



450 S. Parish Avenue  
Johnstown, CO 80534  
970.587.4664  
JohnstownCO.gov

## PLANNING & ZONING COMMISSION REGULAR MEETING

450 S. Parish, Johnstown, CO  
Wednesday, November 13, 2024 at 6:00 PM

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*MISSION STATEMENT: Enhancing the quality of life of our residents, businesses, and visitors through community focused leadership.*

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### AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. September 25, 2024 Draft Minutes

**PUBLIC COMMENTS** - Regarding items and issues not included as a Public Hearing on this Agenda (limited to 3 minutes each)

**NEW BUSINESS**

2. Public Hearing - Consideration Of Ordinance 2024-263, Adding Section 17-10-4 to the Town of Johnstown Land Use and Development Code concerning Natural Medicine Businesses

**DEPARTMENTAL REPORT**

**COMMISSIONER REPORTS AND COMMENTS**

**ADJOURN**

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### AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act and other applicable laws, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at 970-587-4664 no later than 48 hours before the meeting in order to request such assistance.

De conformidad con la Ley de Discapacitados Estadounidenses y otras leyes vigentes, los individuos que necesitan adaptaciones funcionales para asistir o participar en esta reunión deberán comunicarse con la Municipalidad marcando el 970 587- 4664 a lo más tardar 48 horas antes de dicha reunión para solicitarla.

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Item 1.

## PLANNING & ZONING COMMISSION REGULAR MEETING

450 S. Parish, Johnstown, CO  
Wednesday, September 25, 2024 at 6:00 PM

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### MINUTES

#### CALL TO ORDER

Chair Grentz called the meeting to order at 6:00 pm

#### ROLL CALL

Commissioners Abel, Baily, Campbell, Flores, Jeanneret, Urban, and Chair Grentz were all present.

#### APPROVAL OF AGENDA

A motion was made to approve the Agenda by Commissioner Jeanneret and Seconded by Commissioner Baily. The motion was passed 7/0.

#### APPROVAL OF MINUTES

A motion to approve August 14, 2024, Meeting was made by Commissioner Jeanneret and Seconded by Commissioner Flores. The motion was passed 7/0.

**PUBLIC COMMENTS** - *Regarding items and issues not included as a Public Hearing on this Agenda (limited to 3 minutes each)*

No Public Comment was made.

#### NEW BUSINESS

1. Public Hearing – Removal of Certain Property from Maxfield ODP and Zone Change from PUD-MU to I-1

Jeremy Gleim, Planning Director, presented on the Maxfield Rezone, highlighting the overall land use and the compatibility of the site with the surrounding development.

Commissioner Bailey asked about traffic concerns. Gleim responded that this would ultimately reduce the amount of traffic in the area.

The applicant, Sal Perdomo, was in attendance to go over a high-level overview of the project. Commissioner Abel inquired about the intended use of the property and the type of tenant that would be present, specifically asking about potential odors. The Applicant explained that the attendees of the building would be required to follow National Standards to control those odors and based on the attendees that are in these types of building throughout Northern Colorado, they do not anticipate odors being problematic.

Commissioner Flores asked about the types of vehicles that would be present. This concern was addressed by noting that the main impact would be the employees trying to access the site.

Staff reassured Commissioners that if traffic were to become a challenging point when the site was in use, it would be addressed appropriately, however as of now, the area is already developed to handle a large volume of traffic.

No further questions were asked of staff or the applicant.

Chair Grentz opened the public hearing.

Carroll Maxfield, owner of the property, shared some insightful family history. She stressed the urgency of developing the property at this time, underlining the potential benefits of doing so.

Dena Burns voiced concerns regarding the blending of the zoning use with the surrounding area, particularly related to air pollution, stormwater runoff, and sewer.

Commissioner Urban asked Burns what ideally, she would want to happen. Burns replied with having more conversations and meetings about the property.

Barbera Calkins voiced concern about the changes that are being proposed and that she is in support of the current zoning, explaining that she grew up on the house that is currently on the farm. Calkins explained that she wants to see the property kept as a family farm and feels that it is significant in Johnstown.

