

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

AUGUST 10, 2020

CALL TO ORDER

Board of County Commissioners met in regular session on August 10, 2020. The meeting was called to order by Chairman Blaine Arbuthnot at 8:30 a.m. LaShelle Benbow, Deputy Clerk to the Board, was absent. The following were present:

Blaine Arbuthnot-----Chairman
T. E. Allumbaugh-----Vice Chairman
Roy Elliott-----Member

**RESOLUTION NO. 2020-7885
APPROVE SPECIAL DISBURSEMENT, JULY 31, 2020**

Motion by Elliott, seconded by Allumbaugh to approve the special disbursement for July 31, 2020 and authorize transfer of funds in the following amount:

SECRETAC \$ 5,416.66

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

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

**RESOLUTION NO. 2020-7886
APPROVE DHS DISBURSEMENTS, AUGUST 10, 2020**

Motion by Allumbaugh, seconded by Elliott to approve the DHS disbursements for August 10, 2020 and authorize transfer of funds in the following amount:

DHS Funds \$ 9,666.16

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

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

**RESOLUTION NO. 2020-7887
APPROVE DISBURSEMENTS, AUGUST 10, 2020**

Motion by Allumbaugh, seconded by Elliott to approve the disbursements for August 10, 2020 and authorize transfer of funds in the following amounts:

General Fund \$ 47,151.30
Road and Bridge Fund \$ 25,651.01
EMS Fire Fund \$ 772.89
Ambulance Fund \$ 536.98
Water Fund \$ 12,206.11

Conservation Trust Fund \$ 1,533.94

E911 Fund \$ 163.40

SECRETAC \$ 500.00

Total Disbursements \$ 88,515.63

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

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

**RESOLUTION NO. 2020-7888
APPROVE JULY 2020 MINUTES**

Motion by Elliott, seconded by Allumbaugh to approve the July 2020 board minutes.

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

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

**RESOLUTION NO. 2020-7889
APPROVE LIQUOR LICENSE RENEWAL APPLICATION FOR J R'S COUNTRY STORE 102**

Motion by Allumbaugh, seconded by Elliott to approve the liquor license renewal for J R's Country Store 102. There have been no violations on this license in the past twelve months.

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

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

**RESOLUTION NO. 2020-7890
APPROVE CONTRACT AND HIPAA BUSINESS ASSOCIATE ADDENDUM WITH LOWER ARKANSAS VALLEY AREA AGENCY ON AGING FOR SFY 2021**

Motion by Elliott, seconded by Allumbaugh to approve the contract CROWLEY-FED-21 and HIPAA Business Associate Addendum with the Lower Arkansas Valley Area Agency on Aging for senior center operations funding for SFY July 1, 2020 through June 30, 2021.

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

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

**RESOLUTION NO. 2020-7891
APPROVE REVISION TO CROWLEY COUNTY COMMERCIAL MARIJUANA REGULATIONS, SECTION 14**

Motion by Allumbaugh, seconded by Elliott to adopt the following amended Section 14 of the Planning and Zoning Manual for Commercial Marijuana Operations; Attachment A 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; sixth revision August 10, 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, indoor and or outdoor.

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 by the 10th of each and every month, on all prior month sales. 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 Commercial & Industrial zoned properties.

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, as allowed by MED. 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 Commissioners, 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. Periodic Compliance Reviews shall be performed by the Board of County Commissioners or its designees.

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. Exceptions require specific written Town Council approval.

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
EXPLANATION OF MARIJUANA
FEE STRUCTURE
August 10, 2020

USE BY REVIEW: \$575.00

This is for land that has been purchased and approval is being requested to grow Commercial Retail/Medical Marijuana. The \$75 is the normal fee for the Use by Review permit. The Land Use Administrator should collect the \$75.00 as part of the normal process. The \$500 should be collected by the administration office for all of the work involved in entertaining new clients, completing the paperwork, emails back and forth with the state, etc.

APPLICATION FEE: \$500.00

This is a one-time fee for a review of the State approved license by the County Commissioners and the Sheriff's Office and issuing the Crowley County License. One license = \$500. Two or more licenses = \$500 each.

LICENSING FEE: _____

This fee is comprised of the sum of \$5,000 for the right to grow commercial marijuana. This includes one structure/greenhouse used for cultivation or processing. In addition to the \$5,000, a fee of \$.50 per sq. ft. of the structure(s), based on external dimensions will be assessed. These fees are collected at the time the County License is issued. Additional structures/greenhouses used for cultivation or processing will be charged \$1,000 per structure plus \$0.50 per sq. ft., external dimensions.

LICENSE RENEWAL FEE: _____

License renewal fees are basically 50% of the original fees. The fees are comprised of the sum of \$2,500 for the license and one greenhouse, plus \$500 per structure/greenhouse used for cultivation or processing and \$.25 per sq. ft. of the structure(s), based on external dimensions. These fees should be collected twelve months from the date the prior license was issued. Permanent accessory buildings will be charged at the rate of \$.25 per sq. ft., external dimensions.

USE TAX: _____

All building materials used for the construction of the greenhouse and out-buildings, that were not purchased in Crowley County and for which 5% sales tax was not paid previously, are subject to Use Tax. 2% should be collected based on all receipts for all items purchased in the process of building the greenhouse.

BUILDING INSPECTION FEES: _____

Fees as calculated by the County Building Inspector.

EXCISE TAX: _____

GROWERS SHOULD PAY THE COUNTY 5% OF GROSS SALES. SALES should be reported to the State monthly and the appropriate amount of tax paid. The facility operator shall pay the 5% excise tax to persons in the County Administration office by the 10th of each and every month, on all prior month sales. This includes:

- o Sales to a pot shop owned by the grower. Tax due using the State Average Daily Rate.
- o Sales to a pot shop not owned by the grower. Tax due on invoice - Market price.
- o Consignments to either of the above. The 5% tax must be paid even though the grower has not yet been paid.

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

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

AUDIENCE: BRANDIE MATTHEWS

Brandie Matthews discussed rehabilitating homes in Olney Springs that may be eligible for low income families. She also mentioned that Tara Marshall, with the Department of Local Affairs, will be attending Olney Springs Town meetings starting August 11, 2020, and will continue to attend for the next six months.

No further business appearing the meeting was recessed.
Minutes taken by Roy Elliott.

ATTEST:

Melinda Carter, County Clerk

Blaine Arbuthnot, Chairman