



Keystone Town Council Work Session Agenda

The Keystone Town Council will have a Work Session on October 22, 2024, at 4:00 p.m. at 1628 Sts. John Rd, Keystone, CO 80435.

The Town of Keystone conducts hybrid meetings. This meeting will be held in person at Keystone Town Hall and will also be broadcast live over Teams. [Join the live broadcast available by computer here.](#) If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 450-3500x1 via phone, or clerk@keystoneco.gov via e-mail, at least 72 hours in advance of the meeting.

- I. CALL TO ORDER, ROLL CALL**
- II. DISCUSSION WITH ALAN HENCEROTH AND TONY CAMMARATA FROM ARAPAHOE BASIN RESORT**
- III. DISCUSSION OF TOWN FINANCIALS**
- IV. DISCUSSION OF REVISED TOWN COUNCIL BYLAWS**
- V. DISCUSSION OF PROP 123 ORDINANCE**
- VI. DISCUSSION OF NATURAL MEDICINE**
- VII. DISCUSSION OF 1041 REGULATIONS**
- VIII. DISCUSSION OF PENALTIES AND FINES**
- IX. DISCUSSION OF REGULATIONS RELATING TO BEAR SAFETY**
- X. DISCUSSION OF MANAGER/COUNCIL ISSUES**
- XI. ADJOURNMENT**

	F	G	H	I	J	K	L	M	
1	Town of Keystone								
2	Statement of Financial Position							Printed: 10/17/24	
3	As of Date Indicated								
4								<i>Preliminary - Subject to Change</i>	
5									
6	September 30, 2024								
7		General	Capital	Housing	Conserv	All Funds			
8		Fund	Fund	Fund	Trust Fund	Combined			
9	ASSETS								
10	Investment Acct - Colotrust	247,504	0	0	0	247,504			
11	Operating - FirstBank	479,014				479,014			
12	Pooled Cash	0	0	0	0	0			
13									
14	Total Cash in Bank	726,518	0	0	0	726,518			
15									
16	Sales Tax Receivable	382,797				382,797			
17	Other Tax Receivable	0				0			
18	Accounts Receivable	0	0	309,563	0	309,563			
19	Interfund & Other Receivables	0				0			
20	Prepaid Expenses	0				0			
21	Office Space Security Deposit	4,900				4,900			
22									
23	TOTAL ASSETS	1,114,215	0	309,563	0	1,423,778			
24	LIABILITIES, DEFERRED INFLOWS AND FUND EQUITY								
25	Accounts Payable	26,200	0	0	0	26,200			
26	Payroll Liabilities	8,151	0	0	0	8,151			
27	Wages Payable	0				0			
28	Due to Summit County (Sales Tax Advance)	0				0			
29	Misc Liabilities	0				0			
30	Clearing Account	0				0			
31									
32	TOTAL LIABILITIES	34,351	0	0	0	34,351			
33	DEFERRED INFLOWS								
34	Deferred Revenue	0				0			
35									
36	TOTAL DEFERRED INLFOWS	0	0	0	0	0			
37	FUND EQUITY								
38	Invested in Capital Assets, Net	0				0			
39	Amount to be Provided for Debt Repayment	0				0			
40	Beg Fund Balance - General Fund	0				0			
41	Beg Fund Balance - Capital Improv Fund		0			0			
42	Beg Fund Balance - Workforce Housing			0		0			
43	Beg Fund Balance - Conservation Trust				0	0			
44	Current Surplus (Deficit)	1,079,864	0	309,563	0	1,389,427			
45									
46	TOTAL FUND EQUITY	1,079,864	0	309,563	0	1,389,427			
47	TOTAL LIABILITIES, DEFERRED INFLOWS AND FUND EQUITY								
48		1,114,215	0	309,563	0	1,423,778			
49	No assurance provided on these financial statements; substantially all disclosures required by GAAP omitted.	=	=	=	=	=			

	E	F	H	I	J	K	L	M	N
2	Town of Keystone								Printed: 10/17/24
3	Statement of Revenues, Expenses and Changes in Fund Balance								<i>Preliminary</i>
4	Actual, Budget and Forecast for the Periods Indicated								
5	Modified Accrual Basis		2024 ANNUAL			2024 From Inception (2/8/2024)		2025	
6						8 Months	8 Months		
7						Ended	Ended	Variance	Placeholder
8						9/30/24	9/30/24	Favorable	2025
9						Actual	Budget	(Unfavor)	Budget
10	GENERAL FUND								
11	Revenues								
12	Sales Tax (2 mo estimated)		2,614,224	2,614,224	0	1,849,920	1,790,312	59,608	3,323,383
13	Other Tax Revenue					-			
14	Highway Users Tax Fund		48,627	48,627	0	0	0	0	66,612
15	Cigarette Tax		5,092	5,092	(0)	4,437	1,004	3,433	7,115
16	Nicotine Tax		59,628	59,628	0	0	0	0	83,315
17	Road and Bridges Tax		91,684	91,684	(0)	76,812	76,812	(0)	103,774
18	Specific Ownership Tax		25,348	25,348	0	0	0	0	34,723
19	Auto Ownership Tax		9,970	9,970	0	0	0	0	13,657
20	Other Tax Revenue		0	0	0	0	0	0	
22	Total Other Tax Revenue		240,348	240,349	1	81,249	77,816	3,433	309,196
23	Fees								
24	Building Permits		203,203	203,203	0	58,150	127,000	(68,850)	362,282
25	Franchise Fees		0	0	0	0	0	0	
27			203,203	203,203	0	58,150	127,000	(68,850)	362,282
28	Licenses								
29	Business Licenses				0	0	0	0	34,723
30	Short Term Rentals		541,732	541,732	(0)	33,995	541,732	(507,737)	547,150
31	Liquor Licenses			5,250	5,250	2,575	0	2,575	0
33			541,732	546,982	5,250	36,570	541,732	(505,162)	581,873
34	Fines								
35	Municipal Court Fines				0	0	0	0	0
36	Code Enforcement Fines				0	0	0	0	
38			0	0	0	0	0	0	0
39	Other Income								
40	Grants			20,136	20,136	20,136	0	20,136	
41	Interest on Taxes				0	0	0	0	
42	Interest on Investments			10,000	10,000	7,505	0	7,505	
43	Admin Miscellaneous Income				0	0	0	0	
45			0	30,136	30,136	27,641	0	27,641	0
47	Total Revenue		3,599,507	3,634,894	35,387	2,053,530	2,536,860	(483,330)	4,576,734
49	Expenditures								
50	Employee Benefits & Taxes								
51	401 A Match		44,414	44,414	0	20,794	32,301	11,507	60,000
52	457 Match		16,655	16,655	0	2,952	12,113	9,161	130,000
53	Flexible Spending Account (FSA)		5,774	5,774	0	900	4,199	3,299	6,500
54	Wellness Reimbursement		12,158	12,158	0	0	8,842	8,842	9,600
55	Health Insurance Premiums		79,834	79,834	0	43,136	58,061	14,925	0
56	Health Ins Employee Contributions			(11,641)	11,641	(6,947)	0	6,947	0
57	Workers Comp Insurance Premiums		11,381	11,381	0	9,216	8,277	(939)	0
58	Payroll Taxes		18,543	18,543	0	7,607	13,486	5,879	900
63	Total Employee Benefits & Taxes		188,759	177,118	11,641	77,658	137,279	59,621	207,000

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3	Statement of Revenues, Expenses and Changes in Fund Balance					<i>Preliminary</i>			
4	Actual, Budget and Forecast for the Periods Indicated								
5	Modified Accrual Basis		2024 ANNUAL			2024 From Inception (2/8/2024)		2025	
6					8 Months	8 Months			
7			Approved		Variance	Ended	Ended	Variance	Placeholder
8			2024	2024	Favorable	9/30/24	9/30/24	Favorable	2025
9			Budget	Forecast	(Unfavor)	Actual	Budget	(Unfavor)	Budget
64	General Expenditures All Departments								
65	Telephone	2,830	2,830	0		1,975	2,230	255	3,168
66	Office Lease	50,700	50,700	0		36,200	36,000	(200)	196,158
67	Office Building Maintenance	3,700	3,700	0		1,350	2,950	1,600	3,504
68	Office Supplies	3,754	3,754	0		6,583	2,629	(3,954)	4,203
69	Prof Services/Membership Fees	10,429	10,429	0		14,346	10,429	(3,917)	10,742
70	Dues and Subscriptions	7,936	6,802	1,134		713	5,516	4,803	7,006
71	Training	6,802	6,802	0		3,650	6,802	3,152	14,011
72	Travel/Meals/Ldging	6,802	6,802	0		7,422	6,802	(620)	14,011
73	Uniforms/Clothing	1,700	1,700	0		110	1,200	1,090	1,751
74	Insurance	5,000	5,000	0		2,328	5,000	2,672	70,056
75	Bank and Misc Fees	0	90	(90)		70	0	(70)	0
76	IT/Technology	68,016	68,016	0		26,976	43,782	16,806	93,409
77	Website	6,802	6,802	0		542	4,762	4,220	7,006
78	Equipment Repairs/Leases	5,526	5,526	0		0	3,870	3,870	7,589
79									
80	Total Gen Exp All Departments	179,996	178,952	1,044		102,266	131,972	29,706	432,616
81									
82	Mayor and Town Council								
83	Mayor Wages	11,000	11,000	0		7,246	8,000	754	12,000
84	Council Wages	33,000	33,000	0		21,068	24,000	2,932	36,000
85	Cell Phone AllowTown Council	5,775	5,775	0		3,788	4,200	412	6,300
86									
87		49,775	49,775	0		32,102	36,200	4,098	54,300
88									
89	Misc Expense Town Council	1,251	3,409	(2,158)		3,281	912	(2,369)	1,401
90	Total Mayor and Town Council	51,026	53,184	(2,158)		35,382	37,112	1,730	55,701
91									
92	Administration Services								
93	Town Manager Wages	127,530	127,530	0		57,118	85,020	27,902	175,141
94	Town Clerk Wages	95,047	95,047	0		64,169	68,548	4,379	106,411
95	Office Clerk Wages	58,333	58,333	0		28,846	40,834	11,988	65,308
96	Cell Phone Administration	2,250	2,250	0		1,183	1,575	392	0
97	Keystone Housing Administration	15,000	15,000	0		8,000	10,500	2,500	0
98									
99		298,160	298,160	0		159,315	206,477	47,162	346,860
100	Postage	2,607	2,607	0		11	1,827	1,816	2,919
101	Printing	7,300	7,300	0		502	5,110	4,608	8,173
102	Community Engagement	8,502	8,502	0		0	3,500	3,500	8,757
103	Local Travel	2,607	2,607	0		102	1,896	1,794	2,919
104	Elections	12,000	12,000	0		0	0	0	0
105	Town Attorney Contract	90,688	90,688	0		114,238	70,000	(44,238)	93,409
106	Smoking Cessation (from Nicotine Tax)	59,628	59,628	0		0	39,750	39,750	83,315
108	Payroll Contract (Paylocity)	4,950	4,950	0		3,348	3,600	252	5,099
109	Accounting Contract (M&W)	63,494	63,494	0		40,513	40,000	(513)	64,958
110	Annual Audit Contract	0	0	0		0	0	0	19,266
111	Short Term Rental Contract Support	116,761	116,761	0		70,625	116,761	46,136	120,264
112	Miscellaneous Administrative Expense	0	10	(10)		10	0	(10)	
113									
114	Total Administrative Services	666,697	666,707	(9)		388,664	488,921	100,257	755,938
115									
116	Community Development								
117	Comm Dev Director Wages	124,431	124,431	0		78,453	88,431	9,978	148,320
118	Planner2 Wages	60,489	60,489	0		3,909	37,805	33,896	93,409
119	Cell Phone Comm Dev	1,350	1,350	0		476	900	424	1,800
120	Keystone Housing Incentive Comm	9,500	9,500	0		3,500	6,500	3,000	6,300
121									
122		195,770	195,770	0		86,339	133,636	47,297	249,829
123	Building Permit/Inspections	162,562	162,562	0		0	101,600	101,600	289,826
124	GIS	9,069	9,069	0		0	6,349	6,349	9,341
125	Professional Services (Contracted)	11,336	11,336	0		0	7,938	7,938	11,676
126	Planning Supplies/Printing	5,668	5,668	0		535	3,882	3,347	5,838
127	Local Travel	2,834	2,834	0		0	2,064	2,064	5,838
128	Communications	2,721	2,721	0		0	1,812	1,812	2,802
129	Miscellaneous Comm Dev Expense	0	0	0		0	0	0	
130									
131	Total Community Develop	389,960	389,960	0		86,874	257,281	170,407	761,149

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4	Actual, Budget and Forecast for the Periods Indicated									
5	Modified Accrual Basis									
6	2024 ANNUAL			2024 From Inception (2/8/2024)			2025			
7	Approved		Variance	8 Months		8 Months		Variance		Placeholder
8	2024		2024	Favorable	Ended		Ended		Favorable	
9	Budget		Forecast	(Unfavor)	9/30/24		9/30/24		2025	
132	Actual		Budget	Forecast	(Unfavor)	Actual		Budget		(Unfavor)
133	Public Works									
134	Public Works Director Wages	45,344	45,344	0	3,538	22,672	19,134	93,409		
135	Cell Phone Public Works	450	450	0	0	225	225	900		
136	Keystone Housing Public Works	3,000	3,000	0	250	1,500	1,250	6,000		
137										
138		48,794	48,794	0	3,788	24,397	20,609	100,309		
139	Communications	2,721	2,721	0	0	2,046	2,046	2,802		
140	Engineer Consultant	5,668	5,668	0	0	2,835	2,835	11,676		
141	Planning and Printing Supplies	2,834	2,834	0	0	1,134	1,134	5,838		
142	Road Maint/Snow Plowing Contracts									
143	Loveland Pass Village	0	0	0	0	0	0	35,028		
144	Keystone Roads- Currently County M	0	0	0	0	0	0	81,733		
145	Roads not County Maintained	0	66	(66)	66	0	(66)	166,968		
146	Asphalt Crack Seal	0	0	0	0	0	0	16,697		
147	Noxious Weed Control	0	0	0	0	0	0	17,514		
148	Other Maintenance	0	302	(302)	302	0	(302)	40,866		
149	Total Road Maintenance/Snow Plowin	0	368	(368)	368	0	(368)	358,806		
150										
151	Signage	0	0	0	0	0	0	11,676		
152	Engineering Services	0	0	0	0	0	0	21,855		
153	Miscellaneous Public Works Expense	0	130	(130)	130	0	(130)			
154										
155	Total Public Works Expenses	60,017	60,515	(498)	4,287	30,411	26,124	512,962		
156										
157	Public Safety									
168	Miscellaneous Public Safety Exp	0	85,708	(85,708)	37,509	0	(37,509)			
169										
170	Total Public Safety Expenses	0	85,708	(85,708)	40,801	0	(40,801)	686,974		
171										
172	Municipal Court									
173	Judge	0	0	0	0	0	0	7,589		
174	Prosecutor	0	0	0	0	0	0	11,209		
175	Miscellaneous Exp Municipal Cout	0	0	0	0	0	0	584		
177										
178	Total Court Expenses	0	0	0	0	0	0	19,382		
179										
180	Total Operating Expenditures	1,536,455	1,612,143	(75,689)	735,932	1,082,976	347,044	3,245,722		
181										
182	Total Revenue (from above)	3,599,507	3,634,894	35,387	2,053,530	2,536,860	(483,330)	4,576,734		
183										
184	Operating Surplus (Deficit)	2,063,053	2,022,751	(40,302)	1,317,598	1,453,885	(136,287)	1,331,012		
186										
187	Other Sources (Uses)									
188	Transfer to Capital Improvement	(900,000)	(886,800)	13,200	(237,734)	(475,400)	237,666	(200,000)		
189	Transfer fr Workforce Housing	0	27,500	27,500	0	0	0			
190	Transfer fr Conservation Trust	0	0	0	0	0	0			
191	Summit County Adv - Sales Tax	0	1,400,000	1,400,000	1,400,000	1,400,000	0			
192	v - f Summit County Adv - Repayment	0	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)	0			
193										
194	Total Other Sources (Uses)	(900,000)	(859,300)	40,700	(237,734)	(475,400)	237,666	(200,000)		
195										
196	Beginning Fund Balance - General	0	0	0	0	0	0	1,163,451		
197										
198	Ending Fund Balance - General	1,163,053	1,163,451	398	1,079,864	978,485	101,379	2,294,463		
199		=	=	=	=	=	=			
200	Components of General Fund Bal									
201	TABOR Restricted Funds	46,094	48,364		22,078	32,489		97,372		
202	Unrestricted Funds	1,116,959	1,115,087		1,057,786	945,995		2,197,091		
203		1,163,053	1,163,451		1,079,864	978,485		2,294,463		
204										

