



**Garden
Spot of
Colorado**

**MEETING OF THE TOWN BOARD
Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, April 22, 2025, 6:30 p.m.**

This is an IN-PERSON meeting at the location and time noted above.

This meeting will be streamed live on YouTube. The live stream is accessible by visiting www.berthoud.org/stream

The Town Board may take action on any of the following agenda items as presented or modified prior to or during the meeting and items necessary or convenient to effectuate the agenda items.

1. Meeting Called To Order - Mayor William Karspeck
2. Pledge Of Allegiance - Mayor William Karspeck
3. Roll Call - Mayor William Karspeck
4. Citizen Participation
5. Scheduled Items And Estimated Time For Discussion

5.I. Consent Agenda

Introduction By: Christian Samora

Documents:

MEMO RE CONSENT AGENDA.PDF
A. APRIL 22, 2025 TOWN BOARD MEETING AGENDA.PDF
B. APRIL 8, 2025, MEETING MINUTES.PDF
C. RESOLUTION 2025-05 AMENDING THE FEE SCHEDULE REGARDING
EVENT FEES FOR NON-PROFITS.PDF
D. BID AWARD - 2025 BERTHOUD SLURRY CRACK SEAL AND
PATCHING.PDF
E. BID AWARD - 2025 BERTHOUD ROAD AND SIDEWALK
CONCRETE.PDF
F. BID AWARD - 2025 BERTHOUD TIPTON STREET IMPROVEMENTS
PROJECT.PDF
G. APRIL 2025 BOARD REPORT.PDF

5.II. Resolution Supporting Berthoud Fire Protection District Ballot Issue A

Introduction By: Town Board

RESOLUTION NO. 2025-06 - A RESOLUTION IN SUPPORT OF "BALLOT
QUESTION A" ON THE MAY 6, 2025 SPECIAL DISTRICT ELECTION BALLOT

Documents:

[MEMO RE FIRE DISTRICT TAX MEASURE RESOLUTION.PDF](#)
[RESOLUTION 2025-06 SUPPORTING BALLOT QUESITON A.PDF](#)

5.III. Housing Needs Assessment

Introduction By: Anne Johnson

RESOLUTION 2025-07 - A RESOLUTION APPROVING THE BERTHOUD
HOUSING DIVERSITY PLAN

Documents:

[HOUSING NEEDS ASSESSMENT INFOMRATION PACKET.PDF](#)

5.IV. Amendment To Chapter 30 Regarding Natural Healing Centers And Natural Medicine
Businesses - Introduction

Introduction By: Anne Johnson

ORDINANCE 1353 - AN ORDINANCE ADOPTING THE TOWN OF
BERTHOUD NATURAL MEDICINE HEALING CENTERS AND NATURAL
MEDICINE BUSINESSES REGULATIONS AS SECTION 14 IN CHAPTER 30
OF THE BERTHOUD MUNICIPAL CODE

Documents:

[00 INFO FORM.PDF](#)
[01 ORDINANCE 1352 \(25\) NATURAL MED.PDF](#)
[02 ORDINANCE EXHIBIT A CODE LANGUAGE.PDF](#)
[03 POTENTIAL PROPERTIES FOR NATURAL HEALING CENTERS.PDF](#)
[04 STATE FAQ.PDF](#)
[05 SUMMARY INFORMATION.PDF](#)
[06 LEGISLATIVE SUMMARY SB 290.PDF](#)
[07 SB290 EXECUTED.PDF](#)
[08 CO ATTORNEY ARTICLE RE NATURAL MEDICINE.PDF](#)
[09 PUBLIC NOTICE.PDF](#)

6. Elected Official Reports

1. Town Board - Tim Hardy, May Albrecht, Sean Murphy, Karl Ayers, Chris Kurtz, and Brett Wing
2. Mayor - William Karspeck
3. Staff - Town Administrator, Attorney

7. Adjourn

The order of agenda items listed above is approximate and intended as a guideline for the Town Board. Individuals needing special accommodation may request assistance by contacting the Town Clerk 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	April 8, 2025
Agenda Title/Subject:	Consent Agenda
Type of Item:	Regular Item
Purpose:	The Consent Agenda contains routine items that can be approved with a single action by the Board.
Presented by:	Christian Samora

ATTACHMENTS:

- a) April 22, 2025, Meeting Agenda
- b) April 8, 2025, Meeting Minutes
- c) Resolution 2025-05 Amending the Fee Schedule Regarding Event Fees for Non-Profits
- d) Bid Award - 2025 Berthoud Slurry, Crack Seal, and Patching
- e) Bid Award - 2025 Berthoud Road and Sidewalk Concrete
- f) Bid Award - 2025 Berthoud Tipton Street Improvements Project
- g) April 2025 Board Report

BACKGROUND:

The Consent Agenda is a group of routine matters to be acted on with a single motion and vote. The mayor will ask if any Board Member wishes to remove an item for separate discussion. Items removed from the consent agenda should be considered immediately following adoption of the amended Consent Agenda.

