

ORDINANCE NO. 2010-25

AN ORDINANCE AMENDING TITLE 5 OF THE CASTLE ROCK MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 5.07 CONCERNING MEDICAL MARIJUANA AND PROVIDING FOR THE PROHIBITION OF ALL COMMERCIAL MEDICAL MARIJUANA OPERATIONS, INCLUDING MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS AND MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURING AND PROVIDING CRIMINAL PENALTIES FOR VIOLATION OF SUCH CHAPTER

WHEREAS, the Colorado Legislature has adopted, and the Governor has signed into law, legislation that, in pertinent part, added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, known as the Colorado Medical Marijuana Code (“CMMC”),

WHEREAS, C.R.S. §12-43.3-106 of the CMMC specifically authorizes the governing body of a municipality to “vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers licenses”,

WHEREAS, C.R.S. §12-43.3-310 of the CMMC further specifically authorizes a municipality “to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers licenses ... based on local government zoning, health, safety, and public welfare laws...”,

WHEREAS, C.R.S. §12-43.3-103 of the CMMC provides that “a locally approved business operating on July 1, 2010 for the purpose of cultivation, manufacturer or sale of medical marijuana or medical marijuana-infused products...may continue to operate that business in accordance with any applicable state or local laws”,

WHEREAS, the Town Council has reviewed the 2009 California Police Chiefs Association’s Task Force on Medical Marijuana Dispensaries’ “White Paper on Marijuana Dispensaries” detailing the adverse impacts of dispensaries such as increased violent crime, increased traffic problems, increased organized gang activity and a decrease in the quality of life for those communities in which dispensaries are located,

WHEREAS, medical marijuana patients in the Town of Castle Rock will retain reasonable access to medical marijuana through primary caregivers who are not affected by the prohibition on commercial medical marijuana imposed by this ordinance,

WHEREAS, the Town Council finds and declares it is necessary to the preservation and furtherance of the health, safety and welfare of the citizens of the Town of Castle Rock to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused manufacturers within the Town of Castle Rock,

WHEREAS, the Town of Castle Rock is a home rule municipal corporation and the Town Council is empowered to adopt such ordinances as are necessary and convenient to protect the health, safety and welfare of the community.

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

Section 1. Legislative Findings. The recitals to this ordinance are adopted as findings of the Town Council in support of the enactment of this ordinance.

Section 2. Amendment. Title 5 of the Castle Rock Municipal Code is amended to add a new Chapter 5.07 Medical Marijuana, to read as follows:

**Chapter 5.07
Medical Marijuana**

- 5.07.010 Definitions**
- 5.07.020 Medical Marijuana prohibition**
- 5.07.030 Existing medical marijuana businesses**
- 5.07.040 Patients and primary caregivers**
- 5.07.050 Violation, penalties**

5.07.010 Definitions.

For the purpose of this Chapter, the following terms shall have the meaning ascribed to them below:

Chapter means this Chapter 5.07 of the Code.

Code means the Castle Rock Municipal Code.

CMMC means the Colorado Medical Marijuana Code C.R.S. §12-43.3-101, *et seq.*

Marijuana shall have the same meaning as the term “useable form of marijuana” as set forth in Article XVIII, Section 14(1)(i) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

Medical marijuana center means a person authorized to be licensed to operate a business as described in §12-43.3-402 of the CMMC that sells medical marijuana to registered patients or primary caregivers as defined in Section 14, or Article XVIII of the Colorado Constitution, but is not a primary caregiver.

Medical marijuana-infused products manufacturer means a person licensed pursuant to the CMMC to operate a business as described in §12-43.3-404 of the CMMC.

Optional premises cultivation operation means a person licensed pursuant to the CMMC to operate a business as described in §12-43.3-403 of the CMMC.

Patient shall have the same meaning as set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Primary caregiver shall have the same meaning as set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution and subject to any statutory requirements or conditions, or as addressed in any applicable Colorado Department of Revenue regulations.

In addition, terms used in this Chapter which are defined or described under the CMMC shall have the meaning and effect ascribed to them under and in the context of the CMMC.

5.07.020 Medical marijuana prohibition.

Medical marijuana businesses, including medical marijuana centers, optional premises cultivation and medical marijuana-infused manufacturer operations are prohibited within the municipal limits of the Town of Castle Rock. It is unlawful for any person to operate a medical marijuana business, including a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused manufacturer operation in the Town. No Town license or permit for such medical marijuana business shall be issued by any Town official nor shall Town approval of a state application under the CMMC be given for such business by any Town official. This prohibition applies irrespective of the form of ownership or structure of the business activity and includes cooperatives and non-profits.

5.07.030 Existing medical marijuana businesses.

Any medical marijuana business operating on July 1, 2010 under a valid license expressly authorizing the commercial cultivation or distribution of medical marijuana issued by the Town pursuant to Chapter 5.05 of the Code (“pre-existing medical marijuana licensee”) may continue to cultivate, manufacture and sell medical marijuana or medical marijuana-infused products through December 31, 2010, provided that such business maintains such license in good standing and is in compliance with and in good standing under the provisions of the CMMC and any regulations promulgated thereunder. All pre-existing medical marijuana licensees shall cease those activities and operations prohibited by Section 5.07.020 of this Chapter at the close of business on December 31, 2010.

5.07.040. Patients and primary caregivers.

Nothing in this Chapter shall be construed to prohibit, regulate or otherwise impair the use of

medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and applicable statutes and regulations.

5.07.050 Violation; penalty.

In addition to any other penalties that may exist under state, federal and local laws, any person charged with a violation of this Chapter, upon conviction thereof, shall be punished by a fine of not more than one-thousand dollars (\$1000) or by imprisonment not to exceed one (1) year, or by both such fine and penalty. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continues or permitted by any such person.

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.

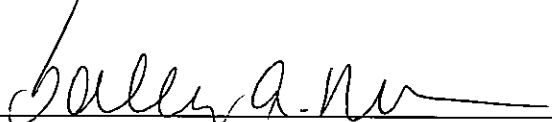
Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 24th day of August, 2010 by a vote of 4 for and 3 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

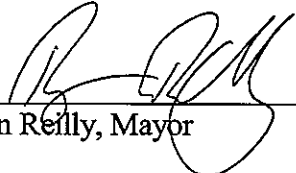
PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 14th day of September, 2010, by the Town Council of the Town of Castle Rock by a vote of 4 for and 3 against.

ATTEST:

TOWN OF CASTLE ROCK

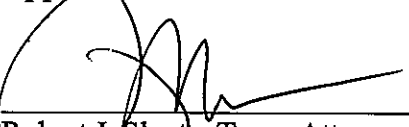


Sally A. Misare, Town Clerk



Ryan Reilly, Mayor

Approved as to form:



Robert J. Slentz, Town Attorney