

**ARAPAHOE COUNTY PLANNING COMMISSION**  
**PUBLIC HEARING**  
November 19, 2024  
6:30 P.M.

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**SUBJECT: LDC24-006 NATURAL MEDICINE LAND USES AMENDMENT**

**JASON REYNOLDS, PLANNING DIVISION MANAGER**

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**PURPOSE AND REQUEST**

This county-initiated project proposes amending the Land Development Code (LDC) to incorporate rules for natural medicine, which includes psilocybin. The proposed changes would allow natural medicine businesses in many commercial and industrial zone districts, subject to buffer requirements around schools and childcare facilities. The rules also propose limiting in-home cultivation to no more than a 12-foot by 12-foot area; the state allows local jurisdictions to *increase* that area but not decrease it. The state will begin issuing natural medicine licenses at the beginning of 2025 and we hope to have our regulations in place by then. Staff is requesting a recommendation of approval from the Planning Commission on the draft regulations (Attachment 1).

**BACKGROUND**

In 2022, Colorado Voters approved Proposition 122, which legalized the supervised use of “natural medicine” at state-licensed facilities and decriminalized the use of certain plants or fungi, including psilocybin, for people 21 years of age and older. Unlike Amendment 64, which allowed retail marijuana in Colorado, Proposition 122 does not allow local jurisdictions to ban natural medicine businesses like they could with medical and recreational marijuana dispensaries or marijuana grows/production facilities.

In 2023, the Colorado Legislature approved Senate Bill 23-290, which provided additional guidance for natural medicine and elaborated on Proposition 122’s local preemption:

**12-170-112. Local Jurisdiction.** (1) A local jurisdiction shall not prohibit a facilitator from providing natural medicine services within its boundaries if the individual is a licensed facilitator pursuant to this Article 170.

(2) A local jurisdiction shall not adopt ordinances or regulations that are unreasonable or in conflict with this article 170.

**12-170-115. Preemption.** A local jurisdiction shall not adopt, enact, or enforce any ordinance, rule, or resolution that is otherwise in conflict with the provisions of this Article 170.

Local jurisdictions may regulate the time, manner, and place of natural medicine businesses as long as they are not unreasonable and do not conflict with the statute. The state will begin issuing licenses to Natural Medicine businesses in January 2025 and our goal is to adopt local regulations by then.

On July 29, 2024, staff presented alternatives and recommendations at a Board study session; the Board directed staff to draft regulations for review and adoption before the end of the year.

## **DISCUSSION AND PROPOSED CHANGES**

Given the statutory requirement that local regulations must not conflict with the state's rules or be unreasonable, the draft regulations apply the state rules and clarify where natural medicine businesses can be located in Arapahoe County. Proposition 122 and Senate Bill 23-290 do not authorize any retail sales. They decriminalize psilocybin and similar substances for personal use and allow natural medicine to be administered on-site in a licensed facility. The state has adopted extensive regulations for licensing, security, operations, record-keeping, and location.

The Colorado Department of Revenue rulemaking describes the requirements for different types of natural medicine businesses, including record keeping and security:

<https://drive.google.com/file/d/12uaNIFEVeTaJeDRP5rKjlkNgKz0o1x7S/view?usp=sharing>

The Colorado Department of Regulatory agencies rulemaking describes the various types of natural medicine licenses, including facilitator training requirements:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=11610&fileName=4%20CCR%20755-1>

The proposed regulations would allow natural medicine businesses as permitted uses in certain zone districts while requiring buffers from uses such as schools and child care centers.

### **Permitted Zone Districts**

The state defines four types of natural medicine businesses:

**Natural Medicine Healing Center:** provides on-site natural medicine services through a state licensed facilitator to participants 21 years of age or older. These businesses will function similarly to a medical office where therapy services are provided. Participants will typically visit the site several times: for a preparation session, an administration session, and a follow-up integration session. The administration sessions can last up to six hours because the participants must not be under the influence of the medicine when they leave the site.

The proposed Arapahoe County regulations would allow these businesses in areas where office uses are permitted. They also allow a Natural Medicine Healing Center to cultivate/manufacture their own medicine, as long as the cultivation/production area is no larger than 20% of the total floor area.

The proposed regulations would allow natural medicine healing centers as a permitted use in the B-1 (Administrative and Professional Offices District), B-3 (Neighborhood and Community Business District), B-4 (Specialty Commercial District), B-5 (Regional Commercial District), I-1 (Light Industrial District), I-2 (Heavy Industrial District), and in PUD zoning where office uses are allowed.

