

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

March 16, 2020

CALL TO ORDER

Board of County Commissioners met in regular session on March 16, 2020. The meeting was called to order by Chairman Blaine Arbuthnot at 8:30 a.m. The following were present:

Blaine Arbuthnot-----Chairman
T. E. Allumbaugh-----Vice Chairman
Roy Elliott-----Member
LaShelle Benbow-----Deputy Clerk to the Board

RESOLUTION NO. 2020-7810

APPROVAL REVISIONS TO PLANNING AND ZONING MANUAL, SECTION 14, COMMERCIAL MARIJUANA REGULATIONS

Motion by Allumbaugh, seconded by Elliott to adopt the following amendmended Section 14 of the Planning and Zoning Manual for Commerical Marijuana Operations; Attachments A and B to wit:

CROWLEY COUNTY
COMMERCIAL MARIJUANA
REGULATIONS

SECTION 14

October 24, 2016

Section 9 revised April 10, 2017; second revision February 9, 2018;

third revision December 31, 2018; fourth revision March 10, 2020; fifth revision March 16, 2020

1. AUTHORITY OF ARTICLE:

This article is authorized by Colorado Constitution Article XVIII, Sections 14 &16 and C.R.S 12-43.3-101 et seq., 12-43.4-101 et seq., and 39-28.2-101 et seq.

2. PURPOSE OF ARTICLE:

These Commercial Marijuana Regulations establish additional rules, procedures, criteria and conditions governing the time, place, manner, and fees for Commercial Marijuana Cultivation Facilities in the unincorporated area of Crowley County. These Regulations may be amended by Resolution of the Board of County Commissioners.

3. GENERAL PROVISIONS:

The title of this section shall be the Crowley County Commercial Marijuana Regulations, and may be so cited.

4. DEFINITIONS:

a. General definitions, terms and phrases are stated in the Crowley County Planning and Zoning Manual. This article adopts the definitions in Colorado Constitution article XVIII, Sections 14 & 16, and C.R.S 12-43.3-101 et seq., 12-43.3-101 et seq. and 39-28.8-101 et seq.

b. Facility Operator: A "person" as defined in in the Crowley County Planning & Zoning Manual that holds a current State license for the Commercial Cultivation of Marijuana and oversees the day to day operations of a Commercial Marijuana Cultivation Facility.

5. COUNTY EXCISE TAX: Pursuant to the Crowley County Board of County Commissioners' Resolution 2016-2, a local five percent (5%) excise tax was presented to and approved by the Crowley County voters in November 2016. As such, a 5% excise tax will be imposed upon all commercial marijuana sales. The facility Operator shall pay the excise tax to persons in the County Administration Office within ten (10) days following the date the state excise tax is paid. This tax must be paid when any form of marijuana is transferred out of the local marijuana facility. Failure to comply with all of the provisions of this resolution may result in the loss of the local marijuana cultivation license.

6. USE BY REVIEW:

- a. Commercial Marijuana Cultivation Facilities may be permitted only as a conditional use in Agricultural and/or Commercial & Industrial Zoning Districts as defined in the Crowley County Planning & Zoning Manual.
- b. All Commercial Marijuana Cultivation Facility Owner(s) shall have an approved Use by Review Permit before commencing construction or operation of such facility.
- c. Facility Operator(s) must have a conditionally approved Colorado Marijuana Cultivation License pursuant to Colorado Department of Revenue, Marijuana Enforcement Division 1 CCR 212-2.
- d. Use by Review Permits for Commercial Marijuana Cultivation Facilities shall be transferrable. However, any change of the identity of the owner or operator requires new application documents to be filed with the County
- e. Each successful applicant for a conditional use permit shall provide to the County any reports deemed necessary by the Crowley County Land Use Administrator, including but not limited to, books & records maintained pursuant to section 39-38.8-303 CES, payroll records, water source and water consumption records.
- f. The licensed premises, including but not limited to any places where marijuana is grown, stored, cultivated and/or tested shall be subject to inspection by the Local Licensing Authority or its designee, and any other state or local law enforcement or health department personnel during all business hours and other times of apparent activity, for the purpose of inspection or investigation. The Local Licensing Authority and its designee may conduct unannounced or covert compliance inspections. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for the current tax year and the previous three tax years.
- g. Each Applicant shall sign a waiver acknowledging that activities authorized by a Use by Review Permit under this provision may constitute a violation of Federal Law and that the issuance of the Use by Review Permit hereunder in no way excuses such violation, and may result in revocation of the Use by Review Permit.
- h. To the degree possible/practical, when hiring employees, each grow facility should give preference to Crowley County area residents.

