



# CITY COUNCIL WORK SESSION

448 E. 1st Street, Room 190 Salida, Colorado 81201

March 03, 2025 - 6:00 PM

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## AGENDA

Please register for the City Council Work Session

[https://zoom.us/webinar/register/WN\\_AlrC-BsIRNiigokU1E5K4w](https://zoom.us/webinar/register/WN_AlrC-BsIRNiigokU1E5K4w)

After registering, you will receive a confirmation email containing information about joining the webinar.

To watch live meetings: <http://www.youtube.com/@cityofsalidacolorado>

### DISCUSSION ITEMS

- [1.](#) PROST update
- [2.](#) Natural Medicine Discussion
- [3.](#) Deed Restriction Language Discussion



## WORKSESSION MEMORANDUM

DEPARTMENT	PRESENTED BY	DATE
Parks and Recreation	Diesel Post - Parks and Recreation Director	March 3, 2025

### **ITEM**

Update from the PROST Board

### **BACKGROUND**

At the request of Council, representatives of the PROST board will be attending the March 3 work session and providing an update on the work that they have been doing. The Representatives will also be looking for guidance from Council as to any specific projects that may be of interest for them to work on.

**MEMORANDUM**

**To:** Mayor Shore and City Council  
**From:** City Attorney's Office – Betsy L. Stewart  
**Date:** February 25, 2025  
**Re:** Work Session - Natural Medicine Act and Natural Medicine Code

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**A. Introduction**

This memo contains an overview of the laws and regulations surrounding natural medicine, as well as sample ordinances, to assist Council in understanding the state of the law and the manner in which natural medicine can be regulated by the City.

**B. Historical Background of the Natural Medicine Act**

In 2022 Colorado voters adopted Proposition 122 which is now codified as the Natural Medicine Act (NMA) in C.R.S. § 12-170-101, *et seq.* In 2023, the legislature adopted the Natural Medicine Code (NMC) which sets forth additional guidelines for the use and cultivation of natural medicine in C.R.S. § 44-50-101, *et seq.*<sup>1</sup>

In short, Colorado voters determined that natural medicine should be utilized as an additional tool to address mental health issues in the state.<sup>2</sup> As a result, the purpose of the NMA is to establish a “new, compassionate, and effective approach to natural medicine” by (1) removing criminal penalties for personal use of natural medicine for adults 21 years of age and older; (2) developing and promoting public education regarding the use of natural medicine and appropriate training for first responders; and (3) establishing regulated access by adults 21 years of age and older to natural medicines that show promise in improving well-being, life satisfaction, and overall health.<sup>3</sup> The legislature also recognized that the NMA and its regulations must balance the health and safety risks to consumers and the cultural harms it could cause to American tribes and Indigenous and traditional communities with connections to natural medicine.<sup>4</sup>

The Department of Regulatory Agencies (DORA) recently issued licensure and training regulations for natural medicine facilitators.<sup>5</sup> Meanwhile, the Colorado Department of Revenue's (DOR) regulations address all regulated natural medicine and natural medicine product businesses for the purposes of the cultivation, manufacturing, testing, storage, distribution, transport, transfer, dispensation, and licensure fees.<sup>6</sup>

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<sup>1</sup> See <https://www.cpr.org/2023/06/21/colorado-psychedelic-law-for-psilocybin-mushrooms/> for a Colorado Public Radio News Article re: the historical background of Proposition 122.

<sup>2</sup> C.R.S. § 12-170-102(1).

<sup>3</sup> C.R.S. § 12-170-102(1)(j).

<sup>4</sup> C.R.S. § 12-170-102(2)(d).

<sup>5</sup> 4 CCR 755-1.

<sup>6</sup> 1 CCR 213-1.

## **C. Analysis of the NMA, NMC, and Regulations**

### ***1. What is natural medicine?***

The term “natural medicine” currently applies to the hallucinogenic compounds of psilocybin and psilocin found in psychedelic mushrooms.<sup>7</sup>

### ***2. How can natural medicine be used?***

#### **a. Personal Cultivation and Personal Possession**

Personal cultivation of natural medicine is permitted on private property in an enclosed and locked space in an area of no more than 12 feet x 12 feet. Such cultivation area can be non-contiguous, i.e. in one 12 x 12 plot or twelve 1 x 1 plots, etc. Municipalities are permitted to exceed the space limitation by ordinance or resolution.

