

ORDINANCE NO. 2021-016

AN ORDINANCE SUBMITTING TO THE ELECTORATE AT THE SPECIAL MUNICIPAL ELECTION ON NOVEMBER 2, 2021, THE QUESTION OF AUTHORIZING AN INCREASE IN THE TOWN SALES AND USE TAX AS PROVIDED IN SECTIONS 3.04.050 AND 3.04.190 OF THE CASTLE ROCK MUNICIPAL CODE

WHEREAS, the Town of Castle Rock (the “Town”) operates and maintains a world-class system of open space and trails that are regularly enjoyed by Town residents and visitors alike; and

WHEREAS, Town residents have expressed their desire for additional open space and trails within the Town, the acquisition, development, and maintenance of which requires additional funding; and

WHEREAS, pursuant to Section 13-1 of the Charter of the Town of Castle Rock, Colorado (the “Town Charter”), the Town Council may by ordinance levy and collect taxes for municipal purposes; and

WHEREAS, Town staff has identified an increase in the Town’s sales tax as a possible source for such funding; and

WHEREAS, pursuant to Section 3.04.050 of the Castle Rock Municipal Code, the Town imposes a 4.0% sales tax on the sale of tangible personal property at retail and the furnishing of taxable services; and

WHEREAS, pursuant to Section 3.04.190 of the Castle Rock Municipal Code, the Town imposes a 4.0% use tax on the use of building materials and motor vehicles; and

WHEREAS, pursuant to Article X, Section 20 of the Colorado Constitution (“TABOR”) and Section 13-3 of the Town Charter, no increase or decrease in the Town's sales and use tax shall take effect until approved at a regular or special election by a majority of the registered electors of the Town voting thereon; and

WHEREAS, the Town Council has determined that it is necessary and advisable to request approval by the registered electors of the Town for an additional one tenth of one percent (0.1%) sales and use tax, which tax shall be used for the purpose of acquiring, developing, and maintaining Town open space and trails; and

WHEREAS, it is necessary to prescribe the nature of the proposed tax increase in the Castle Rock Municipal Code and to refer the adoption of such Code provision to the voters at a special municipal election to be conducted in coordination with the statewide coordinated election on November 2, 2021.

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

Section 1. Amendment. Section 3.04.050 of the Castle Rock Municipal Code is amended to read as follows:

3.04.050 - Tax imposed.

There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in subpart (1)(d) of Part 105, Article 2, Title 29, C.R.S., a tax of ~~three and six tenths percent (3.6%) of the gross receipts between the dates of January 1, 1996, and December 31, 2010, and thereafter a tax of four AND ONE-TENTH percent (4.0-4.1%) of gross receipts commencing on January 1, 2011, or upon such earlier date as provided in Section 3.04.024.~~

Section 2. Amendment. Section 3.04.190 of the Castle Rock Municipal Code is amended to read as follows:

3.04.190 - Persons subject to tax.

Any person who builds, constructs, reconstructs, alters, expands, modifies or improves any building, dwelling or other structure or improvement to any real property located within the Town, and who purchases the lumber, fixtures or other building material and supplies used therefor from any source outside the corporate limits of the Town or who purchases any motor vehicle or any other vehicle for which registration is required under state law, either new or used, outside the corporate limits of the Town and stores or uses such vehicles within the Town shall be liable for the payment of a tax of ~~3.6% 4.1 % of the gross purchase price thereof between the dates of January 1, 1996, and December 31, 2010, and thereafter a tax of 4% of the gross purchase price commencing on January 1, 2011, or upon such earlier date as provided in Section 3.04.024.~~ Contractors are considered to be the end users of building materials in the Town. Owners, lessors, contractors and their subcontractors must not pay municipal sales tax to a vendor in another jurisdiction for building materials to be used, consumed or stored at a location in the Town, as it is the intent of this Code for all Town taxes to be paid at the time a building permit is issued. No refund of another municipality's tax will be paid if a contractor or subcontractor pays another municipality's tax. The Director may enter into a payment agreement for the tax referenced in this Section to be paid in installments that includes an interest rate of 9% per annum.

