

STATE OF COLORADO)
)ss.
COUNTY OF GARFIELD)

At a regular meeting of the Board of County Commissioners for Garfield County, Colorado, held at the County Administration Building in Glenwood Springs on Monday, the 18th day of June, 2012, there were present:

Mike Samson, Commissioner
Tom Jankovsky, Commissioner
John Martin, Commissioner Chairman
Carey Gagnon, Acting County Attorney
Andrew Gorgey, County Manager
Jean Alberico, Clerk to the Board

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

RESOLUTION NO. 12-52

RESOLUTION ESTABLISHING MEDICAL MARIJUANA LOCAL LICENSING
AUTHORITY WITHIN GARFIELD COUNTY

WHEREAS, Article XVIII, Section 14 of the Colorado Constitution permits the medical use of marijuana by persons with debilitating medical conditions and provides an affirmative defense to criminal prosecution to patients who use Medical Marijuana and their primary caregivers; and

WHEREAS, the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101 *et seq.*, was subsequently passed by the Colorado Legislature and signed into law by the Governor on June 7, 2010; and

WHEREAS, the Colorado Medical Marijuana Code establishes a dual licensing framework for Medical Marijuana facilities, introduces new terminology with respect to such facilities, and restricts the types of licenses that may be issued within the State of Colorado; and

WHEREAS, the Board of County Commissioners has previously adopted Resolution 2010-48, which imposed a moratorium on all Medical Marijuana facilities within Garfield County for up to six months from June 21, 2010, or up to and including December 21, 2010; and

WHEREAS, such moratorium was extended until July 1, 2011 pursuant to Resolution 2010-67, and extended a second time until July 1, 2012 pursuant to Resolution 2011-33; and

WHEREAS, to the extent Optional Premises Cultivation Operations are allowed within unincorporated Garfield County, the Colorado Medical Marijuana Code requires the County to identify a Local Licensing Authority; and



WHEREAS, the Colorado Medical Marijuana Code further requires that a Local Licensing Authority adopt a local licensing resolution containing specific standards for license issuance or, if no such resolution is adopted, to consider the minimum licensing requirements set forth in Part 3 of the Colorado Medical Marijuana Code; and

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the public health, safety and welfare to adopt a fair and effective procedural and regulatory framework for the local verification of Optional Premises Cultivation Operations in unincorporated Garfield County; and

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Garfield County as follows:

1. Unless defined herein, all capitalized terms shall have the same meaning as set forth in the Colorado Medical Marijuana Code and regulations promulgated thereunder.
2. For purposes of this Resolution and consistent with the Colorado Medical Marijuana Code, "Local Licensing Authority" is that body responsible for granting final approval of (aka "Local Verification") to Optional Premises Cultivation Operations. Such authority shall consist of the Board of County Commissioners, which body shall provide Local Verification of Optional Premises Cultivation Operations by a simple majority vote unless and until such body, by resolution, proscribes an alternate approval process and/or delegates its authority vested herein.
3. The Garfield County Clerk and Recorder, acting as clerk to the Board of County Commissioners, is authorized to accept and process local Optional Premises Cultivation Operations applications.
 - a. Application shall be made to the Clerk and Recorder's Office on forms provided by the Clerk and Recorder for that purpose.
 - b. Applicant must concurrently apply for a state license.
4. It is unlawful for any person to operate a Medical Marijuana business without first having obtained a state license to operate. A temporary exception to this requirement will be granted to any Optional Premises Cultivation Operation which (a) provides proof to the County that it applied for a state license on or before August 1, 2010 and (b) commenced operation in unincorporated Garfield County prior to the County's June 21, 2010 moratorium. Operations meeting these requirements may continue to operate pending Local Verification. However, such operations must file a local application with the Clerk



and Recorder on or before August 1, 2012, and failure to do so may result in rescission of any Local Verification previously received.

5. Upon receipt from the State Licensing Authority of a request for Local Verification, the Clerk and Recorder will schedule a hearing before the Local Licensing Authority.
 - a. Applicant must publish notice in a newspaper of general circulation in the County not less than 10 days prior to the hearing using a form provided by the Clerk and Recorder. Currently the *Rifle Citizen Telegram* is the only newspaper of “general circulation” in Garfield County, as that term is defined in C.R.S. § 24-70-102.
 - b. Applicant must also post notice of the hearing in a conspicuous place on the applicant’s premises for which local application has been made using a form provided by the Clerk and Recorder. The notice must be plainly visible to the general public.