Unlike the state’s personal possession limit of 2 ounces for marijuana, there is no limit on personal possession of natural medicine in the state for adults 21 years of age and older (21+). 21+ adults can share natural medicine with other 21+ adults in the context of counseling, spiritual guidance, community based use, supported use, or related services so long as no remuneration is received except in bona fide harm reduction or support services used concurrently with sharing. It is important to note that the open and public display or consumption is prohibited as is the unlawful distribution and possession of natural medicine by or to individuals under the age of 21.<sup>8</sup>

#### **b. Natural Medicine Healing Centers**

A Natural Medicine Healing Center is a state licensed facility in which a facilitator can provide and supervise natural medicine services to a participant. Participants must be 21+ to receive natural medicine services by and under a facilitator’s services and a facilitator is a 21+ licensed individual with necessary qualifications, training, experience, and knowledge required by law to perform and supervise natural medicine services for a participant.<sup>9</sup> The administration of natural medicine in a Healing Center consists of the following three phases:

- A “preparation session” meeting between a participant and facilitator that occurs before an administration session;
- An “administration session” at a healing center or other permitted location where a participant consumes and experiences the effects of regulated natural medicine under the supervision of a facilitator; and
- An “integration session” between a participant and a facilitator after the administration session is completed.

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<sup>7</sup> C.R.S. § 12-170-104(12)(a)(I)-(II). However, C.R.S. §§ 12-170-104(12)(b)(I)-(III) and (d) permit the state licensing authority to extend this definition to include dimethyltryptamine (DMT) and mescaline (excluding peyote) on or after June 1, 2026 and ibogaine at any time.

<sup>8</sup> See C.R.S. § 18-18-434 regarding *Offenses relating to natural medicine and natural medicine products*.

<sup>9</sup> C.R.S. §§ 12-170-104 and 44-50-103 and 4 CCR 755-1-1.4

DORA's regulations establish time frames that a participant must remain in an administration session under a facilitator's care based on dosage administered as a way to prevent impaired driving.<sup>10</sup> Natural medicine product is not permitted to leave a licensed Healing Center except in narrow circumstances when a facilitator is traveling to another location for an administrative session and any unconsumed product must be returned to a Natural Medicine business.<sup>11</sup> Finally, as a general rule, Healing Centers must be at least 1,000 feet from a licensed childcare center, preschool, elementary, middle, junior, or high school, or a residential child care facility.<sup>12</sup>

### **3. *What does the NMA mean for municipalities?***

#### **a. What is prohibited?**

The NMA and Regulatory Act establish that a municipality cannot prohibit the establishment or operation of a business with the purpose of cultivating, manufacturing, testing, storing, distributing, transporting, transferring, or dispensing natural medicine within its boundaries nor can it prohibit a properly licensed facilitator from providing natural medicine services in a Healing Center within its boundaries.<sup>13</sup> Municipalities also cannot prohibit the transportation of natural medicine or natural medicine product within its boundaries on public roads by a person licensed to exercise such privileges nor can it adopt ordinances or regulations that are unreasonable or conflict with the NMA or the NMC.<sup>14</sup> However, it is important to note that state laws and regulations do not allow natural medicine dispensaries where an individual can purchase natural medicine over the counter (as they can do with marijuana in a marijuana dispensary) and take it home for personal use off premises.

#### **b. What is permitted?**

The City may enact ordinances or regulations governing the time, place, and manner of the operation of natural medicine related licenses within its boundaries.<sup>15</sup> Practically speaking, this means the City can restrict hours of operation, enact zoning ordinances to locate the area where cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine and natural medicine product occurs, and set additional distance requirements within the vicinity of a child care center, preschool, elementary, middle, junior, or high school, or a residential child care facility.

