

**CROWLEY COUNTY BOARD OF COUNTY COMMISSIONERS
RECORD OF PROCEEDINGS**

November 28, 2016

CALL TO ORDER

Board of County Commissioners met in regular session on November 28, 2016. The meeting was called to order by Chairman T. E. Allumbaugh at 8:30 a.m. with the following present:

T. E. Allumbaugh-----Chairman
Frank Grant-----Vice Chairman
Gary Gibson-----Member
Mike Apker-----Deputy Clerk to the Board

Audience: None

**RESOLUTION NO. 7091
APPROVAL DHS DISBURSEMENTS, NOVEMBER 23, 2016**

Motion by Grant, seconded by Gibson to approve the DHS disbursements for November 23, 2016 and authorize transfer of funds in the following amount:

DHS Fund	\$8,210.06
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Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

**RESOLUTION NO. 7092
APPROVAL EMPLOYEE PAYROLL, NOVEMBER 28, 2016**

Motion by Gibson, seconded by Grant to approve the employee payroll for November, 2016 and authorize transfer of funds in the following amounts:

General Fund	\$54,379.54
Road and Bridge Fund	\$18,327.89
EMS Fire Fund	\$ 2,885.98
Ambulance Fund	\$ 4,828.50
Water Fund	\$ 3,047.06
DHS Fund	\$29,122.92
Total	\$112,571.89

CTF Fund	\$ 15.29
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Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

**RESOLUTION NO. 7093
APPROVAL ABATEMENT FROM CROWLEY COUNTY ASSESSOR**

Crowley County Assessor, Doug England, requested county board approval of abatements in the amount of 2,238.56 for calendar year 2005-2007 for Perferred Lease.

Motion by Grant, seconded by Gibson to approve the abatement request in the above forementioned amount.

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

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

TAX CERTIFICATION FOR CALENDAR YEAR 2017

County Assessor presented the final county abstract of assessments for year 2016:

Crowley County;	\$45,434,653
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Towns:	
Crowley	\$ 421,880
Olney Springs	\$ 702,780
Ordway	\$
Sugar City	\$ 813,066

School Districts	
Crowley County	\$41,459,519
Fowler	\$ 3,038,141
Manzanola	\$ 936,993

Special Taxing Districts:	
Fowler Fire Dist	\$ 2,498,558
SEWCD	\$36,059,402
LAVWCD	\$33,976,536

**RESOLUTION NO. 7094
APPROVAL ORDINANCE 2016-04, REGULATING THE GROWING, CULTIVATION, AND PROCESSING OF MARIJUANA**

Motion by Grant, seconded by Gibson to approve Ordinance 2016-04 on first reading and order publication of proposed ordinance in the Ordway New Era.

ORDINANCE NO. 2016-04
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CROWLEY, COLORADO
AN ORDINANCE REGULATING THE GROWING, CULTIVATING, AND PROCESSING OF MARIJUANA

WHEREAS, Article XVIII, Sections 14 and 16 of the Colorado Constitution (Amendment 20 and 64, respectively), authorize persons to grow limited amounts of marijuana or assist others in growing marijuana; and

WHEREAS, Amendment 20 cedes general authority to local government to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores ("Commercial Marijuana Operations"); and

WHEREAS, neither Amendment 20 nor Amendment 64 permit local government to prohibit non-commercial unlicensed individual grow operations; and

WHEREAS, State regulations pertaining to Commercial Marijuana Operations are generally not directed toward non-commercial unlicensed individual grow operations; and

WHEREAS, this circumstance has resulted in a proliferation of non-licensed and unregulated marijuana grow operations that present significant health and public safety concerns with multiple and persistent violations of County building, electrical, mechanical, plumbing, and fire codes; and

WHEREAS, the Board is authorized pursuant to Section 30-11-101 (2), C.R.S., "to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues"; and

WHEREAS, the Board is further authorized pursuant to Section 29-1.5-106(13.5), C.R.S., to regulate the growing of marijuana, commercially or otherwise; and

WHEREAS, the Board is further authorized pursuant to Section 9-7-113, C.R.S., to ban the use of compressed flammable gas in the extraction of THC or other cannabinoids in a residential setting; and

WHEREAS, the Board has determined that the adoption of regulations governing the growing, cultivating, and processing of marijuana is necessary and desirable for the health, safety, and welfare of the citizens of Crowley County; and

WHEREAS, this Ordinance does not unreasonably impair or impede the exercise of rights afforded citizens under Amendment 20 and 64; now therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CROWLEY as follows:

Section I. Scope of Ordinance and Authority:

This Ordinance applies within the unincorporated territory of Crowley County, Colorado, and applies to the growing, cultivating, and processing of marijuana on any lot, parcel, or tract of land by any person, including but not limited to patients, primary caregivers, or persons for personal use.

Section II. Definitions:

The definitions contained in Amendment 20, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, and any regulations promulgated by the Colorado Department of Public Health and Environment and the Colorado Department of Revenue, as amended from time to time, are incorporated into this Ordinance by reference, including but not limited to, definitions of Marijuana, Medical Marijuana, Patient, and Primary Caregiver. All other applicable definitions are as stated herein.

A. "Accessory Structure" means: A subordinate structure detached from but located on the same lot as the primary residence, the use of which is incidental and accessory to that of the primary residence.

B. "Accessory Use" means: A use incidental to and subordinate to a primary residence.

C. "Primary Residence" means: A residence where a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation and partaking of meals, regular mail delivery, vehicle registration, or credit, water and utility billing. A person shall have only one primary residence.