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4	Actual, Budget and Forecast for the Periods Indicated								
5	Modified Accrual Basis		2024 ANNUAL			2024 From Inception (2/8/2024)			2025
6						8 Months	8 Months		
7		Approved		Variance		Ended	Ended	Variance	Placeholder
8		2024	2024	Favorable		9/30/24	9/30/24	Favorable	2025
9		Budget	Forecast	(Unfavor)		Actual	Budget	(Unfavor)	Budget
205	RESTRICTED FUNDS								
206	CAPITAL IMPROVEMENTS								
207	Revenue and Other Financing Sources								
208		Contribution from General Fund	900,000	886,800	13,200	237,734	475,400	(237,666)	200,000
209									
210		Total Revenues	900,000	886,800	13,200	237,734	475,400	(237,666)	200,000
211									
212	Capital and Non-Routine Projects								
213		Repayment for Incorporation Costs	180,000	180,000	0	148,013	228,750	80,737	
214		Summit County fee for Cash advance	5,000	5,000	0	5,000	5,000	0	
215		Office Set Up-Furniture, Supplies and	41,500	41,500	0	0	18,000	18,000	10,500
216		Facility Modifications	50,000	50,000	0	0	0	0	
217		Staff Hiring Expense	5,000	5,000	0	544	5,000	4,456	
218		Start Up Consultant Support (Clerk/Cd	32,500	32,500	0	0	32,500	32,500	
219		IT-Infrastructure/Software/Computers/	109,900	109,900	0	16,288	89,900	73,612	
220		Website	15,000	15,000	0	0	15,000	15,000	
221		Town Signage	30,000	30,000	0	0	30,000	30,000	
222		Interim Town Manager (\$150/hr, 10 we	60,000	67,900	(7,900)	67,890	60,000	(7,890)	
223		Engineering Assessment Town Mainta	40,000	40,000	0	0	40,000	40,000	
224		Flood Plain Plan	20,000	20,000	0	0	0	0	
225		Trails and Open Space Master Plan	30,000	30,000	0	0	0	0	
226		Comprehensive Use Plan			0	0	0	0	100,000
227		2 Police Vehicles and equipment	260,000	260,000	0	0	0	0	
228									
229		Total Capital and Non-Routine Exp	878,900	886,800	(7,900)	237,734	524,150	286,416	110,500
230									
231		Surplus after other sources / uses	21,100	0	21,100	0	(48,750)	48,750	89,500
232									
233		FUND BALANCE - Beginning Capital	0	0	0	0	0	0	21,100
234		FUND BALANCE - Ending Capital	21,100	0	21,100	0	(48,750)	48,750	110,600
235			=	=	=	=	=	=	
236	Workforce Housing Fund								
237	Revenue and Other Financing Sources								
238		Revenue	788,210	947,656	159,446	424,563	0	424,563	1,246,269
239		Interest Income							
240		Total Revenues	788,210	947,656	159,446	424,563	0	424,563	1,246,269
241									
242	Expenditures								
243		Housing Authority Fees	52,064	52,064	(0)	115,000	0	(115,000)	58,929
244		Transfer to General Fund	0	27,500	(27,500)	0	0	0	
245									
246		Total Expenditures	52,064	79,564	(27,500)	115,000	0	(115,000)	58,929
247									
248		Surplus after other sources (uses)	736,146	868,092	131,946	309,563	0	309,563	1,187,339
249									
250		Fund bal - Beginning Housing Fund	0	0	0	0	0	0	736,146
251		Fund bal - Ending Housing Fund	736,146	868,092	131,946	309,563	0	309,563	1,923,486
252			=	=	=	=	=	=	
253	Conservation Trust Fund								
254	Revenue and Other Financing Sources								
255		Conservation Trust Revenue	12,920	12,920	0	0	0	0	12,920
256		Interest Income							
257		Total Revenues	12,920	12,920	0	0	0	0	12,920
258									
259	Expenditures								
260		Conservation Trust Expenses	0	0	0	0	0	0	
261		Transfer to General Fund	0	0	0	0	0	0	
262									
263		Total Expenditures	0	0	0	0	0	0	0
264									
265		Surplus after other sources / uses	12,920	12,920	0	0	0	0	12,920
266									
267		Fund bal - Begin Cons Trust Fnd	0	0	0	0	0	0	12,920
268		Fund bal - Ending Cons Trust Fnd	12,920	12,920	0	0	0	0	25,840
269			=	=	=	=	=	=	

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: October 22, 2024 – Work Session
SUBJECT: [Work Session] Discussion of Revised Town Council
Bylaws

Executive Summary:

Town Council has discussed revising the bylaws related to attendance at meetings and absences. These discussions occurred at the August 27, September 10 and 24, and October 8 meetings. At the October 8 meeting, Town Council provided informal direction related to revisions to the Town Council bylaws.

Background:

Town Council adopted bylaws on April 9, 2024. At the October 8 meeting, Town Council provided informal direction on the changes to the bylaws. The following bullet points summarize the discussion from the October 8 meeting, along with the revised bylaw language.

- For the Regularly Scheduled and Calendared Town Council meetings

This revision is address in Section 2.8.e.4:

The Presiding Officer shall excuse an absence of the Mayor or Councilmember from a special meeting if the absence is due to a commitment or conflict scheduled prior to the scheduling of the date of the special meeting and which absence the Mayor or Councilmember was

unable to reschedule.

- Illness, family emergencies or unanticipated and uncontrollable absences are excused

This revision is address in Section 2.8.e.1:

1. The Presiding Officer shall excuse an absence of the Mayor or any Councilmember from all or any portion of a meeting where:

- (i) The Mayor or Councilmember contacted the Mayor, Town Manager, or Town Clerk in advance of the meeting regarding the reason for the absence; and*
- (ii) The reason for the absence is due to circumstances that were unforeseeable or unavoidable, such as but not limited to illness, family emergency, or work emergency. An excuse shall not be granted where the Mayor or Councilmember's absence is due to the person's desire to attend other meetings or functions unless the person's attendance at the meeting or function was: (i) requested or directed by the Town Council; or (ii) undertaken in the Councilmember's appointed role as Town Council representative to a board, commission, or body.*

- All other absences cannot exceed 4. That includes 2 excused absences for any reason as well as 2 additional "unexcused" absences prior to invoking Article III, section 3.1. The Councilmember shall inform Council in advance of these absences.

This revision is address in Section 2.8.e.3:

3. The Presiding Officer shall excuse up to two (2) absences of the Mayor or any Councilmember from all or any portion of a meeting for any reason. If advance notice is provided, an excused absence may be ratified by Town Council on the consent agenda.

- Council members are encouraged to participate virtually in all sessions, whether excused or not and members will be allowed to discuss and vote on all matters.

This revision is address in Section 2.8.d:

d. Members of Town Council that are absent from a meeting are encouraged to electronically participate in the meeting subject to the requirements of an electronic participation policy. Members of Town Council, who are participating electronically, are not permitted to participate or vote on quasi-judicial matters.

- The one exception to this rule is for **quasi-judicial sessions** where the council member can join virtually, but not be allowed to participate

This revision is address in Section 2.8.d:

d. Members of Town Council that are absent from a meeting are encouraged to electronically participate in the meeting subject to the requirements of an electronic participation policy. Members of Town Council, who are participating electronically, are not permitted to participate or vote on quasi-judicial matters.

- For **executive sessions**, council members can participate virtually as long as they can attest that no unauthorized individuals can hear.

This will be addressed in the electronic meeting policy.

- The Mayor shall work to ensure that no more than 3 members are remote at any time.

This revision is addressed in Section 2.5 on quorum:

2.5 Quorum

Where a quorum is required by these Bylaws, a majority of the members of the Town Council in office shall constitute a quorum for the transaction of business at all Town Council meetings. For scheduled regular meetings, the required number of members for a quorum must be attending the meeting in person. In the absence of in-person members for a quorum for a regular meeting, a meeting may be rescheduled to a later date and time as permitted by Town Council's adopted Rules of Order.

Attachment:

- DRAFT Town Council Bylaws and Procedure 2024_10_22

TOWN OF KEYSTONE, COLORADO

TOWN COUNCIL BYLAWS

DATE OF POLICY/REVISIONS:	Original Enactment: April 9, 2024, Resolution No. 2024-32; amended on October 22, 2024, Resolution No. 2024-68
SCHEDULED REVIEW AND REVISION:	As deemed necessary or desired by the Town Council or upon recommendation of the Town Manager or Town Attorney.
ATTACHMENT(S):	None
AUTHORITY/REFERENCE(S):	Keystone Charter, Section 3.8. Titles 29 and 31, C.R.S., and the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 <i>et seq.</i>, as interpreted by the Colorado appellate courts.

TOWN COUNCIL BYLAWS

These Bylaws are intended to direct and assist the Town Council for the Town of Keystone, Colorado, in the conduct of meetings and the conduct of public business. These Bylaws and Procedures shall be interpreted consistently with the Keystone Home Rule Charter (“Charter”) and, in the event of a conflict between these Bylaws and Procedures and the Charter, the Charter shall govern and control.

References to “Councilmember,” “Councilmembers,” or “Town Council” shall include the Mayor unless the context provides otherwise.

I. **Legislative Body & Officers.**

1.1 Town Council

The Town Council is the legislative and governing body of the Town.

1.2 Mayor – Presiding Officer

The Mayor shall be the Presiding Officer at all meetings of the Town Council. The Mayor is a member of the Town Council. The role of Presiding Officer may be assigned to another member of the Town Council in accordance with the Rules of Order.

1.3 Mayor Pro Tem

The Town Council shall elect one of its members to serve as Mayor Pro Tem in accordance with the Keystone Home Rule Charter. The process for nomination and election of the Mayor Pro Tem shall be determined by the Town Council which process may be established by Resolution.

1.4 Temporary Chair

- a. In the event of the absence, conflict of interest, or disability of both the Mayor and Mayor Pro Tem that would prevent them from attending any meeting of the Town Council, the Town Clerk shall call such meeting to order and shall call the roll. The Town Council shall then proceed to elect, by a majority vote of those present, a Councilmember to serve as the Temporary Chairperson for the meeting.
- b. The Temporary Chairperson shall serve as Presiding Officer until the arrival or the resolution of the conflict of interest of the Mayor or Mayor Pro Tem at which time the Temporary Chair shall relinquish the chair upon conclusion of the agenda item or other business then before the Town Council.

II. **Town Council Meetings.**

2.1 Regular Meetings

- a. The Town Council shall meet regularly at least once each month at a day and hour and place to be fixed by the Rules of Order of each Town Council adopted by Resolution. The intent is that the Town Council will conduct in person meetings, unless circumstances necessitate another form of meeting. The procedures for in person meetings and the circumstances necessitating another form of meeting shall be defined by the Rules of Order of the Town Council. (Charter § 3.1)
- b. For ease of administration, an approved schedule of meeting dates, times, and places for regular meetings may be administratively considered and approved for each calendar year by the Town Council. The Town Council reserves the authority to modify or adjust any previously approved meeting schedule or to change meeting days or times as may be needed for convenience or to accommodate holidays, anticipated lack of quorum, and other events or circumstances.
- c. When a regular meeting must be cancelled due to unforeseen or unanticipated circumstances, such as but not limited to emergency, adverse weather conditions, absence of quorum, or failure to post any required public notice, the Mayor, or the Mayor Pro Tem in the Mayor's absence, is authorized to instruct staff to cancel the regular meeting and the Mayor may reschedule the meeting to another date and time. The Town Clerk shall prepare a notice of the meeting cancellation and the rescheduled meeting and shall cause the notice to be delivered through reasonable and customary means, including by posting notice on public entry doors of the Keystone Center and posting on the Town's Website.

2.2 Special Meetings

- a. Special meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with at least twenty-four (24) hours' notice to each member of the Town Council and to the public, delivered in accordance with the Rules of Order of the Town Council and the requirements of this Charter and the Colorado Open Meetings Law. (Charter § 3.2)
- b. No business shall be conducted at a special meeting of the Town Council unless the business has been stated in the notice of such meeting; except that any business which may lawfully come before a regular meeting of the Town Council may be transacted at a special meeting if all members of the Town Council present consent thereto and all the Councilmembers absent file their written consent.
- c. Executive sessions may be held during any properly convened special meeting.

2.3 Emergency Meetings

- a. Emergency meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with less than twenty-four (24) hours' notice. An emergency meeting may be called in the event of an immediate danger or threat to the public health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all members of the Town Council shall be notified of such meeting and such meeting may be held if a Quorum consents. Maximum practical notice, including posted notice, shall be given to the public stating the purpose, time, place and manner of any such meeting. (Charter § 3.3)
- b. Any business which may lawfully come before a regular meeting of the Town Council may be transacted at an emergency meeting.
- c. Due to the emergency nature of the meeting, no Quorum of the Town Council is required although a Quorum is strongly desired wherever practicable. Where a Quorum does not attend the emergency meeting, the action of the Town Council at the emergency meeting will need to be ratified by the Town Council at the next meeting at which a Quorum is in attendance.