UPDATE/NEXT STEPS:

Any updates or next steps for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

FISCAL IMPACT AND FUND SOURCE:

Any fiscal information for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

COMMUNITY TOUCHSTONES:

Any Community Touchstones for the items on the Consent Agenda will be articulated in the information sheet provided for each item on the Consent Agenda.

RECOMMENDED ACTION(S):

“Move to combine and approve the items on the Consent Agenda.”

Followed by a second and a vote.



MEETING OF THE TOWN BOARD

Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, April 22, 2025, 6:30 p.m.

This is an IN-PERSON meeting at the location and time noted above.

This meeting will be streamed live on YouTube. The live stream is accessible by visiting www.berthoud.org/stream

The Town Board may take action on any of the following agenda items as presented or modified prior to or during the meeting and items necessary or convenient to effectuate the agenda items.

- I. REGULAR MEETING CALLED TO ORDER** – Mayor William Karspeck
- II. PLEDGE OF ALLEGIANCE** – Mayor William Karspeck
- III. ROLL CALL** – Mayor William Karspeck
- IV. CITIZEN PARTICIPATION**
- V. SCHEDULED ITEMS and ESTIMATED TIMES FOR DISCUSSION**

- 1. Consent Agenda** (Christian Samora) (5 Min)
Consent Agenda items are considered to be routine by the Town Board and will be enacted with a single vote. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.
 - a) April 22, 2025, Meeting Agenda
 - b) April 8, 2025, Meeting Minutes
 - c) Resolution 2025-05 Amending the Fee Schedule Regarding Event Fees for Non-Profits
 - d) Bid Award - 2025 Berthoud Slurry, Crack Seal, and Patching
 - e) Bid Award - 2025 Berthoud Road and Sidewalk Concrete
 - f) Bid Award - 2025 Berthoud Tipton Street Improvements Project
 - g) April 2025 Board Report
- 2. Resolution Supporting Berthoud Fire Protection District Ballot Issue A** (Town Board) (15 Min)
Resolution 2025-06 – A Resolution in support of “Ballot Question A” on the May 6, 2025 Special District Election Ballot
- 3. Housing Needs Assessment** (Anne Johnson) (60 Min)
Resolution 2025-07 – A Resolution Approving the Berthoud Housing Diversity Plan
- 4. Amendment to Chapter 30 regarding Natural Healing Centers and Natural Medicine Businesses – Introduction** (Anne Johnson) (30 Min)
Ordinance 1353 – An Ordinance Adopting the Town of Berthoud Natural Medicine Healing Centers and Natural Medicine Businesses Regulations as Section 14 in Chapter 30 of the Berthoud Municipal Code

- VI. ELECTED OFFICIAL REPORTS** (10 Min)
 - 1. Town Board – Tim Hardy, May Albrecht, Sean Murphy, Karl Ayers, Chris Kurtz, and Brett Wing
 - 2. Mayor – William Karspeck
 - 3. Staff – Town Administrator, Attorney

VII. ADJOURN

April 22, 2025, Meeting Agenda

The order of agenda items listed above is approximate and intended as a guideline for the Town Board. Individuals needing special accommodation may request assistance by contacting the Town Clerk 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.

Town Clerk or Deputy Town Clerk

William Karspeck, Mayor

December 10, 2024, Meeting Agenda

The order of agenda items listed above is approximate and intended as a guideline for the Town Board. Individuals needing special accommodation may request assistance by contacting the Town Clerk 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.



MEETING MINUTES OF THE TOWN BOARD

Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Tuesday, April 8, 2025, 6:30 p.m.

4/8/2025 - Minutes

1. Meeting Called To Order - Mayor William Karspeck

Mayor Karspeck called the meeting to order at 6:29 pm.

