

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

**AUGUST 31, 2022**

**CALL TO ORDER**

Board of County Commissioners met in regular session on August 31, 2022. The meeting was called to order by Chairman Blaine Arbuthnot at 8:30 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. 2022-8412**

**APPROVE DHS DISBURSEMENTS, AUGUST 25, 2022**

Motion by Elliott, seconded by McMillian to approve the DHS disbursements for August 25, 2022, and authorize transfer of funds in the following amount:

DHS Fund	\$ 4,442.48
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Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

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

**RESOLUTION NO. 2022-8413**

**APPROVE AUGUST 2022 PAYROLL**

Motion by McMillian, seconded by Elliott to approve the disbursements for August 2022 payroll, and authorize transfer of funds in the following amounts:

General Fund	\$ 78,934.80
Road and Bridge Fund	\$ 25,426.57
EMS Fire Fund	\$ 2,375.85
Ambulance Fund	\$ 7,903.47
DHS Fund	\$ 32,176.73
Conservation Trust Fund	\$ 553.15

Total	\$147,370.57
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Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

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

**RESOLUTION NO. 2022-8414**

**APPROVE PAYROLL BENEFIT DISBURSEMENTS, AUGUST 31, 2022**

Motion by Elliott, seconded by McMillian to approve the payroll benefit disbursements for August 31, 2022, and authorize transfer of funds in the following amounts:

General Fund	\$ 58,253.15
Road and Bridge Fund	\$ 17,893.94
EMS Fire Fund	\$ 2,640.57
Ambulance Fund	\$ 5,264.13
DHS Fund	\$ 28,927.41
Conservation Trust Fund	\$ 115.52

Total	\$113,094.72
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Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

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

**RESOLUTION NO. 2022-8415**

**APPROVE DISBURSEMENTS, AUGUST 31, 2022**

Motion by McMillian, seconded by Elliott to approve the disbursements for August 31, 2022, and authorize transfer of funds in the following amounts:

General Fund	\$ 75,207.75
Road and Bridge Fund	\$ 4,040.49
EMS Fire Fund	\$ 818.66
Ambulance Fund	\$ 6,836.85
Water Fund	\$ 731.12
Secretac Fund	\$ 10,929.90
Total	\$ 98,564.77

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

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

**RESOLUTION NO. 2022-8416**

**INTRODUCTION, FIRST READING AND ORDERED PUBLISHED - PROPOSED ORDINANCE 2022-03, AN ORDINANCE ESTABLISHING COLLECTION OF EXCISE TAXES THROUGH A PROPERTY LIEN**

The following ordinance number 2022-03 was introduced and read to the Board of County Commissioners. Motion by McMillian, seconded by Elliott to publish the Ordinance in the Ordway New Era, and to schedule a Public Hearing.

**NOTICE OF PUBLIC HEARING**

**ORDINANCE NO. 2022-03 - AN ORDINANCE ESTABLISHING COLLECTION OF EXCISE TAXES THROUGH A PROPERTY LIEN**

NOTICE IS HEREBY GIVEN that the proposed Ordinance listed below was introduced and read before the Board of County Commissioners of the County of Crowley, State of Colorado, at a regular meeting held on August 31, 2022, and ordered by said Board to be published in the Ordway New Era. A PUBLIC HEARING is declared for the 19th day of September 2022 at 10:00 a.m., in the Commissioners Meeting Room at 603 Main Street, Ordway, Colorado, to consider adoption this Ordinance. Interested parties within Crowley County may register any objection/comments hereto, in writing, at any time, to: Crowley County, Attn: Deputy Clerk to the Board, 603 Main Street Suite 2, Ordway, CO 81063.

**ORDINANCE #2022-03**

**AN ORDINANCE ESTABLISHING COLLECTION OF EXCISE TAXES THROUGH A PROPERTY LIEN**

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

WHEREAS, in November of 2016, the voters of Crowley County approved the adoption of a five percent (5%) excise tax upon all commercial sales of marijuana in Crowley County"; and

WHEREAS, Section 5 of the Crowley County Commercial Marijuana Regulations requires "The facility operator shall pay the excise tax to persons in the County Administration by the 20th of each and every month"; and

WHEREAS, the Board of County Commissioners of Crowley County, Colorado have received complaints and issues relating to facility operators failing to timely pay the excise taxes; and

WHEREAS, pursuant to §30-11-101(c), C.R.S., the Board of County Commissioners of Crowley County, Colorado has the power to make such order respecting real or personal property owned by Crowley County as may be deemed conducive to the interests of the inhabitants of the County; and

WHEREAS, §18-9-117, C.R.S. specifically authorizes the Board to adopt rules and regulations as are reasonably necessary for the administration, protection, and maintenance of public property; and

WHEREAS, it is the opinion of the Board that in order to preserve the public health, safety, and welfare of the citizens of Crowley County, the Board should adopt the following regulations; and

WHEREAS, consistent with the authority granted to the Board and the will of the Crowley County voters, the Board desires to adopt this Ordinance to foster the collection of unpaid excise taxes imposed on the sale of marijuana in Crowley County through the establishment of a property lien through the County Treasurer's Office.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Crowley Colorado, as follows:

1. The County shall direct the County Administrator to submit unpaid excise taxes to the County Treasurer.
2. On November 1 of each year that excise taxes are unpaid, the County Administrator shall issue a letter to each facility operator notifying the facility operator of the unpaid excise taxes and that payment must be received in full prior to November 20, or the County will begin certification proceedings with the County Treasurer.
3. The letter to the facility operator will notify the facility operator that certification results in any unpaid excise taxes being added to the real estate property taxes.
4. A thirty percent (30%) certification fee shall be added to the lien.
5. The County shall assess supplementary costs for publication and for the County's administrative expenses.

