



PLANNING COMMISSION REGULAR MEETING
Zoom Webinar and/or Town Council Chamber
3 S. Timber Ridge Parkway, Severance, CO 80550

AGENDA
PLANNING COMMISSION REGULAR MEETING
Wednesday, August 20, 2025, at 6:00 PM

A. CALL TO ORDER

1. Roll Call
2. Pledge of Allegiance
3. Approval of Agenda
4. Approval of Minutes 6.18.25
5. Public Comment

The purpose of the Public Comment is for members of the public to speak to the Planning Commission on any subject not scheduled on the agenda. To accomplish scheduled agenda items, comments should be limited to three minute for those attending in person or an appropriate time as deemed by the Chair. The Planning Commission shall make no decisions or take action on comments, but may choose to schedule the matter for a decision later. Those addressing the Planning Commission, please state your name and address. and sign-in.

B. REGULAR MEETING

1. **Planning Commission Training**
 - Discussion
 - Staff Presentation: Shani Porter, Planning Director
2. **Discussion regarding adopting a new Article 21 in Chapter 16 of the Town Municipal Code regarding local regulation of Natural Medicine and Amending Section 16.6.40.3 regarding Development Node use.**
 - Discussion
 - Staff Presentation: Shani Porter, Planning Director

C. COMMUNICATIONS

Commission approval may be sought for administrative actions in association with staff reports.

1. Town Attorney
2. Town Staff
3. Town Management
4. Commissioners
5. Chair

D. ADJOURN

Planning Commission MEETING
Wednesday, August 20, 2025, 6:00 PM (MDT)

The Planning Commission reserves the right to adjourn to a virtual-only meeting at their discretion should the need arise.

Registration URL

https://us02web.zoom.us/webinar/register/WN_8WAKbBepTvexQIKz59qmfA

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PLANNING COMMISSION REGULAR MEETING
Zoom Webinar and/or Town Council Chamber
3 S. Timber Ridge Parkway, Severance, CO 80550

REGULAR MEETING MINUTES
Wednesday, June 18, 2025, at 6:00 PM

Chair: Kris Quandt
Vice-Chair: Joe Pirrone
Commissioners: David Rau
Dan Spykstra
Julie Stout
Derek Grimes
Kevin Udy

Audience: Josh Olhava Ayres Associates, Kevin Rohrbough JR Engineering, Michael Farrington, Dayla Cook, Lisa Grimes

Staff:
Nicholas Wharton, Town Manager
Shani Porter, Planning Director
Sarah Jacobsen, Town Clerk
Erica Romberg, Town Attorney
Chris Messersmith, Town Engineer

A. CALL TO ORDER

1. Roll Call

Present: Chair Kris Quant, Vice-Chair Joe Pirrone, Commissioner David Rau,
Commissioner Dan Spykstra, Commissioner Julie Stout
Absent: Commissioner Kevin Udy, Commissioner Derek Grimes

2. Pledge of Allegiance

3. Approval of Agenda

4. Public Comment

The purpose of the Public Comment is for members of the public to speak to the Planning Commission on any subject not scheduled on the agenda. To accomplish scheduled agenda

items, comments should be limited to three minute for those attending in person or an appropriate time as deemed by the Chair. The Planning Commission shall make no decisions or take action on comments, but may choose to schedule the matter for a decision later. Those addressing the Planning Commission, please state your name and address. and sign-in.

5. Approval of May 21, 2025 Minutes

MOTION WAS MADE BY Vice-Chair Pirrone, seconded by Commissioner Stout to Approve the May 21, 2025 Meeting Minutes. All Commissioners present voting Yes.

MOTION PASSED

B. REGULAR MEETING

1. Bower North Annexation

- Legislative
- Staff Presentation: Shani Porter, Planning Director

Planning Director Shani Porter and property representative Justin Hay presented on item 1 and item 2 for Bower North.

The item was opened for public comment.

1. Dayla Cook, resident, spoke of her three concerns 1) property value with multi-family, 2) who the builder will be, 3) lack of commercial.

2. Lisa Grimes, resident, spoke about traffic concerns and if a light or round-around will be included.

3. Robert Nieves, resident, spoke about rural lots on the west side, and asked if there would be development plans west of those lots.

Kevin Rohrbough with JR Engineering responded to the concerns about the traffic study. Justin Hays responded to the residential concerns and questions.

Commissioner Stout asked about the sewer capacity. Chris Messersmith responded to the question with, there are upgrade requirements the applicant is aware of, and there will be an update to the Town's IGA with Windsor for wastewater treatment. Clarification on the concept plan and approval process was provided.

MOTION WAS MADE BY Commissioner Stout, seconded by Commissioner Spykstra to Approve the Bower North Annexation. All Commissioners present voting Yes.

MOTION PASSED

2. PUBLIC HEARING

Zoning: Bower North

- Quasi-Judicial
- Staff Presentation: Shani Porter, Planning Director

The Public hearing opened at 6:32 p.m.

No additional comments or public comment.

The Public hearing closed at 6:33 p.m.

MOTION WAS MADE BY Vice-Chair Pirrone, seconded by Commissioner Stout, to Approve Zoning of Bower North. All Commissioners present voting Yes.

MOTION PASSED

3. PUBLIC HEARING

Resolution No. PC 2025-09R: Text Amendments to the Land Use Code - Chapter 16 of the

Severance Municipal Code for purposes of reorganizing Article 6-10 Architecture Standards, Wireless, Oil & Gas, Solar and Flood

- Staff Presentation: Shani Porter, Planning Director
The public hearing opened at 6:34 p.m.
Josh Olhava presented the redline updates. No public comment.
The public hearing closed at 6:56 p.m.

MOTION WAS MADE BY Commissioner Stout, seconded by Vice-Chair Pirrone to Approve Resolution No. PC 2025-09R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Article 6-10 Architecture Standards, Wireless, Oil & Gas, Solar and Flood. All Commissioners present voting Yes.

MOTION PASSED

C. COMMUNICATIONS

Commission approval may be sought for administrative actions in association with staff reports.

