

ORDINANCE 09-25

INTRODUCED BY:

Councilperson Hamilton-Bruer

Councilperson Hoffman

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES NORTH
ESTABLISHING AND IMPOSING A TEMPORARY SUSPENSION AND DELAY IN
THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR ANY
PERMIT, APPROVAL, OR LICENSE RELATED TO ANY BUSINESS THAT GROWS,
SELLS, DISPENSES, OR OTHERWISE PROVIDES MEDICAL MARIJUANA
PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE XVIII, SECTION 14 OF
THE COLORADO CONSTITUTION AND DECLARING AN EMERGENCY**

WHEREAS, in the November 2000 general election, the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution which authorizes and limits the sale of medical marijuana for use in the treatment of debilitating medical conditions; and

WHEREAS, the City of Castle Pines North is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, et seq., C.R.S.; and

WHEREAS, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its inhabitants as authorized by Section 31-15-401, C.R.S.; and

WHEREAS, pursuant to Section 31-23-301, C.R.S., such police powers include the power to regulate the location and use of land within the community for trade, industry, or other purposes; and

WHEREAS, Section 29-20-104, C.R.S., grants cities the authority to plan for and regulate the planned and orderly use of land on the basis of the impact thereof on the community; and

WHEREAS, planning, land use, and business regulation are matters of local concern; and

WHEREAS, the City of Castle Pines North City Council (the "City Council") has been informed that the City has received inquiries concerning businesses related to medical marijuana; and

WHEREAS, the Castle Pines North Zoning Ordinance requires all land uses within the City to comply with federal, state, and local law and under this provision, marijuana is deemed a non-illegal drug pursuant to the federal Controlled Substances Act; and

WHEREAS, the City has no current land use or business regulations specifically governing the operation of businesses or cooperatives that offer medical marijuana for sale or distribution (“Medical Marijuana Dispensaries”); and

WHEREAS, the City Council finds that the City’s existing land use, development and business regulations do not adequately address and regulate the potential impacts created by Medical Marijuana Dispensaries and that the approval of such uses under the City’s existing regulations will result in undesired and unintended impacts which may degrade the health, safety, and welfare of the public; and

WHEREAS, the City Council will instruct the City’s staff to promptly and without undue delay prepare new regulations as provided in this Ordinance; and

WHEREAS, the City Council finds that there is a potential for, and likelihood of, the submission of land use and/or business applications for Medical Marijuana Dispensaries during the next weeks and months prior to the completion of the City staff’s preparation of new regulations for such uses; and

WHEREAS, the City Council finds that acceptance, processing, or approving any such applications or permitting such uses under the existing inadequate land use, development, or business license regulations prior to any state or federal legislation regulating medical marijuana or the completion of new local regulations concerning medical marijuana may undermine and defeat the City’s ability to promote coordinated land uses in furtherance of providing for the health, safety, and welfare of its citizens and may significantly impair the City’s character; and

WHEREAS, it is anticipated that the Colorado General Assembly will consider legislation concerning the operation and regulation of Medical Marijuana Dispensaries in the upcoming legislative session (commencing on January 13, 2010 and concluding in May, 2010) and to that end, the City’s proposed regulations should take into account any state legislation relating to Medical Marijuana Dispensaries; and

WHEREAS, the City staff has informed the City Council that a period of approximately six (6) to nine (9) months from the date of approval of this Ordinance is necessary to finalize new land use development regulations for Medical Marijuana Dispensaries and is in the best interests of the City; and

WHEREAS, the City Council finds that without the immediate passage of this Ordinance suspending acceptance and processing of applications for Medical Marijuana Dispensaries, the City will be unable to advance or preserve the health, peace, and safety of the residents through carefully considered and prepared land use and business regulations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines North, Colorado:

Section 1. Findings and Intent. The above recitals are incorporated herein by reference and adopted as findings of the City Council of the City of Castle Pines North.

Section 2. Temporary Suspension and Delay Enacted. Effective immediately upon adoption of this Ordinance on first reading, no applications, permits or licenses shall be accepted, reviewed, considered or approved by the City related to Medical Marijuana Dispensaries. The temporary moratorium in the acceptance and processing of applications as specified in this Ordinance shall automatically terminate and this Ordinance shall be automatically repealed as of **11:59 p.m. on August 30, 2010**, unless terminated earlier by the City Council or extended in its duration by the enactment of another ordinance.

Section 3. Staff to Investigate and Prepare Proposed Regulations. Before the expiration of the moratorium imposed by this Ordinance, the City staff, working with the City Attorney, shall prepare appropriate regulations for Medical Marijuana Dispensaries for consideration by the City Council.

Section 4. Severability. Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

Section 5. Repeal of Previous Ordinances. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

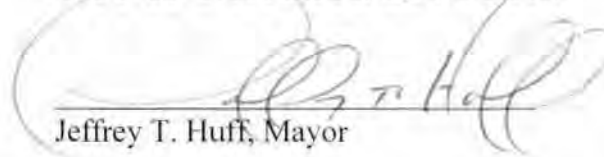
Section 6. Emergency Declared. The City Council finds that this Ordinance is necessary to the immediate preservation of the public health and safety in order to prevent the filing of an application for a City permit, license or other approval relating to the operation of a Medical Marijuana Dispensary until the City has had a reasonable opportunity to determine what regulations should be imposed by the City upon such businesses and in what zoning districts such uses shall be allowed.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption following second reading in accordance with C.R.S., § 31-16-105.

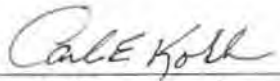
INTRODUCED, READ, AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO the 10th day of December, 2009.

READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO the 14th day of January, 2010.

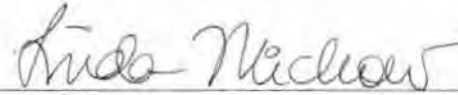
CITY OF CASTLE PINES NORTH:


Jeffrey T. Huff, Mayor

ATTEST:


Carl E. Kollmar, Interim City Clerk

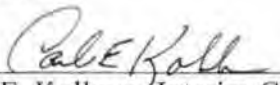
Approved as to form:


Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Castle Pines North City Council on December 10, 2009; published in full in the *Douglas County News-Press*; and finally passed and adopted by the City Council on January 14, 2010 following a duly notice public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on January 28, 2010.

ATTEST:


Carl E. Kollmar, Interim City Clerk