2. Pledge Of Allegiance - Mayor William Karspeck

Mayor Karspeck led the Pledge of Allegiance.

3. Roll Call - Mayor William Karspeck

The following Board members were present:

May Albrecht, Trustee
Karl Ayers, Trustee
Tim Hardy, Trustee
Brett Wing, Trustee
Sean Murphy, Mayor Pro-Tem
Will Karspeck, Mayor

The following Board members were absent:

Chris Kurtz, Trustee

The following staff members were present:

Erin Smith, Town Attorney
Chris Kirk, Town Administrator
Christian Samora, Town Clerk
Lexi Dovel, Deputy Town Clerk
Sergeant Justin Williamson, Larimer County Sheriff
Ken Matthews, Director of Water Utilities
Savana Dumler, Water & Wastewater Engineer

4. Citizen Participation

Linda Wilson spoke regarding pet leash laws and requested an update on the 2nd street development.

Megan Hooper spoke regarding regulations on housing for sex offenders.

Mark Broughton spoke regarding growth and development and traffic in town.

Kate Broughton spoke regarding utilities and water rights.

5. Scheduled Items And Estimated Time For Discussion

5.I. Consent Agenda

Items:

- a) April 8, 2025, Meeting Agenda
- b) March 25, 2025, Meeting Minutes
- c) February 2025 Financial Information
- d) North Berthoud Parkway Trail Gap Budget Update

Trustee Wing requested item d) North Berthoud Parkway Trail Gap Budget Update be removed from the Consent Agenda for individual consideration.

Trustee Wing moved to combine and approve the items in the Consent Agenda less item d. Trustee Ayers seconded the motion. In a 6-0 roll call vote, THE MOTION CARRIED.

Administrator Kirk provided additional information on the North Berthoud Parkway Trail Gap Budget.

Mayor Pro-Tem Murphy moved to approve item d) North Berthoud Parkway Trail Gap Budget Update. Trustee Wing seconded the motion. In a 6-0 roll call vote, THE MOTION CARRIED.

5.II. Fire District Tax Measure Presentation

Fire Chief, Stephen Charles, gave an introduction on the Fire District Tax Measure.

Division Chief, Andrew Kuiken, gave a presentation.

Mayor Karspeck opened the item to public comment.
Linda Wilson spoke during public comment.

Mayor Karspeck called for a 5-minute break.

5.III. Water Utilities Projects Update

Director of Water Utilities, Ken Matthews, and Water & Wastewater Engineer, Savana Dumler, gave a presentation on the Water Utilities Projects.

Attorney Bradley Kershaw gave a presentation.

Mayor Karspeck opened the item to public comment.
Cate Broughton spoke during public comment.

5.IV. Water Facilities SCADA Masterplan Contract

Director of Water Utilities, Ken Matthews, gave a presentation on the Water Facilities SCADA Masterplan Contract.

Mayor Pro-Tem Murphy moved to approve the selection of Applied Controls & Engineering to develop the SCADA Master Plan for the Town of Berthoud, authorize the Town Administrator to execute a Consulting Services, and authorize staff to proceed with implementation planning and funding prioritization based on the recommendations outlined in the Plan. Trustee Ayers seconded the motion. In a 6-0 roll call vote, THE MOTION CARRIED.

6. Elected Official Reports

Trustee Wing:

Wing inquired about an update on the gatehouse agreement with Heron Lakes and about the procedure for citizen participation in Board meetings.

Trustee Ayers:

Ayers reported on the recent PORT Committee meeting and discussions on the pool plan.

Trustee Albrecht:

Albrecht reported on recent Youth Advisory meetings and an upcoming Youth Summit. Albrecht also discussed Board meeting procedures and potential additional advisory committees.

Mayor Pro-Tem Murphy:

Murphy reported on HB25-1272 and a CDOT update. Murphy reported on interviews for the principal position for Berthoud Elementary School. Murphy inquired about an update on the Dark Sky Committee. Murphy encouraged the Board to approve a resolution in support of the Fire District Tax Measure.

Mayor Karspeck:

Karspeck reported on recent meetings for the MPO and the Behavioral Health Policy Council.

Administrator Kirk:

Kirk reported on a potential study session on April 29th, 2025.

Attorney Smith:

Smith discussed procedure for citizen participation at Board meetings.

7. Adjourn

The meeting was adjourned at 9:24 pm.