2.4 Study or Work Sessions

- a. The Town Council may hold study or work sessions as deemed necessary or desirable. Study or work sessions shall be called in the same manner as a Special Meeting or called by the Town Manager in consultation with the Town Clerk.
- b. No legally binding or formal action shall be taken at any such session. The Council may provide general administrative direction to the Town Manager by simple concurrence or consensus of the members of the Town Council.
- c. A study or work session shall *customarily* be limited to the presentation of information to the Town Council and to Town Council's discussion of such information. Public comment upon matters under study or discussion shall not be typically entertained except upon concurrence of the Council members in attendance. No Quorum shall be required at any study or work session.
- d. Executive sessions shall not be conducted during a study or work session.

2.5 Quorum

Where a quorum is required by these Bylaws, a majority of the members of the Town Council in office shall constitute a quorum for the transaction of business at all Town Council meetings. For scheduled regular meetings, the required number of members for

a quorum must be attending the meeting in person. In the absence of in-person members for a quorum for a regular meeting, a meeting may be rescheduled to a later date and time as permitted by Town Council's adopted Rules of Order.

2.6 Meetings to be Public

All meetings of the Town Council shall be open to the public except as permitted by law. At Town Council meetings, members of the public shall have a reasonable opportunity to be heard except for those meetings that are designated as study or work sessions. In compliance with the Colorado Open Meetings Law, the Town Clerk shall keep a record of the proceedings of each meeting. The intent is that, when feasible, Town Council will allow for a remote meeting option for the public's attendance and participation at open meetings. (Charter § 3.5) The Town Council may adopt a remote meeting policy to further define the public's attendance and participation through the remote meeting option.

2.7 Meeting Notice

The Town Council shall adopt a Resolution that establishes public notice and posting requirements in accordance with the Colorado Open Meetings Law including designating the Town official site for posting the agenda at least 24 hours in advance of the public meeting (except for emergency meetings as governed by Charter § 3.3) and such designation shall be deemed automatically readopted at the Town Council's first regular meeting of each calendar year unless otherwise determined by the Town Council. (Charter § 3.10)

2.8 Town Council Attendance and Absences

- a. All Town Councilmembers are expected to attend all regular, special, work and study session meetings unless excused from attendance in accordance with this section. Councilmembers are expected to attend Town Council meetings in person unless a different form of attendance is authorized or in person attendance is excused. (Charter § 3.9)
- b. Three (3) or more unexcused absences by a member of the Town Council in any one (1) calendar year shall constitute grounds for sanctions or removal.
- c. If a Councilmember is absent for both a work or study session on the same date, that absence is only counted as one and not two absences.
- d. Members of Town Council that are absent from a meeting are encouraged to electronically participate in the meeting subject to the requirements of an electronic participation policy. Members of Town Council, who are participating electronically, are not permitted to participate or vote on quasi-judicial matters.

e. Excused Absences.

1. The Presiding Officer shall excuse an absence of the Mayor or any Councilmember from all or any portion of a meeting where:
 - (i) The Mayor or Councilmember contacted the Mayor, Town Manager, or Town Clerk *in advance* of the meeting regarding the reason for the absence; *and*
 - (ii) The reason for the absence is due to circumstances that were unforeseeable or unavoidable, such as but not limited to illness, family emergency, or work emergency. An excuse shall not be granted where the Mayor or Councilmember's absence is due to the person's desire to attend other meetings or functions unless the person's attendance at the meeting or function was: (i) requested or directed by the Town Council; or (ii) undertaken in the Councilmember's appointed role as Town Council representative to a board, commission, or body.
2. The Presiding Officer may excuse an absence of any Councilmember from a meeting or a portion of a meeting *subsequent to* the meeting where:
 - (i) The Councilmember's requested excuse was due to circumstances that were unforeseeable or unavoidable, such as but not limited to, accident, emergency, illness, or last-minute familial obligations; and
 - (ii) The circumstances surrounding the excuse did not permit the Councilmember to timely contact the Mayor, Town Manager, or Town Clerk prior to the meeting as provided by paragraph (B) above.
3. The Presiding Officer shall excuse up to two (2) absences of the Mayor or any Councilmember from all or any portion of a meeting for any reason. If advance notice is provided, an excused absence may be ratified by Town Council on the consent agenda.
4. The Presiding Officer shall excuse an absence of the Mayor or Councilmember from a special meeting if the absence is due to a commitment or conflict scheduled prior to the scheduling of the date of the special meeting and which absence the Mayor or Councilmember was unable to reschedule.
5. The Presiding Officer's decision regarding the recognition or denial of any absence shall be subject to appeal as provided by the Rules of Order.

2.9 Town Attorney

Unless otherwise excused by the Town Council, the Town Attorney or the Town Attorney's designated representative is expected to attend all regular, special, or emergency meetings of the Town Council and attend such other meetings and sessions of the Town Council as the Town Council may request. The Town Attorney may attend meetings by a remote meeting option.

2.10 Town Clerk, Written Minutes, and Official Record

- a. The Town Clerk, or the Town Clerk's designated representative, shall attend and shall keep written minutes of each regular or special meeting of the Town Council. Written meeting minutes may be a brief and concise summary or synopsis of actions taken by the Town Council, the titles of ordinances and resolutions considered, votes taken, and other action items and general topics of discussion. Meeting minutes need not record what was said during the meeting.
- b. The minutes shall record how each Councilmember voted on each question, except that where the vote was unanimous it shall only be necessary for the minutes to so state.
- c. The official record of a Town Council meeting shall be the Town's electronic recording of the meeting, if any, and in the absence of an electronic recording or in the event of recording equipment malfunction, the official record shall be the written meeting minutes.
- d. A Councilmember shall have the privilege of having his or her statement on any subject then under consideration by the Town Council entered into the written minutes. Such request must be made before the Presiding Officer puts the question to a vote and must be accompanied by the statement, "For the Record," to alert the Town Clerk of the need to include such remarks in the written minutes. A Councilmember's lengthy statement for the record is strongly encouraged to be submitted to the Town Clerk in writing prior to the meeting. At the Town Clerk's discretion, unwritten lengthy oral statements may be summarized in the written minutes with attribution to the speaker.
- e. Minutes of a previous meeting will not be read provided each member of Town Council has been provided access to a copy of the minutes in advance of the meeting at which the minutes are to be approved. Written minutes shall be initially set for approval on a consent agenda. Any Councilmember may request that the minutes be removed from the consent agenda for full discussion and consideration of proposed amendments or revisions by the Town Council prior to any motion for approval. Every Councilmember may, at the member's option, vote to approve or reject the minutes of any meeting notwithstanding such member's absence from the meeting.

- f. At any time prior to the Town Clerk's certification of the minutes as approved by the Town Council, the Town Clerk may change the minutes to correct spelling or typographical errors, provided that such change does not alter the substance or meaning of the minutes.
- g. The Clerk of the meeting at which the minutes are approved shall sign the approved minutes.

2.11 Agenda and Order of Business

- a. A regular meeting of the Town Council will have an established order of business generally along the following guidelines which may be modified by the Presiding Officer in accordance with the Rules of Order:
 - 1. Call to Order, Roll Call
 - 2. Approval of Agenda
 - 3. Recognitions, proclamations, and appointments
 - 4. Communications to Council
 - 5. Consent agenda (handling of routine business)
 - A. First Reading of Ordinances
 - B. Resolutions
 - C. Approval of Town Council Minutes
 - D. Excused Absences
 - 6. Discussion Business
 - A. Consideration of Ordinances (second reading/public hearing)
 - B. Resolutions
 - C. Other
 - 7. Planning Matters
 - 8. Reports
 - 9. Other Matters
 - 10. Adjournment

2.12 Setting Agendas

The Mayor and the Town Manager have the task of setting the meeting agendas for regular and special meetings and for work sessions of the Town Council. In addition, two members of the Town Council may request that the Town Manager place an item on a meeting agenda.

2.13 Requesting Future Agenda Items

Any Councilmember, the Town Manager, or the Town Attorney may request that the Town Council formally consider any Town business or other matter of public interest at a future meeting by raising the request with the Town Council during any **regular** meeting. Upon confirmation by a consensus of the Town Council that the Town Council desires to entertain consideration or review of the proposed business or matter, the Presiding Officer

shall instruct the Town staff to set the matter on the next available agenda or on the agenda of a specific meeting.

2.14 Adjournment of Regular Meetings by 9:00 p.m.

A Town Council regular meeting shall customarily adjourn at or before 9:00 p.m. Extending a regular meeting beyond 9:00 p.m. shall require approval of a motion to suspend the required adjournment requirement. A motion may propose to limit the agenda matters to be considered after 9:00 p.m. and/or set a later time for adjournment.

As an express condition of adjournment, the Town Council shall formally move to continue or postpone all agenda items that will not be considered following adjournment in accordance with the Rules of Order.

III. **Meeting Procedures.**

3.1 Parliamentary Rules/Rules of Order

- a. Bob's Rules of Order for Colorado Local Governments (Peak Nine Press 2023) shall be the parliamentary rules of order for meetings of the Town Council ("Rules of Order").
- b. The following additional rules shall be incorporated into the Rules of Order:
 1. A Councilmember shall not engage in the review or transmission of electronic mail or other forms of digital communications or be connected to the Internet during any quasi-judicial matter.
 2. Addressing the Town Council – Time Limitations.
 - (i) Councilmember's access to the floor when addressing the Town Council shall be limited in time as provided by the Rules of Order;
 - (ii) Guests, presenters, and speakers invited to present to the Town Council shall be limited in time as established or directed by the Presiding Officer; and
 - (iii) For all other persons wishing to address the Town Council (other than public hearings, see V. below), such persons shall be limited to three (3) minutes for any presentation unless the Presiding Officer establishes a different time limitation applicable to all such persons wishing to address the Town Council.
- c. Voting Methods.
 1. A simultaneous voice vote or show of hands shall generally be used provided that an announcement is made regarding the result of the

vote, including identification of Councilmember(s) voting on the non-prevailing side.

2. The Presiding Officer may direct a vote to be made by roll call. A roll call vote by voice shall be *required* for:
 - (i) All ordinances on final reading;
 - (ii) Any resolution appropriating or borrowing money;
 - (iii) Any resolution pertaining to new or existing taxes;
 - (iv) Any action concerning an initiative or referendum petition; and
 - (v) Conveyance of interests in real property.
3. Manner of Roll Call. When roll call voting is used, the roll call vote shall be taken in alphabetical order in a rotating manner, as follows: on the first roll call vote for the meeting, the Town Clerk will begin with the first Councilmember's name on the list; on the second vote, the Town Clerk will begin with the second Councilmember's name on the list and end with the first Councilmember name on the list, and continue to rotate the order in this manner. Such rotation will continue without interruption from meeting to meeting.

3.2 Meeting Decorum

- a. For regular and special meetings, each Councilmember shall be addressed as Mr./Ms. (last name) or Councilmember (last name); the Mayor shall be addressed as Mr./Ms. Mayor or Mayor (last name); Town staff, citizens, consultants, contractors shall be addressed as Mr./Ms. (last name). A less formal recognition of Councilmembers and others shall be acceptable for study or work sessions and executive sessions.
- b. At any regular or special meeting of the Town Council, any member of the public desiring to address the Town Council shall first secure the permission of, and be recognized by, the Presiding Officer.
- c. Each person addressing the Town Council shall be asked to provide his or her name and address for the record. All comments shall be addressed to the Presiding Officer and to the Town Council as a body and not to any particular Councilmember thereof or to other members of the audience.
- d. Actions which unreasonably disrupt a meeting shall be out of order. "Disrupt" shall mean evidently intended or designed to prevent, or reasonably preventing, the Town Council from conducting business. Disruptive actions may include, but not limited to: (i) constant or consistent shouting following the Presiding Officer's request to speak in a conversational voice; (ii) the use of horns, bells, or other sources of unwanted and unnecessary sound or noise; (iii) repeated speaking or interruption of the meeting without first obtaining the floor or without being acknowledged by the Presiding Officer; or (iv) threats of harm or violence.

Refusal to heed requests to cease disruption may subject the person to removal from the meeting.

- e. The use of amplified sound or noise in any meeting shall not be permitted unless approved by the Presiding Officer as a necessary part of a presentation by a speaker. The Town's use of methods to amplify the voices of the Councilmembers shall be permitted.
- f. To prevent obstructing the view and hearing of persons attending a meeting, posters, banners, signs, or other forms to display shall be permitted in meeting rooms provided that such items or materials are placed against and along the side perimeter walls of the room in a manner not to interfere with access or the safety of attendees. No posters, banners, signs, or other forms to display shall be located behind the Town Council dais. The Presiding Officer may designate the appropriate location(s) for posters, banners, signs, or other forms to display.

IV. **Procedure for Passage of Ordinances (Charter § 6.5)**

The procedure for the passage of an Ordinance, other than an Emergency Ordinance, shall be as follows:

- a. Introduction (first reading) of the Ordinance at any regular or special meeting and vote by the Town Council in accordance with the voting requirements established by the Charter to move the proposed legislation forward to the second reading. Introduction and first reading of the Ordinance may be by placement on the Town Council's consent agenda for such meeting.
- b. If the Ordinance is passed upon first reading, publicizing by title only and in accordance with the requirements, methods, and procedures for publicizing Ordinances as adopted by the Town Council by Ordinance.
- c. Consideration of the Ordinance on second reading at a meeting not earlier than six (6) days after the first reading.
- d. Public hearing on the Ordinance (See V. Below).
- e. Roll call vote of the Town Council on the Ordinance following the public hearing.
- f. Any ordinance may be amended before final passage by a roll call of the Town Council.
- g. After final passage, the Town Clerk shall publicize the Ordinance by title only with the statement that the full text is available for public inspection and acquisition in the office of the Town Clerk. Whenever possible, publicizing shall be within ten (10) days after final passage.

- h. Unless a later date is specified in the text of the Ordinance, an Ordinance other than an Emergency Ordinance shall take effect and be enforced thirty (30) days after final publication.

V. **Public Hearings – Procedures.**

Public hearings required by law shall be conducted in general accordance with the following procedures. Deviations from these procedures that do not substantially affect the fairness and outcome of the hearing shall be permitted with or without approval of the Town Council.