Commissioners asked for clarification regarding Centennial Farm and the current protection. Burns explained that there is no protection.

Clarification was requested by Commissioners regarding the original zoning plan, and how it affected the house and farm. Gleim explained that with the PUD zoning, there is no protection of the current agriculture land on the property.

Anita Homer raised concerns related to stormwater runoff and its impact on the river, as well as changes that could negatively impact local biology.

Michelle Ott raised concerns about the impact of potential development on the local wildlife, emphasizing the need to protect wildlife corridors in the area. She also expressed apprehension about the potential increase in traffic and noise levels.

Eric Hill voiced worries about the potential noise and sound pollution that could arise from the proposed development, highlighting the importance of considering these factors in the planning process.

Commissioners Urban and Flores asked for clarification on the PUD-MU versus the I-1 zoning, and why development had not occurred already. Gleim elaborated on the history of the Maxfield property, shedding light on how the 160-acre expanse transformed. Gleim also discussed the current rezoning, which resulted in 39 acres being reclassified for different land use. It was also explained that the reason it has not been developed yet is because the current property owners haven't done so. Gleim reiterated that there is nothing preventing the development of property today, under the current zoning.

The public hearing was closed.

Commissioner Flores motioned to approve the I-1 rezone. The motion was Seconded by Commissioner Urban.

Motion APPROVED – 6/1 with Commissioner Campbell opposed.

## 2. Public Hearing – Zoning Case No. ANX23-0001 for the Blue Spruce Ridge Annexation

Jeremy Gleim, Planning Director, presented the project. A brief history of the project was provided, followed by a review and analysis of the current request.

Kyle Barichello, applicant's representative, delivered a presentation on the project, discussing its evolution and going over the case details. He explained that the company had put in significant effort and research to determine the best use of the land, considering its location. This allowed the applicant to present a comprehensive plan and a vision in line with the town's regulations. He further explained that the concept plan and zoning restrictions being presented were a direct result of the neighborhood meetings and ongoing conversations with the community.

Commissioner Urban sought clarification on the legal binding of the project.

No further questions were asked of staff or the applicant.

The meeting was opened to public comment.

Mark Manning expressed concerns about the zoning standards and raised traffic issues. Manning stated that there are already developments that are happening in the area and the density of the traffic can cause several issues.

Richard Ray supported the conditions but had apprehensions about height limits with the two-story buildings and landscaping height limits.

Dylan Singer voiced support for R-2. He appreciated Kyle's due diligence on hearing out the neighbors.

Cynthia Armstrong raised concerns about traffic and safety. Armstrong said she is supporting R-1 zoning but not R-2.

Susan Manning voiced her apprehensions regarding the high density of the area and the potential impact on traffic flow. She emphasized the need to address these concerns to maintain the area's livability.

Sheldon Elders, an HOA board member, expressed concerns about undelivered promises on other projects regarding open space and the lack of amenities, and wanted to ensure that this would be legally binding.

The public hearing was closed.

Commissioner Jeanneret appreciated the changes made and the concerns related to the apartments and variations.

Commissioner Campbell made a motion to approve, seconded by Commissioner Jeanneret. The motion passed 7-0.

3. Public Hearing – Subdivision Case No. SUB23-0021 which includes a Preliminary Plat and Change of Zone for Waggoner Farm

Staff provided an overview of the project.

Chair Grentz opened the public hearing. No members of the public spoke for or against the project. Chair Grentz closed the public hearing.

Commissioner Flores motioned to approve the Zoning, and it was Seconded by Commissioner Abel. Motion passed 7/0.

Commissioner Flores motioned to approve the Subdivision, and it was Seconded by Commissioner Jeanneret. Motion passed 7/0.

## **DEPARTMENTAL REPORT**

No reports from staff.

## **COMMISSIONER REPORTS AND COMMENTS**

## **ADJOURN**

The meeting was adjourned at 8:15 by Chair Grentz



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Item 2.

