



ENVIRONMENTAL CHECKLIST

Building & Planning Department
P.O. Box 370, 141 "A" Street
Castle Rock, WA 98611
<http://ci.castle-rock.wa.us/city.htm>
(360)274-8181 / FAX # (360) 274-4876

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant enough to require an EIS.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without hiring experts. If you do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have questions, the governmental agencies can assist you. (For questions about filling out this checklist for the City of Castle Rock, please contact TJ Keiran, City Planner, at 360.577.3041 or tkeiran@cwccog.org).

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (Part D). For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

About the Threshold Determination and Comment Period:

After this checklist is submitted AND DEEMED COMPLETE, a Threshold Determination will be issued. You will receive a copy for your records. There is usually a 14-day comment period for other agencies and interested parties to respond. Any comments will be forwarded to you. If there is a need for you to respond to these comments, please do so as quickly as possible.

TO BE COMPLETED BY THE APPLICANT

Part A. BACKGROUND

1. Name of proposed project, if applicable:

AN INTERIM ORDINANCE OF THE CITY OF CASTLE ROCK RELATING TO LAND USE AND ZONING, ADOPTING INTERIM OFFICIAL ZONING CONTROLS REGARDING MEDICAL MARIJUANA COLLECTIVE GARDENS FOR A PERIOD OF SIX MONTHS, TO BE IN EFFECT WHILE THE CITY DRAFTS, CONSIDERS, HOLDS HEARINGS AND ADOPTS DETAILED COLLECTIVE GARDEN ZONING REGULATIONS, TO BE EFFECTIVE IMMEDIATELY, SCHEDULING A HEARING ON THE MAINTENANCE OF THE INTERIM ZONING AND DECLARING AN EMERGENCY.

2. Name of applicant:

City of Castle Rock

3. Address and phone number of applicant and contact person:

Contact Person: TJ Keiran, City Planner

Address: Castle Rock City Hall

P.O. Box 370

Castle Rock, WA 98611

Phone: 360-577-3041

Email: tkeiran@cwco.org

4. Date checklist prepared:

August 5, 2011

5. Agency requesting checklist:

City of Castle Rock, WA

6. Proposed timing or schedule (including phasing, if applicable):

The City of Castle Rock adopted emergency interim zoning on July 11, 2011 and is holding a hearing on said ordinance on August 24, 2011. The interim zoning is valid for 6 months and may be extended another 6 months after showing good cause. After the August 24 hearing, the City of Castle Rock City Council will set a schedule for adopting permanent zoning regulations, including public participation opportunities, prior to the expiration of the interim zoning.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Yes. The Planning Commission will be working on permanent zoning regulations this fall and winter.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

This checklist.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

To date, there are no pending applications to operate a medical marijuana collective garden inside the City of Castle Rock city limits. For those desiring to operate a collective garden, a "Medical Marijuana Collective Garden Land Use Permit" is required by the City of Castle Rock. Medical marijuana collective gardens are permitted in the C-2 zoning district, subject to meeting specific siting requirements as provided in Section 4 of the ordinance.

TO BE COMPLETED BY THE APPLICANT

10. List any government approvals or permits that will be needed for your proposal, if known.

In response to the State of Washington's legalization of medical marijuana collective gardens, the Castle Rock City Council adopted interim zoning creating a Collective Garden Land Use Permit.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

This is a non-project action. On July 11, 2011, the City of Castle Rock adopted Ordinance No. 2011-08, adopting interim zoning controls regarding medical marijuana collective gardens for a period of six months while the city drafts, considers, holds hearings and adopts detailed collective garden regulations. The interim ordinance allows for a collective garden to be sited in the C-2, Highway Business Zoning District, subject to meeting siting requirements.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Medical marijuana collective gardens will be permitted in the C-2 zoning district, subject to meeting specific siting requirements as provided in Section 4 of the ordinance.