- a. Town Clerk shall read the title or subject matter of the item into the record.
- b. The Presiding Officer, in the order indicated, will:
 - 1. Declare the public hearing open;
 - 2. Announce the public hearing procedures (if such procedures were not previously explained to the audience in a prior hearing during the same meeting);
 - 3. Establish, when determined to be necessary, reasonable time limits for the presentation to the Town Council of public comments and testimony during the hearing. Where no other time limits are established:
 - (i) Town staff or Town consultants shall not be limited except as directed by the Presiding Officer;
 - (ii) An applicant, permittee, or petitioner (or their representative) whose property or other legal rights are the subject of determination during the public hearing shall not be subject to time limitations provided that the applicant, permittee, or petitioner avoids redundant and duplicative testimony or presentation of evidence;
 - (iii) Scheduled speakers invited to present information to the Town Council shall not be subject to time limitations except as directed by the Presiding Officer; and
 - (iv) All other persons shall be limited to three (3) minutes;
 - 4. Ask for an introductory presentation by the Town Administration, if appropriate;
 - 5. Ask for the applicant's, permittee's, or petitioner's presentation, if appropriate;
 - 6. Provide opportunity for public presentation by those who are in favor of the matter, opposed to the matter, or who may have general questions regarding the pending matter.

7. Any person speaking or presenting any information at the hearing may be questioned by the Town Council and, with the consent of the Presiding Officer, by the Town Administration.
 8. The Presiding Officer will ask, at times during the hearing determined by the Presiding Officer, if any member of Town Council has any questions of, or desires any additional information from, anyone who has spoken or has presented information during the hearing. If such is the case, a member of Town Council may direct the question and/or request through the Presiding Officer to such individual and the response will be limited to the answer of the question, as stated.
- c. Cross-examination of persons providing testimony or evidence shall not be permitted.
 - d. The Presiding Officer may, on his/her own initiative or at the request of a Councilmember or the applicant, permittee, or petitioner, afford the applicant, permittee, or petitioner an opportunity to rebut or address statements or testimony presented by the general public or Town Administration. Rebuttal shall be limited only to subjects and matters raised during the hearing and is not intended to provide an opportunity for the applicant, permittee, or petitioner to present new evidence or information not offered during the main presentation. The Presiding Officer may, in the Officer's discretion, provide an opportunity for the general public to address issues, information, or matters newly raised during a rebuttal.
 - e. Following questions from Town Council, the Presiding Officer will declare the public hearing closed and the matter will be remanded to the Town Council for consideration.
 - f. Upon the closure of the public hearing, the Town Council will seek to avoid additional questioning of any hearing participant except as may be found necessary by the Presiding Officer to quickly clarify a factual question or resolve a factual matter of dispute between members of the Town Council. No additional unsolicited testimony shall be entertained or accepted by the Town Council. The public hearing may only be reopened for good cause shown by a majority vote of the quorum present and only for the sole purpose of receiving specifically identified and focused testimony. In the event a public hearing is reopened, all persons in attendance shall be provided an opportunity to provide testimony regarding the specifically identified matter for which the hearing was reopened.
 - g. The Town Council may, with leave of the Presiding Officer, request legal advice or direction from the Town Attorney at any time.

VI. Amendments.

These Bylaws may be amended by a majority vote of Councilmembers present at a Town Council meeting at which a quorum exists. Any proposed amendments shall be submitted in writing to each member of Town Council at least two (2) weeks in advance of the Town Council meeting at which such amendments are to be considered.

ADOPTED BY THE TOWN COUNCIL THIS 9th DAY OF APRIL, 2024; AMENDED ON THIS 22ND DAY OF OCTOBER, 2024.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
FROM: John Crone, Town Manager
DATE: October 22, 2024 – Work Session
SUBJECT: [Work Session] Resolution 2024-67 - Instructing Staff to Complete the Proposition 123 Commitment Process

Executive Summary:

[Staff will present and answer questions on this item during the work session]

Proposition 123 is a state funding source for housing. To qualify for these funds, the Town must commit to providing an additional seven affordable housing units by January 1, 2027.

Background:

Proposition 123 was enacted by the voters of Colorado in 2022. The proposition contained provisions intended to create more affordable housing through additional funding and planning. The proposition established a three-year cycle of funding as well as future requirements for development review.

In order for a municipality to participate in this funding cycle, it must:

1. Identify a baseline number of affordable units in the municipality (including both existing deed-restricted and naturally occurring affordable units); and
2. Increase their baseline number an average of 3% per year through the 3-year cycle (or in Keystone’s case, a two-year cycle); and
3. Adopt a “Fast Track” permit approval process for Affordable Housing by November 2026 to continue eligibility for funding. Keystone’s approach in this first commitment cycle will be to meet the minimum baseline

commitment to participate. The Town is relying on the state's Baseline tool to determine the number of units that we need to commit to building.

Since Keystone did not opt-in for the 2024 year, we only have to make a two-year commitment. To qualify for Proposition 123 money, the Town needs to commit to providing a total of 7 Affordable Housing units (3.5/year on average) by January 1, 2027.

Proposition 123 requires the Town to file a commitment specifying how it will increase a combination of its newly constructed affordable housing units, and its existing units converted to affordable housing over its determined baseline number of affordable housing units by 3% each year.

The DOH interprets this to mean that the commitment is met as long as the municipality demonstrates a 6% increase over the baseline at the end of the two-year commitment period ending on December 31, 2026, even if a 3% increase is not achieved in any specific year during that time frame.

If a commitment is not filed by November 1, 2024, then the Town and any development project in its jurisdiction are ineligible to receive any funding established by Proposition 123 during the 2025 calendar year.

If the Town is unable to meet its 6% total commitment by December 31, 2026, then it and any development project in our jurisdiction are ineligible to receive any funding established by Proposition 123 for calendar year 2027. The good news is it may file a new commitment by November 1, 2027, for a two-year commitment to increase its affordable housing stock by a total of 6% by December 31, 2029.

As the Town works to prepare its commitment and file it with DOH by November 1, 2024, it does not have to include verification of a "fast-track approval process" in this initial commitment. This will be a requirement in future commitments starting November

1, 2026. However, Proposition 123 does provide that for this first commitment “local governments should prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability, when appropriate, and should prioritize affordable housing in communities in which low concentrations of affordable housing exist.”

Recommendation:

It is important that the Town files its commitment to opt-in to the Proposition 123 funding sources. There are hundreds of millions of dollars that will be available through this program, and it is very important that the Town is eligible for this money as we look to expand our workforce housing.

Alternatives:

Decline to opt-in to Proposition 123 funding.

Financial Considerations:

The state issues millions of dollars of grants under this program.

Previous Council Actions:

none

Suggested Motions:

If the Board wishes to adopt the commitment to provide seven affordable housing units by the end of 2026 and opt-in to Proposition 123 funding it may do so by adopting the following motions:

I move to adopt Resolution 2024-67, a Resolution Instructing Staff to Complete the Proposition 123 Commitment Process.

Attachment:

- Resolution 2024-67, Instructing Staff to Complete the Proposition 123 Opt-in Process

TOWN OF KEYSTONE
Summit County, Colorado

RESOLUTION 2024-67

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
INSTRUCTING STAFF TO COMPLETE THE PROPOSITION 123 COMMITMENT
PROCESS**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the State of Colorado has created a funding program for affordable housing called Proposition 123; and

WHEREAS, the Town of Keystone desires to apply for Proposition 123 funding; and

WHEREAS, the Town of Keystone must make a commitment to provide an additional seven units of affordable housing by January 1, 2027, in order to apply for Proposition 123 funds; and

WHEREAS, the Town Council finds it is in the best interest of the Town of Keystone to expand affordable housing options in the Town; and

WHEREAS, the Town Council finds it is in the best interest of the Town of Keystone to utilize Proposition 123 funds to provide affordable housing.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The Town Council instructs staff to file a Proposition 123 commitment for seven affordable housing units by January 1, 2027

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of __ in favor and __ against, this 22nd day of October 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

Exhibit A

**AMENDMENT TO
SUMMIT COUNTY CHILD CARE TUITION ASSISTANCE INTERGOVERNMENTAL
AGREEMENT**

THIS AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR SUMMIT COUNTY CHILD CARE TUITION ASSISTANCE (“Amendment”) amends the Intergovernmental Agreement dated April 2019, related to Nicotine tax, and entered into by the **SUMMIT COUNTY, COLORADO** (the “County”), a body corporate and politic and political subdivision of the State of Colorado, and **THE TOWNS OF BLUE RIVER, BRECKENRIDGE, DILLON, FRISCO, MONTEZUMA AND SILVERTHORNE, COLORADO** (the “Towns” or individually as a “Town”), home rule or statutory municipalities and political subdivisions of the State (“Nicotine Tax IGA”). The purpose of this Amendment is to add the TOWN OF KEYSTONE, COLORADO, a home rule municipality as a Party to the child care tuition assistance IGA. The effective date of this Amendment shall be **August 27, 2024**.

WHEREAS, the Town of Keystone incorporated as a home rule municipality on February 8, 2024; and

WHEREAS, Section 8 of the Child Care Tuition Assistance IGA contemplates and authorizes adding one or more additional incorporated municipalities as parties; and

WHEREAS, the Town Council finds that it is in the best interest of the Town to request to be added as a party to the Child Care Tuition Assistance IGA with Summit County; and

WHEREAS, the Parties to the Child Care Tuition Assistance IGA desire to amend the Child Care Tuition Assistance IGA to add the Town of Keystone as a party.

The County, the Towns and the Town of Keystone agree as follows:

1. **Addition of Town of Keystone as a Party.** The County, the Towns, and the Town of Keystone agree that the Town of Keystone is added as a Party to the Child Care Tuition Assistance IGA. The Town of Keystone hereby agrees to be bound by all terms, conditions, covenants, obligations, and responsibilities of the Child Care Tuition Assistance IGA.

The Town of Keystone shall have all the rights, benefits, and obligations as provided under the Child Care Tuition Assistance IGA and shall perform all duties as specified herein. All references to "Parties" in this Agreement shall hereafter include the Town of Keystone.

IN WITNESS WHEREOF, this Agreement is executed by the Parties.

[Remainder of Page Left Intentionally Blank; Signature Page to Follow]

SUMMIT COUNTY, COLORADO

Chair, Tamara Pogue

Attest:

Taryn Powers, County Clerk & Recorder

TOWN OF BLUE RIVER

Nicholas Decicco, Mayor

Attest:

Town Clerk

TOWN OF BRECKENRIDGE

Kelly Owens, Mayor

Attest:

Town Clerk

TOWN OF DILLON

Carolyn Skowyra, Mayor

Attest:

Town Clerk

TOWN OF FRISCO

Rick Ihnken, Mayor

Attest:

Town Clerk

TOWN OF KEYSTONE

Kenneth D. Riley, Mayor

Attest:

Town Clerk

TOWN OF SILVERTHORNE

Ann-Marie Sandquist, Mayor

Attest:

Town Clerk

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Lindsay Hirsh, Community Development Director
FROM: Jennifer Madsen, Town Attorney
DATE: October 22, 2024 – Work Session
SUBJECT: [Work Session] Natural Medicine regulations

Executive Summary:

In 2022, Colorado voters approved the [Natural Medicine Health Act](#) (the “NMHA”) through a statewide ballot measure ([Proposition 122](#)). The NMHA decriminalized the personal use, possession and growth of certain natural medicines, such as psilocybin and psilocin, for individuals over the age of 21. The NMHA also established a regulating framework for the use of these substances in therapeutic settings, including the creation of licensed healing centers where natural medicines can be administered under the supervision of trained facilitators. Decriminalization and legalization of Natural Medicine is a relatively recent national phenomenon. In November 2020, Oregon voters passed ballot measure 109, which was the first state to create a state-legal, regulated market for psychedelic psilocybin products. Colorado voters followed suit in November 2022.

At the work session, Council will be given an overview of Colorado’s Natural Medicine landscape, discuss the role that local governments play in the regulatory field, and next steps for Keystone.

Background:

The first phase of Colorado’s legalization and licensing regime focuses on psilocybin, a naturally occurring psychedelic compound found in more than 200 species of mushrooms

that grow naturally around the world. Other substances related to mushrooms and in the state definition of natural medicine will be the focus of future roll out of licensing and state regulations in coming years.

Historical background on the use of psilocybin: For centuries, Indigenous and Tribal communities across the globe have used psilocybin for spiritual, ceremonial and other purposes. Research suggests psilocybin may help address depression, anxiety, trauma and addiction. Studies have also found it may increase spiritual well-being. The NMHA decriminalized the cultivation, possession, consumption, and sharing of natural medicine for personal use for persons 21 years of age and older provided no money or other consideration is paid for the natural medicine. Natural medicine can be consumed in exchange for money or other consideration only for therapeutic purposes in a state-licensed natural medicine healing centers under the supervision of a state-licensed facilitator.

Licensing requirements: The NMHA, as amended in 2023 by SB-23-290, creates occupational licensing requirements for facilitators that are to be administered by the Colorado Department of Regulatory Agencies (DORA) (such as requirements for training and experience) and business licensing requirements for healing centers, products manufacturers, cultivation faculties, and testing facilities that are to be administered by the Colorado Department of Revenue (DOR Natural Medicine Division).

Local government role: The NMHA states that a local government may not prohibit the provision of “natural medicine services” within its boundaries so long as the provider is a “licensed facilitator” as defined by state law. A local jurisdiction may also not prohibit the establishment or operation of state-licensed natural medicine businesses within their jurisdiction nor adopt ordinances or regulations that are unreasonable or in conflict with state law. Nevertheless, local governments retain the ability to reasonably regulate the time, place, and manner of the operation of state-licensed natural medicine businesses (such as healing centers). The State anticipates accepting applications for natural medicine businesses before the end of 2024 and intends to issue licensing at the

beginning of 2025, so local regulations on natural medicine will need to be in place before Dec. 31, 2024.

Potential Health Impacts: Contemporary research indicates that after digesting substances that contain psilocybin, they enter the brain via the same receptors as serotonin, which helps control body functions such as sleep, desire, and feelings of satisfaction, happiness and optimism. People diagnosed with depression, anxiety PTSD, addiction and substance abuse often have low levels of serotonin. Psychedelic drugs may help neurons in the brain sprout new pathways, increasing communication between brain cells, allowing for psychological benefits. There is more research that needs to be done.

Psychedelic consumption is not without risk. Persons may ingest too much of a particular psychedelic, causing overdose and a need for immediate emergency medical care.

Please note that this section of the report is not intended to be a comprehensive review of the purported health impacts of natural medicine and how that may relate to land use decisions. Rather, it aims to offer context regarding the use of natural medicine.

State Regulatory Oversight: The NMHA and Senate Bills establish the following state-level agency oversight:

- Department of Regulatory Agencies (DORA):
 - Responsible for licensing professionals involved in the cultivation, testing, and provision of natural medicine services.
 - Primarily responsible for the overall regulation and oversight of the NMHA. This includes creating rules and regulations, licensing facilitators, and ensuring compliance with the law.
 - Works closely with the Natural Medicine Advisory Board to gather input and make informed decisions on the regulation and expansion of natural medicine services.
- Natural Medicine Advisory Board:
 - Advises DORA on various aspects of natural medicine regulation, including public health approaches, safety protocols, and potential expansions of the list of approved natural medicines.

