

**RESOLUTION NO. R-010-**

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS, COLORADO**

**A RESOLUTION PROHIBITING THE NEW CONSTRUCTION, ALTERATION, OR USE OF ANY BUILDING, STRUCTURE, OR PROPERTY USED FOR THE SALE, DISTRIBUTION, CULTIVATION, AND DISPENSING OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES UNTIL SUCH TIME AS AN ELECTION QUESTION IS SUBMITTED TO THE REGISTERED AND ELIGIBLE ELECTORS OF DOUGLAS COUNTY ON WHETHER TO PROHIBIT SUCH USES WITHIN THE UNINCORPORATED BOUNDARIES OF DOUGLAS COUNTY, COLORADO**

*WHEREAS*, on October 20, 2009, the Board of County Commissioners (“Board”) adopted Resolution No. R-009-189 entitled, A Resolution Placing a Temporary Prohibition on the Construction, Alteration, or Use of Any Building, Structure, or Property for Medical Marijuana Dispensaries and/or Growing Operations for a Period Not to Exceed Six (6) Months and Further Instructing County Staff to Establish Zoning Regulations for Medical Marijuana Dispensary and/or Growing Operations, pursuant to explicit statutory authority in C.R.S. § 30-28-121 (the “Moratorium Resolution”); and

*WHEREAS*, during the pendency of the Moratorium Resolution, the Colorado Legislature during the 2010 legislative session considered and adopted legislation which in pertinent part added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code; and

*WHEREAS*, the majority of the sections of the Colorado Medical Marijuana Code take effect beginning on July 1, 2010; and

*WHEREAS*, the Board adopted zoning regulations for land use purposes for medical marijuana facilities on March 30, 2010, twenty (20) days prior to the expiration of the statutorily allowed six (6)-month moratorium period set forth in the Moratorium Resolution; 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 at the same time 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. § 12-43.3-106 of the Colorado Medical Marijuana Code specifically authorizes in part that the governing body of a county may “vote to prohibit the

operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses"; and

**WHEREAS**, C.R.S. § 12-43.3-310 of the Colorado Medical Marijuana Code further specifically authorizes a local government in part "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses . . . based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article;" and

**WHEREAS**, C.R.S. § 12-43.3-308(1)(c) of the Colorado Medical Marijuana Code also provides that the state and local licensing authorities shall not receive or act upon a new application pursuant to the Colorado Medical Marijuana Code "for a location in an area where the cultivation, manufacture, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county"; and

**WHEREAS**, the Colorado Medical Marijuana Code further authorizes a majority of registered electors of Douglas County voting at a regular election to vote to prohibit the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses; and

**WHEREAS**, the Board 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 Douglas 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 shall be prohibited until such time as an election question is submitted to the registered and eligible electors of Douglas County on whether to prohibit such uses within the unincorporated boundaries of Douglas County, Colorado; and

**WHEREAS**, the Board wishes to present to registered and eligible electors of Douglas County at the regular election on November 2, 2010, the question of whether to prohibit Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses; and

**WHEREAS**, the Board further recognizes the protections afforded by Article XVIII, Section 14 of the Colorado Constitution, and desires to affirm the ability of patients and primary caregivers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and C.R.S. § 25-1.5-106, as the same may be amended from time to time; and

***NOW, THEREFORE, BE IT RESOLVED***, by the Board of County Commissioners of the County of Douglas, State of Colorado, that:

1. Effective immediately, there shall be a prohibition on 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 in addition to a corresponding suspension of any Douglas County land use regulations purporting to allow any of these uses and medical marijuana facilities, as that term is defined in the Douglas County Zoning Resolution, continuing until July 1, 2010, pursuant to the remaining and unused authority established in the Moratorium Resolution, in compliance with C.R.S. § 30-28-121.

2. Effective July 1, 2010, there shall be a prohibition on 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 until such time as an election question is submitted to the registered and eligible electors of Douglas County on whether to prohibit such uses within the unincorporated boundaries of Douglas County, Colorado, pursuant to C.R.S. § 12-43.3-103(2)(a) and C.R.S. § 12-43.3-310.

3. The following question, unless sooner amended by the Board, shall be submitted to a vote of the registered and eligible electors of Douglas County, Colorado, at the regular election on November 2, 2010:

**MEDICAL MARIJUANA BALLOT QUESTION:**

**PURSUANT TO THE AUTHORITY GRANTED BY C.R.S. SECTION 12-43.3-106, SHALL MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES, AS THOSE TERMS ARE DEFINED IN C.R.S. SECTION 12-43.3-104, BE PROHIBITED WITHIN THE UNINCORPORATED BOUNDARIES OF DOUGLAS COUNTY, COLORADO?**

Yes \_\_\_\_\_

No \_\_\_\_\_

4. If the majority of the registered and eligible electors of Douglas County does not vote to prohibit Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana-Infused Products Manufacturers' Licenses, then County staff is directed to prepare draft licensing regulations for the licensing of all such facilities and the prohibition on such uses shall continue until the licensing procedures required by the Colorado Medical Marijuana Code have been established by the Board, but in no event shall the prohibition extend beyond July 1, 2011.

5. Further, if the majority of the registered and eligible electors of Douglas County does not vote to prohibit Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana-Infused Products Manufacturers' Licenses, then County staff is instructed to review existing County land use regulations and propose any changes deemed appropriate pursuant to the Colorado Medical Marijuana Code and present any such proposed changes to the Planning Commission and the Board, prior to expiration of the prohibitions contained herein.

**PASSED AND ADOPTED** this 22<sup>nd</sup> day of June, 2010, in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS, COLORADO**

**BY:** \_\_\_\_\_  
**Steven A. Boand, Chair**

**ATTEST:**

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**Melissa Pelletier, Deputy Clerk**