



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: January 9, 2025

AGENDA TITLE

Continued second reading and consideration of a motion to amend and adopt, as an emergency measure, Ordinance 8665 amending Title 9, “Land Use Code,” B.R.C. 1981, to implement Senate Bill 23-290 and locally permit and regulate natural medicine businesses, defined in the state bill as Natural Medicine Healing Centers and Cultivation, Production, and Testing Facilities, and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Hella Pannewig, Senior Counsel
Mark Woulf, Assistant City Manager
Brad Mueller, Director of Planning & Development Services
Charles Ferro, Senior Planning Manager
Karl Guiler, Senior Policy Advisor

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider as an emergency measure Ordinance 8665, which would implement Colorado Senate Bill 23-290 to locally permit natural medicine businesses, defined in the state bill as Natural Medicine Healing Centers, Cultivation, Production, and Testing Facilities. The proposed ordinance, **Attachment A**, would classify natural medicine healing centers as “medical offices” and cultivation, production, and testing facilities as “light manufacturing” uses, and would enable regulating the natural medicine businesses analogous to these existing uses.

On Dec. 19, 2024, City Council held a public hearing on Ordinance 8665. Following a discussion about whether or not to waive the 1,000-foot distance state requirement from any child care center, preschool, elementary, middle, junior, or high school, or a residential child care facility; whether to require the distance from a more limited list of uses; or whether a different distance should be applied, the City Council made a motion to continue and asked staff to draft amendments to the ordinance as follows:

- Revise the definition of natural medicine business so as to waive the 1,000-foot distance requirement established is a state rule for childcare facilities, residential childcare facilities, preschools, and elementary schools, and
- Modify the distance requirement to be 500 feet middle, junior and high schools.

Ordinance 8665 in [Attachment A](#) includes these requested changes. [Attachment B](#) shows the modified 500-foot distance from middle, junior, and high schools, as requested by City Council.

Staff recommends that the ordinance be amended and passed by City Council on January 9, 2025, as an emergency measure, so that the regulations are in place immediately, anticipating the state’s imminent issuing of natural medicine business licenses in 2025. If the ordinance is not passed on emergency, it would go into effect 30 days later. The state has indicated that licenses would start being issued in February and March of 2025.

For a full background on natural medicine and the state legislation, summaries of community outreach on the topic, and the staff’s analysis of Ordinance 8665, the Dec. 19 memorandum may be referenced at the link below:

[Dec. 19, 2024, City Council memorandum on Natural Medicine Ordinance 8665](#). The ordinance as read on first reading is attached as Attachment A to the Dec. 19, 2024, memorandum.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to amend and adopt, as an emergency measure, Ordinance 8665 amending Title 9, “Land Use Code,” B.R.C. 1981, to implement Senate Bill 23-290 and locally permit natural medicine businesses, defined in the state bill as Natural Medicine Healing Centers, Cultivation, Production, and Testing Facilities, and setting forth related details.

BACKGROUND

On Dec. 19, 2024, City Council held a public hearing on Ordinance 8665. The primary concern discussed by council related to avoiding psilocybin from falling into the hands of the community's youth and thus, the discussion focused on schools.

Council members discussed whether to vary or waive state distance requirements for buildings where natural medicine services are provided. State law establishes a 1,000 foot distance requirement to child care centers; preschools; elementary, middle, junior, and high schools; and residential child care facilities. A municipality may vary the distance restrictions or eliminate one or more types of schools from the distance restrictions. Following a recommendation by the Planning Board, staff had proposed and drafted Ordinance 8665 so as to eliminate the state's 1,000-foot distance requirements from schools and child care facilities. The ordinance was read on first reading including this staff recommendation.

Three council members expressed that a more cautious approach should be considered as it is difficult to apply additional restrictions down the road, favoring distance restrictions for elementary, middle, junior, and high schools. Four council members were supportive of the staff recommendation to entirely eliminate the distance restrictions for these schools and facilities. Two council members were interested in finding a middle ground.

The topic of overnight stays in natural medicine businesses and addiction recovery facilities was also discussed. Overnight stays are already permitted in addiction recovery facilities and are recommended to be allowed for natural medicine businesses. One council recommended that a distance requirement be considered for addiction recovery facilities in future land use code updates.

Following a discussion about whether to waive the 1,000-foot distance state requirement from any child care center, preschool, elementary, middle, junior, or high school, or a residential child care facility; whether to require the distance from a more limited list of schools and facilities; or whether a different distance should be applied, the City Council made a motion to continue and directed staff to draft amendments to the ordinance as follows:

- Revise the definition of natural medicine business so as to waive the 1,000-distance requirement established is a state rule for child care facilities, residential childcare facilities, preschools, and elementary schools; and
- Modify the distance requirement to be 500 feet for middle, junior and high schools.