Part B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous,
other: _____

N/A. This is a non-project action.

b. What is the steepest slope on the site (approximate percent slope)?

N/A. This is a non-project action.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

N/A. This is a non-project action.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

N/A. This is a non-project action.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

N/A. This is a non-project action. No development is part of this proposal.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

N/A. This is a non-project action.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

N/A. This is a non-project action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

TO BE COMPLETED BY THE APPLICANT

None. This is a non-project action.

EVALUATION FOR
AGENCY USE ONLY

2. Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

None. This is a non-project action.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Some people find the odor of the marijuana plant to be offensive.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

To minimize potential adverse impacts of the odor, the ordinance requires medical marijuana collective gardens grown outdoors to be a minimum of 100 feet from the property line abutting properties being used residentially.

3. Water

a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Salmon Creek runs through the a small portion of the C-2 zoning district.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

If a property owner within 200 feet of Salmon Creek applies for a Collective Garden Land Use Permit, then the project will be reviewed under the city's environmental regulations CRMC Chapter 18 and its Shoreline Master Program.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

There is concern that certain fertilizers used to spur rapid growth may be used in a medical marijuana collective garden and that those fertilizers may be discharged to the surface waters. This issue will be addressed during the vetting

TO BE COMPLETED BY THE APPLICANT

process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

b. Ground

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

No new wells will be permitted to operate a medical marijuana collective garden.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

No new waste systems will be needed as a result of these regulations.

EVALUATION FOR AGENCY USE ONLY

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

There is concern that certain fertilizers used to spur rapid growth may be used in a medical marijuana collective garden and that those fertilizers may be discharged to the storm water or directly to surface waters. This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

2) Could waste materials enter ground or surface waters? If so, generally describe.

There is concern that certain fertilizers used to spur rapid growth may be used in a medical marijuana collective garden and that those fertilizers may enter ground or surface waters. This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

4. Plants

a. Check or circle types of vegetation found on the site: N/A.

- Deciduous tree: alder, maple, aspen, other _____
- Evergreen tree: fir, cedar, pine, other _____
- Shrubs
- Grass
- Pasture
- Crop or grain
- Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other _____
- Water plants: water lily, eelgrass, milfoil, other _____
- Other types of vegetation

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b. What kind and amount of vegetation will be removed or altered?

None as part of this non-project action.

c. List threatened or endangered species known to be on or near the site.

None known.

EVALUATION FOR
AGENCY USE ONLY

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

None as part of this non-project action.

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- Birds: hawk, heron, eagle, songbirds, other: Crows
- Mammals: deer, bear, elk, beaver, other: Squirrels
- Fish: bass, salmon, trout, herring, shellfish, other;

b. List any threatened or endangered species known to be on or near the site.

The following species/ESU may occur in the Cowlitz River

- Lower Columbia Chinook salmon (Threatened)
- Lower Columbia steelhead (Threatened)
- Columbia River Bull Trout (Threatened)
- Columbia River chum (Threatened)
- Southwest Washington Lower Columbia River Coho (Candidate)

Northern spotted owl and bald eagle may pass through the project area.

c. Is the site part of a migration route? If so, explain.

Anadromous salmonoids migrate past the site in the Cowlitz River.

d. Proposed measures to preserve or enhance wildlife, if any:

N/A.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Indoor grow operations will likely have relatively high electricity usage.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No.

EVALUATION FOR
AGENCY USE ONLY

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

None.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

Possibly. A concern has been raised that, when grown indoors, the condensation from a collective garden may get between the sheetrock and vapor layer allowing opportunities for mold to grow. This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

- 1) Describe special emergency services that might be required.

None.

- 2) Proposed measures to reduce or control environmental health hazards, if any:

This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Normal uses associated with a Freeway Business district.

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

There are concerns that electric generators will be used to provide power necessary for a collective garden. This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

- 3) Proposed measures to reduce or control noise impacts, if any:

This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

EVALUATION FOR
AGENCY USE ONLY

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?

