

## **NOTICE OF ADOPTED ORDINANCE**

Pursuant to Section 7-3 of the Town of Castle Rock Home Rule Charter, notice is hereby given that the Town Council did adopt the following named and described Ordinance during a Regular Meeting on December 18, 2018 which commenced at 6:00 P.M. at the Castle Rock Town Council Chambers, 100 N. Wilcox St. Castle Rock, CO 80104

Title of Adopted Ordinance:

Ordinance No. 2018-046

An Ordinance Imposing a Temporary Suspension and Prohibition on the Submission, Acceptance and Issuance of Licenses and Permits Applicable to Kratom Sales Pending the Survey for Development and Adoption of Potential Regulations; Prescribing the Administration of this Ordinance; and Declaring that the Adoption of this Ordinance is Necessary for the Immediate Preservation of the Public Health and Safety and Therefore Providing for its Emergency Adoption on First and Final Reading

Subject Matter Summary:

The proposed Ordinance enacts a 180-day suspension on the issuance of any new business license related to Kratom sales. During the suspension period, Town staff will evaluate existing regulations and collaborate with the industry and regulatory agencies related to the potential adoption of local regulations.

The entire text of the proposed ordinance is contained herein, and copies of all documents are available for public inspection at the office of the Town Clerk, 100 North Wilcox, Castle Rock, Colorado 80104 during normal working hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Publication Date: December 20, 2018

**ORDINANCE NO. 2018-046**

**AN ORDINANCE IMPOSING A TEMPORARY SUSPENSION AND PROHIBITION ON THE SUBMISSION, ACCEPTANCE AND ISSUANCE OF LICENSES AND PERMITS APPLICABLE TO KRATOM SALES PENDING THE SURVEY FOR DEVELOPMENT AND ADOPTION OF POTENTIAL REGULATIONS; PRESCRIBING THE ADMINISTRATION OF THIS ORDINANCE; AND DECLARING THAT THE ADOPTION OF THIS ORDINANCE IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY AND THEREFORE PROVIDING FOR ITS EMERGENCY ADOPTION ON FIRST AND FINAL READING**

**WHEREAS**, the Town of Castle Rock is a home rule municipal corporation and the Town Council is empowered to adopt such ordinances as are necessary and convenient to protect the health, safety and welfare of the community; and

**WHEREAS**, Colorado currently has no substantive state regulations relating to the sale and distribution of kratom; and

**WHEREAS**, in 2016, the U.S Food and Drug Administration (“FDA”) banned the import of kratom labelled for human consumption in the form of dietary supplements; and

**WHEREAS**, in 2016, the Drug Enforcement Agency (“DEA”) referred to kratom as an imminent hazard to public safety, initially planning to classify kratom as a Schedule I Controlled Substance, postponing any action until further scientific study by the FDA; and

**WHEREAS**, in 2018, the FDA released a statement providing evidence of kratom compounds’ opioid properties, also raising concerns about kratom’s potential for abuse, addiction and serious health consequences, including death; and

**WHEREAS**, in 2018, the Centers for Disease Control (“CDC”) concluded an investigation regarding an unknown source *Solmonella* kratom contamination that resulted in 199 people infected, including 4 cases in Colorado, further warning that kratom could be contaminated with *Salmonella* and could make people sick; and

**WHEREAS**, in 2018, the FDA issued warning letters to three marketers and distributors of kratom products, including one in Colorado, for deceptive medical claims for which there is no reliable scientific proof to support their use; and

**WHEREAS**, in 2018m the FDA released a statement providing evidence of kratom supplements containing heavy metals, raising concerns about their safety for human consumption; and

**WHEREAS**, Town Council has been made aware that there is potential interest in the establishment of commercial operations for onsite consumption of kratom beverages within the Town of Castle Rock; and

**WHEREAS**, Town Council has been made aware that there are current businesses potentially marketing and selling kratom for human consumption within the Town of Castle Rock; and

**WHEREAS**, the establishment of kratom sales (whether operated by an individual, cooperatively, or in a business or corporate form sanctioned under Colorado law) within the Town of Castle Rock, without certain constraints and restrictions, may have an adverse impact on the health, safety and welfare of the community; and