When the drafting of these changes became complicated, the council moved to continue the item as follows:

Motion to continue Item 5A, the second reading of Ordinance 8665, with direction for staff to draft amendments to the ordinance based on council direction.

For a full background on natural medicine and the state legislation, summaries of community outreach on the topic, and the staff’s analysis of Ordinance 8665, the Dec. 19 memorandum may be referenced at the link below:

[Dec. 19, 2024, City Council memorandum on Natural Medicine Ordinance 8665](#)

ANALYSIS

Staff is recommending that Ordinance 8665 be adopted on January 9, 2025, as an emergency measure that is effective immediately, so that zoning standards are in place by the time the state begins issuing licenses in 2025. Emergency measures require at least two third of City Council members to vote for the ordinance. Non-emergency ordinances take effect no sooner than 30 days following their adoption. Staff finds it necessary for the preservation of the public peace, health, and property in Boulder to establish zoning standards for these businesses before the state begins reviewing applications and issuing licenses in 2025.

A summary of the ordinance is as follows.

SUMMARY OF PROPOSED CHANGES IN ORDINANCE 8665

Based on City Council’s direction from August 1, 2024, and the specific motions from Dec. 19, 2024, community input, and research, staff has prepared draft Ordinance 8665, which is found in **Attachment A**. Proposed Ordinance 8665 would:

- Regulate natural medicine healing centers as a “Medical office” use. Like other medical offices, they would be permitted by-right in most mixed-use, businesses, and downtown zones, but would require Use Review if proposed within some residential zones not including low density residential zones (see **Figure 1** below for the zones where it would be an allowable use, a Use Review use, or prohibited).
- Regulate Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities as “Light manufacturing” uses. These uses would be by-right in the industrial zones (see **Figure 2** below for the zones where it would be an allowable or prohibited use).
- Adds new definitions in Title 9 for “Natural Medicine businesses” and updates the definitions of medical office and light manufacturing to recognize natural medicine businesses.
- If amended on January 9 based on direction from December 19, require that buildings where natural medicine services are provided are located at least 500 feet from any middle, junior, or high school. This includes some elementary schools that are included within the same facility as a middle or junior high school. See **Attachment B** for the updated map. This requirement is implemented by modifying the state’s 1,000-foot distance requirement through the following

modification to the proposed natural medicine business definition, which is below:

“Natural medicine business means a business that is licensed by the state licensing authority for natural medicine as a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility pursuant to the Colorado Natural Medicine Code in Article 50 to Title 44, C.R.S. and associated state rules. In the City of Boulder, a building where natural medicine services are provided may not be located within 500 feet of a middle, junior, or high school. A building where natural medicine services are provided may be located within one thousand feet of a child care center, preschool, elementary school, or a residential child care facility. This is a variation of the distance restrictions imposed by C.R.S. 44-50-302(1)(d)(I) for middle, junior, and high schools and an elimination of child care centers, preschools, elementary schools, and residential child care facilities from the application of the distance restrictions established by or under that law. The distance from middle, junior, and high schools shall be computed as established in C.R.S. 44-50-302(1)(d)(II).”

The proposed ordinance would not:

- Require a specific distance from residential uses.
- Require a local license regime.

A = Allowed C = Conditional Use U = Use Review [] = Specific Use Standards Apply - = Prohibited																												
Zoning District	RR-1, RR-2, RE, RL-1		RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5		RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3		IS-1, IS-2	IG	IM	IMS
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4			
Medical office	-	U	U	U	-	U	U	-	-	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	[A]	A	A	-	[C]	-	-			

Figure 1- Zoning districts where medical offices (healing centers) would be allowable uses, Uses Review uses, or prohibited uses.

A = Allowed		C = Conditional Use				U = Use Review				[] = Specific Use Standards Apply				- = Prohibited											
Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS
Use Module	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4
Light manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	[A]	-	-	-	[A]	-	-	-	-	[A]	A	A	A

Figure 2- Zoning districts where light manufacturing (cultivation, production, or testing facilities) would be allowable or prohibited uses.

These changes reflect the requests of City Council on Dec. 19, 2024. If adopted on emergency on Jan. 9, 2024 (requires two thirds vote of City Council), the ordinance would go into effect immediately putting the new rules into effect before any likely issuance of natural business licenses by the State of Colorado.

If the ordinance is not passed on emergency, the ordinance would require a third reading before it may be adopted and would go into effect 30 days after adoption on third reading. The state has indicated that licenses would start being issued in February and March of 2025.

ATTACHMENTS

- Attachment A: Proposed amended emergency Ordinance 8665
- Attachment B: Map showing modified 500-foot distance from middle, junior, and high schools

ORDINANCE 8665

AN EMERGENCY ORDINANCE AMENDING TITLE 9, "LAND
USE CODE," B.R.C. 1981, TO IMPLEMENT SENATE BILL 23-
290 AND LOCALLY PERMIT AND REGULATE NATURAL
MEDICINE BUSINESSES, DEFINED IN THE STATE BILL AS
NATURAL MEDICINE HEALING CENTERS AND
CULTIVATION, PRODUCTION, AND TESTING FACILITIES,
AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Section 9-16-1, "General Definitions", B.R.C. 1981, is amended to read:

9-16-1. - General Definitions.

