

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

**SEPTEMBER 30, 2022**

**CALL TO ORDER**

Board of County Commissioners met in regular session on September 30, 2022. The meeting was called to order by Chairman Blaine Arbuthnot at 8:30 a.m. Roy Elliott was absent. The following were present:

Blaine Arbuthnot-----Chairman  
Terry McMillian-----Member  
LaShelle Benbow-----Deputy Clerk to the Board  
Audience-----Sue Ann Lowrey

**RESOLUTION NO. 2022-8429**

**APPROVE SEPTEMBER 2022 PAYROLL**

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

General Fund	\$ 75,629.52
Road and Bridge Fund	\$ 22,542.24
EMS Fire Fund	\$ 2,375.85
Ambulance Fund	\$ 6,521.78
DHS Fund	\$ 34,214.33
Conservation Trust Fund	\$ 304.41
Total	\$141,588.13

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

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

**RESOLUTION NO. 2022-8430**

**APPROVE PAYROLL BENEFIT DISBURSEMENTS, SEPTEMBER 30, 2022**

Motion by McMillian, seconded by Arbuthnot to approve the payroll benefit disbursements for September 30, 2022, and authorize transfer of funds in the following amounts:

General Fund	\$ 56,855.51
Road and Bridge Fund	\$ 17,991.71
EMS Fire Fund	\$ 2,640.57
Ambulance Fund	\$ 4,853.67
DHS Fund	\$ 29,986.40
Conservation Trust Fund	\$ 63.36
Total	\$112,391.22

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

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

**RESOLUTION NO. 2022-8431**

**APPROVE DISBURSEMENTS, SEPTEMBER 30, 2022**

Motion by McMillian, seconded by Arbuthnot to approve the disbursements for September 30, 2022, and authorize transfer of funds in the following amounts:

General Fund	\$ 41,448.04
Road and Bridge Fund	\$ 37,748.02
EMS Fire Fund	\$ 736.83
Ambulance Fund	\$235,276.20
Water Fund	\$ 48,323.81
DHS Fund	\$ 475.00
Conservation Trust Fund	\$ 5,096.92
E911 Fund	\$ 2,400.00
Total	\$371,504.82

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

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

**RESOLUTION NO. 2022-8432  
APPROVE SECRETAC DISBURSEMENTS, SEPTEMBER 30, 2022**

Motion by McMillian, seconded by Arbuthnot to approve the SECRETAC disbursements for September 30, 2022, and authorize transfer of funds in the following amount:

SECRETAC Fund                                   \$ 6,250.00

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

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

**DISCUSSION**

Sue Ann Lowrey would like to thank the commissioners for establishing Ordinance 2022-03. She also thanks them for developing stipulations related to the solar project in North Crowley County. She asked the Board to remind Patrick Esch as the next meeting that Crowley County is a Christian county, and that Jesus said treat thy neighbor as thy self. Even though the Esch's do not reside in Crowley County, it is important that they are kind, considerate, and respectful to their fellow land neighbors.

**RESOLUTION NO. 2022-8433  
SECOND AND FINAL READING, ADOPTION AND ORDERED PUBLISHED, ORDINANCE 2022-03 - AN  
ORDINANCE ESTABLISHING COLLECTION OF EXCISE TAXES THROUGH A PROPERTY LIEN**

Motion by McMillian, seconded by Arbuthnot to approve, adopt and order published, Ordinance 2022-03 as follows:

STATE OF COLORADO )  
SS.  
County of Crowley )

At a Regular Meeting of the Board of County Commissioners for Crowley County, Colorado, held in Ordway, Colorado, to be held on the 19th day of September, A.D., 2022, the following Ordinance will require action:

**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 the 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.

Adopted this 19th day of September 2022.

ATTEST:

Melinda Carter, Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS OF  
CROWLEY COUNTY, STATE OF COLORADO:

Blaine Arbuthnot, Chairman  
Terry McMillian  
Roy Elliot

INTRODUCED, FIRST READ AND ORDERED PUBLISHED in full in the ORDWAY NEW ERA this 31st day of August 2022. Resolution No.: 2022-8416.

INTRODUCED, READ, AND ADOPTED ON FIRST READING on September 19, 2022, and ordered published in the ORDWAY NEW ERA. Resolution No: 2022-8423.

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED in the ORDWAY NEW ERA by title only, together with any amendments made after first reading, if any, on this 30th day of September 2022. Resolution No.: 2022-8433.

ATTEST:

Melinda Carter, Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS OF  
CROWLEY COUNTY, STATE OF COLORADO:

Blaine Arbuthnot, Chairman

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

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

**RESOLUTION NO. 2022-8434**

**SECOND AND FINAL READING, ADOPTION AND ORDERED PUBLISHED, ORDINANCE 2022-04 - AN ORDINANCE ESTABLISHING WATERING RESTRICTIONS AND REQUIREMENTS FOR NEW MARIJUANA GROW FACILITIES**

Motion by McMillian, seconded by Arbuthnot to approve, adopt and order published, Ordinance 2022-04 as follows:

STATE OF COLORADO )  
SS.  
County of Crowley )

At a Regular Meeting of the Board of County Commissioners for Crowley County, Colorado, held in Ordway, Colorado, to be held on the 19th day of September, A.D., 2020, the following Ordinance will require action:

**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.

Adopted this 19th day of September 2022.

ATTEST:

Melinda Carter, Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS OF  
CROWLEY COUNTY, STATE OF COLORADO:

Blaine Arbuthnot, Chairman  
Terry McMillian  
Roy Elliot

INTRODUCED, FIRST READ AND ORDERED PUBLISHED in full in the ORDWAY NEW ERA this 31st day of August 2022. Resolution No.: 2022-8417.

INTRODUCED, READ, AND ADOPTED ON FIRST READING on September 19, 2022, and ordered published in the ORDWAY NEW ERA. Resolution No.: 2022-8424.

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED in the ORDWAY NEW ERA by title only, together with any amendments made after first reading, if any, on the 30th day of September 2022. Resolution No.: 2022-8434.

ATTEST:

Melinda Carter, Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS OF  
CROWLEY COUNTY, STATE OF COLORADO:

Blaine Arbuthnot, Chairman

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

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

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

ATTEST:

---

Melinda Carter, County Clerk

---

Blaine Arbuthnot, Chairman