

**RESOLUTION NO. 2020-18**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
LA PLATA COUNTY, COLORADO, TEMPORARILY SUSPENDING  
CERTAIN MARIJUANA LICENSING AND LAND USE REGULATIONS  
RELATED TO ONLINE AND TELEPHONIC ORDERS AND CURBSIDE  
PICKUP OF SALES OF MARIJUANA AND MARIJUANA PRODUCTS  
AND RELATED TO MODIFICATIONS OF LICENSED PREMISES**

**WHEREAS**, pursuant to C.R.S. §§ 30-11-101(1)(e) and (2), 30-11-103, and 30-11-107(1)(e), the Board of County Commissioners of La Plata County, Colorado (the "Board"), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the best interests of the County and its inhabitants, and is further authorized by inter alia, C.R.S. §§ 30-28-101, et seq., C.R.S. §§ 30-28-201, et seq., and C.R.S. §§ 29-20-101, et seq., to adopt regulations for the protection of the public health, safety, and welfare of the inhabitants of La Plata County; and

**WHEREAS**, pursuant to Article XVIII, § 14 of the Colorado Constitution ("Amendment 20") and Article XVIII, § 16 of the Colorado Constitution ("Amendment 64"), the State Legislature has adopted the Colorado Marijuana Code, C.R.S. § 44-10-101, et seq., which authorizes local governments to regulate the cultivation, manufacture, distribution and sale of marijuana and promulgate a process for licensing of marijuana businesses; and

**WHEREAS**, counties are authorized to adopt resolutions or ordinances that contain specific standards for marijuana licensing based on local zoning, health, safety and public welfare laws, pursuant to C.R.S. §§ 44-10-313; and

**WHEREAS**, pursuant to the Colorado County Planning Code, the Board is empowered to plan and provide for the physical development of the unincorporated territory of La Plata County (the "County"). C.R.S. § 30-28-102; and

**WHEREAS**, the Board has adopted marijuana licensing regulations in Chapter 7 of the La Plata County Code ("MJ Code") and has adopted land use regulations specific to marijuana facilities under Division 6 or Article II of Chapter 82 of the La Plata County Land Use Code ("LUC"); and

**WHEREAS**, these provisions generally prohibit business transactions from taking place in public view, specifically prohibiting them from occurring on any sidewalk, public street or right-of-way, or any other public place. LUC Sec. 82-210; MJ Code Sec. 7-5(II)(C) and 7-54(II)(C). Further, the MJ Code prohibits sales by telephone, internet or other means of remote purchase. MJ Code Sec. 7-5(II)(B) and 7-54(II)(B); and

**WHEREAS**, the MJ Code also sets forth various requirements licensees must meet when making modifications to licensed premises. MJ Code Sec. 7-9 and 7-58; and

**WHEREAS**, the coronavirus (also referred to as COVID-19) is a highly contagious virus that originated in China and has since spread to countries around the world, including the United States.

**On January 30, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 a "public health emergency of international concern" and on March 11, 2020 declared it a global pandemic; and**

**WHEREAS, on March 16, 2020, San Juan Basin Public Health ("SJBPH") declared a local public health emergency to protect the health of community members in La Plata and Archuleta counties most at risk of severe illness; and**

**WHEREAS, On March 16, 2020, pursuant to the authority delegated by the Board of County Commissioners, the La Plata County Manager declared a local disaster emergency because the cost and magnitude of responding to and recovering from the impact of the ensuing event is far in excess of the county's available resources. On March 17, 2020, the Board of County Commissioners passed a resolution continuing the declaration and emergency response; and**

**WHEREAS, the purpose these efforts by the County to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans." C.R.S. § 24-33.5-709(2); and**

**WHEREAS, in Colorado, Governor Polis and the Colorado Department of Public Health and Environment ("CDPHE"), have each issued several Executive Orders closing and/or severally limiting operations of non-essential business throughout the State, including La Plata County, to increase social distancing of community members. Executive Order D 2020-011 specifically suspends the prohibition against online sales of retail marijuana and retail marijuana products through April 18, 2020; and**

**WHEREAS, pursuant to these orders, the Colorado Department of Revenue, Marijuana Enforcement Division ("MED"), has issued emergency orders and an industry bulletin allowing for online and telephone ordering and "curbside" pickup of medical and retail marijuana and marijuana products from licensed marijuana stores. MED Emergency Rule 3-345; and**