1. Town Attorney
2. Town Staff
Shani Porter and Nicholas Wharton presented Certificates of Service to Commissioners Joe Pirrone, Julie Stout, and two Commissioners who were not present, Kevin Udy and Derek Grimes, thanking them for their service on the Planning Commission.
3. Town Management
4. Council Members
5. Chair

D. ADJOURN

The meeting adjourned at 7:03 p.m.

TOWN OF SEVERANCE

Kris Quandt, Chair

ATTEST

Sarah Jacobsen, Town Clerk



PLANNING COMMISSION INTRODUCTORY LEGAL & PROCEDURAL WORKSHOP

- Nina P. Williams, Town Attorney's office
- nina@wwfdlaw.com

Planning Commission: Who?

(Severance Municipal Code § 2-5-10 & 2-5-20)

- **Sec. 2-5-10. - Establishment/composition.**
- There is established a Planning Commission for the Town, which shall be composed of seven (7) resident members at large from the Town appointed by a majority vote of the Town Council.
- **Sec. 2-5-20. - Membership requirements.**
- (a) All members shall serve without compensation and shall serve at the pleasure of the Town Council.
- (b) All members shall hold no other Town office.



Planning Commission: Term of office; vacancies; removals

(Severance Municipal Code § 2-5-40)

- (a) The term of each appointed member shall be four (4) years or until a member's successor takes office, except that the terms of all existing members shall be extended for six (6) months (or until each replacement has been appointed and qualified), with the initial replacements after the expiration of such terms serving for four (4) years and six (6) months. After the expiration of all existing terms and the initial terms of each successor, all terms shall again run for four (4) years, each expiring in a year in which there is no regular municipal election.
- (b) Vacancies on the Planning Commission shall be filled by appointment for unexpired terms only.
- (c) Members may be removed by an affirmative vote of a majority of the Town Council.
- (d) Unless excused by the Planning Commission, a member shall be deemed to have vacated their position upon failure to attend required training or upon failure to attend three (3) regular meetings within a calendar year. A member shall, after being absent from two (2) regular meetings within a calendar year, be provided with written notice from the Mayor that such member shall be deemed to have vacated that person's position if absent from any other regular meeting that year.



Planning Commission: Procedure

(Severance Municipal Code § 2-5-50)

- The Planning Commission shall elect its chair from among the appointed members and create and fill such other of its offices as it may determine. The term of the chair shall be one (1) year, with eligibility for reelection. The Planning Commission shall hold meetings from time to time as necessary and adopt rules or policies for the method and procedure of conducting its meetings and for the transaction of business. It may also hold special meetings in whatever manner from time to time, as it shall deem necessary; a special meeting shall be at the call of the chair or upon the request of any three (3) of its members. The Planning Commission shall keep a record of its resolutions, transactions, findings and determinations, which shall be available for public inspection as required by law.



Planning Commission: Duties

(Severance Municipal Code § 2-5-60(a))



It shall be the duty of the commission to perform quasi-judicial review of land use applications when required under the provisions of the Severance Municipal Code and, periodically, to propose and recommend to Town Council a Comprehensive Plan for the physical development of the Town. The Comprehensive Plan shall be prepared in compliance with all applicable laws with the general purpose of providing for a coordinated development of the Town, which shall best promote the health, safety and general welfare of the Town's populace. In the preparation of the Comprehensive Plan, the commission shall have authority to conduct open, public hearings, conduct investigations, studies and surveys, prepare maps, charts, exhibits and reports as shall be necessary; and do and perform all other acts and duties necessary for the promotion of public interest and understanding of its programs.

Planning Commission: Duties (cont.)

(Severance Municipal Code § 2-5-60(b))



The commission may also serve in an advisory capacity to the Town Council in the following matters:

- (1) Opening, closing, vacating and abandoning streets, alleys and other public ways;
- (2) The location, character and use of public ways, grounds and spaces; the general location of major public buildings, structures and facilities;
- (3) The location, maintenance and operation of public ways including freeways, highways, streets, alleys, boulevards, parkways, waterways, airways, airports and other public transportation and transit facilities now or hereafter established;
- (4) The general location, character, extent and use of parks, playgrounds, community centers, squares, public buildings and structures;
- (5) The location and extent of routes and rights-of-way of public utilities, whether publicly or privately owned;
- (6) The acquisition, extension, widening, removal, vacating or abandoning of any of the foregoing ways, open spaces or buildings;
- (7) The study of a land use plan, showing the proposed general distribution, location and extent of residential areas, business areas, industrial areas and areas for recreation and education and other categories of public and private use of land;
- (8) Recommend standards and regulations affecting land subdivision;
- (9) Recommend regulations governing the use of land; the height, area, bulk and uses of public and private buildings and structures;
- (10) Recommend the adoption of traffic regulations; and
- (11) Recommend the adoption of regulations and ordinances calculated to promote, the healthful and convenient distribution of population in the Town, the promotion of public safety, the promotion and development of attractive overall civic design, the development of natural resources within the Town and the promotion and development of regional planning, growth and expansion.

Quasi-Judicial and Ex Parte:

De-mystifying Latin terminology



Quasi-Judicial versus Legislative

- **Legislative:** Broad application, announcing policy, making law
Amending municipal code, resolutions and proclamations
 - Examples: Amending Municipal Code, Short term rental ordinance; nuisance, building, zoning and land use codes
- **Quasi-judicial:** Narrow application, does not make policy, applies policy
Applies existing law to a specific set of facts (and specific property)
 - Examples: Specific land use approvals, licensing hearings, nuisance abatement



Quasi-Judicial and Ex Parte:

De-mystifying Latin terminology

Why is this so important?