## PLANNING COMMISSION AGENDA COMMUNICATIONS

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**AGENDA DATE:** November 13, 2024

**SUBJECT:** Public Hearing – Zoning Case No. MISC24-0005, Zoning Text Amendment for Natural Medicine Businesses

**ACTION PROPOSED:** Consideration Of Ordinance 2024-263, Adding Section 17-10-4 to the Town of Johnstown Land Use and Development Code Concerning Natural Medicine Businesses

**ATTACHMENTS:**

1. Ordinance 2024-263
2. Staff Presentation

**PRESENTED BY:** Jeremy Gleim, AICP, Planning and Development Director

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### EXECUTIVE DESCRIPTION

The following was written by Avi Rocklin, Town Attorney, as a supplement to the Town Council Work Session that occurred on November 4, 2024.

In November of 2022, the Colorado voters passed Proposition 122, legalizing the personal use of natural medicine by persons over 21 years of age and the cultivation, manufacturing, testing, storage, distribution, transportation, transfer and dispensation of natural medicine at state-licensed facilities. While the definition may be expanded after June 1, 2026, “natural medicine” currently means psilocybin and psilocin (in other words, mushrooms). To implement the voter approved measure, the Colorado legislature adopted the Colorado Natural Medicine Code, codified at §§ 44-50-101 through 904, C.R.S. (“Code”), and the Department of Revenue adopted rules and regulations.

Unlike liquor or marijuana regulations, the state is the sole licensing agency for natural medicine facilities. There are four primary types of licenses that may be issued: (i) a natural medicine healing center license; (ii) a natural medicine cultivation facility license; (iii) a natural medicine products manufacturer license; and (iv) a natural medicine testing facility license.

A “natural medicine healing center” is a facility that permits a “facilitator” to provide and supervise natural medicine services to a participant. The facilitator must be licensed and have

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the qualifications, training and experience to provide natural medicine services. A natural medicine healing center may be akin, in certain aspects, to a medical office.

The Code provides that a licensed facility must be at least 1,000 feet from the property line of childcare centers, preschools, elementary, middle, junior or high schools or residential childcare facilities. A local government may vary the distance restrictions or may eliminate one or more types of schools or facilities from the application of the distance restrictions. § 44-50-302(d)(I), C.R.S.

Importantly, a municipality is not entitled to prohibit the establishment or operation of state-issued natural medicine licenses within its jurisdiction. The municipality may, however, enact “reasonable” ordinances or regulations governing the time, place, and manner of the operation of the state-issued licenses. § 44-50-104(5), C.R.S. The scope of what is “reasonable” has yet to be determined by courts.

The state will commence issuing licenses on and after January 1, 2025. If the Town Council desires to enact local regulations, the Town Council should do so prior to such date.

## **PROPOSED ORDINANCE**

The proposed ordinance seeks to memorialize certain regulations and provisions related to Natural Medicine businesses. A summary of the regulations is listed below:

### ***Zoning***

Natural Medicine businesses shall only be permitted in the Industrial zoning districts (I-1 and I-2). Such businesses shall be prohibited in Planning Unit Development (PUD) zoning districts, including PUDs that allow Industrial uses.

### ***Distancing Requirements***

1. Natural Medicine businesses shall be prohibited from operating within one thousand (1,000) feet of: a child care center: preschool; elementary, middle, junior or high school; or a residential child care facility (collectively “school”).
2. Natural Medicine businesses shall be prohibited from operating within one thousand (1,000) feet of: single-family dwellings, duplexes or multiple-family dwellings (collectively “residential dwellings”).

### ***Hours of Operation***

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.

There are certain other provisions within the proposed ordinance that relate to the storage, disposal, and processing of natural medicine, as well as nuisance conditions; however, the above-listed items represent the crux of the land use and zoning related provisions.

## **PUBLIC NOTICE**

Notice for the Planning and Zoning Commission public hearing was published in the Johnstown Breeze, on Thursday, October 31, 2024.

**STRATEGIC PLAN ALIGNMENT**

- Safe & Welcoming Community
  - *Provide and maintain public safety services and awareness in our community.*

**LEGAL ADVICE:**

The Town Attorney prepared Ordinance 2024-263.

