

**CHAFFEE COUNTY COLORADO
RESOLUTION 2011-19**

AMENDING THE CHAFFEE COUNTY ZONING RESOLUTION TO CLARIFY THAT MEDICAL MARIJUANA CENTERS ARE PROHIBITED IN UNINCORPORATED CHAFFEE COUNTY AND TO ALLOW FOR MEDICAL MARIJUANA CULTIVATION PREMISES AND INFUSED PRODUCTS MANUFACTURING IN UNINCORPORATED CHAFFEE COUNTY AND EXTENDING THE MORATORIUM ON (A) PERMITS OR LICENSES RELATED TO THE OPERATION OF A BUSINESS THAT CULTIVATES, PROCESSES OR DISPENSES MARIJUANA AND (B) THE ESTABLISHMENT OF ANY BUSINESS, OCCUPATION OR OPERATION RELATING THERETO

WHEREAS, the Land Use Act (C.R.S. §29-20-101 et seq.) and the County Planning Code (§ 30-28-101, C.R.S., et seq.) authorize county regulation of land use in the unincorporated areas of the county; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution (Article XVIII, Section 14), and authorizes a mechanism for the sale, distribution, cultivation and dispensing of medical marijuana known as a “Medical Marijuana Center,” and further authorizes licensing mechanisms known as an “Optional Premises Cultivation Operation” and a “Medical Marijuana-Infused Products Manufacturers’ License”; and

WHEREAS, C.R.S. §12-43.3-103(2)(a) of the Colorado Medical Marijuana Code provides that a county may adopt and enforce a resolution prohibiting the cultivation or sale of medical marijuana; and

WHEREAS, C.R.S. §12-43.3-106 of the Colorado Medical Marijuana Code establishes a local option allowing a county, by a majority of the members of its governing board, to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers’ licenses; and

WHEREAS, C.R.S. §30-28-116 authorizes the board of county commissioners from time to time by resolution to alter and amend a county zoning resolution following submittal to the county planning commission, and after public hearing, notice of which hearing shall be given by at least one publication in a newspaper of general circulation in the county at least fourteen days prior to said hearing; and

WHEREAS, an amendment to the county’s zoning code regarding allowing medical marijuana cultivation premises and medical marijuana-infused products manufacturing in certain zones in unincorporated Chaffee County has been reviewed by the Chaffee County Planning Commission and all meetings regarding the proposal has been properly noticed and all requirements with respect to the public hearing have been satisfied; and

WHEREAS, the Board of County Commissioners of Chaffee County (the “BoCC”), pursuant to Resolution 2010-43, imposed a moratorium upon: (a) the submission, acceptance, processing, and approval of any application for a permit or license related to the operation of a business that sells, processes, or cultivates marijuana; and (b) the establishment of any business, occupation or operation for cultivating, processing and dispensing marijuana; and

WHEREAS, such moratorium was extended to April 15, 2011 pursuant to Resolution 2010-67; the State Licensing Authority has proposed rules regarding the regulation, control, and enforcement of the cultivation, manufacture, distribution, and sale of medical marijuana, and is developing such forms, licenses, identification cards, and applications as are necessary for the administration of the legislation; such rules are expected to become effective in July 2011; and

WHEREAS, to the extent medical marijuana operations are allowed within unincorporated Chaffee County, Chaffee County will be required to serve as a local licensing authority under the Colorado Medical Marijuana Code and it would be in the best interest of the citizens of Chaffee County to adopt its own regulations in

connection with such permitting processes and extend the moratorium until such regulations are adopted; and

WHEREAS, the Colorado Medical Marijuana Code specifically authorizes the County to extend its moratorium until the effective date of the rules adopted by the Authority and the County needs additional time to study and adopt local regulations in a manner consistent with the Colorado Medical Marijuana Code; and

WHEREAS, under the Colorado Land Use Enabling Act and other laws and statutes the Board of County Commissioners has the authority to extend its temporary moratorium; and

