



628564
1 of 3

7/26/2011 8:06 AM
RESOL. R\$0.00 D\$0.00

Sharon Sisnroy
Otero County Clerk

STATE OF COLORADO)
) ss.
County of Otero)

At a Regular Meeting of the Board of County Commissioners for Otero County, Colorado, held at the Courthouse in La Junta, Colorado, on the 25th day of July, A.D., 2011, there were present:



Kevin K. Karney, Chairman
Keith Goodwin, Commissioner
Jim Baldwin, Commissioner
Sharon Sisnroy, Clerk to the Board
Jean Hinkle, County Administrator

when the following proceedings were had and done, to-wit:

Resolution #2011--010

WHEREAS, on October 13, 2009, Otero County adopted a code entitled the "Otero County Land Use Code"; and

WHEREAS, Article 4, Section 4-205 of said Otero County Land Use Code provides that "Amendments to the text of the Land Use Code may be initiated by the Board of County Commissioners, the Planning Commission or the Land Use Administrator"; and

WHEREAS, on June 13, 2011, the Otero County Land Use Administrator initiated proposed amendments to the Otero County Land Use Code; and

WHEREAS, the Otero County Planning Commission held a public hearing on July 18, 2011, and recommended to the Board of County Commissioners that said amendments be approved by said Board; and

WHEREAS, notice of the public hearing was published in the La Junta Tribune Democrat and the Rocky Ford Daily Gazette on June 30, 2011; and

WHEREAS, the Board further made available for public inspection the proposed amendments to the Land Use Code as provided in the notice of hearing; and

WHEREAS, on July 25, 2011, the Board conducted a public hearing for the purpose of considering the proposed amendments to the Land Use Code, and testimony was taken from any and all persons desiring to appear and give such testimony and present evidence; and



WHEREAS, the Board has taken into consideration the recommendations of the Planning Commission; the testimony and evidence presented at the public hearing; and the best interests of the citizens of Otero County;

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

Section 1. The Otero County Land Use Code adopted October 13, 2009, is hereby amended as follows:

Article 3, Zoning, Division 3, Use Regulations, Section 3-312, Prohibited Uses shall be added to the Land Use Code and shall read as follows:

Section 3-312 Prohibited Uses

A. Medical Marijuana. The issuance of licenses for the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers is prohibited within the unincorporated boundaries of Otero County, Colorado. (See Resolution No. 2011-006 adopted February 22, 2011.)

The heading of Article 4, Section 4-207, Vacation of Streets and/or Alleys, subparagraph (B) (6), Review and Action by Otero County Planning Commission, is amended to read as follows:

6. Review and Action by Board of County Commissioners.

Section 2. These amendments to the Otero County Land Use Code shall be effective immediately upon the passage of this Resolution.

Section 3. The title page of the Otero County Land Use Code shall reflect the fact that it was "Adopted October 13, 2009, As Amended July 25, 2011".


Section 4. A signed copy of this Resolution shall be placed at the back of the hard copy of the Otero County Land Use Code; all hard copy and on-line versions of the Otero County Land Use Code shall be amended as set forth above; and a copy of the signed Resolution and revisions shall be provided to the Colorado Code Publishing Company.

Section 5. A copy of this Resolution and Land Use Code revisions shall be certified by the Clerk to the Board and filed with the Otero County Clerk and Recorder in accordance with Section 30-28-125, C.R.S. The Clerk and Recorder shall make such copies accessible to the public, and shall index said copies in the same manner as instruments pertaining to the title of land are indexed.



Adopted this 25th day of July, 2011.

ATTEST:


Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS
OF OTERO COUNTY, STATE OF
COLORADO:


Kevin K. Karney, Chairman


Keith Goodwin


Jim Baldwin

Resolution #2011 – 010

STATE OF COLORADO)
) ss.
County of Otero)

At a Regular Meeting of the Board of County Commissioners for Otero County, Colorado, held at the Courthouse in La Junta, Colorado, on the 22nd day of February, A.D., 2011, there were present:

- | | | |
|-------------------------------------|------------------|----------------------|
| <input checked="" type="checkbox"/> | Kevin K. Karney, | Chairman |
| <input type="checkbox"/> | Keith Goodwin, | Commissioner |
| <input checked="" type="checkbox"/> | Jim Baldwin, | Commissioner |
| <input checked="" type="checkbox"/> | Sharon Sisroy, | Clerk to the Board |
| <input checked="" type="checkbox"/> | Jean Hinkle, | County Administrator |

when the following proceedings were had and done, to-wit:

Resolution #2011-006

A RESOLUTION PROHIBITING THE ISSUANCE OF ANY BUSINESS LICENSE FOR ANY CONSTRUCTION, ALTERATION, OR USE OF ANY BUILDING, STRUCTURE OR PROPERTY TO BE USED FOR THE SALE, DISTRIBUTION, CULTIVATION, OR DISPENSING OF MEDICAL MARIJUANA, AND REJECTING ANY APPLICATIONS FOR MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES WITHIN THE UNINCORPORATED BOUNDARIES OF OTERO COUNTY, COLORADO.