At Exit 49, the properties zoned C-2 are primarily auto-oriented tourism-related commercial uses with some legal non-conforming residential uses. At Exit 48, the properties zoned C-2 are primarily vacant with the exception being a ten acre tract currently being used as a grazing field for dairy cows. The properties adjacent to the C-2 zoning district are residential.

- b. Has the site been used for agriculture? If so, describe.

At Exit 48 there is a ten acre tract of land currently being used as a grazing field for dairy cows.

- c. Describe any structures on the site.

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At Exit 48 there is one property with vacated residential structures that has exhausted its legal non-conforming status.

At Exit 49 there are multiple auto-oriented tourism-related commercial structures and legal non-conforming residential structures.

d. Will any structures be demolished? If so, what?

No structure is proposed for demolition as part of this non-project action.

e. What is the current zoning classification of the site?

C-2, Highway Business District.

f. What is the current comprehensive plan designation of the site?

Commercial

g. If applicable, what is the current shoreline master program designation of the site?

Those properties adjacent to Salmon Creek have an "Urban" shorelines designation.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

Properties within the C-2 zoning district have various environmental designations including shorelines, floodplain, steep slopes and critical habitat.

i. Approximately how many people would reside or work in the completed project?

A collective garden is limited to ten people. It is not known how many property owners will pursue this use. The interim ordinance allows only one collective per parcel of land.

j. Approximately how many people would the completed project displace?

None.

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Section 4 of the ordinance includes siting criteria, requiring separation from adjacent residential properties, limiting the property to one collective garden, and prohibiting the use to be viewed from the public right-of-way.

EVALUATION FOR
AGENCY USE ONLY

9. Housing

a. Approximately how many units would be provided, if any?

Indicate whether high, middle, or low-income housing.

None

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

There is concern that a residential structure may be converted to an indoor grow operation. If the grow operation is not properly designed and permitted, the structure may become infested with mold and become inhabitable.

c. Proposed measures to reduce or control housing impacts, if any:

TO BE COMPLETED BY THE APPLICANT

This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

This ordinance will not affect building heights or materials.

b. What views in the immediate vicinity would be altered or obstructed?

A collective garden may not be viewed from the public right-of-way.

c. Proposed measures to reduce or control aesthetic impacts, if any:

Fencing, if necessary.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

It is possible an interior grow operation will run lights approximately 16 hours a day to spur rapid growth. The windows will likely be shielded so as to not draw attention to the use.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No.

c. What existing off-site sources of light or glare may affect your proposal?

None

d. Proposed measures to reduce or control light and glare impacts, if any:

None.

EVALUATION FOR
AGENCY USE ONLY

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

None

b. Would the proposed project displace any existing recreational uses? If so, describe.

No

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None necessary.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Collective gardens will be permitted in the C-2 zoning district. None of those properties are identified on a preservation register.

TO BE COMPLETED BY THE APPLICANT

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

Exit 49 is known and advertised as the "Gateway to Mount St. Helens".

c. Proposed measures to reduce or control impacts, if any:

A collective garden may not be visible from the public right-of-way.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

The C-2 properties at Exit 48 are served by Huntington Avenue, a minor arterial. At Exit 49, the C-2 district is served by State Route 504, Dougherty Street, which is a major collective road, and residential roads.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

The Lower Columbia Community Action Program (CAP) bus system stops at Exit 49.

c. How many parking spaces would the completed project have? How many would the project eliminate?

Not known as part of this non project action.

EVALUATION FOR
AGENCY USE ONLY

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

If a property owner pursues a Building Permit in conjunction with obtaining a Collective Garden Land Use Permit, then road improvements may be necessary.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

The C-2 zoning district is an auto-oriented commercial district in close proximity to I-5 and State Route 504.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Unknown

g. Proposed measures to reduce or control transportation impacts, if any:

This issue will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

The 'Care Coalition' is a community-based organization providing, among other things, information and education regarding drug abuse. There was testimony received at a public hearing that a new educational program may need to be developed to explain to the community (especially children and teenagers) why medical marijuana collective gardens are

TO BE COMPLETED BY THE APPLICANT

being allowed as part of a legal medical marijuana use and to educate regarding the difference between legal medical use and recreational use. The school system may share the same concern.

