

**TOWN OF HOTCHKISS
ORDINANCE 2024-10**

**AN ORDINANCE OF THE TOWN OF HOTCHKISS ADOPTING
LAND USE REGULATIONS FOR NATURAL MEDICINE
BUSINESSES AND DECLARING AN EMERGENCY**

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town of Hotchkiss (the “Town”) has the power to regulate buildings and other structures for the purposes of promoting health, safety, and the general welfare of the community.

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town has general police powers.

WHEREAS, pursuant to C.R.S. § 31-15-103, the Town has the general authority to make ordinances which are necessary and proper to provide for the safety, preserve public health and improve the morals, order, comfort and convenience of the municipality and the inhabitants thereof.

WHEREAS, Colorado voters approved a citizens’ initiative known as “Proposition 122: Access to Natural Psychedelic Substances,” which is now codified at C.R.S. § 12- 170-101 et. seq.;

WHEREAS, the with the codification of Proposition 122, there is a decriminalization of the personal possession, growing, sharing, and use, but not the sale, of certain natural medicine substances;

WHEREAS, Colorado law allows for the supervised use of psychedelic mushrooms by individuals aged 21 and over at licensed facilities and requires the state to create a regulatory structure for the operation of these licensed facilities;

WHEREAS, the state law prohibits local governments from banning licensed facilities, services, and use of natural psychedelic substances permitted with the passage of Proposition 122;

WHEREAS, local governments are permitted to adopt local regulations or governing the time, place and manner of operation of natural medicine facilities;

WHEREAS, the Colorado State Legislature enacted Senate Bill 23-290, which is codified at C.R.S. § 44-50-101 et. seq. (the “Act”), to create the regulatory structure for the operation of these licensed facilities, which includes the licensing and registration of facilities and related businesses that provide for the use, cultivation, manufacture and testing of these substances;

WHEREAS, the Act provides that the “state licensing authority” as defined by the Act, will “not receive or act upon an application for the issuance of a natural medicine business license” ... “[f]or a location in an area where the cultivation, manufacturing, testing, storage,

distribution, transfer, and dispensation of natural medicine or natural medicine product as contemplated is not permitted under the applicable zoning laws of the local jurisdiction;”

WHEREAS, the Act further provides that the state licensing authority shall not receive or act upon an application for the issuance of a Natural Medicine Business License “[i]f the building where natural medicine services are provided within one thousand feet of a childcare center; preschool; elementary, middle, junior or high school; or a residential child care facility...”

WHEREAS, the Act further provides that “the governing body of a municipality, by ordinance; . . . may vary the distance restrictions imposed by [the Act] . . . for a License or may eliminate one or more types of schools or facilities from the application of a distance restriction established by or pursuant to [the Act]...;”

WHEREAS, the Town has certain zone districts defined under Section 16.04.110 of the Hotchkiss Municipal Code;

WHEREAS, the Board of Trustees of the Town of Hotchkiss desires to enact this ordinance to establish the appropriate areas for the operation of natural medicine businesses that are issued a State of Colorado license pursuant to Act; and

WHEREAS, in consideration of the State of Colorado by and through the Department of Revenue issuing licenses to regulate natural medicine as early as January, 2025, the Board of Trustees wishes to adopt this Ordinance as an emergency, in order to enact zoning regulations prior to the issuance of licenses for natural medicine businesses.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOTCHKISS, COLORADO, AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Board of Trustees in support of the enactment of this Ordinance.

Section 2. Addition to the Town Code.

A. Natural Medicine shall be added to the Town Zoning Code as follows:

Article VIII: Definitions:

The following definitions shall apply to the terms of this Chapter:

NATURAL MEDICINE BUSINESS: means any of the following entities as defined by state law, as amended from time to time:

- i. Healing Center: A facility where an entity is licensed by the State Licensing Authority pursuant to article 50 of title 44 that permits a Facilitator to

provide and supervise Natural Medicine Services for a Participant.

- ii. Natural Medicine Cultivation Facility: A location where Regulated Natural Medicine is grown, harvested, and prepared in order to be transferred and distributed to either a Healing Center, Facilitator, a Natural Medicine Products Manufacturer, or to another Natural Medicine Cultivation Facility.
- iii. A Natural Medicine Products Manufacturer: A person who manufactures Regulated Natural Medicine Products for transfer to a Healing Center, Facilitator, or to another Natural Medicine Products Manufacturer.
- iv. A Natural Medicine Testing Facility: A public or private laboratory licensed, or approved by the Division, to perform testing and research on Regulated Natural Medicine and Regulated Natural Medicine Products.

Article IX Establishment and Intent of Zoning Districts

Natural Medicine. Location of Natural Medicine Businesses. Natural Medicine Businesses are permissible in accordance with state law except as provided by the following zoning and distances restrictions:

- a. Natural Medicine Businesses shall not be
 - 1. Within 1,000 feet of a licensed childcare facility;
 - 2. Within 1,000 feet of any preschool, elementary, middle, junior, or high school, or a residential childcare facility; or
 - 3. Within the following residential zone districts:
 - i. R-1 Residential.
 - ii. R-2 Residential Mixed Uses.
- b. The distances in subsections a.1, a. 2, and a.3 shall be measured as a straight line from the nearest property line.

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., Monday through Friday.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Ordinance Effect.

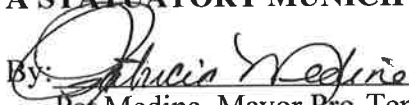
Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 6. Effective Date.

This Ordinance shall take effect upon passage.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE by affirmative vote of 3/4ths of the members of the Board of Trustees this 12th day of December, 2024.

**TOWN OF HOTCHKISS, COLORADO,
A STATUTORY MUNICIPALITY**

By:  _____
Pat Medina, Mayor Pro-Tem

ATTEST:

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Ginger Redden, Town Clerk

Approved As To Form:

BO JAMES NERLIN, Town Attorney