

RESOLUTION NO. 2019-G- 5

RESOLUTION

Of

The Board of County Commissioners for Saguache County Colorado

To

Enact A Temporary Moratorium

On the Acceptance, Processing or Issuance of Medical Variances For Exceeding a Medical Marijuana Plant Count of Twenty Four (24) on Property Parcels Located in

Unincorporated Saguache County

For A Period of Six (6) Months

WHEREAS, in November 2000, the majority of the voters of the State of Colorado approved Amendment 20 to enact Article XVIII. Section 14 ("Amendment 20"), amending the Constitution of the State of Colorado to legalize the cultivation, possession and sale, of marijuana for medical usage for persons aged 18 and older subject to the limitations contained in said Amendment 20; and

WHEREAS, Amendment 20 provides at section 4(a)(II) that the permissible number of plants that a patient can grow and possess for medical purposes is limited to six (6); and

WHEREAS, in 2017 the Colorado State Legislature enacted House Bill 17-1220 which placed a 24 plant count limit on growing medical marijuana on any residential parcel in the State; and

WHEREAS, House Bill 17-1220 authorized Counties to permit a number of plants greater than that set by House Bill 17-1220 to be grown for medical purposes; and

WHEREAS, Saguache County has adopted revisions to the County Land Use Code to provide a process for residents of Saguache County to apply to the County for a variance to exceed the established limit on the number of plants permitted to be grown on property within unincorporated Saguache County. Section IV.12.4.1 of the Saguache Land Use Code states " Any Personal Medical Marijuana State issued license holder/caregiver shall be required to obtain a medical variance from Saguache County for a plant count over twelve (12) plants. Medical plant counts over Twenty-four (24) require approval by the Saguache Board of County Commissioners."

WHEREAS, the current County land use regulations related to issuance of medical variances for plant counts have had an unanticipated and continuous impact on the citizens and resources of the County;; and

WHEREAS, the Board of County Commissioners for Saguache County ("the Board") desires to fully and fairly consider all actual and potential impacts to the citizens and environment that have been and will be caused by the continued issuance of medical variances permitting more than twenty-four (24) medical marijuana plants to be grown on parcels of property within unincorporated Saguache County; and

WHEREAS, Section 30-28-121 Colorado Revised Statutes grants to the Board the authority to impose a moratorium for a period not to exceed six months, without public hearing, prohibiting the application for or issuance of, any medical variance, pending the adoption of appropriate regulations to address the impacts of such land uses; and


WHEREAS, the Board finds that it is in the best interests of the public health, safety, and welfare to temporarily prohibit for a period of six (6) month the application for or issuance of variances for plant count exceeding those permitted by Section IV.12.4.1 of the Saguache County Land Use Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SAGUACHE COUNTY:

1. That the County of Saguache County, Colorado will not accept, process, or approve any application for a medical variance as to the plant count permitted for medical marijuana for any property located within the unincorporated territory of Saguache County for a period of six (6) months from the effective date of this Resolution.
2. That not later than forty-five (45) days prior to the expiration date for this moratorium, Saguache County staff shall report to this Board on the status of its research on the impact of medical variances on medical marijuana plant count on the citizens and environment of the County and any proposed amendments to the Saguache County Land to the Saguache County Land Use Code would be appropriate relative to establishment of a medical marijuana plant count and approval of variances therefrom.
3. That this moratorium shall apply to the acceptance, processing or approval of any application for medical variance for medical marijuana plant count on parcels of property located in the unincorporated territory within Saguache County as of the date of the adoption of this Resolution.
4. 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 that such invalid or unenforceable provisions are severable.
5. That the moratorium imposed by this Resolution is an emergency measure to preserve the public health, safety, and welfare and shall take effect immediately upon adoption hereof.

Adopted this 2nd-day of July, 2019.

**BOARD OF COUNTY COMMISSIONERS
SAGUACHE COUNTY, COLORADO**



Ken Anderson, Chair



Jason Anderson
Jason Anderson, Commissioner

Tim Lovato
Tim Lovato, Commissioner

ATTEST:

Trish Gilbert
Trish Gilbert, Clerk to the Board
Deputy Clerk