Section 3. Amendment. Section 3.04.023 of the Castle Rock Municipal Code is amended to read as follows:

3.04.023 - Transportation Fund; ~~and~~ disposition of SALES AND USE TAX revenues.

A. There is established a special fund of the Town to be known as the "Town of Castle Rock Transportation Fund." Monies credited to such fund shall be used for the purpose of financing the costs of construction, acquisition, installation, repair and maintenance of streets, sidewalks, bicycle and pedestrian trails, bridges and drainage facilities, public transit, landscaping of public rights-of-way, easement and right-of-way acquisition necessary to develop such

transportation facilities and for the operations of municipal departments charged with the responsibility for construction and maintenance of such facilities. Monies credited to such fund may be available to be pledged, expended or loaned by interfund transfer or otherwise, for any general purpose of the Town, as determined by the Town Manager.

B. Unless otherwise pledged, expended or loaned, the revenues derived from the Town's ~~four percent~~ sales and use tax shall be distributed and used according to the appropriation set annually by the Town Council. This should be in accordance with all other voter-approved initiatives for the sales and use tax distribution, which includes the Transportation Fund, ~~and the~~ Community Center Fund, AND THE OPEN SPACE FUND.

C. Nothing herein shall prohibit the Town from issuing sales and use tax revenue bonds payable from the Town's sales and use tax for any public purpose of the Town, and the payment of such bonds and the deposits required in connection with such bonds shall occur prior to any deposits required by this Section.

Section 4. Repeal and Reenact. Section 3.04.024 of the Castle Rock Municipal Code is repealed and reenacted to read as follows:

3.04.024 – Open Space Fund.

There is hereby established an open space fund into which shall be deposited all revenues collected by the Town from payment of the additional one tenth of one percent (0.1%) sales and use tax authorized by the registered electors of the Town at the November 2, 2021, special municipal election. Such revenues may be expended solely for the purpose of acquiring, developing, and maintaining open space and trails.

Section 5. Referred Measure. As required under TABOR, this Ordinance shall be referred to the registered electors of the Town at the November 2, 2021, special municipal election and shall take effect only upon their approval on April 1, 2022.

Section 6. Ballot Issue. There shall be submitted to the registered electors of the Town at the special municipal election to be held on Tuesday, November 2, 2021, the following ballot issue:

OPEN SPACE SALES AND USE TAX

SHALL CASTLE ROCK TAXES BE INCREASED BY \$1,870,000 ANNUALLY IN THE FIRST FULL YEAR OF SUCH INCREASE, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, FROM A 0.1% SALES AND USE TAX, TO BE USED SOLELY FOR THE PURPOSE OF ACQUIRING, DEVELOPING, AND MAINTAINING OPEN SPACE AND TRAILS, AND SHALL ALL REVENUES FROM SUCH TAX BE COLLECTED, RETAINED, AND SPENT AS A VOTER-APPROVED REVENUE CHANGE AND AS AN EXCEPTION TO THE LIMITS THAT WOULD OTHERWISE

APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO
CONSTITUTION OR ANY OTHER APPLICABLE LAW?

YES ____ NO ____

Section 7. Actions by Town Officers and Employees. The Town Clerk is hereby directed to take all actions necessary and proper in order to place the ballot issue on the statewide coordinated election ballot of November 2, 2021.

Section 8. No Repeal. The failure of this ballot issue to obtain voter approval shall not repeal or impair any other voter-approved revenue change of the Town under TABOR.

Section 9. 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 invalid by a court of competent jurisdiction, such judgment shall not affect the remaining provisions of this ordinance.

Section 10. 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 20th day of July, 2021 by a vote of 6 for and 1 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 17th day of August, 2021, 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

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

David L. Corliss, Town Manager