Law enforcement may have concern regarding the manner of discerning between a legal medical marijuana collective garden and an unlawful grow operation. Law enforcement may also be concerned that marijuana is a high value commodity and that a property with a collective garden may become a target for burglary.

The fire district may be concerned with equipment and chemicals that may be used to spur rapid growth of the plant.

These issues will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

b. Proposed measures to reduce or control direct impacts on public services, if any.

These issues will be addressed during the vetting process of appropriateness of the interim ordinance's regulations and will be addressed when drafting the permanent regulations.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Properties within the C-2 zoning district are served with urban level utilities.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

None as part of this non-project action.

Part C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: ON FILE Date: 8/11/11

Printed Name of Applicant: TJ Keiran, City Planner

Date of Submitted: 8/11/11

TO BE COMPLETED BY THE APPLICANT

Part D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air?
Production, storage, or release of toxic or hazardous substances; or production of noise?

The State of Washington legalized medical marijuana collective gardens, effective July 22. The City of Castle Rock is trying to understand how grow operations may likely be conducted, identify potential impacts of equipment and chemicals and determine if additional regulations are necessary.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
Plants, animals, fish and marine life may be adversely effected by potent chemicals from fertilizers designed to spur rapid growth.
3. How would the proposal be likely to deplete energy or natural resources?
The proposed standards are not likely to deplete energy or natural resources in a measurable manner.
4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
The application of zoning to a use recently made legal anywhere throughout Washington State will likely help encourage protection of environmentally sensitive areas because an operator will need to obtain a local land use permit.
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
The city's Shoreline Management Program and Critical Areas ordinance will be in effect during development permit review.
6. How would the proposal be likely to increase demands on transportation or public services and utilities?
The proposed standards need to be vetted to understand potential demands to public services.
7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.
The State of Washington legalized medical marijuana collective gardens effective July 22, 2011. Possession and use of marijuana is still a federal crime. The City of Castle Rock is proposing land use regulations to address concerns raised by residents while ensuring compliance with the new state law and providing opportunities to locate a collective garden for those property owners desiring to engage in that activity.

ORDINANCE NO. 2011-08

AN INTERIM ORDINANCE OF THE CITY OF CASTLE ROCK RELATING TO LAND USE AND ZONING, ADOPTING INTERIM OFFICIAL ZONING CONTROLS REGARDING MEDICAL MARIJUANA COLLECTIVE GARDENS FOR A PERIOD OF SIX MONTHS, TO BE IN EFFECT WHILE THE CITY DRAFTS, CONSIDERS, HOLDS HEARINGS AND ADOPTS DETAILED COLLECTIVE GARDEN ZONING REGULATIONS, TO BE EFFECTIVE IMMEDIATELY, SCHEDULING A HEARING ON THE MAINTENANCE OF THE INTERIM ZONING AND DECLARING AN EMERGENCY.

WHEREAS, federal law, since 1970, has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law," RCW 69.51A.005, but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes." RCW 69.51A.020; and

WHEREAS, the result is that "medical marijuana" does not violate state criminal law, under certain limited conditions, but still violates federal criminal law; and

WHEREAS, currently a qualifying patient or their designated care provider are presumed to be in compliance with the quantity limitations of state Initiative 692, if they possess no more than twenty-four ounces (i.e. 1 ½ pounds) of usable and no more than fifteen plants, WAC 246-75-010; however, recently enacted ESSSB 5073 will also permit, as of July 22, 2011, qualifying patients "to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use," provided no more than ten qualifying patients participate, a collective garden does not contain more than fifteen plants per patient up to a total of forty-five plants per garden, and the garden does not contain more than twenty-four ounces (1 ½ pounds) of useable cannabis per patient and up to a total of seventy-two ounces (4 ½ pounds) of useable cannabis, ESSSB 5073, Section 403; and

