

ORDINANCE NO. 2018-

**AN ORDINANCE ACCEPTING A PETITION FOR THE ORGANIZATION OF A
GENERAL IMPROVEMENT DISTRICT IN THE TOWN OF CASTLE ROCK,
COLORADO, TO BE KNOWN AS TOWN OF CASTLE ROCK FESTIVAL
PARK COMMONS GENERAL IMPROVEMENT DISTRICT; DECLARING THE
NECESSITY OF THE FORMATION OF THE DISTRICT; ESTABLISHING AND
CREATING THE DISTRICT; PROVIDING OTHER DETAILS RELATING
THERE TO; AND PROVIDING FOR ITS EMERGENCY ADOPTION ON
SECOND AND FINAL READING**

WHEREAS, the Town of Castle Rock, in the County of Douglas and State of Colorado (the “Town”) is a municipal corporation duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the Town’s Home Rule Charter (the “Charter”); and

WHEREAS, the members of the Town Council (the “Council”) have been duly elected or appointed and qualified; and

WHEREAS, the Town has been involved in discussions with respect to the development of mixed use development project within the Town expected to include residential units, retail and office space, and parking for approximately 496 vehicles; and

WHEREAS, the Town and CD-Festival Commons, LLC (“Developer”) expect that the Town will acquire approximately 300 parking spaces for public use; and

WHEREAS, it has been determined by the Developer, who owns or will own 100% of the taxable real property within the development area, that it would be beneficial to create a general improvement district to finance a portion of the cost of the construction and ongoing operation and maintenance of the parking garage facility; and

WHEREAS, the Developer has filed a Petition for the organization of a general improvement district in the Town of Castle Rock, Colorado (the “Petition”) with the Town Clerk of the Town; and

WHEREAS, the Petition has been reviewed by the Town Clerk; and

WHEREAS, the Petition has been signed by the Developer, who is the owner of one hundred percent of the taxable real property to be included in the proposed district, and contains a request, pursuant to Section 31-25-607 (3.5), Colorado Revised Statutes, for waiver of all requirements for notice, publication and a hearing set forth in Sections 31-25-606 and 31-25-607, Colorado Revised Statutes, and of the organizational bond set forth in Section 31-25-605, Colorado Revised Statutes; and

WHEREAS, the Board of Directors anticipate referring ballot measures to the November 6, 2018 coordinated election ballot in accordance with Article X, Section 20 of the Colorado Constitution; and

WHEREAS, such ballot measures must be referred to the ballot at the meeting of the Board of Directors anticipated to be held on September 4, 2018; and

WHEREAS, in order to timely establish the general improvement district prior to September 4, 2018, it is necessary to adopt this Ordinance on an emergency basis on second and final reading.

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

Section 1. Findings and Determinations. The Town Council hereby accepts the Petition for Organization of a General Improvement District in the Town of Castle Rock, Colorado (the "Petition"), which requests the formation of a general improvement district to be known as "Town of Castle Rock Festival Park Commons General Improvement District." The Council hereby finds that the signatures on the Petition are genuine, that the Petition is signed by one hundred percent of the owners of taxable real property of the proposed district who own real property in the proposed district, and that the Petition contains a request for waiver of all requirements for notice, publication and a hearing set forth in Sections 31-25-606 and 31-26-607, Colorado Revised Statutes, and of the organizational bond set forth in Section 31-25-605, Colorado Revised Statutes.

The Council does hereby determine that the proposed improvements and facilities do not duplicate or interfere with any municipal improvement already constructed or planned to be constructed within the limits of the proposed district. The Council finds that the creation of the district and proposed improvements therein will confer a general benefit on the district and that the costs of the improvements will not be excessive as compared with the value of the property in the district. The Council hereby finds, determines and declares that the organization of the district will serve a public use and will promote the health, prosperity, security and general welfare of the inhabitants of the Town and the district. The Council hereby determines to grant such request for waiver and finds that the allegations of the Petition are true and that the district should be established.