- Reviews ongoing research and making recommendations for the safe and effective use of natural medicines, as well as for educational and training requirements for facilitators.
- Department of Revenue (DOR):
 - Responsible for licensing facilities. As a part of the licensing process, DOR will verify with the local government if the facility meets zoning requirements.
 - Responsible for enforcing regulations related to the commercial aspects of natural medicine, such as tax compliance.
 - Collects Data (law enforcement, health impacts, consumer protection, behavioral health, healthcare system impacts.)
 - Responsible for coordinating educational campaigns for the public and first/multi-responders.

Permitted Business Operations: The NMHA allows for the creation of four (4) types of state-licensed facilities to be located in communities throughout the state. They are:

1. **Cultivation Facilities:** These facilities are responsible for growing and cultivating natural medicine products, such as psilocybin. Cultivation facilities must comply with state health, safety, and environmental standards, including proper ventilation and sanitation, and must track all products grown and transferred to licensed facilities.
2. **Product Manufacturers:** These entities manufacture and prepare natural medicine products like psilocybin in various forms, including capsules, powders, or other ingestible products. They must adhere to state-established safety and sanitation protocols.
3. **Testing Facilities:** These licensed laboratories test natural medicine products for safety and potency. Testing facilities must meet strict certification requirements and can be co-located with licensed marijuana or hemp laboratories as long as products are stored separately.
4. **Healing Centers:** These are licensed facilities where natural medicine services, such as the administration of psilocybin, are provided by licensed facilitators. Healing centers are required to follow strict security protocols and provide safe, regulated environments for participants. They can co-locate with other healing centers or healthcare facilities under certain rules.
 - Healing centers may not sell natural medicine directly for recreational use but may sell bona fide services for harm reduction or support related to the use of Natural Medicine and may share Natural Medicine with clients.
 - This service model is a departure from how Coloradoans purchase or consume other types of controlled or restricted products such as alcohol, tobacco and marijuana.

Personal Use Allowances: The NMHA allows for individuals over the age of 21 to legally possess, store, use, process, and transport natural medicines for personal use. This

includes the keeping natural medicine at home and transporting it for personal consumption.

- Cultivation: Individuals can grow and cultivate plants and fungi capable of producing natural medicines at home. The cultivation must occur in an enclosed and locked space no bigger than 12 feet by 12 feet on private property.
- Sharing: You are allowed to give away natural medicine to other adults (21 years or older) for personal use, provided there is no exchange of money or other compensation. This means you can share what you grow, but you cannot sell it.
- Safekeeping: Natural medicine plants or fungi being grown must be kept secure and not accessible to anyone under 21 years old.
- No Commercial Sales: Personal use does not include the sale of natural medicines. All commercial activities require specific licenses.
- Public Consumption: Consuming natural medicines in public places is prohibited unless in a location specifically licensed or permitted by the state for such use.
- Advertising and Promotions: You cannot give away natural medicine as part of any business promotion or commercial activity.
- Legal Protections: Conduct permitted under the personal use allowances (e.g., possession, cultivation) is protected from criminal penalties under state law, meaning these activities are not considered offenses.

Role of Local Law Enforcement and Regulators: While the Department of Revenue will be licensing facilities and playing a role in the enforcement of state regulations as it relates to those facilities, local law enforcement and local regulators will be responsible for enforcing upon unlicensed facilities (such as unlicensed or unpermitted facilities), or possession of Natural Medicine by persons not permitted to have possession.

Role of Local Government Within the Regulatory Framework: The NMHA and Senate Bills allow for local governments to adopt reasonable “time, place, and manner” restrictions that do not conflict with the state law. However, they do not allow for an outright ban of Natural Medicine Cultivation, Manufacturing, Testing, Transport, or Consumption either in personal or commercial settings. Time, place, and manner restrictions are where the use can be located in a jurisdiction, when it can be operated, and how the use can be operated.

State law does will not permit the issuance of a facility license in a location where local zoning does not permit, and also prohibits Natural Medicine Services from a building within 1,000 ft. of a child care center; preschool; elementary, middle, junior, or high school;

or a residential child care facility (unless the facility is on land owned by a municipality or the state, or if a city adopts an alternative spacing standard by ordinance.)

The NMHA and Senate Bills do not contemplate a local licensing system.

Approaches of other Local Governments: Noted below are the general approaches that other local governments in Summit County are planning to take as it relates to Natural Medicine land uses:

Frisco: Considering allowing Healing Center in locations at which Frisco's land development code allows for medical office uses.

Breckenridge: Natural Medicine Business are not allowed in the Downtown Overlay District unless located in an existing Health Care Facility and not within 1000 feet of licensed childcare facility, preschool, elementary, middle, junior, or high school, or a residential childcare facility.

Silverthorne: Unknown.

Dillon: Unknown.

Next steps: The Community Development Director will work with the Town Attorney in preparing a draft ordinance of an amendment to the Town of Keystone Land Use Code for presentation to the Planning & Zoning Commission for review and request for recommendation. The ordinance will then come before Town Council.

Attachment:

- Colorado Dept of Revenue, Natural Medicine – Know the Law Brochure
- Colorado Dept of Revenue, Natural Medicine Act SB23-290 Summary



COLORADO
Department of Revenue
Natural Medicine Division

KNOW THE LAW

The following resource is intended to increase general awareness and does not include legal or medical advice. Please contact a qualified professional for additional information.



The Basics - Personal Use

- Natural Medicine includes: Psilocybin, psilocyn, ibogaine, mescaline, and dimethyltryptamine (DMT)
 - Mescaline cannot be sourced from peyote
- Personal possession, cultivation, and use provisions are already effective
 - **Possession:** no limits on personal possession limits
 - **Cultivation:** a person over 21 years of age can cultivate natural medicine in an **enclosed and locked space** no bigger than 12 feet by 12 feet on private property
 - **Use:** An adult (21+) can share with another adult (21+) in the context of “counseling, spiritual guidance, community-based use, supported use, or related services”
 - **Sale:** No one can sell natural medicine
 - » This does not preclude payment for bona fide harm reduction or support services

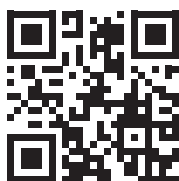
Reminders

- Open display and consumption are prohibited
- There are still some offenses for violations of the law
 - Illegal for anyone under 21 to knowingly possess or consume
 - Illegal to cultivate in a space bigger than 12 x 12 or that is not an enclosed & locked space on private property
 - Manufacturing with inherently hazardous substances
- **Advertising:** Personal use does not mean natural medicine activities for business or commercial purposes.



Plan Ahead

- Effects of natural medicine can have delayed onset
- If you're planning on consuming natural medicine:
 - **Do your research:** learn more about natural medicines and potential effects before consuming
 - **Set and Setting:**
 - » Where you'll consume and be when the effects settle in
 - » Create a transportation plan. Do not drive or operate a vehicle after consuming
 - » Safe storage away from children and pets
- If you don't feel well, contact poison control or your doctor
 - If your condition worsens, go to your nearest Emergency Room or see a healthcare provider
 - For adverse health event help and advice, call poison control at 1-800-222-1222 or contact a qualified medical professional



Who To Contact

For information about licenses for healing centers, cultivations, manufacturers, or testing labs, contact the Department of Revenue at: DOR_NaturalMedicine@state.co.us

For information about facilitator training, licensing, or the Natural Medicine Advisory Board, contact the Department of Regulatory Agencies at: dora_natural_medicine@state.co.us



COLORADO
Department of Revenue
Natural Medicine Division



SB23-290 Natural Medicine Regulation & Legalization

NOTICE: This document reflects a summary and outline of SB23-290 prepared by the Department of Revenue and is for informational purposes only. The content herein should not be relied upon or construed as legal advice and does not represent the interpretation of any other agency.

I. BACKGROUND - PROPOSITION 122

- A. In November 2022 Colorado voted to pass [Proposition 122](#), the Natural Medicine Health Act, which (a) directed the establishment of a regulatory program for access to natural medicine; and (b) decriminalized personal use for adults
- B. Assigned the Department of Regulatory Agencies (DORA) with all regulatory responsibilities, including establishment of the [Natural Medicine Advisory Board](#)

II. SB23-290 REGULATORY PROGRAM

- A. **DORA** maintains the role of licensing and regulating Facilitators (persons licensed to provide natural medicine and related services). SB290 also maintained and added the following duties for DORA:
 - 1. Natural Medicine Advisory Board
 - 2. Federally Recognized Tribes & Indigenous Community Work Group
 - 3. Annual Reporting (in coordination with DOR)
- B. **The Department of Revenue (DOR)** is responsible for licensing and regulating healing centers, cultivations, manufacturers, and testing facilities under a new [Natural Medicine Division](#) and assigned the following duties to DOR:
 - 1. Testing and certification program (in coordination with CDPHE)
 - 2. Data collection (**LE incidents, adverse health events, healthcare system impacts, consumer protection claims, behavioral health impacts**)
 - 3. Public education campaigns
 - 4. Training materials for first and multi-responders
 - 5. Annual Reporting (in coordination with DORA)
- C. **Natural Medicine** defined to include only Psilocybin & Psilocyn initially

III. SB23-290 PERSONAL USE PROVISIONS

- A. **Natural Medicine** defined to include Psilocybin, Psilocyn, Ibogaine, Mescaline, and Dimethyltryptamine (DMT)
- B. **Personal Cultivation**: Not more than 12x12 feet (can be non-contiguous) on Private Property (defined) in enclosed & locked space
 - 1. Local authority to exceed the space limit
- C. **Personal Possession & Use**: No personal possession limit
 - 1. May share with an adult (21+) in context of counseling, spiritual guidance, community-based use, supported use, or related services
 - 2. No Remuneration (except allowed for bona fide harm reduction or support services used concurrently with sharing, subject to the following:
 - a) No advertisement related to sharing or services
 - b) Person sharing must inform if not a licensed Facilitator
 - 3. No manufacturing with Inherently Dangerous Substances (defined)
 - 4. No open and public display or consumption
 - 5. Personal testing by unlicensed labs allowed, subject to requirements
 - 6. Establishes [offenses](#) for violations

SB23-290 NATURAL MEDICINE REGULATION & LEGALIZATION

Detailed Bill Outline

- IV. **Department of Regulatory Agencies (DORA) - Title 12**
 - A. [Definitions](#)
 - B. [Powers & Duties - Rulemaking Authority](#)
 - C. [Natural Medicine Board - Members & Duties](#)
 - D. [American Tribes & Indigenous Community Working Group](#)
 - E. [Facilitator Licensing - Requirements & Restrictions](#)
 - F. [Grounds for Discipline & Proceedings](#)
 - G. [Local Jurisdiction / Preemption](#)
 - H. [Protections](#)
- V. **Department of Public Health & Environment (CDPHE) - Title 25**
 - A. [Rulemaking - Testing & Certification](#)
- VI. **Department of Revenue (DOR) - Title 44**
 - A. [Definitions](#)
 - B. [Application Procedures](#)
 - C. [Protections - Employer, Schools, Hospitals, Detention Facilities](#)
 - D. [Local Jurisdiction Authority & Limitations](#)
 - E. [State Licensing Authority - Powers & Duties](#)
 - 1. [Licensing & Enforcement](#)
 - 2. [Reporting, Data Collection, Public Education, Training](#)
 - F. [Rulemaking - Mandatory & Permissive](#)
 - G. [Confidentiality](#)
 - H. [Application & Distance Restrictions](#)
 - I. [Classes of Licenses](#) (Additional Rulemaking)
 - J. [Protections](#)
- VII. **Code of Criminal Procedure - Title 16 / Criminal Code - Title 18**
 - A. [Class 1 & Class 2 Public Nuisance](#)
 - B. [Offenses](#)
 - C. [New Personal Use Provisions](#)
- VIII. **Other - Additional Provisions**
 - A. [Prohibiting Discrimination for Health Benefit Plan Coverage](#)
 - B. [Division of Adult Parole, State Board Parole, Conditions of Probation](#)
 - C. [Juvenile Court Jurisdiction](#)
 - D. [Child Neglect](#)
 - E. [Sealing of Criminal Conviction Records](#)
 - F. [Public Assistance Considerations](#)
 - G. [Organ Transplants](#)
 - H. [Farm Products - Defined \(exclusion\)](#)
 - I. [Income Tax & Net Income of Corporation](#)

Natural Medicine Regulation & Legalization

SB23-290

Summary Based on - 4.24.23 [Version of Bill](#)

Department of Regulatory Agencies (DORA)

[DORA Natural Medicine Health Act Homepage](#)

SECTION 1

12-170-102. Legislative Declaration.

Declares intent and directs state agencies to honor and respect federally recognized tribes and indigenous people in order to prevent natural medicine being overly commodified / commercialized / misappropriated / exploited. Directs agencies to consider potential for direct and indirect harm.

SECTION 2

12-170-103. Applicability of Common Provisions.

Applies Title 12, Art. 1 (General Provisions) & Art. 20 (Div. of Professions & Occupations) to Article 170.

SECTION 3

12-170-104. Definitions. (P. 3-6)

Defines: Administration Session; Board; Director; Division; Facilitation; Facilitator; Federally Recognized American Tribe; Healing Center; Health-Care Facility; Integration Session; Local Jurisdiction; Natural Medicine; Natural Medicine Product; Natural Medicine Services; Participant; Preparation Session; Regulated Natural Medicine; Regulated Natural Medicine Product; Remuneration; State Licensing Authority.

Summary Definition - Natural Medicine:

(12)(a) (I) **Psilocybin**; or (II) **Psilocyn**

(12)(b)(II) **Ibogaine** (if recommended by the Board & agency approved);

(12)(b) ON OR AFTER JUNE 2026 (if recommended by the Board & agency approved):

(I) **Dimethyltryptamine** (DMT)

(III) **Mescaline** [does NOT include Peyote, meaning all parts of the plant classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; its seed; any extract from any part of plant, and every compound, salt, derivative, mixture, or preparation of the plant, or its seed or extracts]

(12)(c): Natural Medicine **DOES NOT MEAN** a synthetic or synthetic analog of the substances, including a derivative of a naturally occurring compound of natural medicine that is produced using chemical synthetic, chemical modification, or chemical conversion.

SECTION 4

12-170-105. DORA - Director Powers & Duties - Rules (P. 6-10)

(1)(a)(I) Rules for safe provision of regulated natural medicine and services, including:

(A) Parameters for a preparation, administration, and integration session;

(B) Health and safety warnings required before each session;

(C) Educational materials that must be provided before each session;

(D) A form a participant, facilitator, and authorized representative of the Healing Center must sign (establishes minimum requirements regarding health information, drug contraindications, participant expectations, parameters for physical contact, and risks of participation);

(E) Proper supervision during the administration session and requirements for a discharge plan or safe transportation;

- (F) Provisions for group administration sessions;
- (G) Provisions to refuse services based on health and safety risks;
- (H) Dosage limits for administration sessions.