Town Clerk or Deputy Town Clerk

William Karspeck, Mayor

BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	Fee Schedule Amendment Regarding Non-Profit Events
Type of Item:	Consent Agenda
Purpose:	To amend the fee schedule, providing reduced event fees for non-profit organizations.
Presented by:	Christian Samora

ATTACHMENTS:

- Resolution 2025-05 Adopting and amendment to the 2025 Fee Schedule for the Town of Berthoud as provided in the Berthoud Municipal Code.
- Proposed 2025 Fee Schedule Amendment

BACKGROUND:

The attached resolution and proposed fee schedule would reduce event fees by 30% for non-profit organizations if approved. The proposed change would reduce fees for events in the following ways:

- Waiver of requirement for \$250 deposit.
- Flat fee for events of up to 2,000 people without liquor.
- Reduction in fees by 30% for all event sizes.

This item is a follow up to the discussion at the March 11, 2025 Board of Trustees meeting regarding non-profit event fees. To address concerns regarding event fees, staff reevaluated the event fee structure and recommend an overall reduction in fees for non-profit events.

The proposed fees increase in steps depending on the size of the event consistent with the structure that was adopted with the 2025 Budget. One day events of 2,000 people or less will see a \$10 decrease in fees from what was charged to non-profits from 2020 through 2024. The majority of events will fall within the lower tiers of the fee structure.

UPDATE/NEXT STEPS:

- This item will not require any additional steps if approved.

FISCAL IMPACT AND FUND SOURCE:

If approved, this item would not have a significant fiscal impact.

RECOMMENDED ACTION(S):

To approve this item as part of the Consent Agenda.

**TOWN OF BERTHOUD
RESOLUTION NO. 2025-05**

**A RESOLUTION OF THE TOWN OF BERTHOUD ADOPTING AN
AMENDMENT TO THE 2025 FEE SCHEDULE FOR THE TOWN OF
BERTHOUD AS PROVIDED IN THE BERTHOUD MUNICIPAL CODE**

WHEREAS the Town of Berthoud has previously adopted its Fee Schedule for 2025; and

WHEREAS the Berthoud Municipal Code provides for adoption of a uniform schedule of fees for the Town by Resolution; and

WHEREAS the Town of Berthoud has determined appropriate reduced event fees for non-profits; and

WHEREAS the Board of Trustees has determined that the fees charged by the Town of Berthoud, reasonably reflects appropriate amounts to be charged by the Town of Berthoud for these services;

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF BERTHOUD, COLORADO AS FOLLOWS:**

The Board of Trustees of the Town of Berthoud hereby resolves to adopt this change to the previously adopted 2025 fee schedule as the fee schedule for the Town, effective upon approval.

PASSED, ADOPTED AND APPROVED THIS 22nd day of April, 2025.

TOWN OF BERTHOUD

BY: _____
William Karspeck, Mayor

ATTEST:

Town Clerk/Deputy Town Clerk

TOWN OF BERTHOUD
SCHEDULE OF RATES, CHARGES AND FEES
2025

<u>PARKS, RECREATION & RECREATION CENTER</u>		2025	
DESCRIPTION			
<u>PARKS</u>			
Park Rentals (shelters, non-special event)			
Half day - resident <50 people	\$	60.00	
Half day - nonresident <50 people	\$	75.00	
Full day - resident <100 people	\$	85.00	
Full day - nonresident <100 people	\$	100.00	
Pioneer Park - all pavilions (3)	\$	250.00	
Banners - put up & take down	Other ground locations	\$	100.00
Residential Block Party		\$50 - one day only	
Special Event Rental - Specific Criteria/Permit required 1-500		\$200 first day/\$100 each addl	
Special Event Rental - Specific Criteria/Permit required 500-2000		\$250 first day/\$150 each addl	
Special Event Rental - Specific Criteria/Permit required 2000-5000		\$350 first day/\$250 each addl	
Special Event Rental - Specific Criteria/Permit required 5000+		\$450 first day/\$350 each addl	
Deposit for all tiers		\$250.00 Refundable	
Non-Profit – Includes 30% Reduction			
Special Event Rental - Specific Criteria/Permit required 1-2000 – No Alcohol		\$140	
Special Event Rental - Specific Criteria/Permit required 1-2000		\$140 first day/\$70 each addl	
Special Event Rental - Specific Criteria/Permit required 2000-5000		\$175 first day/\$105 each addl	
Special Event Rental - Specific Criteria/Permit required 5000+		\$245 first day/\$175 each addl	
Deposit for all tiers		\$315 first day/\$245 each addl	
		Deposit Waived	
<u>ATHLETIC FIELDS</u>			
Athletic Field Per field / per hour		\$	45.00
Athletic Field Per field / per day		\$	270.00
Baseball Field per hour / Per field / Per day		\$	25.00
Baseball Field Lights per field / Per hour - 1/5 hour minimum		\$	75.00
Athletic Field initial setup field, paint		\$	150.00
Athletic Field subsequent painting (within 5 days)		\$	75.00
Softball fence install		\$	100.00
Baseball Field prep		\$	85.00
Goals (pair) / game		\$	15.00
Goals (pair) / season		\$	150.00