- “No state shall deprive any person of life, liberty or property without Due Process of law”
(14th Amendment of the United States Constitution)
- So that everyone with an interest in the case, and all members of the decision-making body, hear the *same* evidence at the *same* time from the *same* sources
- To ensure opportunity for fair hearing before unbiased decision makers and that each of the members have the benefit of the same input
- Final decisions can be appealed by anyone adversely affected by decision (with legal standing)

Quasi-Judicial and Ex Parte:

De-mystifying Latin terminology



Impartiality is the standard. May be affected by:

- 1) **Ex parte Communications:** *defined as* communications between the Council/Commission/Board *and* one party, outside the presence of the other parties to the case, or affected individuals.
 - Eg) a neighbor comes up to you at Vecinos to express their concern with a certain development application
- 2) **Pre-judgment or bias:** You gave a speech or signed a petition advocating for a specific land use approval. You posted on Facebook that you will never approve any application with affordable housing. You have made clear that all your votes will be “anti” developer
- 3) **Conflict of Interest:** You (or immediate family) have a personal or private interest in the matter proposed (pecuniary interest, financial benefit)
 - Eg) Your spouse owns a restaurant seeking a liquor license



Quasi-Judicial and Ex Parte:

De-mystifying Latin terminology

How do you cure?

Either:

- 1) Recusal - or
- 2) Disclosure (on the record)

Ask yourself:

- Is your ability to decide the case fairly, impartially and based solely on the evidence presented at the hearing affected?
- Does an actual legal conflict exist?
- Does a perceived conflict exist?
- Did you express a pre-judgment bias?

 **Pro Tip:** When in doubt, ask your Attorney!

Quasi-Judicial and Ex Parte:

De-mystifying Latin terminology



Suggestions to ensure Impartiality:

- Follow the process set out in Code
 - Analyze, review and apply those factors or standards in an objective manner
 - As opposed to:* personal opinions, subjective feelings or individual preferences
- Base your decisions on the facts, law, evidence and testimony in front of you, properly in the record
- Public hearing creates a complete “record”
 - You are the fact finder/judge in QJ hearings
 - Whatever is in the record is what is properly considered
 - Should a decision be appealed, the District Court will review the record to determine a decision
 - Therefore, Deliberations are important
 - Consider “thinking out loud” during discussion and decision making so that your reasoning is included in the record



Reminder: In quasi-judicial proceedings, you serve as the judge!

A CONVERSATION ON QUASI-JUDICIAL AND EX PARTE ISSUES

The following is a transcript of a real-life (imaginary) conversation between a newly appointed municipal commission member and her municipal attorney, meeting over coffee for a little legal training. (It could happen. And, if it did, it might go something like this.)



My son has some Nike Kwazi high-tops; loves 'em.

Right. This is a little different. Quasi-judicial issues are those that apply or vary the legal requirements for a specific project, individual or property. Quasi-judicial issues involve the determination of the rights, duties, or obligations of specific people or property by applying the code or other law to the unique set of facts, all in the context of a hearing.

In contrast, think of an issue that affects the entire municipality, or a substantial portion of the population — that sort of issue is legislative — making law. Then, think of an issue that affects one homeowner, or one business owner, one particular party, or a singular piece of property — that sort of issue is quasi-judicial — applying the law to particular facts. For example, an ordinance authorizing short-term rentals in the municipality is a legislative issue. Your neighbor requesting a variance to build an addition to her home is a quasi-judicial issue.

It also may help to picture your commission acting as a judge, rather than as a legislator. The commission is not making or recommending new laws when it reviews a quasi-judicial issue, but it is rather applying existing laws to specific facts concerning one person or a discrete group of people rather than the entire neighborhood.

The most common quasi-judicial issues are zoning and land use decisions affecting an individual property. Other examples are

licensing hearings, for liquor licenses and marijuana business licenses, and hearings concerning nuisance abatement, towed vehicles, and tax liabilities.

I thought I was now a commissioner, not a "judge."

Well, think of it as if the entire commission is the judge, not just one single member. The decisions you make are important and can have a significant impact on your neighbors. Also, the commission's decision may be appealed to and reviewed by a higher court, just like a real judge's decision.

So, every time that we meet, we are having a public "hearing"?

Not necessarily. Sometimes the commission can be meeting to discuss and address a larger issue affecting the community, such as affordable housing or a change to a particular portion of the land use code. Often, the governing body will seek the input of the commission on these sorts of legislative issues, even though the ultimate authority to change the laws remains with the governing body. The commission acts as the "land use advisor" to the governing body, so they welcome your input on legislative topics. Meetings on these general topics are not "hearings," but they are open to the public. All of your meetings are open to the public. But when a meeting does include a public hearing, the commission is required to give a certain amount of notice prior to the hearing; the notice period may depend on the type of quasi-judicial issue being considered. Also, all evidence that the commission considers must be presented at the public hearing.

OK. So now I know what a quasi-judicial issue is. Why is it important that I know that?

Because if an issue is "quasi-judicial," there are certain procedures required to afford due process to those individuals who may be affected by the decision.

You also need to make sure that with quasi-judicial public hearings, you aren't having any ex parte communications.

A party at a commission meeting? Now we're talking! Tell me more about that.

Ha! I wish. It is not as fun as it sounds. Ex parte is an old Latin term meaning "from one part," or "concerning one party alone." An ex parte decision would be one decided by the judge or commission without requiring that all parties to the controversy be present. An ex parte communication is between the judge or commission and one party, and outside the presence of the other parties to the case, or affected individuals.

The prohibition against ex parte contacts in quasi-judicial hearings was developed to ensure that everyone with an interest in the case, and all members of the decision making body, hear the same evidence at the same time, from the same sources. It is to ensure basic notions of fairness and justice.

Wait. You're telling me that I have to block out my neighbors and friends who want to talk to me about something important? That seems wrong. I thought it was a good thing to talk to people, get the community sentiment — do my "homework" on an issue.

I know this all sounds frustrating, especially to a well-intentioned active community volunteer such as yourself. However, it is important to remember that this rule is designed to protect the rights of everyone involved: applicants, opponents, and other interested parties and residents who may be ultimately affected by your decision. It also ensures the opportunity for a fair hearing before unbiased decision makers, and that each of the other commissioners have the benefit of the same input.

I am still skeptical. What is the worst that could happen if I have an ex parte conversation?