#### **c. State Licensure Timeline and Notification to Municipalities**

The DOR was required to begin accepting licensure applications no later than 12/31/2024 and anticipates that it will begin issuing licenses in February or March of 2025 with operations

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<sup>10</sup> 4 CCR 755-1 § 6.17(F).

<sup>11</sup> 4 CCR 755-1 § 6.18.

<sup>12</sup> 1 CCR 213-1 § 2125(A)(2).

<sup>13</sup> C.R.S. § 12-170-112; C.R.S. §§ 44-50-104(1) and (5).

<sup>14</sup> C.R.S. § 44-50-104(5)(c)-(d).

<sup>15</sup> C.R.S. § 44-50-104(5)(a); C.R.S. § 12-170-112; 4 CCR 755-1; 1 CCR 213-1.

beginning in April or May of 2025. The DOR intends to notify a municipality when it receives a licensure application in its jurisdiction in order to ensure that the license application conforms with locally enacted ordinances regarding natural medicine. Meanwhile, DORA's applications for facilitator licenses were available at the end of 2024.

**d. What are the effects of decriminalization?**

Natural medicine actions and conduct permitted pursuant to a license, registration, permit, or certificate, or those who allow property to be used for such items, are lawful and not an offense under state or local law. Also, as stated in more detail above, personal cultivation and possession for adults 21+ is now legal in Colorado, subject to a few restrictions. Criminal penalties for the unlawful operation of natural medicine businesses and natural medicine use or possession for those under the age of 21 are set forth in C.R.S. § 18-18-434. Local law enforcement has the authority to make arrests or issue citations within the parameters of this statute.

**4. What can the City do?**

As stated above, the City will need to decide whether or not it wants to implement time, place, and manner restrictions in the form of ordinances that do not conflict with state law or regulations in its Municipal Code.

I have provided a sample temporary moratorium as well as a sample local regulatory ordinance for Council's review to provide it with examples of how municipalities are regulating natural medicine and to assist it in determining whether or not it would like to adopt local regulations regarding natural medicine.



## ORDINANCE NO. 25-07

### **AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF APPLICATIONS FOR AND/OR THE ESTABLISHMENT OF NATURAL MEDICINE HEALING CENTERS AND BUSINESSES WITHIN TOWN LIMITS**

**WHEREAS**, the Town of Avon, Colorado (Town) is duly organized and validly exists as a Home Rule Town under Article XX, Section 6 of the Colorado Constitution and the Town’s Home Rule Charter; and

**WHEREAS**, pursuant to C.R.S. § 31-15-401, the Town possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

**WHEREAS**, C.R.S. § 31-16-105 and the Avon Home Rule Charter § 6.6 authorize the Town to enact and publish emergency ordinances; and

**WHEREAS**, Colorado voters adopted citizen initiated Proposition 122, which amended Title 12 of the Colorado Revised Statutes to include Article 170, now designated as the “Natural Medicine Health Act of 2022” (NMHA); and

**WHEREAS**, the Colorado Natural Medicine Code (Regulatory Act), codified in C.R.S. §§ 44-50-101 through 904 authorizes Town Council to enact ordinances regulating the time, place, and manner of the operation of licenses issued pursuant to the Regulatory Act; and

**WHEREAS**, C.R.S. §§ 12-170-115 and 44-50-104 establish that the Town shall not adopt, enact, or enforce any ordinance, rule, regulation, or resolution that is otherwise in conflict with the provisions of the NMHA or the Regulatory Act.; and

**WHEREAS**, C.R.S. §§ 12-170-104(12)(a)(I)-(II) and 44-50-103(13)(a)(I)-(II) establish that the term “natural medicine” currently applies to psilocybin and psilocin; in the event the substances to which the term “natural medicine” applies is expanded this temporary moratorium shall apply thereto; and

**WHEREAS**, C.R.S. §§ 12-170-104(8) and 44-50-103(6) define “healing center” as a facility licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant; and

**WHEREAS**, C.R.S. § 44-50-103(14) defines “natural medicine business” as “a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products

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manufacturer, a natural medicine testing facility, or another licensed entity created by the state licensing authority;” and

**WHEREAS**, the Town’s Municipal Code (Code) contains Land Use and Development standards enacted to protect the health, safety, and welfare of residents of the Town; and