BOARD OF TRUSTEES INFORMATION



PUBLIC WORKS DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	2025 Slurry, Crack Seal & Patching Bid Award
Type of Item:	Consent Agenda
Purpose:	Board approval to Award Contract
Presented by:	Keith Knoll – Public Works Operations Manager

ATTACHMENTS:

- Project Location and Repairs
- Goltz Asphalt Bid Form

BACKGROUND:

Town staff received 3 Bids for the 2025 Berthoud Slurry, Crack Seal & Patching Project. Goltz Asphalt submitted the lowest bid at \$489,076.90. Town staff has reviewed references and similar project history and approves awarding the bid to Goltz Asphalt.

This portion of the 2025 Road Improvements includes the following work.

Crack sealing – Bel Cara, Serenity Ridge, North Berthoud Parkway

Patching – Bel Cara, Serenity Ridge, Welch Ave. Peakview, and various locations

Slurry Seal – Serenity Ridge

COMMUNITY TOUCHSTONES:

The Board of Trustees' Less-is-More Strategic Plan set a Measurable Milestone Goal of budgeting \$1 million per year for street maintenance for five years. This increased budget focused on Berthoud's infrastructure **Resiliency**, allows funding for both new asphalt repairs and road prolonging asphalt seals, thus increasing the **Sustainability** of our roadways.

FISCAL IMPACT AND FUND SOURCE:

51-00-5239.00 – Street Improvements - \$1,300,000.00

RECOMMENDED ACTION(S):

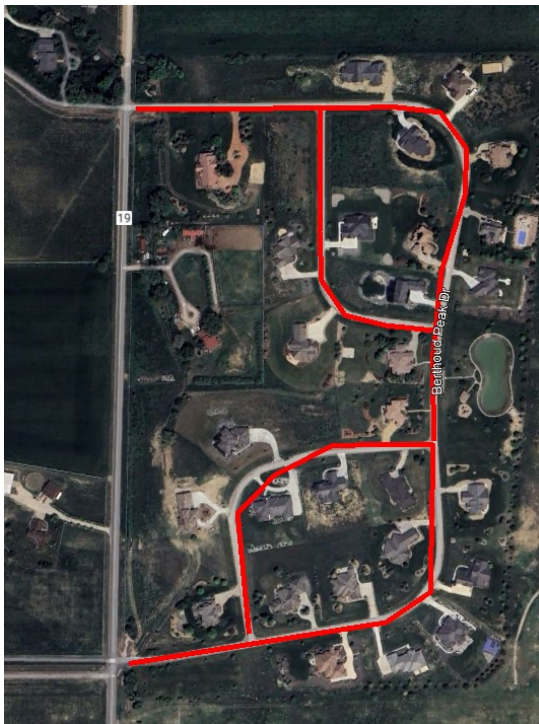
Board Approval for town staff to award the 2025 Berthoud Slurry, Crack Seal, & Patching Bid Award to Goltz Asphalt.

Project Locations

Crack sealing – Bel Cara, Serenity Ridge, North Berthoud Parkway

Patching – Bel Cara, Serenity Ridge, Welch Ave. Peakview, and various locations*

Slurry Seal – Serenity Ridge



*Various patching locations includes areas on Indiana Ave., Hubbell St., Victoria St., 1st St., S.E. 2nd St., Iowa Ave., Colorado Ave., Bunyan Ave., 4th St. CR 7., Turner Ave., and Meadowlark Dr.

4. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s).

The **2025 Berthoud Slurry, Crack Seal, & Patching Project** includes crack sealing, asphalt patching, slurry sealing, neighborhood notification, and traffic control for multiple locations. Estimated slurry sealing and patching amounts are included in the bid sheet. Crack Seal amounts should be estimated by the bidder. Patching preparation should be included in cost and include milling preparation for T- Section patching. Discrepancies with slurry sealing and patching amounts should be submitted for addendum review.

