

CHAPTER 9

Licenses and Permits

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ARTICLE 1

Refuse Hauler Licenses

Resolution No. 80-79

December 19, 1980

WHEREAS, the Fifty-Second General Assembly of the State of Colorado empowered Boards of County Commissioners to provide for and compel the removal of garbage and trash within the unincorporated areas of each county, and

WHEREAS, the Fifty-Second General Assembly of the State of Colorado empowered Boards of County Commissioners to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, and

WHEREAS, the Fifty-Second General Assembly of the State of Colorado provided procedures whereby Boards of County Commissioners may license and regulate persons engaged in the business of transporting and disposing of garbage and trash within the unincorporated areas of the county.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND STATE OF COLORADO THAT:

Section I. Definitions.

For purposes of this resolution:

- A. "Board" means the Board of County Commissioners of the County of Otero and State of Colorado.
- B. "Garbage" means all putrescible wastes, except sewage and sludge, and includes all such substances from public and private establishments and from all residences.
- C. "Refuse" means an accumulation of garbage or trash or both.
- D. "Trash" means all nonputrescible wastes, except fly ash, and includes ashes, waste, rubbish, industrial waste products or any other discarded materials.

Section II. License Required.

A. No person shall transport or dispose of garbage or trash within the unincorporated area of Otero County without first having procured a license therefor from the Otero County Clerk and Recorder. Nothing in this Section shall be deemed to preclude the owner or tenant of any lot or tract from removing discarded materials from his lot, so long as appropriate standards of safety and health, as determined by the Board, are observed. No license issued pursuant to this resolution shall grant an exclusive territory or regulate rates for the transportation or disposal of refuse.

B. Any municipality within the County of Otero providing disposal service by and through its own employees and own equipment shall be exempt from any licensing procedure by reason of this resolution.

Section III. License Prerequisites.

Before a license to transport or dispose of refuse may be issued, an applicant shall meet the following requirements:

A. Equipment required. Each vehicle to be used in such transportation or disposal shall be equipped with, at a minimum, the following:

1. A permanent cover of canvas or equally suitable or superior material designed to cover the entire open area of the body of such vehicle.
2. A body so constructed as to be permanently leak-proof as to such discarded materials and as to prevent the loss of any of the contents therefrom.
3. Extensions of sideboards and tailgates, if any, constructed of permanent materials.

B. Insurance. An applicant shall provide evidence of a motor vehicle liability, issued by an insurance carrier or insurer authorized to do business in the State of Colorado, in the sum of not less than one hundred fifty thousand dollars (\$150,000.00) for damages for or on account of any bodily injury to or for the death of each person as a result of any one (1) accident; in the sum of not less than one hundred fifty thousand dollars (\$150,000.00) for damages to the property of others as the result of any one (1) accident; and in the total sum of not less than four hundred thousand dollars (\$400,000.00) for or on account of any bodily injury to or for the death of all persons and damages to the property of others.

Section IV. License Application.

Application for a refuse hauler's license shall be made to the Otero County Clerk and Recorder on the appropriate form. The Otero County Clerk and Recorder shall issue it upon the applicant's satisfying the requirements of Section III herein and upon the payment of an annual license fee of one hundred dollars (\$100.00). All license fees shall be paid in full and shall accompany the application for a license.

Section V. Expiration, Suspension, Revocation and Transfer.

A. Licenses shall expire one (1) year from the date of issuance.

B. The license shall be suspended or revoked when any transportation or disposal under the license fails to comply with or is being used contrary to or in violation of the rules and regulations adopted by the Board, or when such transportation or disposal no longer satisfies the requirements of Section III of this resolution.

C. The license shall be transferable only with the written consent of the Board, which shall require that a transferee satisfy the requirements for an original application.

Section VI. Vehicle Identification.

Each vehicle used by a licensee shall be plainly marked, in letters not less than two and one-half (2½) inches in height, with the following:

"REFUSE HAULER
LICENSE NO: _____"

Section VII. Accumulation of Refuse.

No person shall allow refuse to accumulate in such a manner as to constitute or become a public nuisance. The Board may provide for and compel the removal of such accumulation and assess the whole cost thereof, including five percent (5%) for inspection and other costs in connection therewith, upon the lots and tracts from which such accumulation has been removed. The assessment shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

Section VIII. Rules and Regulations.