**WHEREAS**, under the Town’s current Land Use and Development standards, the operation of natural medicine healing centers and natural medicine businesses are not permitted land uses and the Town has not approved any such land use; and

**WHEREAS**, the Town does not currently have any zoning regulations addressing natural medicine healing centers and natural medicine businesses; and

**WHEREAS**, the Colorado Department of Regulatory Agencies (CDOR) and the Colorado Department of Revenue (DORA) have now issued regulations pertaining to the NMHA and the Regulatory Act and the Town requires an appropriate amount of time to thoroughly review such regulations to determine what, if any, local regulations need to be adopted by the Town; and

**WHEREAS**, the Town requires additional time to prepare and propose for adoption any and all local regulations deemed necessary within its authority including, but not limited to, time, place, and manner of operation regulations for natural medicine healing centers and natural medicine businesses; and

**WHEREAS**, the six (6) month temporary moratorium imposed by this Ordinance is intended to prevent the establishment and operation of natural medicine healing centers and natural medicine businesses in the Town on a temporary basis in order to allow the Town to analyze and apply the state of the law and regulations, to draft appropriate local ordinances, and to allow public comment prior to adoption of any such ordinance; to ensure that prospective operators and owners of natural medicine healing centers and natural medicine businesses are able to make business and investment decisions with sufficient knowledge of local ordinances surrounding natural medicine; and in order to promote the health, safety, and general welfare of the Avon community; and

**WHEREAS**, the six (6) month temporary moratorium imposed by this Ordinance also prevents the submission, acceptance, processing, and approval of applications for the establishment of a natural medicine healing center or natural medicine business in the Town; and

**WHEREAS**, the Town finds and determines that this Temporary Moratorium is necessary for the immediate preservation of public health, safety, and welfare and this Ordinance shall become effective upon adoption as authorized by C.R.S. § 31-16-105 and the Avon Home Rule Charter § 6.6.



**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO** the following:

**Section 1. Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

**Section 2. Temporary Moratorium.**

- (a) Restrictions. During the effective term of this Ordinance, there shall be no establishment or operation of natural medicine healing centers and natural medicine businesses in the Town nor shall the submission, acceptance, processing, or approval of applications for the establishment or operation of a natural medicine healing center or natural medicine business be permitted in the Town. For purposes of this Temporary Moratorium, the terms natural medicine, natural medicine healing center, natural medicine business, and the like are as defined by Colorado Revised Statutes and any applicable and authorized regulations.
- (b) Termination. This moratorium shall terminate on the 25 day of August, 2025 unless it is terminated at an earlier date or extended by further Ordinance by the Avon Town Council.

**Section 3. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4. Emergency Declaration.** Pursuant to C.R.S. § 31-16-105 and the Avon Home Rule Charter § 6.6, the Town Council hereby finds, determines, and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the Town because an analysis must be conducted on the impact on Town residents, property owners, workforce, visitors, and customers concerning the state law and regulations concerning Natural Medicine and the manner in which it should be regulated in the Town of Avon as permitted by law and any local ordinance surrounding the same must be clear and consistently applied among all residents and property owners without any gaps in enforcement or implementation and, therefore, this Ordinance must be passed as an Emergency Ordinance.

**Section 5. Effective Date.** This Ordinance shall take effect immediately upon adoption pursuant to Avon Town Charter § 6.6.

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**Section 6.**     **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 7.**     **Publication by Posting.** The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

**INTRODUCED AND ADOPTED ON FIRST READING** by the Avon Town Council on February 25, 2025.

**BY:**

**ATTEST:**

\_\_\_\_\_  
**Tamra N. Underwood, Mayor**

\_\_\_\_\_  
**Miguel Jauregui Casanueva, Town Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Nina Williams, Town Attorney**

**ORDINANCE NO. 2024 -011****AN ORDINANCE AMENDING TITLE 17 OF THE CASTLE ROCK  
MUNICIPAL CODE REGARDING LOCAL REGULATION OF  
NATURAL MEDICINE BUSINESSES**

