

ORDINANCE NO. 2018-016

AN ORDINANCE AMENDING TITLES 17 AND 20 OF THE CASTLE ROCK MUNICIPAL CODE BY THE ADDITION OF NEW SECTIONS 17.02.080 AND 20.02.015 REGARDING THE REQUIRED TRANSFER OF RESIDENTIAL DEVELOPMENT RIGHTS UPON ANNEXATION AND CERTAIN RE-ZONINGS

WHEREAS, the water resource master planning for the Town must account for the aggregate demand that will be generated from properties that are currently zoned with development entitlements but have not yet developed,

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,

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 residential entitlements,

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

WHEREAS, this ordinance provides a uniform mechanism whereby a prospective annexor may secure residential zoning entitlements for transfer to the property proposed for annexation and to the Town, and

WHEREAS, irrespective of the ability of a prospective annexor to secure the prescribed transferable development rights in accordance with this ordinance in conjunction with 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. Title 17 of the Castle Rock Municipal Code is amended to add a new Section 17.02.080 to read as follows:

17.02.080 Additional Zoning Prerequisites.

The zoning of “New Residential Property,” as defined in Section 20.02.015 of the Code, is subject to the conditions set forth in 20.02.015.

Section 2. Amendment. Chapter 20.02 of the Castle Rock Municipal Code amended to add a new Section 20.02.015, to read as follows:

20.02.015 Required transfer of residential development rights.

A. This Section shall apply to any application for a Zoning District classification or re-classification of R-1, R-1A, R-2, R-3, MH or PD (where residential uses are allowed by right or special review) for any property annexed to the Town on or after July 1, 2018, but excluding (i) any property 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, or (ii) is designated as “Infill” on Castle Rock Water’s “Water Resource Strategic Master Plan,” as amended, and further depicted on *Figure 3.3*. Property that is subject to the requirements of this Section 20.02.015 is referred to as “New Residential Property.”

B. Unless exempted under F, below, no New Residential Property shall be granted a zoning classification or re-classification under Title 17 of the Castle Rock Municipal Code unless the owner of the New Residential Property obtains development rights from other properties within the Town in accordance with the provisions of this Section.

C. The maximum permitted residential units (whether by right or by special review) under the zoning classification for the New Residential Property is referred to as the “Maximum Residential Units” or “MRU.” The MRU is the total number of units that may be developed on the New Residential Property under the proposed zoning and development plan, irrespective of the type or classification of the residential unit. To illustrate, a detached single-family unit and a multi-family unit each constitute one MRU. The MRU for the New Residential Property shall be calculated by the Development Services Department under its established methodology and its determination shall be conclusive.

D. An “Eligible Property” is any property zoned in the Town as of January 1, 2018 which (i) has not been subdivided into buildable lots, and (ii) has “Qualified Residential Units” or “QRU” as defined in this subsection. Qualified Residential Units are the maximum number of residential units (excluding units requiring special use approval) that the Eligible Property may develop to under the applicable zoning for such Eligible Property. A property is not an Eligible Property if the availability

of QRU or the transfer of QRU requires the consent of any party other than the Eligible Property owner. The determination of whether a property is an Eligible Property and the calculation of the QRU for an Eligible Property shall be made by the Development Services Department and its determination shall be conclusive.

E. The Maximum Residential Units for New Residential Property receiving a zoning classification concurrently with annexation shall be limited to 50% of the Qualified Residential Units transferred from an Eligible Property to the New Residential Property. Similarly, as a condition to a re-zoning of New Residential Property after annexation that results in an increase in Maximum Residential Units, two QRU from an Eligible Property must be transferred to the New Residential Property for each incremental residential unit entitlement.

F. The instrument transferring the Qualified Residential Units ("Transfer Document") shall be executed by the owner and all lienholders in a form approved by the Development Services Department and recorded in the public records. In addition to the Transfer Document, the Town and the owner of the Eligible Property shall execute a document that specifies the reduction in the QRU for the Eligible Property ("TDR Zoning Reduction") as a result of the transfer to the New Residential Property. In addition, if the Eligible Property is subject to vested development rights under a Development Agreement, an amendment reducing maximum density shall be executed. The execution and recordation of the TDR Zoning Reduction and as applicable, Development Agreement amendment shall not require any approval under Title 17 of the CRMC. However the reduction of the QRU shall apply irrespective of any other zoning approval or entitlement granted the Eligible Property under Title 17. The TDR Zoning Reduction shall be irrevocable and shall be binding on any subsequent owner of the Eligible Property.

G. In lieu of compliance with the requirements of this Section, an annexor may satisfy the requirements of 4.04.045 of the CRMC.

H. Nothing in this Section 20.02.015 shall create an entitlement to annexation of New Residential Property, which determination shall remain at the discretion of the Town Council.