The Board may adopt and promulgate rules and regulations, in addition to those contained herein, relating to, but not limited to, the manner of preparing and accumulating refuse for collection; the location of pickup points; procedures for pickup, transportation and disposal; and such other rules and regulations as the Board determines are necessary or expedient for the preservation or promotion of health or the suppression of disease. Such rules and regulations shall not grant an exclusive territory nor regulate rates for the transportation or disposal of refuse. Such rules and regulations, when promulgated, shall have the same force and effect as if incorporated in this resolution.

Section IX. Effective Date, Transition Period.

This resolution shall take effect on January 2, 1981. All refuse haulers presently engaged in the business of transporting or disposing of refuse in the unincorporated areas of Otero County shall comply with the provisions of this resolution no later than January 30, 1981.

Section X. Penalty.

Any violation of the provisions of this resolution by an individual shall be punishable by a fine of three hundred dollars (\$300.00) for each violation.

Section XI. Enforcement.

The provisions of this resolution shall be enforced by the Otero County Sheriff's Department.

Section XII. Disposition of Fines.

All fines imposed and collected for the violation of this resolution shall be paid into the General Fund of Otero County.

Section XIII. Severability Clause.

If any of the various provisions of this resolution are determined by a court of law to be invalid, such determination shall not affect the remaining provisions of this resolution.

ARTICLE 2

Fireworks Permits

Resolution No. 90-05

June 4, 1990

WHEREAS, pursuant to Section 30-15-401, C.R.S., the Board of County Commissioners of Otero County has the power to adopt regulations for control or licensing of those matters of purely local concern; and

WHEREAS, pursuant to Section 30-15-401, C.R.S., matters of purely local concern include the prevention and suppression of riots, routs, affrays, disturbances and disorderly assemblies in any public or private place; to control and regulate the movement and parking of motor vehicles on public property; and to do all acts and make all regulations which may be necessary or expedient for the promotion of health; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Otero County that unregulated and unpermitted fireworks stands create health and safety problems within the unincorporated areas of the County; and

WHEREAS, it is the opinion of the Board of County Commissioners of Otero County that, in order to preserve the public peace, health, safety and welfare of the citizens of Otero County, they should take the following action.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Otero, Colorado:

Section 1. Violation Involving Failure to Obtain Necessary Fireworks Permits.

It shall be unlawful for any person, business, organization, association or entity to sell or advertise for sale fireworks as defined by Section 12-28-101(1)(a), C.R.S. Further, it shall be unlawful for any person, business, organization, association or entity to sell or advertise for sale fireworks defined within Section 12-28-101(1)(b), C.R.S., without first having obtained the necessary permit as herein provided. Permits must be obtained first from the Otero County Clerk and Recorder. Permits issued hereunder shall only be valid for a period commencing June 26 and ending on July 5 at midnight in any year and shall only be applicable to those stands located in the unincorporated areas of Otero County.

Section 2. Permit to be Displayed.

Any and all fireworks stand permits issued hereunder shall be prominently displayed by said licensee at the licensed location.

Section 3. License Fees.

All licensees issued permits hereinunder shall pay an annual permit fee, in advance, of twenty-five dollars (\$25.00) per fireworks stand location.

Section 4. Enforcement.

Nothing contained herein shall limit the powers or authorities of the County as concerns the regulation of fireworks, prohibited sale of illegal fireworks, violations of applicable codes and other regulatory matters heretofore enacted or enacted by the County. The provisions of this Article shall be enforced by the Otero County Sheriff, Undersheriff and Deputies.

Section 5. Penalty.

Any violation of the provisions of this resolution by an individual shall be a Class 2 petty offense and shall be punishable by a fine of three hundred dollars (\$300.00) for each violation. The Board herein by reference adopts the penalty assessment procedure set forth within Title 16, Article 2, Part 2, C.R.S. The Board expressly declines to adopt a graduated fine schedule in relation to this resolution.

Section 6. Severability clause.

If any of the various provisions of this resolution are determined by a court of law to be invalid, such determination shall not affect the remaining provisions of this resolution.