- (a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title unless a term is defined differently in this chapter.
- (b) Terms identified with the references shown below after the definition are limited to those specific sections or chapters of this title:
 - (1) Airport influence zone (AIZ).
 - (2) Floodplain regulations (Floodplain).
 - (3) Historic preservation (Historic).
 - (4) Inclusionary housing (Inclusionary Housing).
 - (5) Solar access (Solar).
 - (6) Wetlands Protection (Wetlands).
 - (7) Signs (Signs).
- (c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

K—O

...

Light manufacturing means facilities for the manufacturing, fabrication, processing, or assembly of products, provided that such facilities are completely enclosed and provided that any noise, smoke, vapor, dust, odor, glare, vibration, fumes, or other environmental contamination produced by such facility is confined to the lot upon which such facilities are located and is regulated in accordance with applicable city, state, or federal regulations. Light manufacturing includes natural medicine businesses that are licensed by the state licensing authority for natural medicine businesses as a natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility. Light manufacturing may include a showroom or ancillary sales of ~~products related to the items~~ manufactured on-site unless contrary to other laws and regulations.

...

Natural medicine business means a business that is licensed by the state licensing authority for natural medicine as a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility pursuant to the Colorado Natural Medicine Code in Article 50 to Title 44, C.R.S. and associated state rules. In the City of Boulder, a building where natural medicine services are provided may not be located within 500 feet of a middle, junior, or high school. A building where natural medicine services are provided may be located within one thousand feet of a childcare center, preschool, elementary school, or a residential childcare facility. This is a variation of the distance restrictions imposed by C.R.S. 44-50-302(1)(d)(I) for middle, junior, and high schools and an elimination of childcare centers, preschools, elementary schools, and residential childcare facilities from the application of the distance restrictions established by or under that law. The distances from middle, junior, and high schools shall be computed as established in C.R.S. 44-50-302(1)(d)(II).

...

Office, medical means any of the following:

- (1) ~~the~~ A clinic or office of physicians, medical doctors, chiropractors, or dentists licensed to practice medicine or dentistry in the State of Colorado where the primary use is the delivery of health care services, where sale of merchandise is incidental to the delivery of services;
This use includes
- (2) A natural medicine business licensed as a natural medicine healing center where a state licensed facilitator provides and supervises natural medicine services, including administration of natural medicine, without any retail sale of natural medicine consistent with state law-, and This use also includes
- (3) ~~addition~~ An addiction recovery facilities facility that provides for the treatment of persons having drug or alcohol abuse problems under the supervision of professional health care or social services providers.

1 With the exception of addiction recovery facilities and natural medicine healing centers which
2 may permit short-term overnight stays, no overnight accommodations are provided in medical
3 offices.

4 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
5 the residents of the city, and covers matters of local concern.

6 Section 3. The Colorado Natural Medicine Code (“Code”) allows for the establishment
7 and state licensing of natural medicine businesses in Colorado. Pursuant to said Code, local
8 jurisdictions may not prohibit the operation of natural medicine businesses in their jurisdiction,
9 but may enact ordinances governing the time, place, and manner of the operation of state
10 licensed natural medicine businesses. The Code requires state processing of license applications
11 for natural medicine businesses by December 31, 2024. It is necessary for the preservation of the
12 public peace, health, and property in Boulder to establish zoning standards for such businesses
13 prior to review and issuance of any state licenses. To have such zoning standards in place before
14 state licenses are reviewed and issued, the requirements of Subsection 9-1-5(a), B.R.C. 1981, are
15 waived for the purposes of this ordinance. This is the justification for the adoption of this
16 ordinance as an emergency measure.

17 Section 4. The city council deems it appropriate that this ordinance be published by title
18 only and orders that copies of this ordinance be made available in the office of the city clerk for
19 public inspection and acquisition.
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1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 5th day of December, 2024.

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4
5 Aaron Brockett,
Mayor

6 Attest:

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8 Elesha Johnson,
City Clerk

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10 READ ON SECOND READING AND CONTINUED this 19th day of December 2024.

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12
13 Aaron Brockett,
Mayor

14 Attest:

15
16 Elesha Johnson,
City Clerk

1 READ ON CONTINUED SECOND READING, AMENDED, PASSED, AND
2 ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRD'S COUNCIL MEMBERS
3 PRESENT this 9th day of January 2025.

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6 _____
Aaron Brockett,
Mayor

7 Attest:

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Elesha Johnson,
10 City Clerk
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