6. At the hearing, applicant must demonstrate the Optional Premises Cultivation Operation is or will be in compliance with the minimum state licensing requirements set forth in the Colorado Medical Marijuana Code and regulations promulgated thereunder, and with the zoning and land use regulations set forth in the Garfield County Unified Land Use Resolution of 2008, as amended. Applicants who are currently operating an Optional Premises Cultivation Operation must demonstrate to the satisfaction of the Local Licensing Authority that the Optional Premises Cultivation Operation was in operation in unincorporated Garfield County prior to the County’s June 21, 2010 moratorium, which determination will be made in the sole discretion of that body.

7. The Local Licensing Authority may deny Local Verification for Good Cause. “Good Cause,” for purposes of refusing or denying initial Local Verification, or Local Verification renewal or reinstatement means:
 - a. the applicant does not meet, has violated, or has failed to comply with any of the terms, conditions, or provisions of this Resolution, the Colorado Medical Marijuana Code, or any rules or regulations promulgated pursuant to the Colorado Medical Marijuana Code;
 - b. the applicant has failed to comply with any special terms or conditions that were placed on its Local Verification or state license; or
 - c. the applicant’s premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

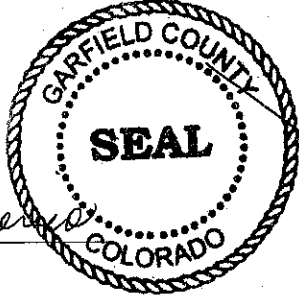
8. The Local Verification requirements set forth in this Resolution shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including any applicable land use or building permit.



9. Local Verifications are valid for a period of one year from the date a state license is issued to the Optional Premises Cultivation Operation.
10. Renewal applications must be filed with the Clerk and Recorder not less than 45 days prior to the date of expiration of the Local Verification. Upon receipt, the Clerk and Recorder will place the renewal application request on the Local Licensing Authority's consent agenda at the next available Board of County Commissioner's meeting. The Local Licensing Authority will hold a hearing on a renewal application only if the applicant has had complaints filed against it, has a history of violations, or there are allegations against the applicant that would constitute Good Cause.
11. Optional Premises Cultivation Operations shall report to the Local Licensing Authority each transfer or change of ownership interest, and/or change in business manager.
12. Nothing in this Resolution is intended to promote or condone the production, use, sale or distribution of Medical Marijuana other than in compliance with applicable state law.
13. By submitting a local application, applicant expressly acknowledges that the applicant, owner and/or employees of an Optional Premises Cultivation Operation may be subject to prosecution under federal controlled substance laws.
14. In the event the cultivation, possession, and/or use of Medical Marijuana are deemed to be unlawful under Colorado state law, any Local Verification granted by the Local Licensing Authority shall be immediately null and void.
15. 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.
16. This Resolution is in full force and effect as of July 1, 2012.
17. By applying for and accepting a Local Verification issued by the Local Licensing Authority, the applicant waives and releases the County, its officers, elected officials, employees and agents from any liability for injuries, damages or liabilities of any kind that may result from any arrest or prosecution of applicant or its agents, employees, clients or customers for a violation of state or federal laws, rules or regulations. Furthermore, the applicant agrees to indemnify, defend and hold harmless the County against all liability, claims and demands on account of any injury, loss or damage arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the Local Verification.

DATED this 18th day of June, 2012.

ATTEST:



BOARD OF COUNTY COMMISSIONERS OF
GARFIELD COUNTY, STATE OF COLORADO

Jean M Alberico
Clerk to the Board

By: *[Signature]*
Chairperson

Upon motion duly made and seconded the foregoing Resolution was adopted by the following vote:

- Mike Samson - Aye
 - Tom Jankovsky - Aye
 - John Martin - Aye
- Commissioners

STATE OF COLORADO)

) ss.

COUNTY OF GARFIELD)

I, Jean Alberico, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Resolution is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Garfield County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Glenwood Springs, this ___ day of _____, A.D. 20__.

County Clerk and ex-officio Clerk of
the Board of County Commissioners