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:

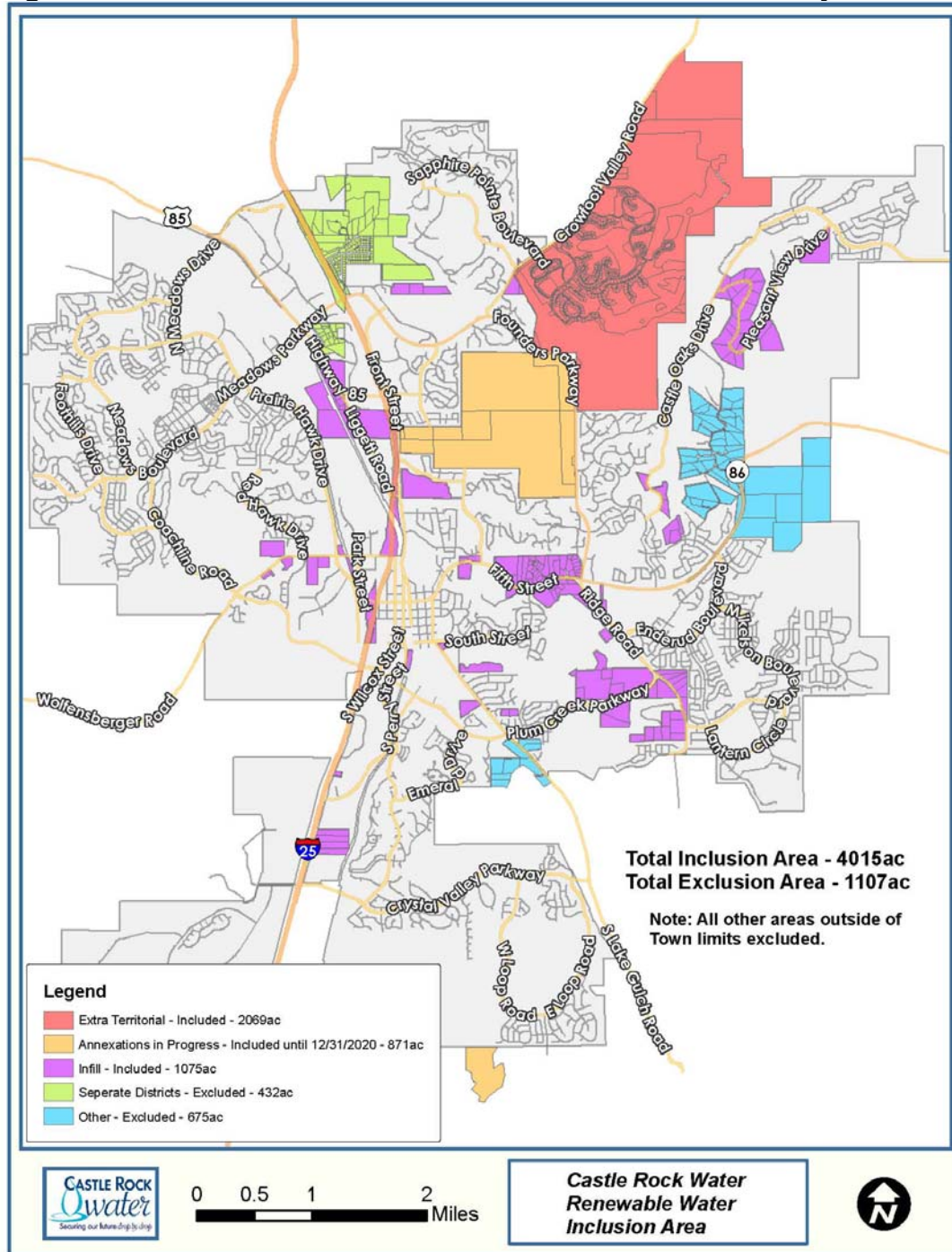
Approved as to content:

Robert J. Slentz, Town Attorney

Bill Detweiler, Director of Development Services

Figure 3-3 shows additional areas that have been included in the analysis of entitlements for the plan as a high use scenario.

Figure 3-3: Castle Rock Water Inclusion and Exclusion Analysis³



³ Figure 3-3 was amended to the Water Resources Strategic Master Plan with Resolution 2018-043 on May 1, 2018.

Demands will continue to be impacted by weather, conservation, costs, and population. Some key water conservation initiatives which could impact demand include advanced metering initiatives, formal metering testing programs, water budget rate structure changes, landscape and irrigation retrofits to Town parks and right-of-ways, indoor conservation incentive programs, hot water recirculation systems, and irrigation audits.

In 2014, the Town created minimum water efficiency design criteria, which can be used by new developments. These criteria include indoor and outdoor water conservation efforts as well as specific water budgets for properties included within a water efficiency plan. The effectiveness of the plans will be evaluated as new communities are developed. To date, one development, The Lanterns, has utilized these guidelines to develop their approved development specific water efficiency plan. There is a possibility that some of the future annexation properties would utilize the same minimum water efficiency design criteria, thus decreasing the total amount of renewable supplies the Town would need to purchase in the future.