

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

MARCH 15, 2021`

CALL TO ORDER

Board of County Commissioners met in regular session on March 15, 2021. The meeting was called to order by Chairman Blaine Arbuthnot at 9:00 a.m. The following were present:

Blaine Arbuthnot-----Chairman
Roy Elliott-----Vice Chairman
Terry McMillian-----Member
LaShelle Benbow-----Deputy Clerk to the Board

RESOLUTION NO. 2021-8044

APPROVE RESOLUTION FOR A SIX-MONTH MORATORIUM ON USE BY REVIEW APPLICATIONS FOR MARIJUANA CULTIVATION, EFFECTIVE APRIL 1, 2021

Motion by McMillian, seconded by Elliott to approve a resolution for a six-month moratorium on use by review applications for marijuana cultivation, effective April 1, 2021.

Regulation pertaining to the Crowley County Planning and Zoning Manual, Section 14, regarding the Use by Review of Marijuana Properties

WHEREAS, pursuant to C.R.S. § 30-11-103, the Board of County Commissioners of Crowley County, Colorado (hereinafter the "Board"), has the authority to exercise all County powers for the Unincorporated Areas of Crowley County; and

WHEREAS, the Board of Commissioners of Crowley County, Colorado has the authority pursuant to C.R.S. §30-11-101(2), to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues; and

WHEREAS, the growth of the marijuana industry in Crowley County has expanded greatly; and

WHEREAS, the finite resources of Crowley County need to be measured and utilized to the greatest effect.

NOW THEREFORE BE IT RESOLVED, effective April 1, 2021 use by review applications for marijuana cultivation properties will be under a six-month moratorium. This moratorium will be reviewed every six months by the Board of County Commissioners.

ADOPTED BY THE FOLLOWING VOTE, IN OPEN SESSION, BY THE CROWLEY COUNTY BOARD OF COMMISSIONERS, ON March 15,2021.

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

Arbuthnot-----Aye
Elliott-----Aye
McMillian-----Aye

RESOLU NO. 2021-8045

APPROVE A REVISED VERSION OF PLANNING AND ZONING, SECTION 14, COMMERCIAL MARIJUANA REGULATIONS, EFFECTIVE FEBRUARY 24, 2021

Motion by Elliott, seconded by McMillian to approve the revised version of Planning a Zoning, Section 14, Commercial Marijuana Regulations, effective February 24, 2021. Specific changes are in 7 g and 8 e.

CROWLEY COUNTY, COMMERCIAL MARIJUANA REGULATIONS, SECTION 14
October 24, 2016, Section 9 revised April 1, 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; and seventh revision February 24, 2021.

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 and Medical Marijuana Regulations. Failure to comply with the rules and regulations contained in this document may result in the county contacting MED and canceling all local licensing pertaining to the specific grow operation.

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 and Medical Cultivation of Marijuana and oversees the day to day operations of a Commercial and Medical 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's 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 and Medical Marijuana Cultivation Facilities, to include outdoor grows, may be permitted only as a conditional use in Commercial & Industrial zoned properties.

b. All Marijuana Cultivation Facility Owner(s) shall have an approved Use by Review Permit before commencing construction or operation of a Marijuana Cultivation 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. This applies to Commercial Retail and Medical Marijuana. This state license must be obtained before the license issued by the local licensing authority. If the grower is requesting a license to grow Medical marijuana, it should be understood the county will limit the medical marijuana plant count to 20% of the combined total plant county for each grower.

d. Use by Review Permits for Commercial Retail Marijuana and Medical 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 to cultivate marijuana shall provide to the County any reports, including but not limited to, books & records maintained pursuant to section 39-28.8-303 CRS, payroll records, water source and water consumption records. This includes an agreement between the owner/operator and the county to allow the county direct access to all Metrc data as delivered by the grower or MED, on a read only basis.

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. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during normal 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 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.

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, or substantial improvements have not been made, 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 MED 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. To ensure an adequate water supply for all growers, a minimum of a 10,000 gallon storage tank must be constructed and installed for every 1,800 plants grown.

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 and or Medical marijuana Regulations conflict with any other State or Local Regulations, the most restrictive applies, unless otherwise stipulated.

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

Arbuthnot-----Aye
Elliott-----Aye
McMillian-----Aye

RESOLUTION NO. 2021-8046

APPROVE 2021 AMBULANCE PERMIT, AMERICAN MEDICAL RESPONSE DBA MED TRANS AMBULANCE SERVICE
Motion by Mcmillian, seconded by Elliott to approve the permit for 2021 between Crowley County and American Medical Response, dba Med Trans Ambulance Service, for ambulance #216.

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

Arbuthnot-----Aye
Elliott-----Aye
McMillian-----Aye

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

ATTEST:

Melinda Carter, County Clerk

Blaine Arbuthnot, Chairman