Please don't give your lawyer a heart attack. This is actually a very important rule to follow. When a decision maker engages in ex parte discussions about a case, and then proceeds to participate and vote on the matter, anyone adversely affected by that decision (with legal standing, which we don't need to get into) could

appeal the decision to district court. If the appealing party proves that the commission failed to provide due process, the decision can be vacated and the matter sent back to the commission for a second look. Holding a second hearing is obviously costly, and creates a long delay for the applicant and for the community. And we did not even mention the negative press the city would inevitably receive.

Yikes! I wouldn't want to jeopardize the commission's decision. But what if someone says something to me before I tell them that I cannot talk about it? I cannot "un-hear" what I have already heard.

First, you would need to disclose the communication on the record, in as much detail as possible, at the beginning of the public hearing. If you truly and sincerely believe that the ex parte communication did not affect your ability to decide the case fairly, impartially, and based solely on the evidence presented at the hearing, you may be able to participate in the hearing after the disclosure. You and I should consult on this topic prior to the hearing. If you know that the ex parte communication has biased you, despite the fact that you have openly disclosed and discussed it, you should "recuse" or remove yourself from the hearing, discussion, and the vote.

What if I have a question before a hearing that I really want answered going into the hearing? Is there anything I can do to try to get it answered?

You can contact staff, me, or your other municipal attorneys. We can determine the best way to address the question.

Anything else you think I should know?

Please know that your attorneys are not trying to be annoying or needlessly picky when we bring up these distinctions or cautions. These rules exist not only to protect you, but more importantly, they are in place to ensure the kind of fairness and due process our constitution was built upon.

And I forgot my wallet. How much cash do you have?

Conducting Public Hearings

Goal:

- That Councilmembers/Commissioners and public attendees leave the public hearing feeling it was fair and their views were heard and appreciated.

Some Suggestions:

- Announce the rules, order of hearing, and applicant's rights at the beginning, then stick to rules.
- Assign time for public comment from the beginning.
- Suggest speakers do not repeat prior testimony if they can state they agree with an earlier speaker.
- Public testimony is to be directed to the Council/Commission – speakers may not ask questions to staff or the applicant or Council/PC (both staff and applicant will have an opportunity at the end of the testimony to answer questions from Council/PC)
- Make sure that all attendees at the public hearing know they have the right to speak.
- Give witnesses your full attention.
- Thank all the speakers for appearing.
- Don't discuss other applications that are in process.

Applicant Rights:

- To make a full presentation
- To present multiple witnesses
- To respond after public comment closes

1. Open Public Hearing
2. Staff report
3. Applicant presentation
4. Public Comment
5. Applicant rebuttal, closing statement (if applicable)
6. Staff rebuttal, closing statement (if applicable)
7. Council/Commission questions (if applicable)
8. Council/Commission Discussion and Deliberation
9. Call for Motion. Final vote/decision/action

Public Hearing Outline

Taking Action



"I move to approve/deny ... based upon..." (and with the following conditions

- You must take some kind of action (make a motion and vote on it)
- Cannot refuse to make a motion or do anything, and move on (applicant has the right that their application moves on and is considered)
- Amendments to motions: must be germane to the main motion; good way to add one or a series of conditions



Importance of "Findings" and reasons for Approval or Denial

- "[A] record of proceedings before the Board must contain details of the evidence presented and proper grounds and reasons to support its decision." *Murray v. Board of Adjustment of Larimer County*
- Draw conclusions based upon evidence in the record and made during the hearing
- Decisions should be based upon objective Code criteria, factors or requirements (compliance w/ Code)
- Decisions should not be based upon preferences or personal opinions, fit



Vote on the application/request before you

- The Applicant is in charge of the application, not PC/Council
- If request for rezoning to RR, that is what you vote on.
- Members of the body may not conduct separate research and attempt to enter it into the hearing record.
(*ex parte* and pre-judgment)



Failed motions

- Means no action or decision was made
- If a motion fails, someone on the "prevailing side" should immediately move to take the opposite position

Grounds for Denial

Appropriate grounds for denial:

- Anything in the applicable portions of the Severance Municipal and Development Code.

Inappropriate grounds for denial:

- Failure of developer to volunteer a condition which could not independently be imposed by the Town
- Council/Commissioner's personal belief/opinion that project is the wrong use or density, when the zoning in place allows for it

- **Acceptable Conditions:**

- Conditions which support enforcement of the technical requirements of municipal code
 - (eg: drainage easements)
- Corrections to the plat
- Land dedication requirements (eg: ROW; rely on staff recommendation)
- Requirements for maintenance of common elements (eg: to establish HOA)
- Preservation of trees and vegetation
- Redirecting traffic patterns
- Conditions offered voluntarily by the applicant