WHEREAS, RCW 69.51A.060(1) provides that it is a class 3 civil infraction to display medical cannabis in a manner or place which is open to view of the general public, which would include growing plants; and

WHEREAS, Washington's Governor, in her partial veto letter, of SB 5073, of April 29, 2011, indicated cooperative medical marijuana organizations should be exempted from state criminal penalties "conditioned on compliance with local government location and health and safety specifications", page 3, creating a need to balance the interests of federal law, Washington medical marijuana patients and the health, safety and welfare of the community, *Id.*, page 3; and

WHEREAS, Section 1102 of ESSSB 5073 allows local jurisdictions to adopt regulations for zoning requirements, business license requirements, health and safety requirements, and business taxes; and

WHEREAS, as part of the process for the adoption of zoning regulations, the land use impacts of collective gardens must be identified; and

WHEREAS, because the land use impacts of growing marijuana in quantities allowed by the State of Washington have been experienced in other jurisdictions, the City of Castle Rock may look to the experiences of other cities and counties in drafting zoning regulations for collective gardens; and

WHEREAS, Mendocino County California has experienced significant location, health and safety problems with the cultivation of medical marijuana, including but not limited to, a distinctive odor that may be detectable far beyond property borders, medical marijuana (whether grown for medical or non-medical use) may be sold for thousands of dollars per pound, the odor can create an attractive nuisance creating a risk of burglary, robbery and armed robbery; indoor cultivation can overload standard electrical systems creating an unreasonable risk of fire; law enforcement needs to be able to readily distinguish plants growing in compliance with the laws versus those that are not; the need to provide notice to owners of the parcel upon which the plants are grown, limitation on location of the gardens, and fencing/security requirements, Mendocino County Code Chapter 9.31; and

WHEREAS, Butte County California has experienced significant location, health and safety problems with the cultivation of medical marijuana, including that marijuana plants can each yield one to two pounds of useable cannabis, that the price for a pound of useable cannabis can range from \$1,500 to \$3,000, that cultivation of marijuana within one thousand (1,000) feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers or youth-oriented facilities creates unique risks that marijuana will be observed by juveniles and thus vulnerable to theft or recreational consumption, that odors can overwhelm neighbors and result in an increase in criminal activity, that inadequate security increases the risk of loitering and crime; Butte County Code Chapter 34A; and

WHEREAS, the Castle Rock City Council therefore believes that certain interim zoning regulations to address collective gardens are necessary, until the City can consider all of the land use impacts of collective gardens, draft regulations, hold hearings and adopt new regulations on the subject; and

WHEREAS, the Council believes this action is taken in good faith as defined in Sections 1101(2) and 1102(1) of ESSSB 5073;

NOW THEREFORE, the City Council of the City of Castle Rock do ordain as follows:

Section 1. Ordinance 2011-05 Repealed. Ordinance 2011-05, adopted by the City on June 1, 2011, is hereby repealed.

Section 2. Definitions:

A) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

(B) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

(C) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

(D) "Collective Garden" means those gardens authorized under Section 403 of ESSSB 5073, which means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

(E) "Designated care provider" means a person who:

- (1) Is eighteen years of age or older;
- (2) Has been designated in ((writing)) a written document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A; and
- (3) Is in compliance with the terms and conditions set forth in RCW 69.51A.040.

A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

(F) "Indoors" means within a fully enclosed and secure structure that complies with the Washington Building Code (WBC), as adopted by the City of Castle Rock, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

(G) "Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

(H) "Medical use of cannabis" means the manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(I) "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

(J) "Person" means an individual or an entity.

(K) "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, date of birth, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provide.

(L) "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

(M) "Process" means to handle or process cannabis in preparation for medical use.

