



STAFF REPORT

City Clerk's Office

To: Planning Commission
City Council

From: Dylan A. Gibson, City Clerk

Subject: Ordinance 2656: Natural Medicine Land Development Code Amendment

Date: December 3, 2024 – Planning Commission
December 16, 2024 – City Council

1 Summary

Ordinance 2656 pertains to proposed amendments to the Land Development Code (LDC) regarding the regulation of natural medicine as permitted by state law.

If approved, Ordinance 2656 would amend the LDC to permit Natural Medicine Centers in the C-1, C-2, C-3, MU-1, and I-1 zone districts with limitations on hours of operation. It would also permit natural medicine cultivation, project manufacturing and testing uses in the I-1, I-1S, I-2, and I-3 zone districts.

Per Section 10.3 of the Commerce City Charter, Planning Commission is charged with reviewing the proposed LDC amendment and making recommendations to City Council on the proposed changes. The proposed amendments do not require a public hearing.

2 Background Information

At the November 2022 general election, Proposition 122 was on the ballot to ask voters whether or not to decriminalize and provide for regulated access of certain psychedelic plants and fungi. Colorado voters approved Proposition 122 by over 53% and the licensing and regulating of "natural medicine" will begin on December 31, 2024.

Over the past two years, Governor Polis and the Colorado State Legislature have passed amendments to the Colorado Revised Statutes to provide for the regulation of natural medicine. The Colorado Department of Revenue (DOR) and the Department of Regulatory Agencies (DORA) have recently approved the final rules and regulations for the licensing of natural medicine facilities and facilitators.

To start, natural medicine will not mirror the state's marijuana regulatory framework. A person will not be able to walk into a retail store and purchase natural medicine to take home or off-site to recreationally consume at their home or elsewhere. Instead, natural medicine will function similar to any other medical or therapeutic treatment that is administered by a licensed professional. Natural medicine can only be administered by a state licensed "facilitator" at a state licensed facility.

Facilitators, regulated by DORA, must have at least 150 training hours from state approved training courses on a variety of topics. A facilitator may be a "clinical facilitator" which is a state licensed therapist, doctor, or other already licensed professional that can administer natural medicine to patients in the course of their existing practice. A "training facilitator" is someone that is working towards facilitator certification and administering natural medicine to patients under the supervision of an already licensed facilitator.

Facilities, regulated by DOR, are any locations which natural medicine is cultivated, processed, tested, or administered. "**Healing centers**" are facilities where a facilitator intakes patients, administers natural medicine to a patient, or conducts "integration sessions" with patients. Intake sessions are when the facilitator and patient meet to discuss the use and effects of natural medicine and plan for an administration session. Administration session is when a facilitator provides natural medicine to the patient and is present during the effects of natural medicine to ensure patient safety. An integration session is when the facilitator and patient meet after the administration session to process the effects of the administration session. Facilities may also be a natural medicine cultivation, natural medicine products manufacturer, or a natural medicine testing facility. Facilities may not be within 1,000 feet of any licensed child care facility, preschool, elementary, middle, or high school, or any residential child care facility.

The language in Proposition 122 specifically states that local jurisdictions **cannot** prohibit or otherwise adopt "unreasonable regulations" regarding natural medicine. The only regulatory role for local jurisdictions is the regulations of "time, place, or manner" of natural medicine. Local jurisdictions may opt to not regulate natural medicine at all and therefore rely on the state's 1,000ft setback from the above facilities.

Summary of LDC Amendments

Exhibit A of Ordinance 2656 contains the proposed LDC amendment. Exhibit B shows the amendments in a redline version. The proposed amendment to the LDC accomplishes the following in accordance with state law:

- Creates two new land use types: "Healing Centers" and "Natural medicine cultivation, manufacture, or testing facilities."
- Provides definitions of these land uses that point back to state law.
- Given that Healing Centers operate similarly to medical offices given they have to have professional and licensed oversight, permits Healing Centers by right in the C-1, C-2, C-3, MU-1, and I-1 zone districts. These are zone districts that allow for medical offices by right.
- Healing Centers will only be permitted to operate between the hours of 8AM and 8PM.

- Given the similarity of this use with marijuana cultivation and testing facilities, “natural medicine cultivation, manufacturer, or testing facilities,” would be permitted by right in the I-1, I-1S, I-2 and I-3 zone districts where the similar marijuana uses are permitted by right.

3 Staff Recommendation

Given the limitations of state law regarding the regulation of these uses and provided the similarity in operations and external effects, staff is recommending the City regulate the “natural medicine cultivation, product manufacturer, and testing facilities” in the same manner the City currently regulates marijuana facilities of similar uses in the I-1, I-1S, I-2, I-3 zoning districts. Staff further recommends regulating, “healing centers,” in the same manner the City currently regulates other medical offices in the C-1, C-2, C-3, MU-1, and I-1 zoning areas with the limiting of operations from 8am to 8pm. Ordinance 2656 was drafted with this framework in mind, as such, Staff is recommending approval.

Planning Commission has the authority to recommend approval, recommend approval with suggested revisions (conditions), or recommend denial of the Ordinance.

City Council has final approval authority on the Ordinance.

4 Potential Motions

Motion for Approval:

- a. Planning Commission
 - i. I move to recommend to City Council approval of Ordinance 2656, an Ordinance amending Sections 21-5200, 21-5239.5, and 21-11200 of the Land Development Code pertaining to the regulation of Natural Medicine Healing Centers and Natural Medicine Cultivation, Manufacture, and Testing Facilities.
- b. City Council
 - i. I move to approve of Ordinance 2656, an Ordinance amending Sections 21-5200, 21-5239.5, and 21-11200 of the Land Development Code pertaining to the regulation of Natural Medicine Healing Centers and Natural Medicine Cultivation, Manufacture, and Testing Facilities, on first reading.

Motion for Denial:

- a. Planning Commission
 - i. I move to recommend to City Council denial of Ordinance 2656, an Ordinance amending Sections 21-5200, 21-5239.5, and 21-11200 of the Land Development Code pertaining to the regulation of Natural Medicine Healing Centers and Natural Medicine Cultivation, Manufacture, and Testing Facilities.
- b. City Council
 - i. I move to deny Ordinance 2656, an Ordinance amending Sections 21-5200, 21-5239.5, and 21-11200 of the Land Development Code pertaining to the regulation

of Natural Medicine Healing Centers and Natural Medicine Cultivation, Manufacture, and Testing Facilities, on first reading.

Motion for Continuance

- a. Planning Commission
 - i. I move to continue discussion of Ordinance 2656 to:
 - 1. The next regularly schedule Planning Commission meeting; or
 - 2. A date certain.
- b. City Council
 - ii. I move to continue discussion of Ordinance 2656 to:
 - 3. The next regularly schedule City Council meeting; or
 - 4. A date certain.