ARTICLE 3

Alcoholic Beverage Licenses

Resolution No. 98-9

July 20, 1998

A RESOLUTION ADOPTING FEES FOR THE ISSUANCE OF AND RENEWAL OF LIQUOR LICENSES WITHIN THE COUNTY OF OTERO, COLORADO, AND PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES OR RESOLUTIONS

WHEREAS, the State of Colorado has introduced and passed legislation allowing local licensing authorities to increase fees for issuance of new liquor licenses and renewal of existing licenses; and

WHEREAS, the Board of County Commissioners of the County of Otero, Colorado, has determined that it would be in the best interest of the health, safety and welfare of the residents of the County of Otero, Colorado, to adopt the new fee schedule as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Otero County, Colorado, as follows:

1. That the following fees for issuance of a new liquor license or renewal of an existing liquor license within the County of Otero shall be in effect upon the effective date of this resolution for all liquor licenses issued or renewed within the County.

2. To the extent that there exists any ordinance or resolution inconsistent with this resolution or providing for different fees for the issuance for a new license or renewal of an existing liquor license, those provisions, those ordinances and/or resolutions relating to fees for new or renewal licenses are hereby repealed.

Liquor License Fees

<i>New License Applications</i>	<i>County Fee</i>
Hotel and restaurant	\$75.00
with optional premises	75.00 (plus 75.00 each additional premises)
Tavern	75.00
Racetrack	75.00
New manager registration fee	75.00
Arts	41.25
Club	41.25
Special events permit (liquor)	25.00
Special events permit (3.2%)	10.00
Drugstore	37.50
Liquor store	37.50
Beer and wine	63.75
Brew pub	75.00

3.2%	7.50
New license application fee (to be charged in addition to the license application fee)	350.00
Transfer of ownership (to be charged in addition to the license application fee)	350.00
Change of location (to be charged in addition to the license application fee)	150.00
Corp/LLC change, per person (This can be charged by State or County, but not both)	100.00
New with concurrent review (see below)	350.00
<i>Annual Renewal Application</i>	<i>County Fee (includes license fee plus \$25.00 annual renewal fee)</i>
Hotel and restaurant	\$100.00
With optional premises	100.00 (plus 75.00 each additional premises)
Tavern	100.00
Racetrack	100.00
New manager registration fee	100.00
Arts	66.25
Club	66.25
Drugstore	62.50
Liquor store	62.50
Beer and wine	88.75
Brew pub	100.00
3.2%	32.50
Late renewal application fee (in addition to annual application fees)	200.00
<i>Other</i>	<i>County Fee</i>
Change of trade/corporate name	\$00.00
Modification of premises	00.00
Expansion – Add O.P. (each permit)	00.00
Duplicate license	00.00
Temporary permit (See below)	75.00
Bed and breakfast permits	25.00
Mini bar permits	200.00
Delivery permit	00.00
Out-of-State delivery permit	00.00

Concurrent application review.

A local licensing authority, or a license applicant with local authority approval, can request that the state licensing authority conduct a concurrent review of a new license application prior to the Local Licensing Authority's final approval of the license application. Local licensing authorities who permit a concurrent review

will continue to independently review the applicant's license application for the purpose of establishing the reasonable requirements of the neighborhood, the suitability of the character, record and reputation of the applicant and its principals, the fitness of the applicant's premises for occupancy in compliance with the provisions of Articles 46 and 47 of Title 12, C.R.S., and any other provisions required for local authority determination as provided for in these articles.

When conducting a concurrent application review, the State Licensing Authority will advise the Local Licensing Authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, the State Licensing Authority will notify the Local Licensing Authority of its conditional approval of the license application subject to the final approval of the Local Licensing Authority. The State Licensing Authority will then issue the applicant's state liquor license upon receiving evidence of final approval by the Local Licensing Authority.

All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

Temporary permits.