WHEREAS, the BoCC has carefully considered the provisions of the Colorado Medical Marijuana Code, Article XVIII, Section 14 of the Colorado Constitution, and the impact of medical marijuana, Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses on the health, safety, and welfare of the unincorporated portion of Chaffee County and the inhabitants thereof, and has determined as an exercise of its local land use authority that the new construction, alteration, or use of any building, structure, or property used for the sale, distribution, cultivation, and dispensing of medical marijuana and new Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses should be prohibited or restricted as set forth in this Resolution; and

WHEREAS, the BoCC finds and declares it is necessary to the preservation and furtherance of the health, safety and welfare of the citizens of Chaffee County to prohibit Medical Marijuana Centers, and to restrict Optional Premises Cultivation Operations and Medical Marijuana-Infused Products Manufacturers to certain zones within unincorporated Chaffee County and to amend the Chaffee County Zoning Resolution as set forth in Exhibit A.

NOW THEREFORE be it resolved by the BoCC as follows:

1. Prohibition. The Board hereby prohibits Medical Marijuana Centers, as defined in C.R.S. §12-43.3-104(8), in any zone. Except as set forth in Paragraph 2, below, the Board hereby prohibits medical marijuana Optional Premises Cultivation Operations, as defined in C.R.S. §12-43.3-104(12), in any zone except for the Industrial Zone. The Board hereby prohibits Medical Marijuana-Infused Products Manufacturers, as defined in C.R.S. §12-43.3-104(10), in any zone except for the Industrial Zone.
2. Grandfathered Operations.
 - a. Notwithstanding Section 1, businesses which, as of June 15, 2010, were established and had received local approval for the purpose of cultivating medical marijuana and, on or before August 1, 2010, completed all requirements of the State of Colorado set forth in the Colorado Medical Marijuana Code for Optional Premises Cultivation Operations, may continue such Optional Premises Cultivation Operations, provided such businesses continue to comply with all State and local requirements and regulations.
 - b. Except with respect to allowing grandfathered operations to operate in the zone in which they are currently operating as of the effective date of this resolution, such grandfathered operations must comply with all other requirements set forth in the Chaffee County Zoning Resolution and Land Use Code and must comply with all local and state licensing requirements.
 - c. Ownership of such grandfathered operations may be transferred only with the consent of the Chaffee County Board of Commissioners, provided there is no break in operations. If operations cease prior to transfer, such operations shall no longer be grandfathered. Grandfathered operations may not transfer to a different location unless the new location is entirely within an Industrial Zone.
 - d. Grandfathered operations may be expanded only with consent of the Board of Commissioners. Any permitted expansion shall only be with the respect to the Optional Premises Cultivation Operations. This provision is not intended to allow an expansion into medical marijuana-infused products manufacturing or medical marijuana centers.

**AMENDMENT TO CHAFFEE COUNTY ZONING RESOLUTION
MEDICAL MARIJUANA**

Zoning Resolution:

Section 9 I Industrial Zone

9.II.I Permitted Uses

(ADD) Medical Marijuana Optional Premise Cultivation (subject to conditions in Section 10.VI.B of this Zoning Resolution)

(ADD) Medical Marijuana Infused Product Manufacturing Facility (subject to conditions in Section 10.VI.C of this Zoning Resolution)

Section 10 Additional Requirements Applicable to All Zones

(ADD) 10.VI Additional Requirements for Medical Marijuana Related Facilities

10.VI.A. Medical Marijuana Center (MMC). MMC shall not be permitted in any zone in unincorporated Chaffee County.

