

ORDINANCE NO. 2021-017

AN ORDINANCE SUBMITTING TO THE ELECTORATE AT THE SPECIAL MUNICIPAL ELECTION ON NOVEMBER 2, 2021, THE QUESTION OF AUTHORIZING THE RETENTION AND EXPENDITURE OF EXCESS TABOR REVENUES AS PROVIDED IN A NEW SECTION 3.06.040 OF THE CASTLE ROCK MUNICIPAL CODE

WHEREAS, the Town Council has been advised by the administrative staff that the Town expects to receive revenues in excess of the applicable limitations under Article X, Section 20 of the Colorado Constitution (“TABOR”) in the 2021 fiscal year and, further, that the receipt of excess TABOR revenues can be anticipated in 2022 and subsequent years; and

WHEREAS, TABOR allows for the retention of such excess revenues upon voter approval; and

WHEREAS, the Town Council has determined that it is necessary and advisable to request approval by the registered electors of the Town for the retention of all excess revenues for a ten-year period, beginning with the 2021 fiscal year, and a further revenue change in subsequent years to allow for retention of excess revenues up to a revenue cap; and

WHEREAS, it is necessary to prescribe the nature of the proposed revenue changes 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. Chapter 3.06 of the Castle Rock Municipal Code is amended by the addition of a new Section 3.06.040, to read as follows:

3.06.040. Retention and expenditure of excess Town revenues.

A. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise:

Excess Town Revenues Cap means, for a given fiscal year, an amount that is equal to the highest total Town revenues for any fiscal year from the period of the 2021 fiscal year through and including the 2030 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in local growth, the qualification or disqualification of enterprises, and debt service changes as provided in 3.06.040(c).

Town revenues means all revenues except:

1. Revenues excluded from Town fiscal year spending under the express provisions of TABOR or judicial interpretations of TABOR;
2. Revenues from any enterprise of the Town so long as it is qualified as an enterprise under TABOR; and
3. Voter-approved revenue changes approved by Town voters prior to November 2, 2021.

B. *Retention and expenditure of excess Town revenues.*

1. Notwithstanding any provision of law to the contrary, for each fiscal year commencing on or after January 1, 2021, but before January 1, 2031, the Town shall be authorized to retain and spend all Town revenues in excess of the limitation on local fiscal year spending imposed under TABOR.
2. Notwithstanding any provision of law to the contrary for each fiscal year commencing on or after January 1, 2031, the Town shall be authorized to retain and spend all Town revenues that do not exceed the Excess Town Revenues Cap for the given fiscal year, even though such retained Town revenues are in excess of the limitation on local fiscal year spending imposed under TABOR.

C. *Excess revenues fund.* There is hereby established an excess revenues fund into which shall be deposited all Town revenues in excess of the limitation on Town fiscal year spending that the Town retains for a given fiscal year pursuant to this section. Such revenues may be expended for the following purposes only:

1. The provision of law enforcement services by the Castle Rock Police Department, including, but not limited to, any and all personnel, equipment and facilities needed to provide such services to the Town and its residents;
2. The provision of fire protection services by the Castle Rock Fire Department, including, but not limited to, any and all personnel, equipment and facilities needed to provide such services to the Town and its residents;
3. The provision of emergency medical services by the Castle Rock Fire Department, including, but not limited to, any and all personnel, equipment and facilities needed to provide such services to the Town and its residents;
4. Roads and other transportation purposes, including, but not limited to, the Crystal Valley/ I-25 interchange, needed to serve the Town and its residents.

D. *Application of TABOR definitions.* As used in this section, inflation and the percentage change in local growth shall be the same rates that are used in calculating the maximum annual percentage change in local fiscal year spending under TABOR. The qualification or disqualification of an enterprise, or changes in debt service shall change the Excess Town

Revenues Cap in the same manner as such change or qualification or disqualification changes the limitation on local fiscal year spending under TABOR.

Section 2. 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.

Section 3. 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:

USE OF ALL EXCESS REVENUES SOLELY FOR POLICE, FIRE, AND ROADS

WITHOUT CREATING NEW TAXES OR RAISING CURRENT TAXES AND SOLELY TO PAY FOR THE FOLLOWING:

- POLICE;
- FIRE PROTECTION;
- EMERGENCY MEDICAL SERVICES;
- ROADS AND OTHER TRANSPORTATION PURPOSES, INCLUDING, BUT NOT LIMITED TO, THE CRYSTAL VALLEY/ I-25 INTERCHANGE,

SHALL CASTLE ROCK BE AUTHORIZED:

(I) TO RETAIN AND SPEND ALL TOWN REVENUES, INCLUDING, BUT NOT LIMITED TO, GRANTS AND CONTRIBUTIONS FROM OTHER GOVERNMENTS FOR INTERCHANGES AND OTHER TRANSPORTATION PROJECTS, IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON TOWN FISCAL YEAR SPENDING FOR THE NEXT TEN FISCAL YEARS, BEGINNING WITH THE 2021 FISCAL YEAR; AND

(II) TO RETAIN AND SPEND AN AMOUNT OF TOWN REVENUES IN EXCESS OF SUCH LIMITATION FOR THE 2031 FISCAL YEAR AND THEREAFTER UP TO AN AMOUNT EQUAL TO THE HIGHEST TOTAL TOWN REVENUES FOR ANY FISCAL YEAR FROM THE 2021 FISCAL YEAR THROUGH AND INCLUDING THE 2030 FISCAL YEAR, ADJUSTED EACH YEAR AS PROVIDED FOR BY ARTICLE X, SECTION 20(7) OF THE COLORADO CONSTITUTION?

YES ____ NO ____

Section 4. 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 5. 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 6. 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 7. 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 7 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 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