

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, to include outdoor grows, 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 watersystem 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.