**FINANCIAL ADVICE:**

NA

**RECOMMENDED ACTION:** Staff recommends that the Planning & Zoning Commission recommend that the Town Council **APPROVE** Ordinance 2024-263, to add Section 17-10-4 to the Town of Johnstown Land Use and Development Code concerning Natural Medicine Businesses.

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**SUGGESTED MOTIONS:**

**For Approval:** I move to recommend that the Town Council **APPROVE** Ordinance No. 2024-263, to add Section 17-10-4 to the Town of Johnstown Land Use and Development Code Concerning Natural Medicine Businesses

**For Denial:** I move to recommend that the Town Council **DENY** Ordinance No. 2024-263

**TOWN OF JOHNSTOWN, COLORADO**  
**ORDINANCE NO. 2024-263**

**AN ORDINANCE ADDING SECTION 17-10-4 TO THE TOWN OF  
JOHNSTOWN LAND USE AND DEVELOPMENT CODE CONCERNING  
NATURAL MEDICINE BUSINESSES**

**WHEREAS**, the Town of Johnstown, Colorado (the “Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

**WHEREAS**, the Town Council is vested with the authority to administer the affairs of the Town; and

**WHEREAS**, in November of 2022, the Colorado voters passed Proposition 122, legalizing the personal use of natural medicine by persons over 21 years of age and the cultivation, manufacturing, testing, storage, distribution, transportation, transfer and dispensation of natural medicine at state-licensed facilities; and

**WHEREAS**, to implement the voter approved measure, the Colorado legislature adopted the Colorado Natural Medicine Code, codified at §§ 44-50-101 through 904, C.R.S.; and

**WHEREAS**, the Colorado Natural Medicine Code authorizes the governing body of a municipality to enact ordinances to regulate the time, place and manner of the operation of licenses issued pursuant to the terms thereof, to set forth the area where the cultivation, manufacturing, testing, storage, distribution, transfer and dispensation of natural medicine and natural medicine product, as defined therein, is permitted, and to establish distance restrictions for buildings where natural medicine services are provided; and

**WHEREAS**, on or about May 11, 2023, the Town Council adopted the Town of Johnstown Land Use and Development Code (“LUDC”), referenced in Chapter 17 of the Johnstown Municipal Code, containing planning and zoning regulations; and

**WHEREAS**, the Town Council desires to amend the LUDC to add Section 17-10-4 to the Supplemental Standards contained in Article 10 to provide for the regulation of natural medicine businesses; and

**WHEREAS**, the regulations provide, among other provisions, that natural medicine businesses are uses permitted by right in the Industrial Light (I-1) and Industrial Heavy (I-2) zones and that such businesses must be one thousand (1,000) feet from a child care center, preschool, elementary, middle, junior or high school, a residential child care facility and a residential dwelling; and

**WHEREAS**, Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the immediate public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:**

**Section 1.** Section 17-10-4: Section 17-10-4 is hereby added to the Town of Johnstown Land Use and Development Code and shall read as follows:

### **17-10-4 Natural Medicine Businesses**

#### **A. Findings and legislative intent.**

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

1. Regulate the time, place and manner of the operation of licenses issued pursuant to the Natural Medicine Code;
2. Set forth the area where the cultivation, manufacturing, testing, storage, distribution, transfer and dispensation of natural medicine and natural medicine product, as defined in the Natural Medicine Code, is permitted in a municipality; and
3. Establish distance restrictions for buildings where natural medicine services are provided.

#### **B. Permitted location for natural medicine businesses.**

Natural medicine businesses are uses permitted by right in the Industrial Light (I-1) and Industrial Heavy (I-2) zones, subject to the distance requirements contained in Subsection C and the time, place and manner requirements contained in Subsections C through E. Such licensed facilities are prohibited in prohibited in Planned Unit Development (PUD) zoning districts, including those that permit Industrial Light (I-1) and Industrial Heavy (I-2) zone uses, and all other zoning districts in the Town.

#### **C. Distance from schools and residential dwellings.**

1. No natural medicine business that provides natural medicine services shall operate out of a building that is within one thousand (1,000) feet of: a child care center: preschool; elementary, middle, junior or high school; or a residential child care facility (collectively “school”).
2. No natural medicine business that provides natural medicine services shall operate out of a building that is within one thousand (1,000) feet of single-family dwellings, duplexes or multiple-family dwellings (collectively “residential dwellings”).
3. Subsections (1) and (2) 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. Hours of operation.**

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.

