

# Quasi-Judicial Hearings

- What can Town Council do to ensure a fair and impartial process

# What is a Quasi-Judicial Matter?

A public approval process that:

- ▶ Includes a notice and an opportunity to be heard for interested individuals;
- ▶ Involves the application of existing standards to facts developed at a public hearing; and
- ▶ Affects specific individuals (as opposed to being generally applicable public policy).

# Land Use and Quasi-Judicial Hearings

- ▶ The rights of landowners to use their property are determined after:
  - ▶ Public hearing before the Town Council
  - ▶ Notice given in advance to all interested parties
  - ▶ All persons are permitted to testify and present evidence

# Land Use and Quasi-Judicial Hearings

- ▶ It is the role of Town Council to:
  - ▶ Consider the facts presented at the hearing
  - ▶ Apply the relevant provisions of the Castle Rock Municipal Code
  - ▶ Decide whether the landowner may use the property in the manner proposed

# Due Process

- ▶ The right of a person to use property that he or she owns or has a right to possess is a fundamental constitutional right
- ▶ When deciding land use matters, the Town Council must afford the property owner due process
- ▶ Town Council must remain fair and impartial by considering only the evidence presented at the hearing

# Ex Parte Communications

- ▶ *Ex parte* is a Latin term meaning “one side only”
- ▶ In quasi-judicial matters, *ex parte* communications are those that occur outside of the hearing
- ▶ *Ex parte* communications are communications concerning an outstanding quasi-judicial matter that occur outside of the hearing
- ▶ Examples are information learned while attending a neighborhood meeting, accepting a phone call, reading an email, text, or social media post, or having a conversation with a neighbor

# Ex Parte Communications

- ▶ *Ex parte* communications with Councilmembers are not prohibited by law
- ▶ They may influence the way in which a Councilmember decides a quasi-judicial matter
- ▶ As a result, the Councilmember may no longer be an impartial decision-maker

# Ex Parte Communications

- ▶ Why are *ex parte* communications a problem?
  - ▶ Other hearing participants will not have notice of the communication and cannot offer evidence in rebuttal
  - ▶ A Councilmember who has prejudged the matter will be unable to participate in and vote at the hearing
  - ▶ If a court finds that the communication has improperly influenced a Councilmember's vote, the Town Council's decision can be overturned

# Ex Parte Communications

- ▶ What to do if you receive an *ex parte* communication:
  - ▶ Refrain from expressing any opinion in response
  - ▶ Disclose that communication at the hearing
  - ▶ Publicly state that the communication has not compromised your ability to make a fair and impartial decision