Proposals and bid prices must include complete maps for location estimated, amounts of materials, costs of labor, supervision, equipment, and traffic control.

ITEM NO	ITEM DESCRIPTION	PAY UNIT	TOTAL QTY	PROJECT UNIT PRICE	PROJECT TOTAL PRICE	Notes
1	Crack Seal – Bel Cara	LBS	5600	\$2.44	\$13,664 ⁰⁰	
2	Patching – Bel Cara (Grading S)(75)(PG 64-22) 6" Depth	SY	245	\$75.34	\$18,458 ³⁰	
3	Crack Seal – Serenity Ridge	LBS	11,600	\$2.33	\$27,028 ⁰⁰	
4	Patching – Serenity Ridge (Grading S) (75) (PG 64-22) 6" Depth	SY	160	\$90.55	\$14,408 ⁰⁰	
5	Slurry Seal – Serenity Ridge	SY	36,800	\$4.45	\$163,760 ⁰⁰	
6	Patching – Welch Ave. (Grading S) (75) (PG 64-22) 6" Depth	SY	110	\$90.00	\$9,972 ⁰⁰	
7	Crack Seal – North Berthoud Pkwy	LBS	17,200	\$2.33	\$40,076 ⁰⁰	
8	Patching – Peakview Neighborhood (Grading S) (75) (PG 64-22) 6" Depth	SY	290	\$124.00	\$35,960 ⁰⁰	
9	Various Patching Location (Grading S) (75) (PG 64-22) 6" Depth (CR7, 1 st St., 3 rd St., 4 th St., 7 th St, 8 th St., 10 th St. Bunyan Ave., Indiana Ave., Meadowlark Dr.)	SY	1500	\$95.00	\$142,500 ⁰⁰	
10	Mobilization	EA	1	\$11,250	\$11,250	
11	Traffic Control	EA	1	\$12,000 ⁰⁰	\$12,000 ⁰⁰	

*UPDATE 3/24 - T-Section Patching will be highlighted on the posted patching list. Transverse cracks and patches longer than 20 ft will require T-Section preparation and patching.

TOTAL PROJECT COST: \$ 489,076⁹⁰

Bidder acknowledges that quantities are not guaranteed, and final payment will be based on actual quantities determined as provided in the Contract Documents.

Goitz Asphalt company

BOARD OF TRUSTEES INFORMATION



PUBLIC WORKS DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	2025 Road & Sidewalk Concrete Bid Award
Type of Item:	Consent Agenda
Purpose:	Board approval to Award Contract
Presented by:	Keith Knoll – Public Works Operations Manager

ATTACHMENTS:

- Berthoud 5-Year Sidewalk Improvement Plan
- E&M Concrete Bid Tabs

BACKGROUND:

Town staff received 10 Bids for the 2025 Road and Sidewalk Concrete Project. E&M Concrete submitted the lowest bid at \$486,685.00. Town staff has reviewed references and similar job experience and approves awarding the project to E&M Concrete.

The ADA ramp & sidewalk repairs covered in this project include the 2025 sidewalk repairs from the 5-Year Sidewalk Improvements Plan located adjacent to 4th St., Lake Ave., and Capital Ave. The project also includes curb, gutter and drain pan repairs in various locations throughout town.

COMMUNITY TOUCHSTONES:

The Board of Trustees' Less-is-More Strategic Plan set a Measurable Milestone Goal to establish a sidewalk maintenance and replacement plan. This goal improves on Berthoud's infrastructure **Resiliency**, allows funding for all necessary concrete repairs, thus increasing the **Sustainability** of our roadways and pedestrian sidewalks.

FISCAL IMPACT AND FUND SOURCE:

This project is fully funded in the Approved 2025 Budget.

51-00-5239.00 – Street Improvements - \$1,300,000.00

51-00-5038.00 – Sidewalks/ADA - \$350,000.00

41-00-5221.00 – Downtown Sidewalk Replacement - \$350,000.00

RECOMMENDED ACTION(S):

Board Approval for town staff to award the 2025 Berthoud Road & Sidewalk Concrete Bid Award to E&M Concrete.

