

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. PZ 2013-4**

A RESOLUTION OF THE NEW CASTLE PLANNING COMMISSION
RECOMMENDING APPROVAL OF AMENDMENTS TO PORTIONS OF
THE NEW CASTLE MUNICIPAL CODE CONCERNING THE REGULATION
OF RETAIL MARIJUANA CULTIVATION FACILITIES, PRODUCTS
MANUFACTURERS AND TESTING FACILITIES.

WHEREAS, Colorado voters approved an amendment to the Colorado Constitution, Article XVIII, Section 16, which allows for retail marijuana cultivation facilities, products manufacturers and for testing facilities in the State of Colorado; and

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution authorizes local governments, such as the Town of New Castle, to ban or regulate the operation of these retail marijuana uses; and

WHEREAS, C.R.S. § 12-43.4-104(3) authorizes a local jurisdiction such as the Town of New Castle to enact ordinances or regulations governing operation of retail marijuana establishments; and

WHEREAS, the Town Council and Planning Commission have considered comments and testimony offered by members of the public and the Planning Commission at a joint public meeting on June 26, 2013; and

WHEREAS, based on this input the Town Council formally banned retail marijuana stores as a use within the Town limits pursuant to Ordinance 2013-5; and

WHEREAS, the Town Council referred the issue of regulation of the other categories of retail marijuana businesses within the Town to the Planning Commission; and

WHEREAS, the Planning Commission held a public meeting on July 10, 2013 to initially consider this matter; and

WHEREAS, pursuant to section 17.92.030(B) of the New Castle Municipal Code the Planning Commission held a public hearing on July 24, 2013 to formally consider the Town's application to amend the municipal code; and

WHEREAS, based on the testimony presented throughout these meetings by staff and the general public, the Planning Commission hereby recommends that the Town Council approve changes to the municipal code to regulate retail marijuana businesses as conditional uses within certain zone districts as set forth herein.

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

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Planning Commission.

2. Amendment. The Planning Commission hereby recommends that the Town Council approve the following amendments to the New Castle Municipal Code:

A. There is hereby added the following provision to section 17.04.050(B) of the New Castle Municipal Code:

“Retail marijuana businesses” means collectively retail marijuana cultivation facilities, retail marijuana products manufacturers and retail marijuana testing facilities, as each of those terms is defined in C.R.S. § 12-43.4-103. These uses may also be separately referred to in the code.

B. Section 17.36.050(C) of the C-1 Commercial Zone District Chapter is amended to add an additional subsection as follows:

30. Retail marijuana testing facility subject to compliance with the requirements of Chapter 5.28.

C. Section 17.36.060 Nonpermitted Uses of the C-1 Commercial Zone District is amended to add the following additional subsections:

19. Retail marijuana cultivation facilities

20. Retail marijuana products manufacturers

D. 17.52.050 of the Industrial Zone District Chapter is amended as follows to add an additional sentence at the end of the section:

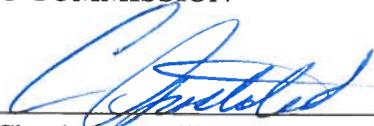
Retail marijuana businesses may also be located in the zone district subject to conditional use approval pursuant to Chapter 17.84 and compliance with the requirements of Chapter 5.28.

3. Additional Recommendations to Town Council. The Planning Commission recommends that any ordinance passed by the Town Council clarify that the types of retail marijuana businesses allowed in New Castle are not open for sales to the public and therefore would not fall within the definition of a general “retail business” use within any zone district. The ordinance should further clarify that retail marijuana testing facilities may be subject to conditional use review in the C-2, C-G, Walters PUD and Burning Mountain PUD Phase II zone districts to the extent that such districts provide for conditional use review for any use that is not expressly permitted or prohibited, but all other types of retail marijuana testing facilities would be limited solely to the Industrial Zone.

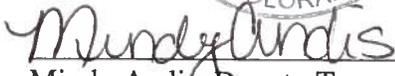
THIS RESOLUTION PZ 2013-4 was adopted by the New Castle Planning and Zoning Commission by a vote of 5 to 0 on the 24th day of July, 2013.



NEW CASTLE PLANNING AND
ZONING COMMISSION

By: 
Chuck Apostolik, Chairman

ATTEST:


Mindy Andis, Deputy Town Clerk