10.VI.B. Optional Premises Cultivation Center (OPC). The following shall be required as part of a zoning application to operate an OPC; additional building code provisions and license requirements will also apply:

1. License. Complete copies of the state and local license applications for the facility (copy of license applications required for zoning application; copy of approved licenses required prior to operation and current licenses shall be required to be submitted annually by May 1.)
2. Vicinity Map. Map of sufficient size and scale to show the following minimum requirements in the neighborhood of the proposed facility:
 - a. 1000 foot minimum distance from the property boundary to any licensed private or public school, including post secondary
 - b. 1000 foot minimum distance from the parcel boundary to any state licensed child care facility
 - c. 1000 foot minimum distance from the parcel boundary to any drug/alcohol treatment facility
 - d. 500 foot minimum distance from the facility to any public park, or public lands.
 - e. 500 foot minimum distance between the facility and an existing residence. A variance may be considered by the Board of Adjustment only with the explicit written and notarized approval of every residential property owner and resident (if rental) within 500 feet of the facility.
3. Site Plan. A scaled site plan identifying the access, parking, property boundaries, all structures and utilities on the property.
4. Signage. Exterior signage is not permitted.

10.VI.C. Infused Products Manufacturing Facility (IPM). The following shall be required as part of a zoning application to operate an IPM; additional building code provisions and license requirements will also apply:

1. License. Complete copies of the state and local license applications for the facility (copy of license applications required for zoning application; copy of

approved licenses required prior to operation and current licenses shall be required to be submitted annually by May 1.)

2. Vicinity Map. Map of sufficient size and scale to show the following minimum requirements in the neighborhood of the proposed facility:
 - a. 1000 foot minimum distance from the property boundary to any licensed private or public school, including post secondary
 - b. 1000 foot minimum distance from the parcel boundary to any state licensed child care facility
 - c. 1000 foot minimum distance from the parcel boundary to any drug/alcohol treatment facility
 - d. 500 foot minimum distance from the facility to any public park, or public lands.
 - e. 500 foot minimum distance between the facility and an existing residence. A variance may be considered by the Board of Adjustment only with the explicit written and notarized approval of every residential property owner and resident (if rental) within 500 feet of the facility.
 3. Site Plan. A scaled site plan identifying the access, parking, property boundaries, all structures and utilities on the property.
 4. Signage. Plans detailing the signage / outdoor advertising on the site for the facility. Exterior signage is not required; however if signage will be present, any references to marijuana, cannabis, or related, whether in word or graphic form, shall include the word "medical".
- 10.V.D Medical Marijuana Caregiver. Caregivers are treated as a Home Occupation, and subject to all Home Occupation requirements.
- 10.V.E Medical Marijuana Patient. The use of medical marijuana is not regulated by this Zoning Resolution.

Section 22 Definitions

22.A Definitions

(ADD) (insert following Note between Definitions 93 (Manufactured Home) and 94 (Mobile Home)):

"Medical Marijuana Related Facilities - definitions have been added as Definition 166, out of alphabetical order."

(ADD) 22.A.166 Medical Marijuana Related Facilities

- a) Medical Marijuana Patient. A person registered by the State of Colorado for the use of medical marijuana products.
- b) Medical Marijuana Caregiver. A person registered with the State of Colorado as a medical marijuana caregiver.
- c) Medical Marijuana Center (MMC). A retail business that sells Medical Marijuana or Medical Marijuana-Infused Products to registered patients or primary caregivers, but is not a primary caregiver, in accordance with C.R.S., §12-43.3-104(8), as amended.
- d) Optional Premises Cultivation Facility (OPC). A cultivation business that grows and cultivates Medical Marijuana plants for a specific Medical Marijuana Center or for a specific Medical Marijuana- Infused Products Manufacturing Facility, in accordance with C.R.S., §12-43.3-104(11 & 12), as amended.

- e) Infused Products Manufacturing Facility (IPM). A manufacturing business that exclusively manufactures and prepares Medical Marijuana-Infused products for consumption, other than smoking, (i.e. edible products, ointments and tinctures), in accordance with C.R.S., §12-43.3-104(9 & 10), as amended.