

ORDINANCE NO. 2018-017

**AN ORDINANCE AMENDING CHAPTER 4.04 OF THE
CASTLE ROCK MUNICIPAL CODE REQUIRING THE
DEDICATION OF RENEWABLE WATER RESOURCES
AT THE TIME OF ANNEXATION**

WHEREAS, The Town developed a long term renewable water resources strategic master plan in 2006 which has been updated in 2010 and 2016 and which identifies how the Town will move from a nonrenewable supply to a 75% renewable supply by 2050,

WHEREAS, the water resource master planning for the Town must account for the aggregate demand that will be generated from existing developed properties, properties that are currently zoned with development entitlements but have not yet developed, properties that can redevelop with different uses, infill annexations and extraterritorial commitments,

WHEREAS, although substantial investment and progress has been made by Castle Rock Water in acquiring and developing renewable water resources to meet projected future aggregate water demand, significant additional water resources must be secured to meet anticipated total water demand calculated on current zoning entitlements, properties that can redevelop with different uses, infill annexations and extraterritorial commitments,

WHEREAS, all of the potential water resources that will be available to the Town in the future to meet the total water demand at full buildout of the Town are not identified nor can the eventual cost of such water resources be quantified at this time,

WHEREAS, prudent strategic water resource planning dictates that the maximum permitted residential density for undeveloped entitled properties within the Town be considered, even though not all properties will likely develop to maximum density,

WHEREAS, from time to time the Town will be requested to annex property with additional entitlements,

WHEREAS, in order to assure that properties annexed to the Town do not increase the total water demand within the Town, it is necessary and advisable to adopt a policy which places the burden on the annexor to support new entitlements with an appropriate reduction in pre-existing residential zoning entitlements, an equivalent reduction in existing water demands, or additional renewable water resources to meet the demands for any new entitlements,

WHEREAS, this ordinance provides a clear description of the renewable water resource requirements that must be satisfied by a prospective annexor as one condition of securing zoning entitlements for property proposed for annexation to the Town, and

WHEREAS, irrespective of the ability of a prospective annexor to satisfy the renewable water requirements in accordance with this ordinance and in conjunction with an application for zoning of the property proposed for annexation, the Town Council reserves the legislative prerogative to approve or deny an annexation request, as it determines in its sole discretion.

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

Section 1. Amendment. Chapter 4.04 of the Castle Rock Municipal Code is amended to add a new Section 4.04.045, entitled Renewable water resources required at annexation, to read as follows:

4.04.045 Renewable water resources required at annexation.

A. Requirement. Except for annexations exempted under 4.04.045B, no property shall be annexed to the Town unless the Town is concurrently provided, at the expense of the annexor, (i) new renewable water resources, and/or (ii) additional or enhancement of existing Castle Rock Water renewable water resources and/or (iii) a verifiable reduction in current irrigation demand through dry up of existing irrigated lands through landscape renovation in accordance with Castle Rock’s landscape criteria sufficient to meet the total projected water demand from full development of the annexed property, and/or (iv) adequate transferred development rights from Eligible Properties to off-set the incremental water demand for residential and non-residential development in accordance with Section 20.02.015 of the Castle Rock Municipal Code. Because 20.02.015 does not provide a methodology for calculating non-residential demand, Castle Rock Water will calculate the number of Qualified Residential Units needed to meet the demand for non-residential development. The determination as to whether the annexor is able to meet the requirement of this section 4.04.045 is at the sole discretion of the Town Council. The provision of such renewable resources or reduction in current water demand needs, and any adjustment in the renewable water fee imposed under 4.04.150 as a result thereof shall be specified in the annexation and development agreement.

B. Exemptions. The following properties are exempt from this Section 4.04.045:

1. Infill properties identified in Castle Rock Water’s Water Resources Strategic Master Plan as amended in May 2018, further depicted on Figure 3.3.

2. Those properties for which a petition for annexation was filed with the Town and such petition was found to be in substantial compliance by the Town Council on or before May 1, 2018, further depicted on Figure 3.3. Provided however, if such exempted property has not completed annexation by December 31, 2020, then the annexation requirements under this 4.04.045 shall be applicable to such property.

Section 2. Amendment. Section 4.04.050 of the Castle Rock Municipal Code is amended in its entirety to read as follows:

4.04.050 Required dedication of groundwater rights with land use approval.

A. Annexation. All groundwater rights to the Denver Basin groundwater underlying the annexed property shall be conveyed to the Town concurrently with and as a condition to the annexation. The severance of ownership or control of the groundwater rights from the annexed property shall preclude its annexation as the Town Council may determine in its sole discretion. The total development entitlements granted annexed property through concurrent zoning approval shall be limited to the development credit (calculated under Paragraph 4.04.080A.1 of this Chapter) realized from the required groundwater rights conveyance, absent a finding of the Town Council that the exceptional nature of the development proposed warrants special dispensation, such as preservation of open space, landforms or vistas of community-wide significance or interest, significant primary employment generation, or enhanced urban design and community amenities and aesthetics. Regardless of any other conditions, implementation of a water efficiency plan in accordance with Section 4.04.120 is a requirement of annexation. In the event that the Town Council finds that the development proposal merits special dispensation, the annexation contract shall prescribe the supplemental water resource dedication and/or cash-in-lieu payment required to support full development of the annexed property.

B. Rezoning. As a condition to Town Council approval of a rezoning, all groundwater rights to Denver Basin groundwater underlying the subject property shall be conveyed to the Town. The request for rezoning shall constitute an irrevocable offer by the land use applicant and landowner to amend the applicable development contract to conform to the provisions of the code in effect at the time of rezoning. The landowner shall execute the necessary development contract amendment as a condition to the final adoption of the rezoning ordinance.

C. Subdivision. If the requirements under this Chapter have not been satisfied by prior dedication or pursuant to a water dedication agreement, groundwater rights sufficient to meet the criteria of this Chapter shall be conveyed to the Town, including all groundwater rights to Denver Basin groundwater underlying the subdivision, as a condition to Town Council approval of a final subdivision plat.

D. Reduced Development Credit. Development credit granted for the groundwater rights to the Laramie-Fox Hills aquifer shall be calculated at one-third the rate decreed, due to the speculative yield and exceptional production arid treatment costs of this resource. No development credit shall be granted for rights to the Laramie-Fox Hills that are encumbered under a not-non-tributary augmentation plan. The production characteristics of the Lower Dawson shall be observed and modeled to ascertain whether it is necessary to adjust the development credit for this aquifer.

E. Concurrently with the conveyance under subsections B and C above, the Town and the dedicator shall enter into a water dedication agreement. As provided in Section 4.04.130 of this Chapter, the Town may accept the dedication prior to the time mandated above.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of

competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 1st day of May, 2018 by a vote of 5 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 15th day of May, 2018, by the Town Council of the Town of Castle Rock by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water