**WHEREAS**, the Natural Medicine Health Act of 2022, a citizen-initiated measure intended to decriminalize the use of certain plants or fungi for people 21 years of age and older, was approved by Colorado voters in November, 2022; and

**WHEREAS**, in May, 2023, the Governor signed Senate Bill 23-290, entitled “Natural Medicine Regulation and Legalization,” into law, which bill clarifies and sets the regulatory framework for a regulated natural medicine program in Colorado; and

**WHEREAS**, Senate Bill 23-290 authorizes the Town Council to enact an ordinance to: (i) regulate the time, place and manner of the operation of natural medicine business licenses issued by the Colorado Division of Professions and Occupations; (ii) limit the areas where the cultivation, manufacturing, testing, storage, distribution, transfer and dispensation of natural medicine and natural medicine product may be permitted in the Town; and (iii) establish the distance restrictions for buildings where natural medicine services are provided within the vicinity of a child care center, preschool, elementary, middle, junior or high school, residential child care facility, or residential dwelling; and

**WHEREAS**, Town staff recommends that Title 17 of the Castle Rock Municipal Code (the “Code”) be amended by the addition of a new Chapter 17.64 for the purpose of regulating natural medicine businesses within the authority granted by Senate Bill 23-290; and

**WHEREAS**, the Town Council finds and determines that it is in the best interests of the residents of the Town to amend Title 17 of the Code for this purpose.

**NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO, AS FOLLOWS:**

**Section 1. Amendment.** Title 17 of the Castle Rock Municipal Code is amended by the addition of a new Chapter 17.64 entitled “Natural Medicine Businesses,” which chapter reads as follows:

Chapter 17.64 – Natural Medicine Businesses

17.64.010 - Findings and legislative intent.

The Town Council makes the following legislative findings:

- A. The Town Council finds and determines that the Colorado Natural Medicine Code, as codified in Colo. Rev. Stat. §§ 44-50-101 through 904 (the “Regulatory Act”) specifically authorizes the governing body of a municipality to enact an ordinance

to regulate the time, place and manner of the operation of licenses issued pursuant to the Regulatory Act.

- B. The Town Council finds and determines that the Regulatory Act specifically authorizes the governing body of a municipality to enact zoning ordinances to locate the area where the cultivation, manufacturing, testing, storage, distribution, transfer and dispensation of natural medicine and natural medicine product, as defined by the Regulatory Act, may be permitted in a municipality.
- C. The Town Council finds and determines that the Regulatory Act specifically authorizes the governing body of a municipality to enact ordinances to establish the distance restrictions for buildings where natural medicine services are provided within the vicinity of a child care center; preschool; elementary, middle, junior or high school; a residential child care facility; or residential dwelling.

#### 17.64.020 - Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

*Natural medicine* means psilocybin or psilocin and other substances described in the Regulatory Act as “natural medicine.”

*Natural medicine business* means any of the following entities licensed under the Regulatory Act and includes a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility, or another licensed entity created by the state licensing authority.

*Natural medicine healing center* means a facility where an entity is licensed by the state licensing authority that permits a facilitator as defined by the Regulatory Act, to provide and supervise natural medicine services for a participant as defined by the Regulatory Act, which includes a participant consuming and experiencing the effects of regulated natural medicine or regulated natural medicine product under the supervision of a facilitator.

*Natural medicine product* means a product infused with natural medicine that is intended for consumption, as provided by the Regulatory Act.

*Natural medicine services* mean a preparation session, administrative session, and integration session, as provided by the Regulatory Act.

*Participant* means an individual who is twenty-one (21) years of age or older who receives natural medicine services prescribed by and under the supervision of a facilitator, as provided by the Regulatory Act.

*Regulated natural medicine* means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the Regulatory Act.

*Regulated natural medicine product* means a natural medicine product that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the Regulatory Act.

*State licensing authority* means the authority created under the Regulatory Act for the purpose of regulating and controlling the licensing of the cultivation, manufacturing, testing, storing, distribution, transfer, and dispensation of regulated natural medicine and regulated natural medicine product, as provided by the Regulatory Act.

17.64.030 - Permitted location for a natural medicine healing center.