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 publication as provided in Section 30-15-405, C.R.S.

Published in the Ordway New Era on September 6, 2022.

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

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

**RESOLUTION NO. 2022-8417**

**INTRODUCTION, FIRST READING AND ORDERED PUBLISHED - PROPOSED ORDINANCE 2022-04, AN ORDINANCE ESTABLISHING WATERING RESTRICTIONS AND REQUIREMENTS FOR NEW MARIJUANA GROW FACILITIES**

The following ordinance number 2022-04 was introduced and read to the Board of County Commissioners. Motion by Elliott, seconded by McMillian to publish the Ordinance in the Ordway New Era, and to schedule a Public Hearing.

**NOTICE OF PUBLIC HEARING**

**ORDINANCE NO. 2022-04 - AN ORDINANCE ESTABLISHING WATERING RESTRICTIONS AND REQUIREMENTS FOR NEW MARIJUANA GROW FACILITIES**

NOTICE IS HEREBY GIVEN that the proposed Ordinance listed below was introduced and read before the Board of County Commissioners of the County of Crowley, State of Colorado, at a regular meeting held on August 31, 2022, and ordered by said Board to be published in the Ordway New Era. A PUBLIC HEARING is declared for the 19th day of September 2022 at 10:00 a.m., in the Commissioners Meeting Room at 603 Main Street, Ordway, Colorado, to consider adoption this Ordinance. Interested parties within Crowley County may register any objection/comments hereto, in writing, at any time, to: Crowley County, Attn: Deputy Clerk to the Board, 603 Main Street Suite 2, Ordway, CO 81063.

**ORDINANCE #2022-04**

**AN ORDINANCE ESTABLISHING WATERING RESTRICTIONS AND REQUIREMENTS FOR NEW MARIJUANA GROW FACILITIES**

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

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, "Personal Use and Regulation of Marijuana"; and

WHEREAS, Amendment 64 defines a "Locality" in part in Section 2(3) of Section 16 to include a county; and

WHEREAS, part 5(f) provides the following:

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE.

WHEREAS, the Board of County Commissioners of Crowley County, Colorado have received complaints and issues relating to water accessibility for marijuana grow facilities;

WHEREAS, pursuant to §30-11-101(c), C.R.S., the Board of County Commissioners of Crowley County, Colorado has the power to make such order respecting real or personal property owned by Crowley County as may be deemed conducive to the interests of the inhabitants of the County; and

WHEREAS, §18-9-117, C.R.S. specifically authorizes the Board to adopt rules and regulations as are reasonably necessary for the administration, protection, and maintenance of public property; and

WHEREAS, it is the opinion of the Board that in order to preserve the public health, safety, and welfare of the citizens of Crowley County, the Board should adopt the following regulations; and

WHEREAS, consistent with the authority granted to the Board in Amendment 64 and the will of the Crowley County voters, the Board desires to adopt this Ordinance prohibiting and limiting the operation of marijuana cultivation facilities with the unincorporated areas of Otero County, Colorado.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Crowley Colorado, as follows:

#### Section 1. Purpose

The purpose of this Ordinance is to promote the general public welfare and safety through Crowley County, Colorado, by limiting and prohibiting the operation of marijuana cultivation facilities without adequate water resources.

The limitation and prohibition shall be in full force and effect as follows:

1. The County shall enact and enforce a one-mile buffer zone around each incorporated town that strictly prohibits any new marijuana-grow facility within the one-mile buffer zone.
2. Each new marijuana-grow facility must have water provided directly to its facility either by the City of Ordway or the 96 Pipeline Association.
3. New marijuana-grow facilities shall not be permitted to haul water for use at the marijuana-grow facility.
4. Marijuana-grow facilities that were licensed and in good-standing prior to July 1, 2022, shall continue to operate under the previous rules and shall not be subject to these new rules.

#### Section 2. Definitions

"Marijuana Grow Facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Section 3. Enforcement

This Ordinance shall be enforced by the Crowley County Sheriff.

Section 4. Violation

It shall be unlawful for any person to violate any provision of this Ordinance.

Section 5. Disposition of Fines and Forfeitures

Unless otherwise provided by law, all fines and penalties, and the surcharges thereon, for the violation of this Ordinance shall be paid into the treasury of Crowley County. The fine for a first offense and for any subsequent offense shall be One Thousand Dollars (\$1,000.00) per violation and each day shall be deemed a separate violation.

Section 6. Surcharges

In addition to the fines and penalties prescribed in this Ordinance, any person convicted of a violation of this Ordinance shall be subject to the statutory surcharges of Ten Dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and Fifteen Dollars (\$15.00) for the Colorado Traumatic Brain Injury Trust Fund. These surcharges shall be paid to the Clerk of the Court by each person convicted of violating this Ordinance. The Clerk shall transmit the moneys to the respective funds in accordance with Section 30-15-402(2), C.R.S.

Section 7. Scope

This Ordinance shall apply within the unincorporated territory of Crowley County, Colorado, and to all other areas designated herein. This Ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

Section 8. Severability

If any part or parts of this Ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid.

Section 9. Repeal.

All ordinances and/or resolutions or parts of ordinances and/or resolutions inconsistent with provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 10. 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 publication as provided in Section 30-15-405, C.R.S.

Published in the Ordway New Era on September 6, 2022.

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

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

**OTHER BUSINESS OR DISCUSSION**

1. There will be a special Planning and Zoning Hearing at 10:00 a.m., on September 19, 2022.

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

ATTEST:

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Melinda Carter, County Clerk

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Blaine Arbuthnot, Chairman