#### **E. Storage, disposal and processing.**

1. 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.

2. 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.
3. 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.

#### **F. Nuisance.**

It shall be unlawful and deemed a nuisance to dispose of, discharge out of or from or permit to flow from any natural medicine business, 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.

#### **G. Definitions.**

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

*Facilitator* means a natural person who is twenty-one (21) years of age or older, has the necessary qualifications, training, experience, and knowledge to perform and supervise natural medicine services for a participant, and is licensed as provided by state law to engage in the practice of facilitation.

*Natural medicine* means psilocybin or psilocyn and other substances described in the Natural Medicine Code as "natural medicine."

*Natural medicine business* means an entity licensed under the Natural Medicine Code and includes a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, a natural medicine testing facility, and any other 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 to provide and supervise natural medicine services for a participant, 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 further defined in the Natural Medicine Code.

*Natural medicine services* means a preparation session, administrative session and integration session, as provided in the Natural Medicine Code.

*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.

*Regulated natural medicine* means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported or dispensed, as provided in the Natural Medicine Code.

*Regulated natural medicine product* means a natural medicine product that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided in the Natural Medicine Code.

*State licensing authority* means the authority created under the Natural Medicine Code 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 in the Natural Medicine Code.

**Section 2. Severability.** If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such

part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and, to this end, the provisions and parts of this Ordinance are declared to be severable.

**Section 3. Publication; Effective Date.** This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter and the contents contained herein shall thereafter be included within the Town of Johnstown Land Use and Development Code. Copies of the entire Ordinance are available at the office of the Town Clerk.

**INTRODUCED, AND APPROVED** on first reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Meghan Martinez, Town Clerk

By: \_\_\_\_\_  
Michael P. Duncan, Mayor

**PASSED UPON FINAL APPROVAL AND ADOPTED** on second reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Meghan Martinez, Town Clerk

By: \_\_\_\_\_  
Michael P. Duncan, Mayor

# Ordinance 2024-263

## Natural Medicine Businesses

‘THE COMMUNITY THAT CARES’

EST. 1902

The Community that Cares

## What is Natural Medicine?

“Natural medicine” is defined to include psilocybin/psilocyn, as well as, if approved for use by the state at a later time, each of the following: dimethyltryptamine; ibogaine; and mescaline.

## What is Psilocybin?

Psilocybin is a naturally occurring psychedelic compound found in more than 200 species of mushrooms,

Psilocybin is itself biologically inactive but is quickly converted by the body to psilocin, which has mind-altering effects.

# Timeline

- ▶ **November 2022 – Prop 122 passed by Colorado voters (53.64%)**
- ▶ **December 30, 2022 – decriminalized personal use and possession by 21+**
- ▶ **December 31, 2024 – licensing, certification, permitting and registration of businesses will be in place**
- ▶ **January 1, 2025 – licenses to be issued after this date**



## What can local jurisdictions NOT do?

- ▶ Cannot prohibit the establishment or operation of licenses within its boundaries.
- ▶ Cannot adopt ordinances or regulations that are unreasonable or conflict with the Colorado Natural Medicine Code.
- ▶ Cannot prohibit transportation on public roads by licensed individual.



# PROPOSED ORDINANCE

## ***Zoning***

- ▶ Only permitted in Industrial zoning districts (I-1 and I-2).
- ▶ Prohibited in Planning Unit Development (PUD) zoning districts, including PUDs that allow Industrial uses.

## ***Distancing Requirements***

- ▶ Prohibited from operating within one thousand (1,000) feet of: a child care center: preschool; elementary, middle, junior or high school; or a residential child care facility (collectively “school”).
- ▶ Prohibited from operating within one thousand (1,000) feet of: single-family dwellings, duplexes or multiple-family dwellings (collectively “residential dwellings”).

## ***Hours of Operation***

- ▶ 8:00 a.m. to 5:00 p.m.

**I-1 Zoning**

**I-2 Zoning**