- **Unacceptable Conditions:**

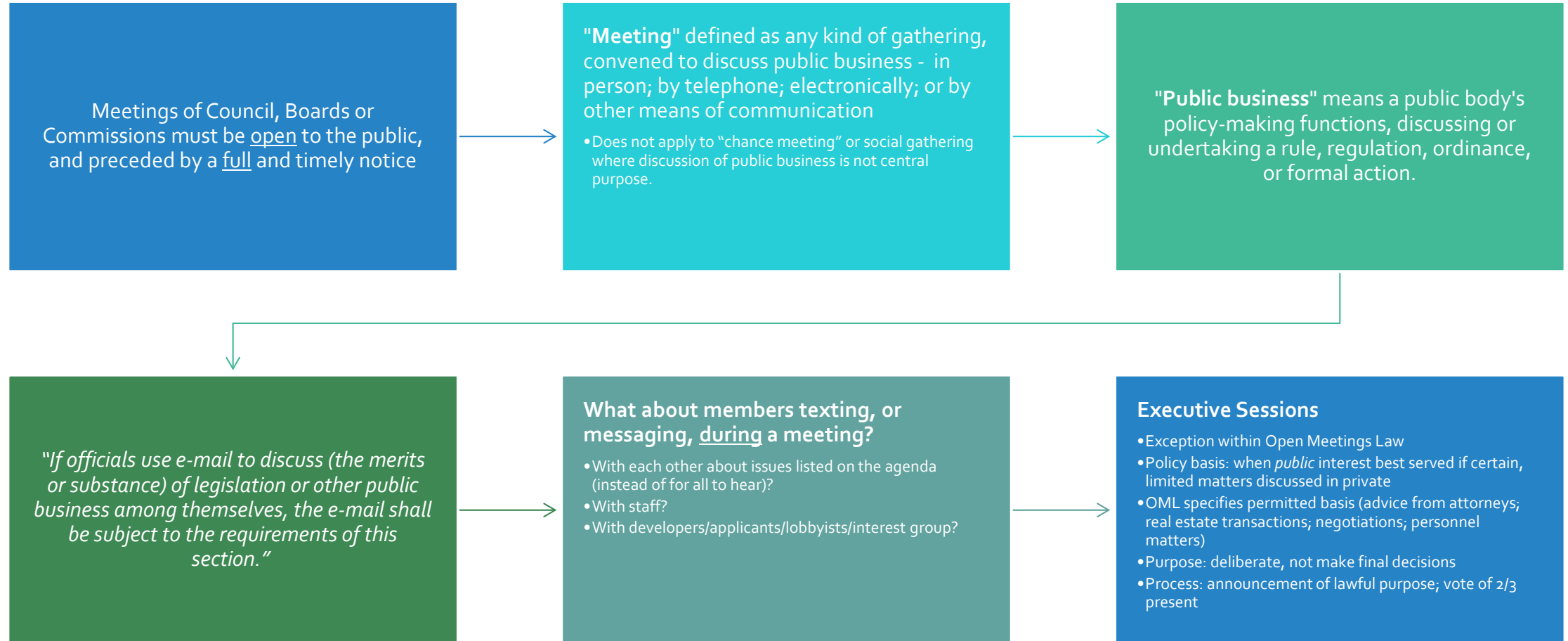
- Density restrictions (where inappropriate; where Code doesn't allow)
- Matters outside scope of the applicable portions of Code
- Conditions which have no Code basis
- Architectural review standards, where none exist

- **Technical Requirements:**

- Town has professional staff to review drainage plans & development design
- Trust your staff!
- Good time to ask staff technical questions: before the hearing

Conditions of Approval

Open Meetings Law (C.R.S. 24-6-402)





- Questions?
 - Feedback?
-



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
<p>Discussion regarding adopting a new Article 21 in Chapter 16 of the Town Municipal Code regarding local regulation of Natural Medicine and Amending Section 16.6.40.3 regarding Development Node use.</p>	<p>Shani Porter, Planning Director</p>	<p>Nick Wharton, Town Manager</p>
ACTION REQUESTED		
<p>Town Staff request the Planning Commission review and make a recommendation to Town Council regarding the attached ordinance:</p> <ol style="list-style-type: none"> 1. Move to recommend approval of the attached Ordinance to Town Council. 2. Move to deny the attached Ordinance 3. Take no action 	<p><u>Presentation</u> <u>Attorney Approved</u> <u>Action Requested</u></p>	
BRIEF SUMMARY		
<p>Colorado voters adopted citizen-initiated Proposition 122, which amended Title 12 of the Colorado Revised Statutes to include Article 170, now designated as the "Natural Medicine Health Act of 2022". The Colorado Natural Medicine Code authorizes Town Council to enact ordinances regulating the time, place and manner of the operation of licenses issued pursuant to the Regulatory Act.</p> <p>The Town Council enacted on March 19, 2025, an Emergency Ordinance 2025-09, which imposed a Temporary Moratorium on the submission, acceptance, processing and approval of applications for and/or the establishment of Natural Medicine Healing Centers and Businesses within the Town limits. The moratorium allowed the Town staff and Town Council to conduct research and hold a work session to discuss zoning and identify areas for such use.</p>		
PUBLIC SUPPORT/CONCERN		
<p>None at this time.</p>		
ANALYSIS AND RECOMMENDATION		
<p>Town Staff has identified the Development Node zone district as the area where cultivation, manufacturing, testing, storage, distribution, transfer and dispensation of natural medicine and natural medicine products could occur. Additionally, Town Staff also recommends the 1,000-foot setback distance restriction for buildings where natural medicine services are provided in the vicinity of a child care center or any school.</p> <p>Town Staff recommends the Planning Commission take action on the attached Ordinance.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ol style="list-style-type: none"> 1. 2025-08-11 - Memo - Natural Medicine Act 2. 2025-08-11 - Ordinance - Natural Medicine 		

MEMORANDUM

To: Town of Severance Planning Commission
From: Town Attorney's Office – Nina P. Williams and Betsy L. Stewart
Date: August 11, 2025
Re: Local Regulation of Natural Medicine

A. Introduction

This memo contains an overview of the laws and regulations surrounding natural medicine to assist Planning Commission with an understanding of the manner in which natural medicine can be regulated by a local government. This will also be presented orally by Nina Williams during the August 20, 2025 Planning Commission meeting.

Specifically, the Town Attorney's Office is seeking Planning Commission's input on the time, place and manner restrictions in the attached draft Ordinance.

At a minimum, the Town Attorney's Office recommends permitting the existence of natural medicine healing centers and natural medicine businesses as a use permitted by right in *at least one* Zoning District within the Town. The reason for this recommendation is because state law mandates that a municipality shall not adopt, enact, or enforce any ordinances, rules, or regulations that are unreasonable or in conflict with the Natural Medicine Act or the Natural Medicine Code. *See* C.R.S. §§ 12-170-112(2) and 44-50-903. While there is not yet case law interpreting these new aforementioned statutory provisions, we believe these requirements would be found to be analogous to first amendment freedom of expression case law, which hold that local governments cannot effectively prohibited certain uses out of practical existence.

As a result of the foregoing, and taking into consideration general policy direction by the Town Council during its July 8, 2025 Work Session, our office recommends either (1) allowing businesses and healing centers to operate by right in the development node; or (2) maintaining the establishment of businesses and healing centers as a use requiring additional review in the development node, *and* adding another zoning area in the Town where businesses and healing centers can operate by right.