(1)(a)(II) Requirements for Facilitator licensing, practice and professional conduct, including:

- (A) Form and procedures for license applications;
- (B) Educational and experiential requirements and qualifications (including education and training on participant safety, drug interactions, contraindications, mental health and state, physical health and state, social and cultural considerations, preparation, administration, integration, and ethics). Must not require a separate professional license or degree (unless multiple tiers)
- (C) Oversight/supervision requirements, including continuing education
- (D) Professional standards of conduct
- (E) Parameters for physical contact, including informed consent for physical contact
- (F) Permitting remuneration for provision of natural medicine services
- (G) Group administration sessions and participant limits
- (H) Record-keeping, privacy, confidentiality (and exemptions)
- (I) Parameters for permissible and prohibited financial interests in a license
 - Financial Interest Restriction:** A **Facilitator** cannot have a financial interest in more than five (5) NM business licenses.
- (J) Parameters for other authorized locations, including a health-care facility or private residence.
- (K) Standards for advertising and marketing, including to avoid misappropriation and exploitation of tribes and indigenous people, avoiding excessive commercialization, and targeting underage.

(1)(a)(III)-(V) Other Rules:

- (III) Rules necessary to differentiate between types of regulated natural medicine provided during an administration session based on qualities, traditional uses, and safety profile
- (IV)-(V) Other matters determined necessary to implement/administer

SECTION 4 (Continued)

12-170-105. DORA - Director Powers & Duties (P. 10-12)

(1)(b)-(k) DORA Duties Include:

- (1)(b) December 31, 2024 - DORA begins accepting applications/granting licenses
 - Prioritization of Applications:** Shall prioritize review of applications from CO residents
- (c) Establish licenses, registrations, etc.
- (d) Establish, when financially feasible, procedures, policies, and programs to ensure rules are equitable and inclusive (for which the Director may consult the Board)
- (e) Conduct investigations and hearings, gather evidence, and pursue disciplinary actions
- (f) Take disciplinary action or limit scope of practice upon proof of violation
- (g) Cease-and-desist orders pursuant to Section 405
- (h) Petition a district court for an investigative subpoena or injunction under certain circumstances
- (i) Maintain an **ONLINE PUBLIC LIST** of licensees, registrants, etc, including whether the person had its credentials limited, suspended, or revoked
- (j) Publish an **ANNUAL REPORT** on the implementation/administration (in coordination with DOR)
- (k) Perform other functions and duties necessary to administer

Other Requirements & Limitations:

- (2) Director shall consult the Board when considering/promulgating rules
- (3) Authority to collect available and relevant data
- (4) Regulators prohibited from pecuniary gain from licensees for 6 months after employment

SECTION 5	12-170-106. DORA - Natural Medicine Advisory Board
<p><u>Creates Natural Medicine Advisory Board (2 and 4 year terms), Pg. 13</u> At expiration of term, the Governor shall appoint members, without consent of the Senate (4 year term). May serve up to 2 consecutive terms. Can be removed for misconduct, incompetence, neglect of duty, unprofessional conduct.</p> <p><u>Board Recommendation Subjects, Pg. 14-15:</u></p> <ul style="list-style-type: none"> ➤ Accurate public health approaches regarding use, benefits, harms, and risk reduction ➤ Content and scope of educational campaigns ➤ Research related to the efficacy and regulation, including product safety, harm reduction, and cultural responsibility ➤ Facilitator Requirements - Proper content of training programs, educational and experiential requirements, and qualifications. When making recommendations, the Board may consider: (I) Tiered facilitator licensing; (II) Limited waivers of education and training requirements based on experience, training, skills; (III) Removal of unreasonable or logistical barriers ➤ Affordable, equitable, ethical, and culturally responsible access to NM (may consider recommendations on ways to reduce costs of licensure, incentives for reduced costs for services, and incentives for services in geographic and culturally diverse regions) ➤ Regulatory considerations for each type of NM and each type of session ➤ Addition of other types of NM, based on medical, psychological, and scientific studies, research, and other information related to safety and efficacy - Shall prioritize consideration of Ibogaine ➤ All rules to be promulgated by DORA & DOR ➤ Requirements for accurate and complete data collection, reporting, and publication <p><u>Other Board Duties, Pg. 15:</u></p> <ul style="list-style-type: none"> ➤ Shall, on an ongoing basis: <ul style="list-style-type: none"> ○ Review and evaluate existing and current research, studies, and real-world data related to NM and make recommendations to the GA and agencies regarding coverage under health first Colorado or other insurance programs for various mental health conditions ○ Review and evaluate sustainability issues and impacts on tribal and indigenous cultures and documenting existing reciprocity efforts and continuing support measures needed ➤ Board shall publish an ANNUAL REPORT describing activities 	
SECTION 6	12-170-107. American Tribes & Indigenous Working Group (P. 16)
<p><u>Federally Recognized American Tribes & Indigenous Community Working Group</u></p> <ul style="list-style-type: none"> ➤ To avoid misappropriation, exploitation, excessive commercialization, conservation issues (including potential for further depletion of peyote due to it being a source of mescaline), best practices, and open communication to avoid unnecessary burdens. ➤ Shall advise the Board and DORA on findings and recommendations ➤ Encourages DORA To engage with those who have significant experience with traditional use 	
SECTION 7	12-170-108. License - Unauthorized Practice - Disclosures (P. 17)
<p><u>Facilitator License Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ Shall not engage in Facilitation or represent self as a Facilitator without a license ➤ Shall conspicuously display license in Healing Center, including info on how to file a complaint ➤ Shall provide specific information in writing prior to each session (P. 18) <ul style="list-style-type: none"> ○ Name, address, and phone # of the licensee; ○ Explanation of regulations applicable to the licensee; ○ Listing of training, educational and experiential requirements and qualifications satisfied 	

<ul style="list-style-type: none"> to obtain a license <ul style="list-style-type: none"> ○ Statement indicating the participant is entitled to receive information about services, may terminate services and may terminate informed consent for physical contact at any time ➤ Nothing prohibits a person from performing a bona fide religious, culturally traditional, or spiritual ceremony, but must inform that they are not a licensed facilitator and so long as the ceremony is not associated with commercial, business, or for-profit activity 	
SECTION 8	12-170-109. Grounds for Discipline (P. 19)
<p><u>DORA Permissive Authority to Take Disciplinary or Other Action Upon Proof of Following:</u></p> <ul style="list-style-type: none"> ➤ Violation of this Article 170 or rules, Article 20, or any valid order of DORA ➤ Convicted of or entered plea of nolo contendere to a felony ➤ Misstatement of an application or fraud, deception, or misrepresentation ➤ Act or omission necessary to meet generally accepted professional standards of conduct ➤ Excessive or habitual use or abuse of alcohol or controlled substances ➤ Guilty of unprofessional or dishonest conduct ➤ Advertising by means of false or deceptive statement ➤ Failure to display license as required ➤ Guilty of willful misrepresentation ➤ Failure to disclose within 45 days a conviction for a felony or any crime related to practice ➤ Aids/abets unlicensed practice of facilitation ➤ Fails to timely respond to a complaint end by the Director (DORA) pursuant to 12-170-110 	
SECTION 9	12-170-110. Disciplinary Proceedings (P. 20)
Establishes bases and process for disciplinary proceedings, including hearings and judicial review	
SECTION 10	12-170-111. Fees - Cash Fund (P. 21)
Establishes a cash fund. Shall set and adjust fees so revenue approximates the direct and indirect costs of the program. Fees shall not exceed the amount necessary to administer the Article.	
SECTIONS 11 & 14	12-170-112 & 115. Local Jurisdiction (P.21) / Preemption (P.23)
Consistent with Prop 122, local governments cannot prohibit Facilitation of NM Services and can not adopt ordinances/regulations that are unreasonable or in conflict with Article 170.	
SECTION 12	12-170-113. Protections (P. 22)
<p><u>Protections Include:</u></p> <p>(1)(a) Licensed activity and allowing use of property for licensed activity are not an offense under state or local law; are not subject to civil fine or sanction; are not a basis for detention, search, or arrest; and are not a basis to deny any right or seize or forfeit assets.</p> <p>(b) Contracts enforceable (federal prohibition does not render a contract unenforceable)</p> <p>(c) Mental health care, substance use services, or behavioral health services covered under the CO Medical Assistance Act, Title 25.5, Articles 4-6, cannot be denied on the basis of federal prohibition of NM. However, Insurance providers are not required to cover the cost of NM.</p> <p>(d) Nothing prevents the Director from enforcing rules or limits state or local LE to investigate unlawful activity in relation to a licensee.</p> <p>(2) Professional or occupational license not subject to professional discipline on the basis of federal prohibition, but this does not authorize conduct that violates standards of care or scope of practice.</p>	

SECTIONS 13-16	12-170-114 - 12-170-117. Construction & Repeal (P. 23)
<ul style="list-style-type: none"> ➤ Section 13. 12-170-114. Liberal Construction - Article 170 must be liberally construed ➤ Section 15. 12-170-116. Self-Executing, Severability, Conflicting Provisions - Provisions are self-executing except as specified and supersede conflicting state and local provisions ➤ Section 16. 12-170-117. Repeal & Review - Article 170 subject to review prior to repeal 9/1/2032 	
SECTION 17	12-20-407. Unauthorized Practice
Class 2 Misdemeanor if a person practices or offers or attempts to practice/engage in Facilitation	
Department of Revenue (DOR) - DOR Website & Department of Public Health & Environment (CDPHE) - CDPHE Website	
SECTION 18	24-1-117. Department of Revenue - New Division (P. 24)
Creates the DOR Natural Medicine Division, a type 2 entity (as defined in 24-1-105)	
SECTION 19	24-34-104. Review for Repeal or Continuation (P. 25)
September 1, 2032 - Scheduled repeal of Article 170 of Title 12 and Article 50 of Title 44	
SECTION 20	25-1.5-120. CDPHE - Testing and Standards - Rules (P. 25)
<p>CDPHE authority to establish (in coordination with DOR) rules for testing and certification. 44-50-203 also gives permissive authority for DOR to allow for personal use testing.</p> <p><u>Minimum testing rules must include:</u></p> <ul style="list-style-type: none"> ➤ Testing standards and certification requirements ➤ Independent testing and certification program within a timeline established by the DOR, to ensure products do not contain contaminants injurious to health and ensure correct labeling ➤ Quarantine and notification procedures if results indicate substances deemed injurious; ➤ Ensure testing verifies concentration representations and homogeneity for labeling; ➤ Acceptable variance for concentration and procedures to address misrepresentations; and ➤ Protocols and frequency of testing. 	
SECTION 21	PART 1: NEW ARTICLE 50 - CO Natural Medicine Code (P. 26)
Establishes Article 50 in Title 44 - The Colorado Natural Medicine Code, 44-50-101 - 102	
SECTION 21	PART 1: 44-50-103. Definitions (P. 27)
<p>44-50-103. Definitions: Consistent with Title 12 (underlined terms are new)</p> <p>Administration Session; Board; Director; Division; Facilitator; Healing Center; Health-Care Facility; Integration Session; <u>License</u>; <u>Licensed Premises</u>; <u>Licensee</u>; Local Jurisdiction; Natural Medicine; <u>Natural Medicine Business</u>; Natural Medicine Product; Natural Medicine Services; Participant; <u>Person</u>; Preparation Session; <u>Principle File</u>, Regulated Natural Medicine; Regulated Natural Medicine Product; Remuneration; State Licensing Authority; <u>Transfer</u></p>	

SECTION 21	PART 1: 44-50-104. Applicability (P. 32)
<p><u>Application Procedures</u></p> <ul style="list-style-type: none"> ➤ Requires SLA to <u>prioritize review</u> of applications from Colorado residents ➤ Application & License fees are credited to the Regulated Natural Medicine Cash Fund <p><u>Employer, School, Hospital, Detention Facility, Related Protections</u></p> <ul style="list-style-type: none"> ➤ Employers are not required to permit or accommodate NM use, consumption, possession, etc., or impairment in the workplace ➤ Employers may have policies restricting use or impairment in the workplace ➤ An employer, school, hospital, detention facility, corporation, or other entity that occupies, owns, or controls property can prohibit/regulate NM activities on such property <p><u>Local Jurisdiction Authority & Limitations</u></p> <ul style="list-style-type: none"> ➤ May enact ordinances/regulations governing time, place, manner of operation of licenses ➤ May NOT prohibit: <ul style="list-style-type: none"> ○ Establishment or operation of licenses ○ Transportation of NM on public roads by licensed persons ➤ May NOT adopt ordinances/regulations that are unreasonable or in conflict 	
SECTION 21	PART 2: 44-50-201. State Licensing Authority (P. 33)
<p>Establishes the DOR Executive Director as the State Licensing Authority (can delegate to NM Division Director), who may employ Department officers and employees as necessary.</p>	
SECTION 21	PART 2: 44-50-202. Powers & Duties of SLA (P. 33)
<p><u>Licensing & Enforcement: PP. 33-34</u></p> <ul style="list-style-type: none"> ➤ December 31, 2024 - DOR begins accepting applications/granting licenses ➤ Authority to suspend, fine, restrict, revoke licenses (active, expired, or surrendered) ➤ Conduct investigations and hearings, gather evidence, and pursue disciplinary actions ➤ Petition a district court for an investigative subpoena to unlicensed persons after reasonable efforts to obtain requested documents/information ➤ Petition a court to temporarily restrain or enjoin action of an unlicensed person when the NM Division director finds sufficient evidence that the person has or is committing a prohibited act and such act (A) threatens public health or safety; or (B) constitutes an unlawful act ➤ Hearing procedures and authority ➤ Develop forms, licenses, ID cards, and applications <p><u>Reporting, Public Education & Training: PP. 34-36</u></p> <ul style="list-style-type: none"> ➤ In coordination with DORA, publish an ANNUAL REPORT on the implementation/administration (must not include information that could disclose the identity of a participant) <ul style="list-style-type: none"> ○ DATA COLLECTION REQUIREMENT (to include in annual report): In coordination with other agencies, the SLA shall request data concerning LE incidences / adverse health events / impacts to health care systems / consumer protection claims / and behavioral health impacts ➤ Develop and promote PUBLIC EDUCATION CAMPAIGNS (including public service announcements, educational materials, and crisis response materials) ➤ Develop and promote TRAINING MATERIALS for first responders and multi-responders (LE, emergency medical providers, social service providers, fire fighters) <p><u>Other Duties & Limitations: PP. 35-36</u></p> <ul style="list-style-type: none"> ➤ SLA cannot fix prices for regulated NM ➤ Nothing requires LE ability to investigate unlawful activity related to a licensee ➤ LE has authority to run a criminal history record check during an investigation of unlawful activity 	

- Establish, when financially feasible, procedures, policies, and programs to ensure rules are equitable and inclusive (for which the SLA may consult the Board)

SECTION 21

PART 2: 44-50-203. Rulemaking Authority (P. 37)

DOR MANDATORY RULEMAKING

General Licensing:

- Licensing procedures & requirements (for issuance, denial, renewal, reinstatement, modification, suspension, and revocation)
- Oversight requirements for licensees
- A schedule of application, licensing, and renewal fees

Qualifications and eligibility requirements for licensure

- Tax Compliance: Eligibility includes requirements for timely payment of state taxes, timely filing of returns, and timely curing of tax deficiencies. Authorizes the DOR to have access to licensing information to ensure compliance.