7. USE BY REVIEW REQUIREMENTS AND CONDITIONS

- a. In addition to the provisions applicable to Use by Review permits as described above and in the Crowley County Planning & Zoning Manual, permits to operate a Commercial Marijuana Cultivation Facility shall be conditioned on the following, at the discretion of the Crowley County Board of County Commissioners (BOCC).
- b. Annual Compliance Reviews shall be performed by the Board of County Commissioners, or its designees, no later than 30 days following the anniversary date of the issuance of a Commercial Building Permit.
- c. All required construction permits must be in place within forty-five (45) days of the Use by Review approval. Construction must begin within 180 days of the Building Permit approval, and all final building inspections must be performed within one year of the building permit approval.
- d. Failure to meet any conditions of the approved Use by Review requirements may result in the revocation of the Use by Review Permit and fines of up to \$1,000 per day until corrected to the satisfaction of the Local Licensing Authority.

e. In addition to the provisions described above, the following information shall be submitted:

- 1). General Land Use Application
- 2). Operations & Business plan
- 3). Written consent from the Conditional Use by Review holder to act as the facility operator.
- 4). A signed contract with an approved water provider from an approved water source as determined by the Colorado Division of Water Resources. Said contract shall be for a minimum of five (5) years.

f. Additional land restrictions detailed in Attachment B, adopted December 31, 2018.

g. If a period of 365 days or more passes during which marijuana is/was not grown on the licensed property, indoors or out, the "Use by Review" permit will be considered to be expired and no further growing of marijuana will be allowed. To begin growing again, the property owner must reapply for a new "Use by Review Permit".

8. MANNER OF OPERATIONS:

a. A Commercial Marijuana Cultivation Facility shall be in conformity with all applicable State statutes and regulations, as well as any of the terms and conditions of any state license issued to the facility, and the Commercial Building Standards adopted by Crowley County at the time of the application.

b. All commercial marijuana cultivation shall take place at a secured site, indoors or outdoors, with approved perimeter fencing as determined by the Marijuana Enforcement Division (MED) and meeting the commercial building standards adopted by Crowley County at the time of construction

c. Commercial Marijuana Cultivation Facilities shall be located at least one mile from the boundary of any incorporated town.

d. When determined necessary by the Board of County Commissioners, Commercial Marijuana Facilities shall be equipped with an automatic fire sprinkler system, meeting the commercial building standards adopted by Crowley County at the time of construction.

e. All Commercial Marijuana Cultivation Facilities must secure a water source, adequate to meet their needs, without harming the other water customers on their water system and their specific water line. The water source secured must be approved by a Division 2 Water Engineer from the Colorado Division of Water Resources. Documentation of this approval must be included in the license application. If not the application shall not be accepted.

f. The information contained in all applications will be shared with the Crowley county Fire Chief, the Crowley County Sheriff's Department, The Crowley/Otero Health Department and any other agency determined necessary by the Board of County Commissioners.

9. FEES:

a. The Fee Schedule detailed in Attachment A, is subject to amendment by the Board of Commissioners

b. The Initial Review Fee and the Application Fee must be paid prior to the Planning & Zoning Commission's review/decision.

c. Be advised, Crowley County charges a 2% use tax on all building materials purchased outside of the county.

d. The Local Licensing Authority by rule or regulation shall set the due dates for any fee due pursuant to this section. These and all other fees must be paid within 30 days of invoice date.

10. DISCLAIMER

a. Activities authorized by a Use by Review Permit under this provision may constitute a violation of Federal Law. Be advised issuance of a Use by Review Permit hereunder in no way excuses such violation.