B. Historical Background of the Natural Medicine Act

In 2022 Colorado voters adopted Proposition 122 which is now codified as the Natural Medicine Act (NMA) in C.R.S § 12-170-101, *et seq.* In 2023, the legislature adopted the Natural Medicine Code (NMC) which sets forth additional guidelines for the use and cultivation of natural medicine in C.R.S. § 44-50-101, *et seq.*¹

¹ *See* <https://www.cpr.org/2023/06/21/colorado-psychedelic-law-for-psilocybin-mushrooms/> for a Colorado Public Radio News Article re: the historical background of Proposition 122.

In short, Colorado voters determined that natural medicine should be utilized as an additional tool to address mental health issues in the state.² As a result, the purpose of the NMA is to establish a “new, compassionate, and effective approach to natural medicine” by (1) removing criminal penalties for personal use of natural medicine for adults 21 years of age and older; (2) developing and promoting public education regarding the use of natural medicine and appropriate training for first responders; and (3) establishing regulated access by adults 21 years of age and older to natural medicines that show promise in improving well-being, life satisfaction, and overall health.³ The legislature also recognized that the NMA and its regulations must balance the health and safety risks to consumers and the cultural harms it could cause to American tribes and Indigenous and traditional communities with connections to natural medicine.⁴

The Department of Regulatory Agencies (DORA) recently issued licensure and training regulations for natural medicine facilitators.⁵ Meanwhile, the Colorado Department of Revenue’s (CDOR) regulations address all regulated natural medicine and natural medicine product businesses for the purpose of cultivation, manufacturing, testing, storage, distribution, transport, transfer, dispensation, and licensure fees.⁶

C. Analysis of the NMA, NMC, and Regulations

1. What is natural medicine?

The term “natural medicine” currently applies to the hallucinogenic compounds of psilocybin and psilocin found in psychedelic mushrooms.⁷

2. How can natural medicine be used?

a. Personal Cultivation and Personal Possession

Personal cultivation of natural medicine is permitted on private property in an enclosed and locked space in an area of no more than 12 x 12 feet. Such cultivation area can be non-contiguous, i.e. in one 12’ x 12’ plot or twelve 1’ x 1’ plots, etc. Municipalities are permitted to exceed the space limitation by ordinance or resolution.

Unlike the state’s personal possession limit of 2 ounces for marijuana, there is no limit on personal possession of natural medicine in the state for adults 21 years of age and older (21+). 21+ adults can share natural medicine with other 21+ adults in the context of counseling, spiritual guidance, community-based use, supported use, or related services so long as no remuneration is received except in bona fide harm reduction or support services used concurrently with sharing. It

² C.R.S. § 12-170-102(1).

³ C.R.S. § 12-170-102(1)(j).

⁴ C.R.S. § 12-170-102(2)(d).

⁵ 4 CCR 755-1.

⁶ 1 CCR 213-1.

⁷ C.R.S. § 12-170-104(12)(a)(I)-(II). However, C.R.S. §§ 12-170-104(12)(b)(I)-(III) and (d) permit the state licensing authority to extend this definition to include dimethyltryptamine (DMT) and mescaline (excluding peyote) on or after June 1, 2026 and ibogaine at any time.

is important to note that the open and public display or consumption is prohibited as is the unlawful distribution and possession of natural medicine by or to individuals under the age of 21.⁸

b. Natural Medicine Healing Centers

A Natural Medicine Healing Center is a state licensed facility in which a facilitator can provide and supervise natural medicine services to a participant. Participants must be 21+ to receive natural medicine services by and under a facilitator's services and a facilitator is a 21+ licensed individual with necessary qualifications, training, experience, and knowledge required by law to perform and supervise natural medicine services for a participant.⁹ The administration of natural medicine in a Healing Center consists of the following three phases:

- A “preparation session” meeting between a participant and facilitator that occurs before an administration session;
- An “administration session” at a healing center or other permitted location where a participant consumes and experiences the effects of regulated natural medicine under the supervision of a facilitator; and
- An “integration session” between a participant and a facilitator after the administration session is completed.

DORA's regulations establish time frames that a participant must remain in an administration session under a facilitator's care based on dosage administered as a way to prevent impaired driving.¹⁰ Natural medicine product is not permitted to leave a licensed Healing Center except in narrow circumstances when a facilitator is traveling to another location for an administrative session and any unconsumed product must be returned to a Natural Medicine business.¹¹ Finally, as a general rule, Healing Centers must be at least 1,000 feet from a licensed childcare center, preschool, elementary, middle, junior, or high school, or a residential child care facility.¹²

3. What does the NMA mean for municipalities?

a. What is prohibited?

The most controversial aspect of the NMA is that, unlike marijuana, a municipality **cannot prohibit** a properly licensed facilitator from providing natural medicine services in a Healing Center within the boundaries of Severance.¹³ Likewise, the Town **cannot prohibit** the establishment or operation of a business with the purpose of cultivating, manufacturing, testing, storing, distributing, transporting, transferring, or dispensing regulated natural medicine within its

⁸ See C.R.S. § 18-18-434 regarding *Offenses relating to natural medicine and natural medicine products*.

⁹ C.R.S. §§ 12-170-104 and 44-50-103 and 4 CCR 755-1-1.4

¹⁰ 4 CCR 755-1 § 6.17(F).

¹¹ 4 CCR 755-1 § 6.18.

¹² 1 CCR 213-1 § 2125(A)(2).

¹³ C.R.S. § 12-170-112; C.R.S. § 44-50-104(5)(b).

boundaries.¹⁴ Furthermore, the Town **cannot prohibit** the transportation of natural medicine or natural medicine product within its boundaries on public roads by a person licensed to exercise such privileges nor can it adopt ordinances or regulations that are unreasonable or conflict with the NMA or the NMC.¹⁵ However, it is important to note that state laws and regulations do not allow natural medicine dispensaries where an individual can purchase natural medicine over the counter (as they can do with marijuana in a marijuana dispensary) and take it home for personal use off premises.

b. What is permitted?

