

GLENWOOD SPRINGS OFFICE  
The Denver Center  
420 Seventh Street, Suite 100  
Glenwood Springs, Colorado 81601  
Telephone (970) 947-1936  
Facsimile (970) 947-1937

# GARFIELD & HECHT, P.C.

ATTORNEYS AT LAW

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TO: Chairman Apostolik and New Castle Planning Commissioners

FROM: Garfield & Hecht, P.C.

RE: Regulation of Marijuana – July 24, 2013 public hearing

DATE: July 19, 2013

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As you are aware the Town Council has passed an ordinance banning retail marijuana stores in New Castle including associated offsite warehouse storage facilities for stores that might be located outside of New Castle. The Council has not decided to ban the three other types of uses allowed by statute and Amendment 64:

1. Retail marijuana cultivation facilities
2. Retail marijuana products manufacturers
3. Retail marijuana testing facilities

As currently proposed there will be a land use process and a local licensing process for these uses. The land use will be reviewed in part by the Planning Commission through the conditional use permit process, and the Council will retain final say over the approval of both the land use and license.

Staff is recommending changes to certain zone districts to permit these uses by conditional review. These changes will be found in Title 17 of the municipal code, and as such requires the Planning Commission to review these changes at a noticed public meeting.

Attached for your review is a draft resolution amending the Title 17 to permit all three of these uses in the Industrial zone by conditional review, and to permit just testing facilities as a conditional use in the C-1 zone. In all other zones all of these uses would be prohibited.

Staff is also looking to recommend additional performance standards and licensing requirements to the Council for inclusion in Title 5 of the municipal code. While not technically a code change that requires Planning Commission review, both Staff and the Council would appreciate any feedback or formal recommendations from the Planning Commission concerning these additional performance standards, especially since some of these may include or address site development standards.

Issues to be discussed:

1. Does the Planning Commission agree with the proposed zoning changes found in the attached draft Resolution?
2. Does the Planning Commission have any other recommendations to Council concerning performance and licensing standards for these uses. Relevant topics would include:
  - Set-backs from schools, churches, or other uses (currently 1000 feet in State regulation)
  - Signage and advertising (must be careful about First Amendment issues)
  - Fencing/screening
  - Hours of operation
  - Limiting the total number of business within the town or any particular district, through a “community needs” measurement or other matrix.
  - Security measures such as requiring a private company to respond to alarms
  - Site plan requirements, parking requirements, etc.
  - Periodic review by staff, the Commission, or Council
  - Automatic expiration or renewal requirements for permits
  - Water and wastewater provisions

Following discussion and direction, Staff will prepare an ordinance for consideration by Council.