Natural medicine healing center is a use permitted by right in the I-1-Light Industrial and I-2-General Industrial Districts, subject to the distance requirements contained in Section 17.64.050 and the time, place and manner requirements contained in Sections 17.64.050 through 17.64.110. Natural medicine healing centers are prohibited in all other zoning districts in the Town, including the PD-Planned Development District.

17.64.040 - Permitted location for natural medicine businesses.

Natural medicine cultivation facility, natural medicine products manufacturer, natural medicine testing facility, and other licensed entity created by the state licensing authority (collectively the “licensed facilities”) are uses permitted by right in the I-1-Light Industrial and I-2-General Industrial Districts, subject to the distance requirements contained in Section 17.64.050 and the time, place and manner requirements contained in Sections 17.64.050 through 17.64.110. The licensed facilities are prohibited in all other zoning districts of the Town, including the PD-Planned Development District.

17.64.050 - Distance from schools and residential dwellings.

- A. No natural medicine business that provides natural medicine services shall operate out of a building that is within one thousand (1,000) feet property used for of a child care center; preschool; elementary, middle, junior or high school; or a residential child care facility (collectively “school”).
- B. No natural medicine business that provides natural medicine services shall operate out of a building that is within one thousand (1,000) feet of property used for single-family dwellings, duplexes, or multiple-family dwellings (collectively “residential dwellings”).
- C. Subsections A and B above do not apply to a licensed facility located on land owned by the Town or the state of Colorado or apply to a licensed facility that was actively doing business under a valid license issued by the state licensing authority before the school or residential dwelling was constructed.
- D. The distances referred to in this Section shall be computed by direct measurement from the nearest property line of the land used for a school or facility to the nearest

portion of the building in which natural medicine services are provided, using a route of direct pedestrian access.

17.64.060 - Hours of operation—Natural medicine services.

Natural medicine healing centers and natural medicine businesses that provide natural medicine services shall only operate between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

17.64.070 - Public view of natural medicine businesses.

All doorways, windows and other opening of natural medicine business buildings shall be located, covered, or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area, subject to applicable Town design standards. All activities of natural medicine businesses shall occur indoors.

17.64.080 - Lighting of natural medicine businesses.

Primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing security lights to provide after-dark visibility for facilitators, participants, and employees, subject to all applicable Town lighting standards.

17.64.090 - Storage of natural medicine businesses.

All storage for natural medicine businesses shall be located within a permanent building and may not be located within a trailer, tent, or motor vehicle.

17.64.100 - Odor from natural medicine businesses.

Natural medicine businesses shall use an air filtration and ventilation system designed to ensure that the odors from natural medicine and natural medicine products are confined to the premises and are not detectable beyond the property boundaries on which the facility is located.

17.64.110 - Natural medicine businesses secure disposal.

Natural medicine businesses shall provide secure disposal of natural medicine and natural medicine product remnants or by-products. Natural medicine and natural medicine product remnants or by-products shall not be placed within the facilities' exterior refuse container.

17.64.120 - Processing of natural medicine.

- A. The processing of natural medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.

- B. Nonhazardous materials used to process natural medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of natural medicine.
- C. The processing of natural medicine shall meet the requirements of all adopted Town building and life/safety codes.
- D. The processing of natural medicine shall meet all of the requirements of all adopted water and sewer regulations promulgated by the Town and the Plum Creek Water Reclamation Authority.

17.64.130 - Nuisance.

It is unlawful and deemed a nuisance to:

- A. Operate a natural medicine business in violation of any of the requirements set forth in the Regulatory Act or this Chapter 17.64.
- B. Dispose of, discharge out of or from, or permit to flow from any facility associated with natural medicine, any foul or noxious liquid or substance of any kind whatsoever, including, without limitation, by-products of the natural medicine process, into or upon any adjacent ground or lot, into any street, alley or public place, or into any municipal storm sewer and/or system in the Town.