The Town may enact ordinances or regulations governing the time, place, and manner of the operation of natural medicine related licenses within its boundaries.¹⁶ Practically speaking, this means the Town can restrict hours of operation, enact zoning ordinances to locate the area where cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine and natural medicine product occurs, and set distance requirements within the vicinity of a child care center, preschool, elementary, middle, junior, or high school, or a residential child care facility.

c. State Licensure Timeline and Notification to Municipalities

CDOR recently began issuing natural medicine business licenses and intends to notify a municipality when it receives a licensure application in its jurisdiction to ensure that the application conforms with local ordinances. DORA has also begun issuing natural medicine facilitator licenses.

d. What are the effects of decriminalization?

Engaging in the operation of a Natural Medicine Healing Center or Business and/or acting as a Natural Medicine Facilitator are all lawful acts so long as these activities are being conducted with the requisite licensure, training, registration, permit, or certificate. As a result, these actions cannot be deemed an offense under state or local law. Furthermore, as stated in more detail above, personal cultivation, possession, and consumption for 21+ is now legal in Colorado subject to a few restrictions. However, it is clear that local law enforcement has the authority to make arrests or issue citations within the parameters of C.R.S. § 18-18-434 for violations of the law.

4. What can the Town do?

As stated above, the Town will need to decide whether or not it wants to implement time, place, and manner restrictions in an Ordinance that does not conflict with state law or regulations in its Municipal Code.

¹⁴ C.R.S. § 44-50-104(1) and (5).

¹⁵ C.R.S. § 44-50-104(5)(c)-(d).

¹⁶ C.R.S. § 44-50-104(5)(a); C.R.S. § 12-170-112; 4 CCR 755-1; 1 CCR 213-1.

**TOWN OF SEVERANCE, COLORADO
ORDINANCE NO. 2025-XX**

**AN ORDINANCE OF THE SEVERANCE TOWN COUNCIL
ADOPTING A NEW ARTICLE 21 IN CHAPTER 16 REGARDING LOCAL
REGULATION OF NATURAL MEDICINE AND AMENDING SECTION 16.6.40.3
REGARDING DEVELOPMENT NODES USES**

WHEREAS, the Town of Severance, Colorado (Town) is duly organized and validly exists as a Home Rule Town under Article XX, Section 6 of the Colorado Constitution and the Town’s Home Rule Charter; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

WHEREAS, C.R.S. § 29-20-101, *et seq.*, provides the Town with the broad authority to plan for and regulate the use of land to best protect and promote the health, safety, and general welfare of the present and future inhabitants of the Town and to guide future growth, development, and distribution of land uses within the Town; and

WHEREAS, pursuant to C.R.S. § 31-23-301, *et seq.* the Council has authority to adopt and enforce zoning regulations; and

WHEREAS, Colorado voters adopted citizen initiated Proposition 122, which amended Title 12 of the Colorado Revised Statutes to include Article 170, now designated as the “Natural Medicine Health Act of 2022” (NMHA); and

WHEREAS, the Colorado Natural Medicine Code (Regulatory Act), codified in C.R.S. §§ 44-50-101 through 904 authorizes Town Council to enact ordinances regulating the time, place, and manner of the operation of licenses issued pursuant to the Regulatory Act; and

WHEREAS, C.R.S. §§ 12-170-115 and 44-50-104 establish that the Town shall not adopt, enact, or enforce any ordinance, rule, regulation, or resolution that is otherwise in conflict with the provisions of the NMHA or the Regulatory Act.; and

WHEREAS, C.R.S. §§ 12-170-104(8) and 44-50-103(6) define “healing center” as a facility licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant; and

WHEREAS, C.R.S. § 44-50-103(14) defines “natural medicine business” as “a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, a natural medicine testing facility, or another licensed entity created by the state licensing authority;” and

WHEREAS, the Regulatory Act authorizes Council to enact zoning ordinances identifying the area where cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine and natural medicine product as defined by the Regulatory Act may be permitted in the Town; and

WHEREAS, the Regulatory Act authorizes Council to enact ordinances to establish the distance restrictions for buildings where natural medicine services are provided within the vicinity of a child care center, preschool, elementary school, middle school, junior high school, or high school, and a residential child care facility; and

WHEREAS, the Town's Municipal Code (Code) contains land use and development standards enacted to protect the health, safety, and welfare of residents of the Town; and

WHEREAS, under the Town's current land use and development standards, the operation of natural medicine healing centers and natural medicine businesses are not permitted land uses and the Town has not approved any such land use; and

WHEREAS, the Town does not currently have any zoning regulations addressing natural medicine healing centers and natural medicine businesses; and

WHEREAS, the Council finds that it is in the best interest of the health, safety, and welfare of the Town and its residents to adopt a new Article 21 in Chapter 16 titled *Natural Medicine* to encompass local regulations surrounding natural medicine in the Town; and

WHEREAS, the Council finds that it is in the best interest of the health, safety, and welfare of the Town and its residents to amend Section 16.6.30.3 and Section 16.6.40.3 to identify the areas where natural medicine healing centers and natural medicine businesses other than healing centers may operate within the Town; and

WHEREAS, on March 19, 2025, Council adopted Ordinance No. 2025-09 titled *An Emergency Ordinance of the Severance Town Council Imposing a Temporary Moratorium on the Submission, Acceptance, Processing, and Approval of Applications for and/or the Establishment of Natural Medicine Healing Centers and Businesses within Town Limits* (Temporary Moratorium); and

WHEREAS, Section 2(b) of the Temporary Moratorium established that it shall terminate on the 11th day of September, 2025 unless terminated at an earlier date or extended by further Ordinance by Council; and

WHEREAS, the Temporary Moratorium shall expire upon the effective date of the adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, COLORADO:

Section 1. The foregoing recitals are incorporated herein as conclusions, facts, determinations, and findings by the Town Council.