Permitted and prohibited financial interests:

- A Person cannot have a financial interest in more than five (5) NM business licenses

Testing Program: DOR rules in coordination with CDPHE

- Establishment of a natural medicine independent testing and certification program.
- At a minimum, to ensure product does not contain contaminants injurious to health and to ensure correct labeling
- Certification requirements and requirements that results cannot be used unless the lab is certified
- Testing procedures and frequency
- Whether to allow unlicensed persons to request/utilize testing services of regulated labs
- Definitions, permissions, and prohibitions concerning conflicts of interest
- Procedures and requirements necessary for coordination with CDPHE duties

Regulation of Licensed Premises:

- Co-location of a Healing Center with another Healing Center or Health-Care Facility

Transportation Requirements:

- Security requirements
- Vehicle requirements, including surveillance
- Limits on amounts that may be carried in a vehicle
- Record keeping
- Transport manifest

Production Management

- Limits on the amount of NM allowed for production by licensees based on metrics
- Shall consider total current and anticipated demand

Record Keeping

- Records licensees are required to maintain and make available for inspection by the SLA

Other

- Requirements to prevent diversion
- Requirements to prevent underage access
- Permitted and prohibited transfers of NM between licensees
- Standards for advertising/marketing (including avoiding misappropriation and exploitation of tribes and indigenous people / avoiding excessive commercialization)

DOR PERMISSIVE RULEMAKING (P. 40)

- Establishment of licenses
- Principle file process
- Product requirements and restrictions
- Packaging and labeling requirements, including warning labels, serving and per-package serving amounts; and concentration of product
- Security and surveillance, among other minimum procedures for internal control
- Reporting requirements for changes
- Health and safety standards and sanitary requirements
- Waste handling/disposal
- Storage and transportation
- Inventory tracking/management
- Procedures for disciplinary actions
- Penalties schedule
- Specifications of duties of officers/employees of SLA
- Guidance for law enforcement
- Inspections and investigations (including searches, seizures, forfeitures, embargo, quarantine, recalls, and such additional activities as may become necessary)
- Prohibition on misrepresentation and unfair practices
- Other matters as necessary

Other Requirements & Limitations (P. 43)

- Shall consult the advisory board when considering and promulgating rules
- May establish procedures for conditional issuance of an employee license and ID at time of application (remains subject to denial pending results of criminal history check)
- Fingerprint requirements - by local LE agency or third party approved by CBI (requirement for SLA to send fingerprints to CBI for processing)

SECTION 21	PART 2: 44-50-204. Confidentiality (P. 43)
Gives similar protections and exemptions as in the Marijuana Code. Certain licensee information must be maintained as confidential (e.g. financial records, security plans) with limited exceptions	
SECTION 21	PART 3: 44-50-301. Classes of Licenses (P. 44)
<ul style="list-style-type: none">➤ Creates licenses issued by DOR: Healing Center, Cultivation, Manufacturer, Testing Facility, Occupational license (with authority to establish other licenses as necessary for implementation)➤ Authorizes a state chartered bank or credit union to loan money to licensees➤ Prohibits operation of a license at the same location as a license or permit issued under Articles 3, 4, 5, or 10 of Art. 44 (alcohol, fermented malt beverages, special event liquor permits; marijuana)	
SECTION 21	PART 3: 44-50-302. Application & Distance Restrictions (P. 45)
<ul style="list-style-type: none">➤ Distance restrictions, including within 1,000 feet of a child care center, preschool, elementary, middle, junior, or high school, or residential child care facility or if not permitted by local zoning.➤ Local jurisdictions may vary the distance restrictions or may eliminate facilities from restrictions.➤ Application approval requires the applicant to demonstrate it is or will be entitled to possession of premises via lease, rental agreement, ownership, or other arrangement.	

CONTINUES TO NEXT PAGE

SECTION 21	PART 4: 44-50-401. Healing Center (P. 47)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person that employs or contracts with a Facilitator ➤ May transfer regulated NM to another HC ➤ Prior to initiating NM Services, a Facilitator shall verify the Participant is 21+ ➤ Shall comply with all provisions of Article 34, Title 24, as related to persons with disabilities <p><u>Additional Rulemaking Authority</u></p> <ul style="list-style-type: none"> ➤ Shall not transfer more than amount permitted by rule in a single Administration Session ➤ SLA may establish exemptions to the above administration limitations and may establish record-keeping requirements for HCs pursuant to any such exemption 	
SECTION 21	PART 4: 44-50-402. Cultivation Facility (P. 48)
<p><u>Transfer Allowances/Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who cultivates regulated NM for transfer and distribution to NM healing centers, manufacturers, or other cultivations <p><u>Activities Restricted on Premises</u></p> <ul style="list-style-type: none"> ➤ NM cannot be consumed on the premises unless co-located with HC premises 	
SECTION 21	PART 4: 44-50-403. Product Manufacturer (P. 48)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who manufactures regulated NM products ➤ Licensee shall NOT: <ul style="list-style-type: none"> ○ Add regulated NM to a food product that holds a trademark, unless it's used only as a component or as part of the recipe and only if the licensee does not state or advertise to the consumer that the final product contains a trademarked product ○ Intentionally or knowingly label or package in a manner that would cause reasonable confusion as to whether the product was trademarked ○ Label or package in a manner that violates federal trademark law/regs <p><u>Activities Restricted on Premises</u></p> <ul style="list-style-type: none"> ➤ NM cannot be consumed on premises unless co-located with HC premises 	
SECTION 21	PART 4: 44-50-404. Testing Facility (P. 49)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who performs testing and research on NM ➤ Testing is a matter of statewide concern ➤ A testing licensee cannot have an interest in another NM business license <p><u>Additional Rulemaking Authority</u></p> <ul style="list-style-type: none"> ➤ Acceptable testing and research practices, including but not limited to: <ul style="list-style-type: none"> ○ Standards ○ Quality control analysis ○ Equipment certification and calibration ○ Identification of chemicals and other substances used in bona fide research methods ○ Whether to allow persons 21+ to request and use testing services for personal use 	

SECTION 21	PART 5: 44-50-501. Unlawful Acts (P. 50)
<ul style="list-style-type: none"> ➤ Knowingly transfer to person under 21 ➤ Knowingly adulterate or alter test samples (or attempt to do so) 	
SECTION 21	PART 6: 44-50-601 - 602. Fees (P. 50)
<p><u>Establishes the Regulated Natural Medicine Division Cash Fund</u></p> <ul style="list-style-type: none"> ➤ Fees must cover direct and indirect costs of agency operations to implement and administer ➤ May charge for the cost of each fingerprint analysis and background investigation to qualify new officers, directors, managers, or employees ➤ Shall annually review and, if necessary, adjust fees to reflect direct and indirect costs ➤ Fees must not exceed the amount necessary to administer ➤ Shall also establish a subpoena fee (not applicable to government agencies) 	
SECTION 21	PARTS 7 - 8: 44-50-701 - 801. Disciplinary Actions (P. 52)
Establishes process for disciplinary actions with notice, hearing, and judicial review.	
SECTION 21	PART 9: 44-50-901. Protections, Construction, Preemption, Severability (P. 53)
<p><u>44-50-901. Protections (PP. 53-54)</u></p> <ul style="list-style-type: none"> ➤ Licensed activity and allowing use of property for licensed activity are not an offense under state or local law; are not subject to civil fine or sanction; are not a basis for detention, search, or arrest; and are not a basis to deny any right or seize or forfeit assets. ➤ Contracts enforceable (federal prohibition does not render a contract unenforceable) ➤ Licenses under this Article are not subject to professional discipline for providing advice or services related to NM on the basis of federal prohibition, but does not authorize malpractice. ➤ Mental health care, substance use services, or behavioral health services covered under the CO Medical Assistance Act, Title 25.5, Articles 4-6, cannot be denied on the basis of federal prohibition of NM. However, Insurance providers are not required to cover the cost of NM. ➤ Nothing prevents the Director from enforcing rules or limits state or local LE to investigate unlawful activity in relation to a licensee. <p><u>44-50-902 - 904. Construction, Preemption, Severability (P. 55)</u></p> <p>Article 50 must be liberally construed to effectuate its purpose; local jurisdictions cannot adopt any ordinance, rule, or resolution in conflict with this Article; If any provision of this Article is found to be unconstitutional, the remaining provisions are valid.</p>	
SECTION 21	PART 10: 44-50-1001. Sunset Review & Repeal (P. 55)
Effective September 1, 2032 ; Scheduled for Sunset Review under 24-32-104(5)	
TITLE 16 CODE OF CRIMINAL PROCEDURE	
SECTIONS 22 -23	PART 10: 16-13-303 - 304. Class 1 & 2 Public Nuisance (P. 55)
Not a Class 1 or 2 public nuisance if in compliance with 18-18-434, Title 12, or Title 44	

**TITLE 18
CRIMINAL CODE**

SECTIONS 24 - 26

**18-18-403.5. Unlawful Possession of Controlled Substance
18-18-404. Unlawful Use of Controlled Substance
18-18-405. Unlawful Distro, Manufacturing, Dispense, Sale**

Exemptions if in compliance with Title 12, Title 27, Title 18, and Title 44

SECTION 27

18-18-410. Declaration of Class 1 Public Nuisance (P. 57)

Exemptions regarding use of places for storage, manufacture, sale, or distribution

SECTION 28

18-18-411. Property & Controlled Substances (P. 57)

Exemptions for persons (keeping, controlling, renting, making property available for distribution or manufacture) if in compliance with 18-18-434, Article 170 of Title 12, or Article 50 of Title 44

SECTION 29

18-18-412.7. Sale or Distribution of Materials to Manufacture CS

Exemptions if in compliance with 18-18-434, Title 12, and Title 44

SECTION 30

18-18-430.5. Drug Paraphernalia - Exemption (P. 58)

Exemptions from 18-18-425 - 18-18-430 if using equipment, products, or materials in compliance

SECTION 31

NEW 18-18-434. Offenses Relating to Natural Medicine (P. 58)

NEW PERSONAL USE PROVISIONS FOR NATURAL MEDICINE

OFFENSES P. 58

(1) Persons under 21 Years of Age - Knowingly Possess or Consume P. 58

**Aligns with 18-13-122 for MJ*

- **Drug petty offense** - subject to:
 - Fine of not more than \$100; OR
 - Not more than four (4) hours of substance use education or counseling
- **Second or subsequent conviction:**
 - Fine of not more than \$100
 - Not more than four (4) hours of substance use education or counseling; AND
 - Not more than twenty-four (24) hours of useful public service

(2) Open and Public Display or Consumption: P. 58

**Aligns with 18-18-406(5)(b) for MJ*

- **Drug petty offense** - subject to:
 - Fine of not more than \$1,000; AND
 - Not more than twenty-four (24) hours of useful public service.

(3)(a) Knowing Cultivation (or allowance) - Private Property Exceeding 12x12 (non-contiguous) P. 59

**Aligns with lowest level penalty in 18-18-406(3) for MJ*

- **Drug petty offense** - subject to: Fine of not more than \$1,000

(3)(b) Knowing Cultivation (or allowance) - Private Property Enclosed & Locked Space P. 59

**Aligns with lowest level penalty in 18-18-406(3) for MJ*

- **Drug petty offense** - subject to: Fine of not more than \$1,000

(4) Knowing Manufacture w/Inherently Hazardous Substances P. 60

**Aligns with 18-18-406.6 for MJ*

- **Level 2 Drug Felony** - Unlawful to knowingly manufacture or allow manufacture of NM Product using an **Inherently Hazardous Substance**
- **Defined:** Any liquid, chemical, compressed gas, or commercial product that has a flash point at or lower than 38 degrees celsius or 100 degrees fahrenheit, including butane, propane, and diethyl ether, and excluding all forms of alcohol and ethanol)

PERSONAL USE P. 59

Personal Cultivation

- Limited to an area not more than **12x12 feet** on Private Property
- 12x12 space not required to be contiguous
- A local jurisdiction may allow cultivation exceeding the space limit
- Defines **“Private Property”**
 - A dwelling, its curtilage, and a structure within the curtilage being used for habitation and that is not open to the public.
- 18-18-434(3)(b)(II) - Not a violation if:
 - The person is 21+; AND
 - The cultivation area is located in a dwelling on the Private Property; AND
 - If an underage person lives at the dwelling, the cultivation is enclosed and locked.
 - If no underage person lives at the dwelling, the external locks on the dwelling constitute an enclosed and locked space, **BUT**
 - If a person underage lives at the dwelling, shall ensure access is reasonably restricted

(5)(b) Personal Use Testing Allowances - via Unlicensed Labs P. 60

- Allows a person to perform testing for persons 21+ (for personal use) if:
 - The person gives written notice that they are not licensed by the state to conduct testing; &
 - The person who submits samples gives a signed statement that the natural medicine is for personal use only

(5)(c) Nothing in this Section Permits the Following P. 61

- Underage access
- Remuneration except as allowed
- Engage in personal use actions related to natural medicine other than as allowed
- Engage in action as part of a business promotion or commercial activity except as allowed
- Dispense, sell, or distribute, or possess Ibogaine w/intent to distribute except as allowed

(5)(d) - (10) Law Enforcement & Local Jurisdiction Limitations P. 61

- Shall not arrest or charge or prosecute for an offense involving natural medicine except as expressly provided in this Section (may arrest, charge, or prosecute for an offense not expressly lawful under Titles 12 and 44)
- A lawful action cannot be the sole reason to
 - (a) subject a person to a civil fine, penalty, or sanction
 - (b) deny a person a right or privilege; or
 - (c) seize or forfeit assets
- A lawful action cannot be the sole factor in a probable cause determination. Such action can be

used as a factor IF:

- The original stop or search was lawful; AND
- Other factors are present to support a PC determination
- Entitlement to consume does not constitute a defense against a charge for violation related to operation of a vehicle, aircraft, boat, machinery, or other device
- A local jurisdiction shall not impose any greater criminal or civil penalty

(11) Exceptions for Living Plants for Ornamental Purposes

Offenses do not apply to a living plant for ornamental purposes (plants commonly and lawfully sold prior to this Act). A living plant does not include mushrooms or other fungal matter

Defines Natural Medicine P. 63

- Means: (A) Dimethyltryptamine (B) Mescaline; (C) Ibogaine; (D) Psilocybin; or (E) Psilocyn
- Exclusions:
 - Natural Medicine does **NOT** mean a synthetic or synthetic analog of the substances, including a derivative of a naturally occurring compound of natural medicine that is produced using chemical synthetic, chemical modification, or chemical conversion.
 - Mescaline does **NOT** include Peyote, meaning all parts of the plant classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; its seed; any extract from any part of plant, and every compound, salt, derivative, mixture, or preparation of the plant, or its seed or extracts.