**WHEREAS, the MED has also amended other rules related to emergency exemptions for modifications of licensed premises and compliance with public health orders and executive orders. MED Amended Rules 1-105(B) and 2-260(A)(1); and**

**WHEREAS, the changes to the state regulations do not negate or pre-empt the County's licensing and land use regulations prohibiting online and telephone ordering and "curbside" pickup or its requirements regarding modifications of a licensed premises; and**

**WHEREAS, the Board desire to furnish aid and assistance to the community and local businesses during this local disaster emergency by temporarily suspending, where possible, regulations to allow local businesses to continue to safely operate and provide its goods and services to local patients and consumers; and**

**WHEREAS, staff is proposing that the Board temporarily suspend its land use and licensing regulations that prohibit online and telephone sales of medical and retail marijuana and marijuana**

products and the "curbside" pickup of the same and its requirements regarding modifications of licensed premises during the duration of the local disaster; and

**WHEREAS**, on March 24, 2020, the Board held a public meeting and heard testimony that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to temporarily suspend its regulations that prohibit online and telephone sales of medical and retail marijuana and marijuana products and the "curbside" pickup of the same and its requirements regarding modifications of licensed premises.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LA PLATA, STATE OF COLORADO, AS FOLLOWS:**

1. The foregoing recitals are incorporated herein and made a part of this resolution.
2. This resolution shall apply within the unincorporated territory of La Plata County. This resolution shall in no way limit application and enforcement of any orders of the Governor, Colorado Department Public Health and Environment, Marijuana Enforcement Division or San Juan Basin Public Health Department, but shall be in addition thereto.
3. The Board temporarily suspends enforcement of the provisions contained in LUC Sec. 82-210, MJ Code Sec. 7-5(II)(B)-(C), 7-9, 7-54(II)(B)-(C) and 7-58 to the extent they prohibit online and telephone sales of medical and retail marijuana and marijuana products and the "curbside" pickup of the same and prohibit or hinder emergency modifications of licensed premises. Licensed marijuana stores and centers shall follow the emergency and amended rules adopted by the Marijuana Enforcement Division, as amended or modified by the Governor, Colorado Department Public Health and Environment, Marijuana Enforcement Division or San Juan Basin Public Health Department, regarding continued sales of medical and retail marijuana and marijuana products during this disaster emergency unless otherwise ordered by the Board of County Commissioners.
4. If any of the foregoing officials and agencies issue orders closing licensed marijuana businesses in the state or La Plata County, or otherwise further restrict sales to patients and customers, local licensees shall comply with such restrictions and orders without the need for further action by the Board of County Commissioners. Any licensee failing to comply with such restrictions and orders will be subject to discipline by the local licensing authority, in addition to any penalties or liabilities otherwise imposed by law.
5. This resolution shall be liberally construed so as to further its purposes.
6. If any portion of this resolution is held invalid for any reason, such decision shall not affect the validity of the remaining portions of this resolution. The Board of County Commissioners hereby declares this resolution to be severable and further declares that it would have passed this resolution and each part of it irrespective of the fact that any one part be declared invalid.

7. The enactment of this resolution is necessary for the preservation of public health, safety and welfare. Proper regulation and licensing of medical marijuana businesses and retail marijuana establishments is necessary ensure that such businesses and establishments are conducted in the County in a manner that protect the health, safety and welfare of the residents and visitors to La Plata County.
8. Once effective, this resolution shall supersede any and all prior resolutions or motions inconsistent with this resolution. This resolution shall remain effective during the duration of the declared local disaster, unless otherwise amended or terminated by the Board.
9. This Resolution shall be effective immediately upon adoption.

**DONE AND ADOPTED IN DURANGO COLORADO, to be effective this 24th day of March, 2020.**

Attest:



*Elizabeth M. Boyd*  
Clerk to the Board

LA PLATA COUNTY, COLORADO  
BOARD OF COUNTY COMMISSIONERS

*Clyde R. Church*  
Clyde Church, Chair

*Gwen Lachelt*  
Gwen Lachelt, Vice Chair

*Julie Westendorff*  
Julie Westendorff, Commissioner