(N) "Produce" means to plant, grow, or harvest cannabis for medical use.

(O) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots,

stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(P) "Qualifying patient" means a person who:

(1)(a) Is a patient of a health care professional;

(b) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;

(e) Has been advised by that health care professional that he or she may benefit from the medical use of cannabis; and

(f) Is otherwise in compliance with the terms and conditions established in RCW 69.51A.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(Q) "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

(R) "School" means an institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

(S) "Terminal or debilitating medical condition" means:

(1) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(2) Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or

(3) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(4) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(5) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(6) Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(7) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

(T) "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

(U) "Useable cannabis" means dried flowers of the *Cannabis* plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

(V) "Valid documentation" means:

(1) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;

(2) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and

(3) In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.

(W) "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

Section 3. Purpose. The purpose of this interim zoning ordinance is enact minimum zoning regulations relating to collective gardens, which both allows collective gardens as a use (under the limitations herein) and also provides notice to those operating collective gardens that the City is considering additional and more comprehensive zoning regulations on the subject. These new regulations could affect existing collective gardens.

Section 4. Interim Zoning Regulations:

In order to site and operate a Collective Garden, the owner of the property must obtain approval from the City of a Collective Garden Land Use Permit. This requires the submission of a complete application (as described in subsection E herein), and conformance with the following requirements:

A. **Zoning Districts.** Collective Gardens, as defined in Section 2 of this Ordinance shall be allowed in the C-2, Highway Business District zoning districts and no others, subject to the locational criteria set forth herein.

B. Location and Distance Restrictions. No collective garden, defined in Section 2 of this Ordinance shall be permitted

(1) within 300 feet of schools, churches, youth-oriented facilities, libraries or residential treatment facility as measured from edge of property line to edge of property line. See attached Exhibit A.

(2) Outdoors within one hundred feet of any occupied legal residential structure located on a separate legal parcel.

(3) In any location where the marijuana plants are visible from a public place.

C. Ownership and Limitation on Numbers. No more than one collective garden may be located on a legal parcel of land, and the parcel must be owned or leased to one of the members of the collective garden. A qualifying patient can not be a member of more than one collective garden, and must be a member of one collective garden for at least thirty (30) days before transferring their membership to another garden. The collective garden must maintain records of its membership for no less than three years.

D. Fencing Requirement. All cannabis grown outside must be fully enclosed by a secure fence at least six (6) feet in height. The fence must include a lockable gate that is locked at all times when a qualified patient or designated care provider is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

E. Collective Garden Land Use Permit Application. A complete application for a Collective Garden Land Use Permit shall consist of the following:

1. The name and address of all qualifying patients applying for the permit and proof of their qualifying status;

2. A unique identifying number from the State of Washington Driver's License or Identification Card for all qualifying patient members of the collective gardens;

3. A statement acknowledging that the permit applied for will be issued in conformance with the laws of the State of Washington and that such issuance does not confer upon the members of the collective garden immunity from prosecution under federal law;

4. The location of the parcel where the cultivation collective garden will be located, by street address and tax parcel number;

5. The number of plants to be grown for each qualifying patient member;

6. If the collective garden is to be located outdoors, the measures to be taken to minimize odor-related complaints or a statement explaining why such measures are not necessary;

7. Either the owner of the property shall sign the application, or the person signing it must demonstrate that they have permission to sign the application on behalf of the owner (for example, a copy of the lease, which shows that the lease is for the specific purpose of operating a collective garden);

8. A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of the members and protect the premises from theft;

9. A statement describing the proposed source of power, if any, for the collective garden, the size of any such electrical service or system, and the total demand to be placed on the system by all proposed uses on site. The statement shall be forwarded to the Washington State Department of Labor and Industry for electrical permit review. The intent is to ensure sufficient electrical system exists to accommodate the new demand;

10. One reproducible copy (eight and one half inch by 11 inches or 11 inches by 17 inches) or seven oversized copies of a floor plan showing:

(A) If the collective garden is located inside a structure, then please submit a floor plan including all existing and proposed walls

(B) Disability Access. Show how area of renovation/improvement complies with disabled access requirements, if any, including paths of travel to point of ingress/egress, restrooms, drinking fountains and public telephones.