Section 2. Chapter 16 of the Severance Municipal Code is hereby amended by the adoption of a new Article 21 titled *Natural Medicine* to read in its entirety as follows:

Sec. 16.21.10 Definitions

For purposes of this Chapter, the following words, terms, and phrases shall have the following meanings:

Natural Medicine means psilocybin or psilocyn and other substances described in the Regulatory Act as "natural medicine."

Natural Medicine Business means any of the following entities licensed under the Regulatory Act and includes a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility, or another licensed entity created by the state licensing authority.

Natural medicine healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator as defined by the Regulatory Act, to provide and supervise natural medicine services for a participant as defined by the Regulatory Act, which includes a participant consuming and experiencing the effects of regulated natural medicine or regulated natural medicine product under the supervision of a facilitator.

Natural medicine product means a product infused with natural medicine that is intended for consumption, as provided by the Regulatory Act.

Natural medicine services mean a preparation session, administrative session, and integration session, as provided by the Regulatory Act.

Participant means an individual who is twenty-one (21) years of age or older who receives natural medicine services prescribed by and under the supervision of a facilitator, as provided by the Regulatory Act.

Regulated natural medicine means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the Regulatory Act.

Regulated natural medicine product means a natural medicine product that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the Regulatory Act.

Regulatory Act means the Colorado Natural Medicine Code codified in Colorado Revised Statutes.

State licensing authority means the authority created under the Regulatory Act for the purpose of regulating and controlling the licensing of the cultivation, manufacturing, testing, storing, distribution, transfer, and dispensation of regulated natural medicine and regulated natural medicine product, as provided by the Regulatory Act

Sec. 16.21.20 Permitted location for natural medicine healing centers.

Natural medicine healing centers shall be a use permitted by right in the Development Nodes Zone Districts subject to the distance, time, manner, and place requirements contained in this Chapter 16.21. Natural medicine healing centers are prohibited in all other zoning districts in the Town.

Sec. 16.21.30 Permitted locations for natural medicine businesses other than healing centers.

Natural medicine businesses other than natural medicine healing centers including, but not limited to, cultivation facilities, natural medicine products manufacturers, natural medicine testing facilities, and other licensed natural medicine business entities created by the state licensing authority shall be a use permitted by right in the Development Node Zone Districts subject to the distance, time, manner, and place requirements contained in this Chapter 16.21. Such natural medicine businesses other than natural medicine healing centers are prohibited in all other zoning districts of the Town.

Sec. 16.21.40 Distance from Schools.

- (a) No natural medicine healing center or natural medicine business shall operate out of a building that is within one thousand (1,000) feet of a licensed childcare center, preschool, elementary, middle, junior, or high school, or a licensed residential childcare facility (collectively “School”).
- (b) Subsection (a) does not apply to a properly licensed natural medicine healing center or natural medicine business that was actively doing business before a School was established and/or constructed within one thousand (1,000) feet of such natural medicine healing center or natural medicine business.
- (c) The distances referred to in this Section shall be computed by direct measurement from the nearest property line of the land used for a School to the nearest portion of the building in which the natural medicine healing center or natural medicine business exists or services are provided using a route of direct pedestrian access.

Sec. 16.21.50 Hours of operation – natural medicine services.

Natural medicine healing centers and natural medicine businesses that provide natural medicine services shall be permitted to operate Monday through Friday between 8:00 a.m. and 6:00 p.m.

Sec. 16.21.60 Public view of natural medicine businesses and natural medicine services.

All doorways, windows, and other openings of natural medicine business buildings shall be located, covered, or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area. All activities of natural medicine businesses and natural medicine services shall occur indoors.

Sec. 16.21.70 Lighting of natural medicine businesses.

Primary entrances, parking lots, and exterior walkways of natural medicine businesses shall be clearly illuminated with downward facing security lights to provide after-dark visibility for facilitators, participants, and employees, subject to all applicable Town lighting standards.

Sec. 16.21.80 Storage of natural medicine businesses.

All storage for natural medicine businesses shall be located within a permanent building and may not be located within a trailer, tent, or motor vehicle.

Sec. 16.21.90 Odor from natural medicine businesses.

Natural medicine businesses shall use an air filtration and ventilation system designed to ensure that the odors from natural medicine and natural medicine products are confined to the premises and are not detectable beyond the property boundaries on which the facility is located.

Sec. 16.21.100 Natural medicine businesses secure disposal.

Natural medicine businesses shall provide secure disposal of natural medicine and natural medicine product remnants or by-products. Natural medicine and natural medicine product remnants or by-products shall not be placed within the facilities' exterior refuse container.

Sec. 16.21.110 Processing of Natural Medicine.

- (a) The processing of natural medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.
- (b) Nonhazardous materials used to process natural medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of natural medicine.
- (c) The processing of natural medicine shall meet the requirements of all adopted Town building and life/safety codes.

- (d) The processing of natural medicine shall meet all of the requirements of all adopted water and sewer regulations promulgated by the applicable water and sewer provider.

Sec. 16.21.120 Nuisance

- (a) It is unlawful and deemed a nuisance to:
 - (1) Operate a natural medicine business in violation of any of the requirements set forth in state law or regulation or this Chapter 16.21.
 - (2) Dispose of, discharge out of or from, or permit to flow from any facility associated with natural medicine any foul or noxious liquid or substance of any kind whatsoever including, without limitation, by-products of the natural medicine process into or upon any adjacent ground or lot, into any street, alley, or public place or into any municipal storm sewer and/or system in the Town.

Any such violation of this Chapter is subject to the General Penalty provision of the Severance Municipal Code Chapter 1 Article 4.

Section 3. Section 16.6.40.3(c) – Development Nodes – Uses – of the Severance Municipal Code is hereby amended to read as follows:

Sec. 16.6.40.3. – Development Nodes – Uses.

- (a) Uses by right.

...

- (2) Mixed land uses:
 - a. Live/work units and buildings
 - b. Mixed-used buildings (residential, commercial, office, workshops, etc.)
 - c. Agricultural uses (ranching, farming, grazing, etc.).
 - d. **Natural medicine healing centers.**
 - e. **Natural medicine businesses other than healing centers.**

Section 5. Severability. The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause, or portion of the Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