**Natural Medicine Cultivation Center:** cultivates natural medicine for transfer and distribution to natural medicine healing centers, natural medicine product manufacturers, or other natural medicine cultivation centers. Senate Bill 23-290 also clarified that natural medicine is not a farm product. Natural medicine cultivation centers do not require a large footprint, energy usage, or generate significant odors like indoor marijuana grows. The proposed regulations would allow cultivation centers as a permitted use in areas with light industrial: B-4, I-1, and I-2, and PUD

zoning where light industrial is allowed.

**Natural Medicine Product Manufacturer:** manufactures regulated natural medicine products (following state statute and state rules); may be combined with a cultivation center. The proposed regulations treat this use similar to light industrial. The proposed regulations would allow cultivation centers as a permitted use in areas with light industrial: B-4, I-1, and I-2, and PUD zoning where light industrial is allowed.

**Natural Medicine Testing Facility:** performs testing and research on natural medicine. The proposed regulations would allow this use in areas where laboratories are permitted: B-3, B-4, B-5, I-1, I-2, and PUD zoning where laboratories are allowed.

### **Features of the Proposed Regulations**

The proposed regulations include buffer requirements, operational standards, and rules for noncommercial cultivation.

#### **Buffer Requirements**

All natural medicine businesses must be located at least 1,000 feet from a child care center; preschool; elementary, middle, junior, or high school; and/or a residential child care facility (in-home daycare). Per state law, this buffer distance is measured using direct pedestrian access to the facility rather than a simple buffer radius. The attached maps show areas affected by the school/child care buffers.

#### **Operational Standards**

All natural medicine businesses must operate in accordance with state licensing requirements. They must not cause odors, smoke, heat, glare, or light detectible offsite or in an adjacent dwelling unit or public area. They are also prohibited as home occupations because six hour administration sessions could create parking issues if those sessions are facilitated in a residential area. Finally, based on Board direction, the proposed regulations do not restrict hours of operation. Healing Centers could set business hours that would work for their participants' work schedules.

#### **Noncommercial Cultivation**

State law allows non-commercial cultivation up to 144 square feet (12 feet by 12 feet) in residential uses. Statute allows local jurisdictions to increase the allowable area but not reduce it. Given that a typical mushroom started kit requires two shoebox-sized six quart plastic totes, 144 square feet of total area provides ample room for private cultivation and the regulations do not increase the allowable area. The proposed regulations require cultivation to meet state requirements, which include conducting cultivation withing a dwelling unit or an enclosed and locked accessory structure. The cultivation must not generate any noise, odor, or light detectible from offsite.

Finally, the regulations provide definitions for natural medicine businesses.

### **PUBLIC AND REFERRAL COMMENTS**

The proposed regulations (Attachment 1) were posted on the County website for public comment in September 2024. Staff referred the draft regulations to County agencies, the East Arapahoe County Advisory Planning Commission, and nearby jurisdictions. Outside referral comments are summarized in the attachment. The City of Centennial recommended a prohibition on outside administration areas at Natural Medicine Healing Centers. While the state's rules require that any

outside administration areas be planned for safety and managed with signage/barriers, the state does not prohibit outside administration areas. If Planning Commission would like to consider requiring all activities be conducted indoors or within a fully enclosed area (with fencing or an interior building courtyard), that could be incorporated into the recommendation.

### **STAFF FINDINGS**

The proposed changes provide guidance for natural medicine businesses in Arapahoe County. They create opportunities for those businesses and mitigate impacts by requiring buffers from certain uses, as well as setting operational standards to reduce the potential for odor, light, and noise.

### **STAFF RECOMMENDATION**

Considering the findings and other information provided herein, Staff recommends approval of Case No. LDC24-006, natural medicine regulations, subject to the following stipulation:

1. Staff, with the approval of the County Attorney, may correct typographical errors and make such revisions to the Code amendment as are necessary to incorporate the approved amendment into the Land Development Code for publication.

### **ATTACHMENTS**

1. Proposed LDC Amendments
2. Outside Referral Summary and Comments
3. Natural Medicine Zoning and Buffers Map

### **MOTIONS**

#### **Recommend Approval:**

I move to recommend approval of Case No. LDC24-006, natural medicine regulations, subject to the following stipulation:

1. Staff, with the approval of the County Attorney, may correct typographical errors and make such revisions to the Code amendment as are necessary to incorporate the approved amendment into the Land Development Code for publication.

#### **Recommend Denial:**

I move to recommend denial of Case No. LDC24-006, natural medicine regulations.