(C) Doors. Show all door locations, fire-rating (if applicable), direction of swing, self-closing mechanism, required exit signage and lighting, etc.

(D) Cross-connection control and backflow prevention devices are required in accordance with CRMC 13.06.045. Please show plumbing specifications, such as types and locations of fixtures, drains, and backflow prevention devices.

(E) Lighting type and location of fixtures.

(F) Ventilation equipment and fixtures.

11. One reproducible copy (eight and one-half inches by 11 inches or 11 inches by 17 inches) or seven oversize copies of a plot plan showing:

(A) All property lines, labeled with dimensions;

(B) All existing structures;

(C) Accessible path of travel from public sidewalks and/or parking space to collective garden, if required; and

12. Submission of payment of a permit fee sufficient to cover the cost of all City departments investigating and processing the application in an amount that shall be set by the City Council in accordance with applicable laws and regulations.

F. Collective Garden Land Use Permit Procedure:

1. Upon receipt of a complete application, the Building Inspector or his designee shall schedule with the applicant an inspection of the premises to insure compliance with this

ordinance. If the applicant is in compliance with this ordinance, the Building Inspector or his designee shall issue a Collective Garden Land Use Permit. If the applicant is not in compliance, the Building Inspector shall deny the Collective Garden Land Use Permit.

2. Appeal of the Building Inspector's decision must be submitted to the city clerk-treasurer in writing no later than 10 business days following the Building Inspector's decision. The appeal shall be to the Land Use Hearings Examiner in accordance with CMRC Chapter 17.20.

Section 5. Interim Zoning Adopted. The City Council imposes the interim zoning in this Ordinance immediately, which shall apply to all collective gardens identified in Section 4 of this Ordinance.

Section 6. Duration of Interim Zoning. The interim zoning adopted by this Ordinance shall commence on the date of the adoption of this Ordinance. As long as the City holds a public hearing on the interim zoning within sixty (60) days and adopts findings of fact and conclusions of law to support the interim zoning, such interim zoning shall be in effect for six (6) months after the date of adoption.

Section 7. Public Hearing on Interim Zoning. Pursuant to RCW 35A.63.220, the City Council shall hold a public hearing on this interim zoning within sixty (60) days of its adoption, or before August 26, 2011. The Council hereby schedules this hearing for July 27, 2011. During the next Council meeting immediately following this hearing, the City Council shall adopt findings of fact on the interim zoning or cancel the interim zoning.

Section 8. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 9. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without the adoption of interim zoning regulations, collective gardens could locate and operate in the City without restriction, eventually leading to the establishment or operation of such use in locations or conditions that might later be restricted or prohibited in the zoning regulations eventually adopted by the City of Castle Rock. Therefore, the interim zoning must be imposed as an emergency measure to protect the public health, safety and welfare.

Section 10. Publication. This Ordinance shall be published by an approved summary consisting of the title.


Section 11. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR on this July 11th day of 2011.




Mayor Paul Helenberg

ATTEST:



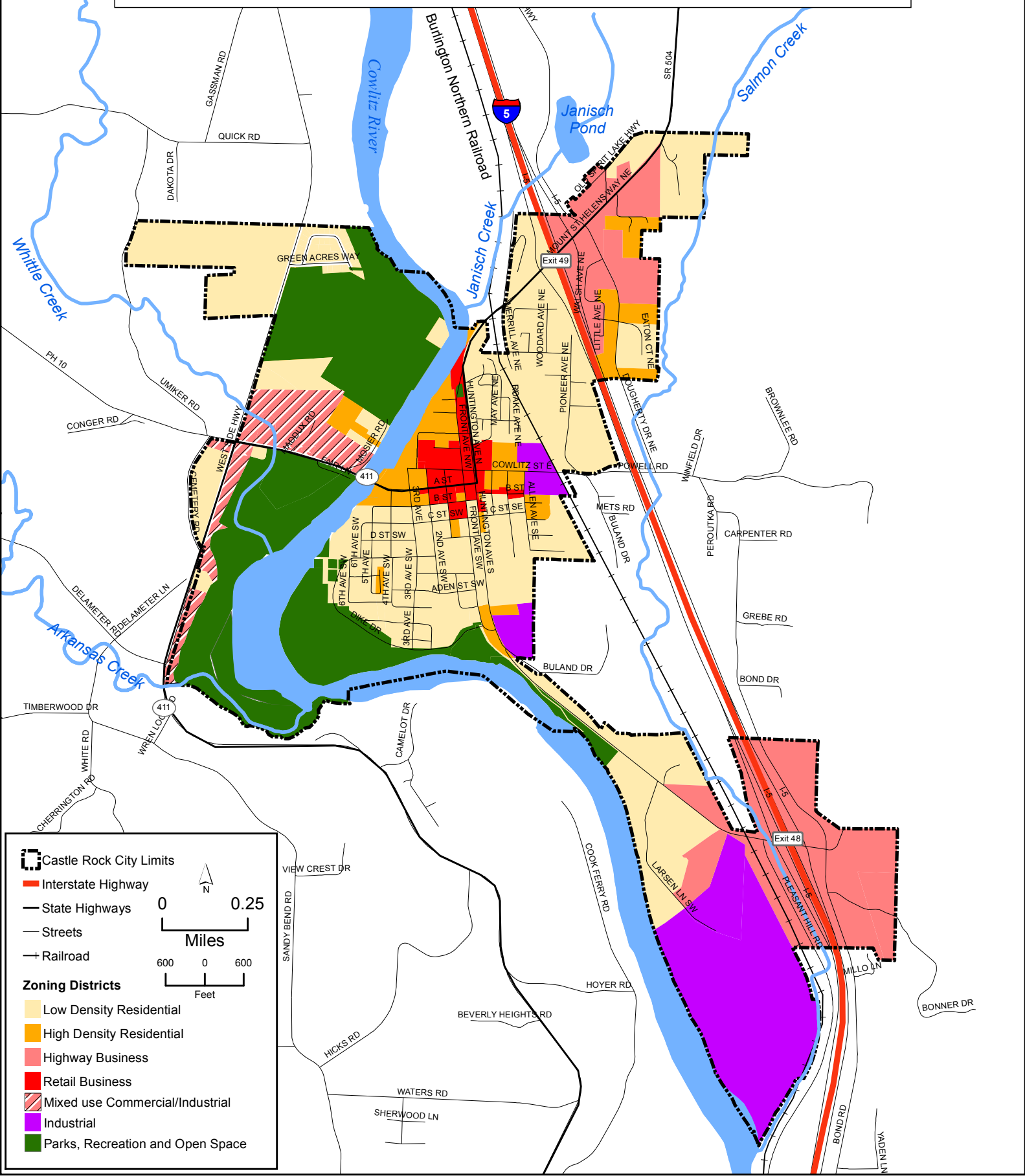
Ryana Covington, Clerk-Treasurer

APPROVED AS TO FORM:



Frank Randolph, City Attorney

Exhibit A
Collective Gardens are Permitted in the C-2, Highway Business District,
Subject to Siting Criteria in Section 4 of the Interim Zoning Regulations



Castle Rock City Limits

- Interstate Highway
- State Highways
- Streets
- Railroad

Zoning Districts

- Low Density Residential
- High Density Residential
- Highway Business
- Retail Business
- Mixed use Commercial/Industrial
- Industrial
- Parks, Recreation and Open Space

Scale:
 0 0.25 Miles
 600 0 600 Feet