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PLANNING COMMISSION AGENDA COMMUNICATIONS

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

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.

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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.

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