**WHEREAS**, comprehensive regulations and safeguards for all aspects of kratom sales undertaken within the Town ("Kratom Regulations") should be considered and, if necessary, enacted, as later may be deemed appropriate, as expeditiously as is reasonably feasible in order to protect the public health, safety and welfare; and

**WHEREAS**, in order to prevent the establishment of additional kratom sales prior to the consideration and potential adoption of Kratom Regulations, it is necessary and advisable to enact a temporary suspension on accepting, processing, and/or otherwise approving any application for a Town business license or a Town sales tax license, sign permit application and any other Town approval, license, or permit currently required for or applicable to kratom sales under current Code provisions and Town regulations; and

**WHEREAS**, the Town Manager has advised the Council that such suspension of administrative approvals and action will give Town staff sufficient time to complete an assessment and recommendation on appropriate and potentially necessary Kratom Regulations to ensure that no additional kratom retailer is established in the Town of Castle Rock before such time as Town Council is able to consider and potentially enact Kratom Regulations or take other action regarding kratom sales; and

**WHEREAS**, the imposition of such suspension of administrative action on kratom sales is necessary for the immediate preservation and protection of the public health, safety and welfare of the citizens and visitors of the Town of Castle Rock.

**NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:**

**Section 1. Findings and Intent.** The recitals to this ordinance are incorporated by reference and adopted as findings and determinations of the Town Council.

**Section 2. Suspension of Administrative Action.** Commencing at 11:59 PM on the date this ordinance is in effect and continuing for a period of 180 consecutive days thereafter, all departments and officers of the Town of Castle Rock are prohibited from conducting pre-application conferences, accepting, processing, and/or otherwise approving or acting upon any application for building permit, Town business license or sales tax license, sign permit and any other Town approval, license or permit currently required for or applicable to kratom sales under current Code provisions and Town regulations ("Suspension"). This Suspension includes, but is not limited to, the enterprise commonly known and referred to as a kratom bar and retail establishments selling kratom for human consumption.

**Section 3. Preparation of Proposed Regulations.** Town Staff shall both survey and conduct outreach with proponents of the kratom industry and other key stakeholders, including regulatory agencies, to contemplate and recommend Kratom Regulations for consideration by the Town Council. The results of the survey and any proposed Kratom Regulations shall be presented in a timely manner such that the Kratom Regulations adopted by Town Council may take effect prior to expiration of the Suspension.

**Section 4. No Effect on Prior Approvals.** The Suspension shall not apply to or affect kratom retail establishments that have all required Town approvals, permits, and licenses as of the effective date of this Ordinance.

**Section 5. Administration, Correction of Errors and Appeal.** The Town Manager shall have overall responsibility and administration of this Ordinance, provided that the Town Manager may designate other Town officers with specific duties and authority, as the Town Manager deems appropriate. Protests as to the application of this Ordinance to specific applications shall be lodged with the Town Manager or his designee, and if not satisfactorily resolved through an informal process and conference, shall be forthwith brought before Town Council for a final determination. Study and bring back recommendations for potential regulation.

**Section 6. Severability.** If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

**Section 7. Emergency Clause.** For the reasons stated in the recitals to this Ordinance, it is declared that an emergency exists and it is necessary for the preservation of the immediate public health and safety for this Ordinance to take effect upon its adoption.

**Section 8. Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

**PASSED, APPROVED AND ADOPTED AS AN EMERGENCY ORDINANCE** this 18th day of December, 2018, by a vote of the Town Council of the Town of Castle Rock, Colorado of 6 for and 1 against constituting the extraordinary majority required by Section 2.02.100.E of the Castle Rock Municipal Code.

**ATTEST:**

**TOWN OF CASTLE ROCK**

*Robine Schaubert*

for Lisa Anderson, Town Clerk

*Jason Gray*

Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

*Robert J. Slentz*

Robert J. Slentz, Town Attorney

*Bill Detweiler*

Bill Detweiler, Development Services Director