WHEREAS, the County of Otero, Colorado, (hereinafter the "County"), is a duly organized and existing political subdivision of the State of Colorado (hereinafter the "State"); and

WHEREAS, the use of Medical Marijuana was authorized and limited by the voters of the State of Colorado pursuant to Article XVIII, Section 14, of the Colorado Constitution; and

WHEREAS, on April 19, 2010, the County did adopt a moratorium (Resolution No. 2010-008) on the issuance of a business license to an individual, group or entity proposing to engage in the cultivation, processing or dispensing of marijuana for medicinal purposes in the County of Otero, Colorado; and

WHEREAS, during the pendency of the 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 further authorizes a majority of registered electors of Otero County, Colorado, to vote at a regular election to determine whether to prohibit the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses; and

WHEREAS, the Otero County Commissioners, by way of Resolution #2010-012 dated July 19, 2010, presented to registered and eligible electors of the 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 within the County; and

WHEREAS, at that time, the electors of the County considered the following ballot issue:

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

WHEREAS, a majority of the registered and eligible electors of the County voted to prohibit Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses within the County;

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

Section 1. Pursuant to the Colorado Medical Marijuana Code, and based upon the expressed will of the electorate, the Otero County Commissioners hereby prohibit the issuance of licenses for the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers within the unincorporated boundaries of Otero County, Colorado.

Section 2. Because the voters have prohibited Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses for all of unincorporated Otero County, no such business or entity shall be legal in unincorporated Otero County or be eligible for licensure, and therefore any such existing business must cease operation in unincorporated Otero County.

Section 3. The Board of County Commissioners hereby finds and determines that it has the power to adopt this Resolution pursuant to: 1) the Colorado Medical Marijuana Code, including §12-43.3-103 and §12-43.3-106, C.R.S.; 2) the Local Government Land Use Control Enabling Act, §29-20-101, *et seq.*, C.R.S.; 3) §30-11-101 (2), C.R.S., concerning the authority of counties to adopt

STATE OF COLORADO)

) ss.

County of Otero)

At a Regular meeting of the Board of County Commissioners for Otero County, Colorado, held at the Courthouse in La Junta, Colorado, on Monday, the 19th day of July, A.D., 2010, there were present:

<input checked="" type="checkbox"/>	Keith Goodwin,	Chairman
<input checked="" type="checkbox"/>	Kevin K. Karney,	Commissioner
<input checked="" type="checkbox"/>	Jim Sandoval,	Commissioner
<input checked="" type="checkbox"/>	Sharon Sisroy,	Clerk to the Board
<input checked="" type="checkbox"/>	Jean Hinkle,	County Administrator

when the following proceedings, among others, were had and done, to-wit:

RESOLUTION #2010 – 012

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 OTERO COUNTY ON WHETHER TO PROHIBIT SUCH USES WITHIN THE UNINCORPORATED BOUNDARIES OF OTERO COUNTY, COLORADO.

WHEREAS, on April 19, 2010, the Board of County Commissioners ("Board") adopted Resolution #2010-008 entitled, A Resolution Adopting a Temporary Moratorium Upon the Application, Acceptance, Processing, and/or Approval of any Request to Otero County for a Permit, License, and/or for any Other Otero County Authorization of any Nature Related to or in any way Connected with the Establishment and/or Operation of an Enterprise or Business that Proposes to Sell or Dispense or that Sells or Dispenses Medical Marijuana Pursuant to Article 18, Section 14, of the Colorado Constitution; and

WHEREAS, 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 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, §12-43.3-106, C.R.S., 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, §12-43.3-310, C.R.S., 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, §12-43.3-308 (1) (c), C.R.S., 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 Otero 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 Otero 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 Otero County on whether to prohibit such uses within the unincorporated boundaries of Otero County, Colorado; and

4. If the majority of the registered and eligible electors of Otero 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 Otero 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.

ADOPTED this 19th day of July, 2010.

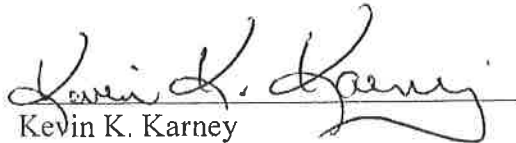
ATTEST:

BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY
OF OTERO, STATE OF COLORADO.


Otero County Clerk & Recorder




Keith Goodwin, Chairman


Kevin K. Karney


Jim Sandoval