D. "Primary Use" means: The main use of a structure or land, as distinguished from an accessory use.

Section III. Growing, Cultivating, and Processing of Marijuana:

a. Accessory Use to Primary Residence

Marijuana may only be grown, cultivated, or processed as an accessory use at the primary residence of the person conducting such activity, and only for such person's own use, or by a primary caregiver on behalf of a patient.

B. Location of Growing, Cultivating, and Processing of Marijuana

1. Marijuana may only be grown, cultivated, or processed in a primary residence where residential use is the primary use of the structure or in an accessory structure to the primary residence on the same property.

2. The space used for the growing, cultivating, or processing of marijuana shall be limited to a contiguous 1,000 square feet.

3. The use of an accessory structure for the growing, cultivating, or processing of marijuana shall only be permitted on a lot, parcel, or tract one acre in size or greater.

4. Marijuana shall not be grown, cultivated, or processed in more than one structure on any single lot, parcel, or tract.

5. Marijuana shall not be grown, cultivated, or processed within the common areas of a multi-family or attached residential development.

6. Any area used for the growing, cultivating, and processing of marijuana shall be fully enclosed and locked ensuring accessibility only by the person growing, cultivating or processing the marijuana for medical or personal use and to prevent access by children, visitors, casual passersby, or anyone not authorized to possess marijuana.

7. Any area used for the growing, cultivating, or processing of marijuana shall comply with all applicable building and fire codes, as amended and adopted, including plumbing, electrical and mechanical.

8. Marijuana shall not be grown, cultivated, or processed outdoors.

C. Marijuana Plant Limits

1. At any given time, no more than 12 marijuana plants, in any stage of maturity, may be grown, cultivated or processed at a primary residence.

2. Caregivers, authorized by the State of Colorado, may, at any given time, possess up to 36 plants in any state of maturity.

D. Use of Compressed Flammable Gas Products or Flammable Liquids

Other than for temperature control of the growing facility, no compressed flammable gas (e.g. butane or propane) or flammable liquid may be used in the growing, cultivating, or processing of marijuana. For purposes of this paragraph, "flammable liquid" means a liquid that has a flash point below one hundred degrees (100 0) Fahrenheit, and includes all forms of alcohol and ethanol.

E. Cannot be Perceptible

The growing, cultivating, or processing of marijuana shall not be perceptible from the exterior of the structure in which such activities occur, including, but not limited to:

1. Common visual observation.

2. Light pollution, glare, or brightness that disturbs the repose of another.

3. Undue vehicular or foot traffic, including unusually heavy parking in front of the primary residence.

F. Smell or Odor

The smell or odor of marijuana growing, cultivating, or processing at a primary residence shall not be detectable by a person with a normal sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit.

G. Rental Property

Any lessee or tenant that uses a rental property, in whole or in part, for growing, cultivating, or processing of marijuana shall obtain written, notarized permission from the property owner prior to establishing such use.

Section IV. Administration and Enforcement:

The Crowley County Sheriff shall be responsible for the administration and enforcement of this ordinance.

Section V. Penalty for Violations:

Any person who violates this ordinance from its effective date commits a class 2 petty offense under section 30-15-402(1), C.R.S. and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 for each separate violation, plus a surcharge of \$10 under section 30-15-402(2), C.R.S. Each day during which such violations exist shall be deemed a separate offense.

Section VI. Penalty Assessment Procedure:

The penalty assessment procedure provided in section 16-2-201, C.R.S., may be followed by the arresting officer for any such violation of this ordinance. Pursuant to the penalty assessment procedure, the violator may pay a fine in the amount of one thousand dollars (\$1,000.00), plus a ten-dollar (\$10) surcharge for the first and any subsequent violations of any of the provisions of this Ordinance. If the penalty assessment procedure is not utilized by a person cited for violating this Ordinance, and the alleged offender is ultimately found guilty by the Crowley County Courts, court costs and any additional financial requirements deemed necessary or appropriate to the Court may be assessed in addition to the fine.

Section VII. Disposition of Fines and Forfeitures:

All fines and forfeitures for the violation of this ordinance shall be paid to the Treasurer of Crowley County.

Section VIII. Additional Remedies:

The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section IX. Severability:

Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section X. Safety Clause:

The Board of County Commissioners hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public welfare, health and safety.

Section XI. Effective Date.

In order to preserve the immediate health and safety of Crowley County and its residents, this Ordinance shall take effect immediately upon its adoption on Second and Final Reading as provided in Section 30-15-405, C.R.S.

INTRODUCED, READ AND ADOPTED ON FIRST READING on November 28, 2016, and ordered published in the Ordway New Era.

PUBLIC HEARING TO CONSIDER FINAL ADOPTION OF PROPOSED ORDINANCE IS SCHEDULED FOR FRIDAY DECEMBER 9, 2016 AT 10:00 IN THE CROWLEY COUNTY COMMISSIONER MEETING ROOM; 603 MAIN; ORDWAY, CO 81063. ANY CITIZEN OF CROWLEY COUNTY MAY SUBMIT ORAL OR WRITTEN REMARKS AT THAT TIME.

THE BOARD OF COMMISSIONERS
OF CROWLEY COUNTY, COLORADO

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

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

DISCUSSION ON LOWER ARK COUNTY REPRESENTATIVE

The board discussed county representation on the Lower Arkansas Valley Water Conservation District. No action was taken.

MONTHLY PRISON MEETING

The monthly prison meeting was vacated due to the CCI.

AUDIENCE SOUTHEAST MENTAL HEALTH GROUP

J. C. Carrica and Constance Brace presented information to the board regarding their recent activities.

No further business appearing the meeting was recessed.
Minutes taken by Mike Apker.

ATTEST:

Lucile Nichols, County Clerk

Tobe Allumbaugh, Chairman