**Section 2. Amendment.** The use table in Section 17.28.030.A. of the Castle Rock Municipal Code is amended by the addition of the following entries, which entries read as follows:

<i>Use</i>	<i>B Business/ Commercial</i>	<i>I-1 Light Industrial</i>	<i>I-2 General Industrial</i>	<i>I-E Industrial Employment District</i>	<i>WNZOD Wolfens- berger Overlay</i>	<i>DOD Downtown Overlay</i>	<i>FSOD Front Street Overlay</i>
Natural medicine healing center	N	P	P	N	N	N	N
Natural medicine cultivation facility, natural medicine products manufacturer, and natural medicine testing facility	N	P	P	N	N	N	N

**Section 3. Severability.** If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

**Section 4. Safety Clause.** The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

**APPROVED ON FIRST READING** this 17th day of December, 2024, by a vote of 5 for and 2 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

**PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING** this 7th day of January, 2025, by the Town Council of the Town of Castle Rock by a vote of 7 for and 0 against.

**ATTEST:**

DocuSigned by:

*Lisa Anderson*

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Lisa Anderson, Town Clerk



**TOWN OF CASTLE ROCK**

DocuSigned by:

*Jason Gray*

A7938A42F3A848A...

Jason Gray, Mayor

**Approved as to form:**

DocuSigned by:

*Mike Hyman*

F7347F32A6794D1...

Michael J. Hyman, Town Attorney

**Approved as to content:**

DocuSigned by:

*Tara Vargish*

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Tara Vargish, Director of Development Services





## CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Nina P. Williams - City Attorney	March 3, 2024

### **ITEM**

#### **Inclusionary Housing Deed Restriction discussion**

### **BACKGROUND**

The purpose of the City's Inclusionary Housing Deed Restriction is to accomplish the goals and directives of Salida's Inclusionary Housing ordinance (Chapter 16, Article XIII, of Salida Municipal Code).

We discussed Inclusionary Housing Deed Restrictions and obtained general policy direction at your April 15, 2024 work session. The CAF from that meeting is attached to this memo, for reference. At that work session, Council reiterated the importance of the Purposes and Objectives of the Inclusionary Housing ordinance. Council also confirmed that these Inclusionary Housing Deed Restrictions should remain in perpetuity, recorded onto and burdening the property for generations to come, versus a temporary restriction for a few years or 1-2 families/occupants.

Despite the importance of certain language within the Deed Restriction form, as well as the legal advice surrounding same and Council's direction last April, we have been asked if the City can remove certain language under the Foreclosure section of the Deed Restriction that was unacceptable to some lenders. We believe we can recommend a second-best alternative that may be an appropriate revision to Council, and also which should be acceptable to more lenders.

This amendment-option comes from the Town of Avon's Deed Restriction template. It would give the City the "option to purchase" the property in the event of a foreclosure. However, if the City did not exercise its option to purchase, then the City would agree to release the property from the requirements of the Deed Restriction.

The City Attorney will summarize and discuss further during Monday's work session, and obtain general feedback from City Council regarding whether she should update the form Inclusionary Housing Deed Restriction template (referenced in Salida Municipal Code section 16-13-20(d)).



## CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Nina P. Williams - City Attorney	April 15, 2024

### ITEM

#### **Inclusionary Housing Deed Restrictions: legal synopsis and items needing policy direction**

### LEGAL SYNOPSIS

#### **Introduction / Purpose of Inclusionary Housing Deed Restrictions**

- To accomplish the goals and directives of the City's Inclusionary Housing ordinance: Chapter 16, Article XIII, of Salida Municipal Code
- *SMC Section 16-13-10. Purposes and objectives*
  - (a) Promote the construction of housing that is affordable to the community's workforce;
  - (b) Retain opportunities for people that work in the City to also live in the City;
  - (c) Maintain a balanced community that provides housing for people of all income levels; and
  - (d) Ensure that housing options continue to be available for very low-income, low-income, moderate, and middle-income residents, for special needs populations and for a significant proportion of those who work or live in the City.
- *Section 16-13-20(d), General Inclusionary housing requirements*
  - In order to comply with the requirements of Salida's inclusionary housing ordinance, the applicant must execute a Deed Restriction, in a form provided and approved by the City Attorney, which must be recorded onto property with Chaffee County Clerk and Recorder.
- Deed restrictions are the mechanism that implement the City's important policy goal of ensuring a percentage of residential units in a development are set aside to be affordable to your workforce.
- It would be difficult to legally enforce your inclusionary housing ordinance and code requirements without the deed restriction in place.
- Deed restrictions ensure the execution of your inclusionary housing requirements now, and into the future.

