

**To:** Honorable Mayor and Members of Town Council

**From:** Jack Cauley, Chief of Police

**..Title**

Ordinance: Adopting a New Chapter 5.18 and Amending Section 17.01.080 of the Castle Rock Municipal Code Regulating Marijuana Cultivation (First Reading)

**..Body**

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**Executive Summary**

The purpose of this memo is to request approval of an ordinance adopting a new Chapter 5.18 and amending Section 17.01.080 of the Castle Rock Municipal Code regulating Marijuana cultivation (**Attachment A**).

At the February 17, 2015 Council meeting, Council directed staff to evaluate ordinances restricting the cultivation of marijuana in private residences to limit or reduce the impact on neighborhoods and Town resources resulting from unregulated private cultivation of marijuana.

At the April 21, 2015 Council meeting, Staff presented a report to Council regarding restrictions on marijuana cultivation (**Attachment B**). Council discussed these restrictions and directed staff to prepare an ordinance regulating marijuana cultivation.

The marijuana cultivation area, prohibitions included in the proposed marijuana ordinance are as follows:

- A. Marijuana may only be cultivated within a primary residence.
- B. The cultivation area for which marijuana can be grown or processed within a residential dwelling, including but not limited to all cultivation accessories such as water reservoirs, hydroponic systems, fans, filters, pumps, and lighting shall not exceed thirty-two (32) square feet of floor area within a residence nor shall the cultivation area exceed a height of ten (10) feet. This limit applies irrespective of the number of qualified patients or caregivers or persons otherwise allowed to possess and grow marijuana for personal use residing in the residence.
- C. The cultivation area must be fully enclosed and locked ensuring accessibility only by the person possessing, growing or processing the marijuana plants for medical or personal use and to prevent access by anyone under 21 years of age, visitors, casual passersby, vandals or anyone not authorized to possess marijuana.
- D. The cultivation area shall not be located in a kitchen, bathroom, primary bedroom or any accessory building.
- E. The cultivation area shall not be located in the common areas of a multi-family or attached residential development.
- F. Lighting used within a cultivation area shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting. All high-intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps are prohibited.

G. The use of compressed gas products (e.g., CO<sub>2</sub>, butane) or flammable solvents for growing or processing marijuana in a cultivation area is prohibited.

H. A cultivation area shall include a ventilation and filtration system designed to ensure that odors from the growing or processing of marijuana are not detectable beyond the property line for detached single-family residential dwelling, or the demising walls of a multi-family dwelling and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of Chapter 15.06.020 of this Code.

I. Cultivation areas must comply with all applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes. In addition, the growing and processing of marijuana within a cultivation area shall meet the requirements of all adopted water and sewer regulations promulgated by the Town.

J. Only chemicals, including pesticides and fertilizers, rated for indoor residential use shall be used in marijuana cultivation. Those chemicals must be maintained in their original container and labeled by the manufacturer for indoor residential use. Chemicals shall not be stored inside of the habitable areas of the residence or within public view from neighboring properties and public rights-of-way.

K. Marijuana cultivation activity shall not adversely affect the health or safety of the nearby residents.

L. For rental properties, the lessee or tenant must obtain written permission to cultivate marijuana from the property owner or property management company.

### **History of Past Town Council, Boards & Commissions, or Other Discussions**

#### **Town Council – February 17, 2015**

Town Council directed staff to evaluate ordinances restricting the cultivation of marijuana in private residences to limit or reduce the impact on neighborhoods and Town resources resulting from unregulated private cultivation of marijuana.

#### **Public Safety Commission – April 2, 2015**

The proposed ordinance restrictions were presented to the Public Safety Commission. The Public Safety Commission was unanimous in recommending the restrictions.

#### **Town Council – April 21, 2015**

Town Council discussed restrictions on marijuana cultivation and directed staff to prepare an ordinance regulating marijuana cultivation.

#### **Planning Commission – April 23, 2015**

The proposed ordinance restrictions were also presented to the Planning Commission. The Planning Commission was unanimous in recommending the proposed Marijuana Ordinance and directed staff to present the recommendation to Town Council.

### **Discussion**

In Castle Rock, the cultivation of large quantities of marijuana plants in a residential dwelling has resulted in health and safety concerns such as building code violations and offensive odors of marijuana plants detected across property lines. Additionally, the cultivation of large quantities of

marijuana increases the likelihood of trespassing, theft and violent encounters between growers and persons attempting to steal marijuana plants. Indoor grows can cause health and safety problems such as fire hazards, mold, fungus and pests.

The previous ordinances adopted in 2010 and 2013 did not restrict the private, residential cultivation of medical or recreational marijuana for personal use that would limit or reduce the impact on neighborhoods and Town resources resulting from unregulated private cultivation of marijuana for personal use.

In order to limit or reduce the impact on neighborhoods in our community and to address health and safety concerns associated with large residential marijuana grows, the proposed ordinance provides for appropriate restrictions such as limiting the square footage of residential marijuana grows to 32 square feet and requiring ventilation and filtration systems to ensure odors are not detectable beyond property lines and to prevent mold and moisture.

### **Staff Recommendation**

Staff recommends approval of the proposed ordinance adopting a new Chapter 5.18 and amending Section 17.01.080 of the Castle Rock Municipal Code regulating Marijuana cultivation.

### **Proposed Motion**

*"I move that Town Council approve an ordinance adopting a new Chapter 5.18 and amending Section 17.01.080 of the Castle Rock Municipal Code regulating Marijuana cultivation."*

### **Attachments**

Attachment A: Ordinance

Attachment B: 04-21 Council Memo