

Medical Marijuana Moratorium

RESOLUTION NO. 100507. It was moved by Commissioner Dyer and duly seconded by Commissioner Weddig to adopt the following Resolution:

WHEREAS, on December 15, 2009, the Board of County Commissioners voted to adopt Resolution No. 090964 creating a temporary moratorium on the construction, reconstruction, alteration or use of any building, structure, or property for medical marijuana dispensaries, medical marijuana growing operations, and all other land uses associated with the dispensing or growing of marijuana (the "Medical Marijuana Land Uses") until January 5, 2010; and

WHEREAS, on January 5, 2010, the Board of County Commissioners voted to extend the temporary moratorium on Medical Marijuana Land Uses an additional week; and

WHEREAS, on January 12, 2010, the Board of County Commissioners voted to adopt Resolution No. 100014 creating an extension of the temporary moratorium on Medical Marijuana Land Uses through June 14, 2010; and

WHEREAS, members of the Colorado General Assembly adopted House Bill 10-1284 and Senate Bill 10-109 during the 2010 General Session to regulate the cultivation, manufacture, distribution, and sale of medical marijuana (the "Legislation"), which is scheduled to take effect July 1, 2010; and

WHEREAS, the Legislation creates a State Licensing Authority under the Department of Revenue (the "Authority") and requires the Authority to promulgate such rules and special rulings and findings as necessary for the proper regulation, control, and enforcement of the cultivation, manufacture, distribution, and sale of medical marijuana, and develop such forms, licenses, identification cards, and applications as are necessary for the administration of the Legislation; and

WHEREAS, the Legislation creates a local option allowing the County to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses, or, alternatively, to impose standards in addition to those specified by the Legislation and by the Authority; and

WHEREAS, the Legislation specifically authorizes the County to extend its moratorium until the effective date of the rules adopted by the Authority; 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 County needs additional time to study the Legislation and to hold study sessions and hearings to determine the best approach for regulating Medical Marijuana Land Uses within Arapahoe County, in a manner that is consistent with the Legislation and implementing rules, as well as other applicable laws and regulations, and in order to draft and adopt appropriate County resolutions and standards; and

WHEREAS, after a public hearing held on June 15, 2010, notice of which was duly advertised on May 27, 2010 in the Villager Newspaper, the Board of County Commissioners has determined that it is in

the best interest of the health, safety, and welfare of the citizens of Arapahoe County to extend the temporary moratorium on Medical Marijuana Land Uses for an additional period of time, until the Authority adopts rules in accordance with House Bill 10-1284.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Arapahoe County, Colorado, as follows:

1. The temporary moratorium on Medical Marijuana Land Uses is hereby extended for an additional period of time, up to and including the effective date of the new rules to be adopted by the Authority in accordance with House Bill 10-1284.
2. Arapahoe County staff is directed to research, draft and propose for adoption, prior to the expiration of this temporary moratorium, appropriate resolutions, including amendments to the Arapahoe County Land Development Code, as may be necessary to regulate Medical Marijuana Land Uses in Arapahoe County in a manner that is consistent with all applicable laws and regulations, in order to mitigate or eliminate the negative secondary impacts that may be caused by such uses.
3. During the term of the extension of the temporary moratorium, no land use applications or building permits involving Medical Marijuana Land Uses shall be accepted or granted, and no person shall allow or permit the construction, reconstruction, alteration or use of any building, structure, or property for Medical Marijuana Land Uses, within unincorporated Arapahoe County, with the exception of the continuation of any such use existing prior to December 15, 2009 to the extent that such use is in compliance with all of the terms and conditions of Part 1, Section 500 of the Land Development Code (Non-Conforming Uses).
4. The extension of the temporary moratorium shall not apply to the non-commercial use, cultivation or dispensing for use, of medical marijuana, by an individual person with a registry identification card or his or her individual primary care-giver, to the extent that such activities are specifically described as exceptions to the state criminal law by the Colorado Constitution Article 18, Section 14.
5. Should any one or more sections or provisions of this Resolution be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this Resolution, it being the intent of the Board of County Commissioners that such invalid or unenforceable sections or provisions are severable.

The vote was:

Commissioner Beckman, Yes; Commissioner Bockenfeld, Yes; Commissioner Dyer, Yes; Commissioner Noonan, Yes; Commissioner Weddig, Yes.

The Chairman declared the motion carried and so ordered.