#### **What is a Deed Restriction?**

- An enforceable contract that runs with the land in perpetuity - which means it is binding upon future owners of the property and burdens the property with such restrictions
  - Makes clear that the specific property and residential units are subject to the restrictions within the contract, as it relates to affordability of the designated units (whether for-sale or rental residential units)
  - Sets forth additional regulations and specifications to accomplish that goal of maintaining the affordability of the unit for future renters, occupants and owners
- Because the deed restriction is recorded onto the property, it is readily accessible and viewable when anyone researches the property with the County Clerk and Recorder, and it comes up on title when someone is purchasing the property.
  - So, future owners are put on "notice" of the restriction on the property, and know about the requirement that the applicable units must remain affordable to renters or owners (and the other requirements to ensure that occurs)



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### Some important provisions in our Deed Restriction document

- Applicable AMI Area Median Income - the percentage of AMI – 60% to 160% - that has been applied to the unit(s) in that particular development. And as a reminder, that is a percentage of Chaffee County's AMI, and it changes from year to year, based upon the data within the region. And that is determined and published by HUD, and CHFA.
- Defines what exactly is a Qualified Occupant or Qualified Household, and how that is regulated and enforced
  - Restricted units can only be occupied, rented or owned by a "Qualified" Occupant/Household
  - Renters are required to comply with annual deed restriction monitoring by CHA
- Designates priority towards workers within City limits, and then within County limits and allows for a lottery system
- Prohibits the use of the property as short term rentals
- Prohibits ownership interest in other residential property
- Defines Maximum Rent and Maximum Resale Price for future owners/occupants
- Identifies the notice requirements in the case of a Default or Breach
  - Keeps City and CHA apprised and in the loop

### What are Housing Authority Community Guidelines?

- (Still waiting to review Chaffee Housing Authority's most recent draft)
- Chaffee Housing Authority is the administrative arm for managing deed restrictions and implementing (and amending, as needed) appropriate Community Guidelines
  - IGA establishing the Chaffee Multijurisdictional Housing Authority:
    - Duties of the Board include "adopting annually an Administrative Plan, Strategic Plan, and/or Community Guidelines for deed restriction management."
    - Functions of the Housing Authority include "provide homeownership and rental assistance programs; implement measures for privately held deed restricted properties, such as: qualifying buyers and renters for affordable units; marketing available properties; setting affordable prices for new and resale properties; setting up and implementing lottery process; answering inquiries about available affordable units; setting maximum initial and resale prices; and keeping a current list of available properties and who to contact."
- Deed Restriction references and operates hand in hand with Community Guidelines
- Guidelines can be amended and updated from time to time to adapt to current needs and practicalities
- Guidelines typically establish policies and procedures for CHA regarding the following:
  - Application procedures
  - Applicant eligibility criteria
  - Verification of:
    - Income
    - Employment
    - Rental history
    - Background check



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- Applicant selection process
- Annual recertification process
- CHA's lottery pool of eligible applicants; process for lotteries
- Prioritization and weighted point system (if applicable)
- Establishes Discrimination and Grievance Process
- These guidelines would apply to all deed restricted affordable housing units (rental or for-sale)

### ITEMS NEEDING POLICY DIRECTION

The City Attorney will lead a discussion to obtain direction from City Council on terms and topics within the inclusionary housing deed restriction that are within policy discretion, including:

- Confirmation of SMC sec.16-13-10, Purposes and Objectives, Inclusionary Housing
- Qualified Household / Qualified Occupant
- Net worth
- Occupant's interest in other residential properties
- Local employer or income source, including self-employment
- Local "workforce" over 60 years of age
- Maximum real estate broker commission
- Confirmation that these inclusionary housing deed restrictions should be in perpetuity, recorded on the property (versus temporary, for a few years and/or one family/occupant)
- Maximum re-sale price - Escalator related to AMI increase?