

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 2011-_____**

A RESOLUTION PROHIBITING THE ESTABLISHMENT OR OPERATION OF MEDICAL MARIJUANA CENTERS, MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MAUFACTURING IN UNINCORPORATED GUNNISON COUNTY; AND RESERVING AUTHORITY TO AMEND THIS REOLUTION OR SUBMIT ISSUES REGARDING MEDICAL MARIJUANA TO ELIGIBLE ELECTORS

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado previously adopted Resolution 2009-63, "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 In Unincorporated Gunnison County For A Period Not To Exceed Six (6) Months And Further Instructing County Staff To Establish Regulations For Medical Marijuana Dispensary And/Or Growing Operations"; and

WHEREAS, the Board previously adopted Resolution 2010-18, "A Resolution Extending A Temporary Prohibition On The Construction, Alteration, Or Use Of Any Building, Structure, Or Property For Medical Marijuana Dispensaries, Medicinal Marijuana Centers, Optional Premises Cultivation Operations, Medicinal Marijuana Production Cultivation Operations, Medicinal Marijuana-Infused Production And/Or Growing Operations In Unincorporated Gunnison County"; and

WHEREAS, during the pendency of the Gunnison County moratorium, 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 Colorado Medical Marijuana Code partially 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 retail 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 License; 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 county 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 Board of County Commissioners of Gunnison County, Colorado intends to prohibit the establishment or operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing within unincorporated Gunnison County; and

WHEREAS, the Board of County Commissioners recognizes the protections afforded by Article XVIII, Section 14 of the Colorado Constitution, and desires to affirm the ability of patients and primary caretakers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and C.R.S. §25-1.5-106; and

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado intends to reserve to itself the authority, but not the obligation, to amend this Resolution and/or to submit the question of whether to allow medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing within unincorporated Gunnison County to the eligible electors in a future regular election of Gunnison County, Colorado.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

Section 1. Findings and Legislative Intent. The Board of County Commissioners of Gunnison County, Colorado makes the following legislative findings:

- A. The Board of County Commissioners finds and determines that the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, et seq., partially clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution, but other clarifications remain necessary.
- B. The Board of County Commissioners finds and determines that 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.”
- C. The Board of County Commissioners finds and determines that the Colorado Medical Marijuana Code further specifically authorizes a county 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.”

Section 2. Authority. The Board of County Commissioners of Gunnison County, Colorado hereby finds, determines, and declares that it has the power and authority to adopt this Resolution pursuant to:

- A. The Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, et seq.;
- B. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.
- C. The County Planning And Building Codes, Article 28 of Title 30, C.R.S.

Section 3. Activities And Uses Prohibited. The Board of County Commissioners of Gunnison County, Colorado prohibits the establishment or operation of medical marijuana centers, medical marijuana optional premises cultivation operations, and medical marijuana-infused products manufacturing in unincorporated Gunnison County, Colorado. The Board of County Commissioners intends that this prohibition applies to any and all other land uses not specifically mentioned above which are associated with the growing or dispensing of medical marijuana, EXCEPT that this prohibition shall not apply to possession and use of medical marijuana by patients who are registered and licensed by the State of Colorado to be medical marijuana patients, and shall not apply to provision of medical marijuana by persons who are registered with the State of Colorado to be primary caregiver, if the possession and use by such persons is in accordance with Colorado law.

Section 4. Reservation Of Authority. The Board of County Commissioners of Gunnison County, Colorado reserves to itself the authority, but not the obligation, to amend this Resolution and/or to submit the question of whether to allow medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing within unincorporated Gunnison County, Colorado to the eligible electors in a future election of Gunnison County, Colorado.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this ___ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By _____
Hap Channell, Chairperson

By _____
Paula Swenson, Vice Chairperson

ATTEST:

By _____
Phil Chamberland, Commissioner

Deputy County Clerk