A Local Licensing Authority shall have discretionary authority to issue a temporary permit to a transferee of any retail class of alcohol beverage license issued by the Local Licensing Authority (Section 12-47-303, C.R.S.). Such temporary permit shall authorize a transferee to continue selling such alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

ARTICLE 4

Medical Marijuana Dispensary Permits

Resolution No. 2010-008

April 19, 2010

A RESOLUTION ADOPTING A TEMPORARY MORATORIUM UPON THE APPLICATION, ACCEPTANCE, PROCESSING, AND/OR APPROVAL OF ANY REQUEST TO OTERO COUNTY FOR A PERMIT, LICENSE, AND/OR FOR ANY OTHER OTERO COUNTY AUTHORIZATION OF ANY NATURE RELATED TO OR IN ANY WAY CONNECTED WITH THE ESTABLISHMENT AND/OR OPERATION OF AN ENTERPRISE OR BUSINESS THAT PROPOSES TO SELL OR DISPENSE OR THAT SELLS OR DISPENSES MEDICAL MARIJUANA PURSUANT TO ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION.

WHEREAS, pursuant to the vote of the citizens of the State of Colorado and effective upon the proclamation of the Governor of the State of Colorado dated December 28, 2000, Article XVIII, Section 14 of the Colorado Constitution was adopted authorizing the sale and use of medical marijuana for the treatment of certain debilitating medical conditions; and

WHEREAS, the Board of County Commissioners and the staff of various departments of Otero County have been informed that some members of the general citizenry are pursuing, or may pursue, the establishment and operation of businesses or enterprises in Otero County to sell or dispense medical marijuana pursuant to the authorization in the Constitution; and

WHEREAS, the Otero County Land Use Code and, in particular, the land use regulations adopted as part of the Code do not address the operation of enterprises or businesses that propose to dispense or otherwise sell medical marijuana; and

WHEREAS, the adoption of a one-hundred-eighty day moratorium on the application, acceptance, processing and/or approval of any requests to Otero County for a permit, license or for any other Otero County authorization of any nature related to or connected with the establishment and/or operation of enterprises or businesses that propose to sell or dispense medical marijuana will allow the Board of County Commissioners and Otero County staff to research and explore Otero County's role, if any, in the regulation of such enterprises or businesses and further allow Otero County staff and the Board of County Commissioners to develop and consider for implementation such regulations; and

WHEREAS, a one-hundred-eighty day moratorium is a reasonable period of time for Otero County to properly research, develop and, if advisable, adopt regulations with respect to enterprises or businesses proposing to dispense or otherwise sell medical marijuana; and

WHEREAS, potential owners and operators of such enterprises and businesses proposing to sell or dispense medical marijuana will not be unduly prejudiced by the adoption of such moratorium;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Otero, Colorado, that:

Section 1. Upon the adoption and execution of this Resolution, a moratorium is hereby imposed upon the application, acceptance, processing, and/or approval of any request to Otero County for a permit, license, and/or for any other Otero County authorization of any nature related to or in any way connected with the establishment and/or operation of an enterprise or business that proposes to sell or dispense, or that sells or dispenses medical marijuana pursuant to the Colorado Constitution. The moratorium so adopted by this Resolution shall commence upon the date of its passage and execution by the Board of County Commissioners and shall continue for a one-hundred-eighty day period thereafter.

Section 2. The Board of County Commissioners hereby finds and declares that this Resolution is necessary to the preservation and furtherance of the health, safety, and welfare of the citizens of Otero County.

Section 3. The Board of County Commissioners hereby finds and determines that it has the power to adopt this Resolution pursuant to: 1) the Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, et seq.; 2) C.R.S. 30-11-101(2) concerning the authority of counties to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law; 3) C.R.S. 30-11-107 concerning powers of the Boards of County Commissioners; 4) C.R.S. 30-28-113 concerning the regulation of the use of structures in various zone districts throughout Otero County; 5) C.R.S. 30-28-115 concerning the promotion of the health, safety, convenience, order, and/or welfare of the citizenry through the use of land use regulations; and 6) C.R.S. 30-28-121 concerning the authority of counties to adopt temporary land use regulations.

Section 4. Otero County staff, in conjunction with the Otero County Attorney, are instructed to prepare and report to the Board of County Commissioners with appropriate land use or other regulations governing the sale and/or dispensing of medical marijuana or with a report as to why the regulations of other governmental entities, including the Colorado Department of Public Health and Environment, are sufficient and no further regulation is needed. Such reports and other matters shall be brought before the Board of County Commissioners for appropriate consideration.

Section 5. The moratorium adopted by this Resolution shall automatically expire one hundred eighty (180) days after the date of adoption, unless repealed or extended prior to that date.