11. APPLICATION, NOTICE AND HEARING

a. Application, notice and hearing procedures shall be in accordance with the Crowley County Planning and Zoning Manual.

12. CONFLICTING PROVISIONS

a. Should any provisions within these Commercial marijuana Regulations conflict with any other State or Local Regulations, the most restrictive applies, unless otherwise stipulated.

Attachment A

FEE SCHEDULE

DECEMBER 31, 2018; Revised March 10, 2020; Revised March 16, 2020

USE BY REVIEW: \$575.00

This is for land you own or intend to buy or lease and approval is being requested to grow Commercial Retail Marijuana. \$75.00 is the normal fee for Use by Review. The \$500.00 is to cover costs associated with Commissioner Meetings and land use discussions and review.

APPLICATION FEE: \$500.00

This is a one-time fee for the Commissioners and Sheriff's Department to review the State approved license and issuing the Crowley County license. One license cost is \$500.00; two or more are \$500.00 each

LICENSING FEE:

This fee is comprised of the sum of \$5,000 for the right to grow commercial marijuana. This includes one grow structure of any size. In addition, there is a \$1,000 charge for each additional structure/greenhouse used for cultivation or processing, plus \$.50 cents per square foot of all of the structure(s), based on external dimensions. These fees are collected at the time the county license is issued. Permanent accessory buildings of 100 sq. ft. or less will not be charged a license or square footage fee. For outdoor cultivations, there is an annual licensing fee of \$1,000 per acre.

LICENSE RENEWAL FEE:

These fees are to renew the licenses for each structure/greenhouse used for marijuana cultivation or processing. The fees are comprised of the sum of \$2,500, (includes one greenhouse/structure) plus \$500 per additional structure/greenhouse used for cultivation or processing and \$.25 cents per square feet of the structure(s), based on external dimensions. These fees should be collected twelve months from the date the prior license was issued. Anytime a new structure/greenhouse is added it will be charged \$1,000 plus \$0.50 per sq. ft., external dimensions.

LICENSE TRANSFERS:

The cost of transferring a license to a new owner will be based on the License Renewal Fee, prorated on the number of months remaining on the current license, down to a minimum of \$1,500.

USE TAX:

All building materials used for the construction of the greenhouse and outbuildings, that were not purchased in Crowley County and for which five percent (5%) sales tax was not paid previously, are subject to "Use Tax". Two percent (2%) should be collected based on all receipts for all items purchased in the process of building the greenhouse and other miscellaneous structures.

At the time of purchasing your building permit, you must also pay your estimated "use tax", based on your estimate of the total cost. At the completion of the project, based on your receipts, the Building Inspector will calculate the actual cost. If you owe more, you will be required to pay at this time. If you owe less, the County will refund the balance to you.

BUILDING INSPECTION FEE:

Fees are calculated by the County Building Inspector.

EXCISE TAX:

Growers will pay the county five percent (5 %) of gross sales. Reported sales to the State should be reported and paid to the County within 10 business days.

AMENDMENT:

The Board of Commissioners reserves the right to change this fee schedule at any time deemed necessary.

Attachment B

Adopted December 31, 2018; Revised March 10, 2020; Revised March 16, 2020

- Outdoor growing operations are limited to a maximum of two and one half (2 ½) acres, per license.
- No flood irrigation is allowed using domestic water sources.

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

Allumbaugh-----Aye
Arbuthnot-----Aye
Elliott-----Aye

DISCUSSION CORONAVIRUS (COVID-19)

Discussion took place regarding the Coronavirus and precautionary steps the County should take to protect staff visiting clients. Meetings will be held with all department heads and plans formulated as needed at this time. We will communicate with all of the Counties in the Southeastern part of the state as well as the state and local Health Departments.

AUDIENCE SANDRA LEONARD

Arkansas Valley Resource Center provides crime victim advocacy services to Bent, Crowley, and Otero counties. Sandra Leonard, the Executive Director, wanted to thank Crowley County Commissioners for their support over the years, and to ask for continued support.

No further business appearing the meeting was recessed.
Minutes taken by LaShelle Benbow.

ATTEST:

Melinda Carter, County Clerk

Blaine Arbuthnot, Chairman