TOWN OF NEW CASTLE, COLORADO
ORDINANCE 2013-1

AN ORDINANCE OF THE TOWN OF NEW CASTLE ENACTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS CONCERNING THE SALE OR PUBLIC USE OF MARIJUANA.

WHEREAS, The Town is authorized and empowered to enact this Ordinance under its general police powers and the powers of the Town's Home Rule Charter; and

WHEREAS, on November 6, 2012 the voters of Colorado approved Amendment 64 which amended the Colorado Constitution to authorize the personal use of marijuana in certain circumstances; and

WHEREAS, on December 10, 2012 the Governor signed Executive Order D 2012-052 declaring the vote on Amendment 64, which rendered the change to Section 16 of Article XVIII of the Constitution valid; and

WHEREAS, marijuana remains an illegal drug under federal law, and the Town Code currently prohibits the possession, use, display, consumption, or distribution of marijuana under Chapter 9.60; and

WHEREAS, the Town via Ordinance 2011-1, as codified as Section 9.60.030 of the Town Code, has previously enacted a comprehensive ban on the operation of medical marijuana businesses within the Town, which remains in full force and effect; and

WHEREAS, the State of Colorado is required by Amendment 64 to enact a regulatory scheme to govern the personal use, cultivation and sale of marijuana; and

WHEREAS, Article XVIII § 16(5) empowers local governments to regulate certain aspects of the production, sale, and consumption of marijuana and also permits local governments to enact a total ban on the cultivation, manufacture, and sale of marijuana within its boundaries; and

WHEREAS, the New Castle Town Council finds, determines and concludes that it has a legitimate public purpose in regulating marijuana in order to protect the health, safety, welfare and quality of life for the citizens of the Town; and

WHEREAS, the State has formed the Amendment 64 Implementation Task Force and anticipates enacting extensive legislative and regulatory changes in the upcoming months that will hopefully clarify and address licensing and zoning issues connected to the implementation of Amendment 64; and

WHEREAS, until some of these fundamental interpretations of State law are resolved or clarified, attempts by the Town to regulate the licensing and zoning of marijuana businesses and

marijuana use is fraught with inherent conflict that calls into doubt any regulatory scheme adopted by the Town; and

WHEREAS, given that the Town has a legitimate expectation of regulating in this area, and given the inherent conflicts posed by the passage of a regulatory scheme under the current legal environment, the Town Council finds and determines that this Ordinance is necessary for the preservation of the public peace or welfare and to properly permit the Town to research the issues connected with the either a potential ban or the regulation of businesses and uses of marijuana within the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the New Castle Town Council.

2. Moratorium. A moratorium is hereby imposed on the submission, acceptance, processing, and approval of any and all applications for any permits, licenses or land use entitlements issued by the Town related to the location or operation of a business that proposes to cultivate, sell or distribute marijuana, or other Town permits that would approve the use of marijuana in public. Such moratorium includes without limitation applications for the issuance of business licenses, conditional use permits, park use permits, and zoning, rezoning, or other land use applications.

3. Duration. The moratorium shall commence on the effective date of this ordinance and shall run until October 1, 2013, unless sooner repealed.

4. Direction to Staff. During this moratorium Town Staff shall monitor the State regulatory efforts and research the applicable legal and planning issues connected to the regulation of businesses that cultivate, sell or distribute marijuana, and propose a regulatory scheme to the Town Council for review. Such proposal may include referral of the draft regulations to the Planning and Zoning Commission for review of any proposed zoning changes, consistent with the Town Code.

5. Reiteration of Existing Code and Law. As noted, Chapter 9.60 of the Town still prohibits the use and public consumption of marijuana and has banned medical marijuana businesses. Further, the Town has enacted a smoking ban in Chapter 8.12 of the Town Code and is subject to the restrictions imposed by the Colorado Clean Indoor Air Act, C.R.S. §§ 25-14-201 *et seq.* While changes to these code provisions may be necessary as the laws and regulations concerning the use of marijuana take effect, nothing in this moratorium alters the provisions of these laws and regulations as currently written. The open public consumption of marijuana remains prohibited even under Article XVIII § 16 of the Constitution.

6. Definitions. Unless otherwise stated herein all terms shall have the same definition as that found in Article XVIII § 16 of the Constitution.

7. Severability. If any part, section, subsection, clause, phrase, or other portion of this Ordinance is invalidated for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council specifically finds and declares that it would have passed this Ordinance, and each part thereof, regardless of the fact that any one or more parts could be declared invalid.

8. Effective Date. This Ordinance shall be effective fourteen days after final publication pursuant to section 4.3 of the Town Charter.

INTRODUCED on January 15, 2013, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the Town of New Castle, Colorado on February 5th, 2013, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO

By: Frank Breslin

Frank Breslin, Mayor

ATTEST:

Melody Harrison

Melody Harrison, Town Clerk

TOWN OF NEW CASTLE
GARFIELD
SEAL
COUNTY
COLORADO