Section 2. Establishment of District. It appearing that the Petition has been duly signed and presented in conformity with Colorado law and that the allegations of the Petition are true, the Council, by this ordinance, hereby finds that it has full jurisdiction under the law to adopt this ordinance, that the district for which the Petition has been filed is hereby declared organized, and that the district shall be known as the Town of Castle Rock Festival Park Commons General Improvement District (the "District"), by which, in all proceedings, it shall hereafter be known. The District shall be a public or quasi-municipal subdivision of the State of Colorado and a body corporate with the limited proprietary powers set forth in Part 6, Article 25, Title 31, Colorado Revised Statutes.

Section 3. District Boundaries. The District is located entirely within the boundaries of the Town and the legal description of the District boundaries is set forth in Appendix 1 hereto.

Section 4. District Improvements and Services. A general description of the improvements to be acquired, constructed and installed within the District and the services to be provided are as follows:

IMPROVEMENTS generally to be acquired, constructed, installed, operated, and/or maintained may include but are not limited to improvements relating to a parking structure and appurtenant and necessary facilities related thereto.

SERVICES generally to be provided may include but are not limited to planning, engineering, building, constructing, operating and maintaining the Improvements.

Section 5. Filing of Ordinance. Within thirty days after Council action on this ordinance, the Town Clerk shall transmit to the County Clerk and Recorder of Douglas County a copy of this ordinance.

Section 6. Ordinance Conclusive. This ordinance shall finally and conclusively establish the regular organization of the District against all persons unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty days after the adoption of this ordinance. Thereafter, any such action shall be perpetually barred.

Section 7. Repealer Clause. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 8. Severability Clause. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this ordinance.

Section 9. Charter Controls. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 10. Emergency Declaration. In order to comply with certain statutory deadlines relating to special elections, pursuant to Section 7-3 of the Charter, the Council hereby determines that this Ordinance is necessary for the immediate preservation of the public peace, health or safety.

Section 11. Effective Date, Recording and Authentication. This ordinance shall take effect immediately upon passage upon second reading.

APPROVED ON FIRST READING this 17th day of July, 2018 by a vote of ____ for and ____ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED AS AN EMERGENCY ORDINANCE this ____ of _____, 2018, by a vote of the Town Council of the Town of Castle Rock, Colorado of ____ for and ____ against constituting the extraordinary majority required by Section 2.02.100 of the Castle Rock Municipal Code.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney

APPENDIX 1

LEGAL DESCRIPTION

STATE OF COLORADO)
)
 COUNTY OF DOUGLAS) SS.
)
 TOWN OF CASTLE ROCK)

I, Lisa Anderson, the duly appointed and qualified Town Clerk of the Town of Castle Rock, Colorado (the “Town”), do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the Town Council of the Town (the “Council”) at a regular meeting of the Council held at the Town Hall on July 17, 2018.

2. The passage of the Ordinance on first reading on July 17, 2018, was duly moved and seconded and the Ordinance was approved by vote of a ____ of ____ of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Jennifer Green, Mayor				
Renee Valentine, Mayor Pro-Tem				
Jess Loban				
James Townsend				
Jason Bower				
George Teal				
Brett J. Ford				

3. The passage of the Ordinance on second and final reading, was duly moved and seconded at a regular meeting of the Council on August 21, 2018, and the Ordinance was approved on second and final reading by a vote of a ____ of ____ of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Jennifer Green, Mayor				
Renee Valentine, Mayor Pro-Tem				
Jess Loban				
James Townsend				
Jason Bower				
George Teal				
Brett J. Ford				

4. The members of the Council were present at such meeting and voted on the passage of the Ordinance as set forth above.

5. The Ordinance has been signed by the Mayor, sealed with the corporate seal of the Town, attested by me as Secretary, and duly recorded in the books of the Town; and that the same remains of record in the book of records of the Town.

6. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of the Ordinance.

7. Notices of the meetings of July 17, 2018 and August 21, 2018, in the forms attached hereto as **Exhibit A**, were duly given to the Council members and were posted on the Town of Castle Rock Website no later than 12:00 pm five (5) calendar days prior to the date of the meeting as provided by Section 2.02.100 (C) of the Municipal Code.

8. The ordinance was posted after first and second reading on the Town website along with a notice containing a summary of the subject matter and identifying the location where the ordinance is available for public inspection. Such notice was posted not later than five (5) business days after the adoption and remained posted for 30 days.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town this _____ day of _____, 2018.

(SEAL)

Lisa Anderson, Town Clerk

EXHIBIT A

(Attach Notices of Meetings)