Defines Personal Use P. 64

- Consumption or use of Natural Medicine or Natural Medicine Product; or
- The amount a person may lawfully possess, cultivate, or manufacture that is necessary to share with another person 21+ within the context of:
 - Counseling
 - Spiritual guidance
 - Beneficial community-based use and healing; or
 - Supported use or related services
- Does NOT mean:
 - Remuneration;
 - Possession, cultivation, or manufacture with intent to sell for remuneration;
 - Possession, cultivation, manufacture, or distribution for business or commercial purposes
- Does not preclude Remuneration for bona fide harm reduction or support services used concurrently with sharing. IF:
 - No advertisement related to sharing or the services AND
 - The individual giving services informs they are not a licensed Facilitator

OTHER

SECTION 32

10-16-158. Prohibiting Discrimination for Coverage (P. 65)

- Carriers shall not, solely on the basis of consumption, decline or limit health benefit plan coverage of a person or penalize covered persons or reduce or limit coverage; shall not deny, decline, or limit coverage for an organ transplant or related service; shall not decline or limit coverage for the purpose of avoiding the requirements of this section; shall not penalize, reduce, or limit coverage for healthcare services related to organ transplantation.
- However, does not require a plan to provide coverage for the donation of an anatomical gift, transplant, or related treatment or services

SECTION 33 - 35	17-2-102. Division of Adult Parole (P. 66) 17-2-201. State Board Parole (P. 67) 18-1.3-204. Conditions of Probation (P. 67)
	<ul style="list-style-type: none"> ➤ Exempts subsection (8.5)(d) from a parolee who possesses or uses NM as authorized ➤ Possession or use authorized under this law cannot be considered a violation of parole conditions
SECTION 36	19-2.5-103. Juvenile Court Jurisdiction (P. 67)
	Juvenile court exclusive original jurisdiction concerning a juvenile 10 yrs + involving natural medicine
SECTION 37	19-3-103. Child Neglect (P. 68)
	Actions lawful in Titles 12, 18, 44 do not constitute neglect and a court shall not restrict or prohibit family time or make similar determinations, UNLESS a court determines family time would endanger the child’s physical health or significantly impair the child’s emotional development.
SECTION 38	24-72-706. Sealing of Criminal Conviction Records
	<p>(1)(f.5) Can file a motion for the sealing of conviction records for an offense that is no longer unlawful. If a motion is filed, the defendant shall provide notice to the DA, who (within 42 days from receipt of the motion) may object after considering specific factors.</p> <ul style="list-style-type: none"> ➤ If no DA objection, the court may grant with or without a hearing ➤ If DA objection, shall set the matter for hearing ➤ Burden is on the defendant - preponderance of evidence standard ➤ The defendant’s motion is NOT required to include a verified copy of a criminal history ➤ Must not be charged fees/costs for filing a motion pursuant to this section
SECTION 39	24-76.5-104. Public Assistance Considerations (P. 70)
	Eligibility does not require consideration related to natural medicine unless required by federal law
SECTION 40	25-56-104.5. Discrimination for Organ Transplants (P. 70)
	<ul style="list-style-type: none"> ➤ Limitations and requirements for covered entities that provide coverage related to the organ transplant process. Requirements for covered entities include: (a) making reasonable modifications to policies, practices, and procedures; (b) take reasonable and necessary steps to ensure consumption is not the reason for denial of services, unless the entity demonstrates such steps would fundamentally alter the nature of services or result in undue burden for the entity. ➤ Does not require the entity to make a referral or perform a medically inappropriate transplant.
SECTION 41	35-36-102. Rules - Definitions (P. 72)
	Amends the definition of “Farm Products” to exclude NM as defined under Title 12 (<i>similar to MJ</i>)
SECTIONS 42-43	39-22-104 & 304. Income Tax & Net Income of Corporation (P. 72)
	For tax years commencing on or after Jan. 1, 2024, a Title 44 licensee can subtract expenditures eligible to be claimed as a federal income tax deduction, but is disallowed by 280E of the IRS Code
SECTIONS 44	Appropriation (P. 73)

Appropriates funding to agencies for purposes of implementation

SECTION 45

Effective Date and Safety Clause (P. 74)

Effective July 1, 2023, applies to offenses committed on or after July 1, 2023

END

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
Lindsay Hirsh, Community Development Director
FROM: Jennifer Madsen, Town Attorney
Keith Martin, Attorney
DATE: October 22, 2024 – Work Session
SUBJECT: [Work Session] 1041 Regulations

Executive Summary:

This work session item is a continuation of the discussion on 1041 Regulations. The 1041 Ordinance is on the consent agenda at the October 22 meeting. The public hearing on the 1041 regulations will be held on November 12.

Background:

Town Council provided direction to staff to implement 1041 regulations in Keystone. An overview of 1041 regulations is provided below.

The 1041 regulations that are on the consent agenda for approval on first reading are related to regulation of the following activities of state interest:

- Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
- Site selection of arterial highways and interchanges and collector highways;

- Site selection and construction of major facilities of a public utility;

If a person is interested in development of an activity of state interest, the regulations require the following process for the development to proceed:

- 1) Applicant must set a pre-application meeting with Town Staff to discuss the project.
- 2) Following pre-application meeting, Town Staff will review the development and determine whether the development is not likely to have significant effects, or the significance of the effects is unknown – Finding of No Significant Impacts (FONSI). If there is a FONSI determination, then a 1041 permit is not required and the person may continue with the development.
- 3) If a permit is required, the person must submit the application with all the required information.
- 4) The completed application is provided to the Planning & Zoning Commission for review and recommendation (this is not a quasi-judicial hearing).
- 5) Town Council holds a quasi-judicial public hearing on the application and determines whether the criteria for the application has been met. The criteria outlined in the regulations are set by state statute, with additional Keystone-specific requirements, such as ensuring the activity is designed and developed in a manner that is consistent with the Town's comprehensive plan.

The goal of the proposed process is to provide the Town with a review when needed to for significant projects. As such, the process is structured to:

- comprehensively identify all potential environmental impacts and other effects directly related to the changes in the physical environment caused by the proposed development;
- assess whether those anticipated impacts are significant or not; and

- if they are significant, then allow the Town to impose conditions on the development activity—do this or do that—that will address, reduce, or mitigate those impacts.

The substantive review criteria are designed to: (1) ensure the applicant is doing everything it can possibly do to avoid significant impacts and, where unavoidable, to mitigate or offset them in some way; and (2) ensure the site of the project is the most appropriate location and that the applicant will responsibly develop and operate the project; and (3) discourage development projects from occurring on inappropriate sites and which don't actually advance any benefits, especially where unavoidable impacts will not be mitigated or the proposed changes in the physical environment resulting from the development activity present an unacceptable risk of injury to the public health, safety, and welfare.

The purpose of the work session discussion is to allow for questions on the ordinance and regulations that are on the consent agenda for first reading.

Overview of 1041 Regulations:

The following information was included in the April 23 staff report and provides background information on 1041 regulations and the process for adopting these regulations.

At the most basic level, local government 1041 regulations are a land use tool for municipalities. As a planning tool, 1041 regulations give a local government a “seat at the table” during the review of particular development projects occurring in the jurisdiction, even when the project has statewide impacts.

In 1974, the Colorado legislature enacted the Areas and Activities Of State Interest Act which defines the authority of state and local governments in making land use planning decisions for matters of statewide interest. The Areas and Activities Of State Interest Act (“Act) was adopted pursuant to House Bill 74-1041 and accordingly, regulations adopted by local governments under the authority identifying the Areas and Activities Of State Interest Act are often referred to as “1041 Regulations.”

The legislative purpose of the Act was, in part, to clarify the relative authority of state and local governments over land use decisions concerning matters of statewide interest. The General Assembly encouraged local governments to "designate areas and activities of state interest and, . . . promulgate guidelines for the administration thereof." The Act delegates powers, commonly called “1041 Powers,” to local governments allowing local governments to identify, designate, and regulate areas and activities of state interest through a local permitting process. The general intent of 1041 Powers is to allow local governments to maintain their control over certain types of projects because they have statewide or regional impacts.

The Act does not require that every local government exercise 1041 powers. However, local governments must make a designation and adopt regulations before 1041 powers may be used. Using 1041 powers is a powerful land use regulatory step for local governments given that the general rule in Colorado is that local regulations are preempted by state regulations in areas of exclusive state-wide concern. The Act alters that general rule for those areas and activities of state interest identified in the lists below. The Act assigns the following functions to local governments in their exercise of authority under the Act:

- Designate matters of state interest.
- Hold hearings on applications for permits for development with respect to matters of state interest.

- Grant or deny applications for permits applications for permits for development with respect matters of state interest.
- Receive recommendations from state agencies and other local governments relating to matters of state interest.
- Send recommendations to other local governments relating to matters of state interest.

The Act identifies the areas of land and the activities qualifying as “matters of state interest” local governments may designate.

The "areas of state interest" local governments may designate include:

- Mineral resource areas;
- Natural hazard areas (including floodplains, wildfire hazard areas and geologic hazard areas);
- Areas containing, or having a significant impact upon, historical, natural, or archaeological importance; and
- Areas around certain “key facilities” including airports, rapid or mass transit terminals, interchanges involving arterial highways, and major facilities of a public utility.

The Act authorizes local governments to designate the following “activities of state interest”:

- Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
- Site selection and development of solid waste disposal sites;
- Site selection of airports;
- Site selection of arterial highways and interchanges and collector highways;
- Site selection and construction of major facilities of a public utility;

- Site selection and development of new communities;
- Efficient utilization of municipal and industrial water projects; and
- Conduct of nuclear detonations.

Local governments may choose to adopt 1041 regulations for any one or all of these areas or activities of state interest. Once adopted, development activities in these designated areas or activities are required to obtain a 1041 from the local government.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: John Crone, Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: October 22, 2024 – Work Session
SUBJECT: [Work Session] Discussion of adopting an ordinance regarding penalties and fines

Executive Summary:

The purpose of this discussion is to provide an overview and recommend the adoption of a penalty ordinance for the Town of Keystone, in accordance with state law. Town Council has been discussing and adopting ordinances related to traffic regulations and nuisance violations. A standardized penalty and fine schedule for these and other municipal ordinance violations will promote compliance and aim to ensure fair and consistent enforcement.

Background:

Municipalities in Colorado are empowered to adopt and enforce ordinances that regulate various activities within their jurisdictions. These regulations help maintain public safety, protect property, and enhance the quality of life for residents. To ensure compliance, municipalities may impose penalties and fines for violations of such ordinances. Colorado law allows municipalities to adopt a fine schedule, provided that such fines are reasonable and comply with state statutes.

Under Colorado Revised Statutes, municipalities have the authority to adopt fines and penalties for ordinance violations, subject to statutory limits. Per C.R.S. § 31-16-101, a municipality may impose fines up to a maximum amount for any ordinance violation,

provided such penalties are not excessive or arbitrary. State law provides that the maximum penalty for an ordinance violation is \$2,650 (this amount may be adjusted for inflation). In addition, the municipality may enforce an ordinance violation by imprisonment of not more than 364 days. The ability to impose a jail sentence is limited to ordinance violations which are criminal in nature and there is a corresponding criminal state law. Further, a municipality may establish a schedule of penalties, which can streamline enforcement and assist with effectively responding to a range of infractions. This fine schedule may be established by Town Council or by the Municipal Court Judge.

Proposed Penalty and Fine Schedule

The proposed penalty and fine schedule will cover a broad spectrum of municipal code violations, including but not limited to:

1. **Traffic and Parking Violations** – Graduated fines based on the severity of the infraction.
2. **Public Nuisances** – Fines for violations relating to noise, littering, and other disturbances.
3. **Zoning Violations** – Penalties for failure to comply with zoning regulations, including land use violations and unpermitted construction.
4. **Health and Safety Violations** – Fines for violations involving public health and sanitation, including improper waste disposal and unsanitary conditions.

Court Process

It may be helpful to explain the process for issuance of a penalty or fine associated with a municipal court violation. When a municipal code violation occurs, a case may be reference to the municipal court. As an alternative first step, the Town can provide education to the person on the activity that is in violation of the municipal code and request that the person voluntarily comply. If the person does not voluntarily comply, the next step in the process is the issuance of a citation or summons, which informs the person of the nature of the violation and the required court appearance date. During the initial court appearance, the defendant may plead guilty, not guilty, or no contest. If a

guilty plea is entered or the defendant is found guilty, the court may impose fines, penalties, or corrective actions as prescribed by the relevant municipal ordinance. If the defendant pleads not guilty, the case proceeds to a trial, where evidence and testimony are presented. The municipal judge will then determine whether the defendant is in violation of the municipal code and render a verdict.

Recommendation

It is recommended that Town Council adopt an ordinance with at least the following sections:

- Include a general statement that it is a violation to do any act which is prescribed as unlawful.
- Adopt a general penalty for violation. Prescribe that violation of any ordinance is subject to the general penalty amount of \$2,650, and that each day of such violation is a separate offense.
- Identify that some offenses are considered criminal offenses, and those offenses may also be enforced by jail of not more than 364 days.
- Consider adopting a fine schedule or identify that the Municipal Court Judge is empowered to establish a fine schedule.

In creating a penalty schedule, the typical practice is to adopt minimum penalties that correspond to the type of violation or that correspond to the frequency of violations. For example, for violations of the Model Traffic Code, the penalty schedule typically corresponds to the points assessed. Thus, a three-point (or less) traffic violation is a minimum \$100.00 penalty; a four-point traffic violation is \$125.00; and more than four-point violation is \$175.00.

Related to traffic violations, a driver will be allowed to pay the traffic ticket in advance of a court appearance. A driver who pays in advance of the court date will receive an automatic point reduction and will not need to pay court costs.

For an example of penalties associated with nuisance violations, a penalty schedule

corresponds to the number times the person has violated the particular ordinance: 1st violation \$250; 2nd violation \$400; and 3rd violation \$500.

Here are the penalty sections from neighboring Summit County towns:

- [Town of Dillon General Penalty Section](#)
- [Town of Silverthorne \(several sections included in this Article I\)](#)
- [Town of Frisco](#)
- [Town of Blue River](#) (Article IV of Chapter 1)