018.

In early 2018, the County anticipates installing and implementing new election software so they are unable to commit to conducting a special election for us until they are more familiar with the system. Our other option is to run the election ourselves knowing there may be increased costs for obtaining space for ballot processing, contracts for equipment and printing and mailing ballots, implementing signature verification, and hiring election judges.

Per deadlines in State Statute and Municipal Code, as well as time required for redistricting, there is a window of time available in 2018 to hold a special election between March 27 and May 15.

- An Ordinance to call a special election must be at least 70 days prior to the election. Based on this, March 27 would be the earliest date a special election could be held, requiring first reading of the ordinance on January 2 and second reading on January 16. *(The County likely not able to commit to a date for a special election by that time.)*
- The latest a special election could be held is May 15 to accommodate redistricting prior to August 7 when candidates can begin circulating petitions for a November 2018 election, requiring first reading of the ordinance on February 20 and second reading on March 6. The Election Commission requires a minimum of 8 weeks to redistrict then present the new districts at the July 17 Town Council meeting prior to the August 7 deadline, commencing no later than May 22. *(Town Council can determine at that time whether the special election is conducted by the Town or by the County if they can commit to a date.)*

Below are the potential special election dates and deadlines to call the election:

Special Election must be held on a Tuesday

March 27 or April 3 or April 10

April 17 or April 24

May 1 or May 8

May 15

1st & 2nd Reading

Call Election(*)

January 2 & 16 (1)

January 16 & February 6 (1)

February 6 & 20 (1)

February 20 & March 6

** 2nd Reading 70 days prior to election to authorize IGA with County per Title 1*

(1) County may or may not be able to commit to a special election date by this time.

Redistricting Time Required

May 22 8 weeks minimum to complete redistricting (prior timeframe allowed 11 weeks)

July 17 Last Council meeting to present the new Election District Map

August 7 Candidates may begin circulating petitions 91 days prior to election per Code

PROPOSED MOTION

I move to direct staff to continue discussions with the County on availability to conduct a special election for the Town and investigate requirements if the Town conducted a special election.