Project Locations

Town of Berthoud - Sidewalk Improvements - 5 Year Plan

2023



Location	NOTES
7th St. Place	COMPLETE
7th St. - Bunyan Ave. to Franklin Ave.	COMPLETE
Bunyan Ct.	COMPLETE
6th St. Ct.	COMPLETE
6th St. - Section S. of Bunyan	COMPLETE
Franklin 6th St. - 9th St.	COMPLETE
Lake 6th St. - 9th St.	COMPLETE
6th St. - Mass. Ave. to Franklin Ave.	COMPLETE
Turner Ave. - 3rd St. to 9th St.	COMPLETE
4th St. - Welch Ave. to Mountain Ave.	COMPLETE
Turner Ave. - 3rd St. to 6th St.	COMPLETE

2024

Location	NOTES
7th St. - Franklin Ave. to Berthoud Town Park	COMPLETE
Mass. Ave. - 4th St. to 9th St.	COMPLETE
9th St. - Mountain Ave. to Mass. Ave.	COMPLETE

2025

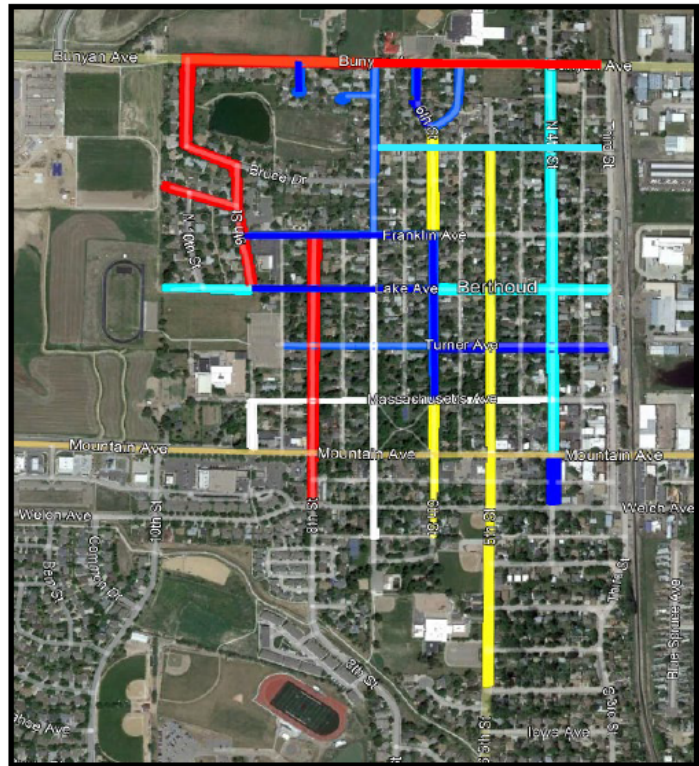
Location	NOTES
4th St. - Bunyan Ave. to Mountain Ave.	
Lake Ave. - 3rd St. to 6th St. & 9th St. to End	
Capital Ave. - 3rd St. to 7th St.	

2026

Location	NOTES
Bunyan Ave. 1st St. to 10th St.	
10th St & 9th St. - Bunyan Ave. to Lake Ave.	
8th St. - Lake Ave. to Franklin Ave.	
Franklin Ave. from 9th St. to End	

2027

Location	NOTES
5th St. - Capital Ave. to Colorado Ave.	
6th St. Cap. To Frank. & Mass. To Town Park	



4. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s).

The **2025 Road & Sidewalk Concrete Project** as defined per task order may consist of concrete replacement of defective curb, gutter, drain pans, attached and detached sidewalk and removing/placing new ADA ramps where needed for compliance. Some locations contain flagstone sidewalks, which must be removed carefully and stacked according to Town's directions. Actual work quantities will vary from the Bid Form quantities.

Landscaping restoration, expansion joints, dowels, and concrete saw cutting should be inclusive of concrete bid price.

Bidders should follow CDOT standard specifications for ADA ramps, sidewalks, and curbs. LCUASS standards included for rollover curbs but many areas may match existing conditions.

Bid Item A: Sidewalk Improvements

ITEM NO	ITEM DESCRIPTION	PAY UNIT	TOTAL QTY	PROJECT UNIT PRICE	PROJECT TOTAL PRICE
1	Alley 3" Curb and Gutter Removal and Replacement, 8" thick	LF	25	\$68.00	\$1,700.00
2	Alley Attached 4' sidewalk w. rollover curb (new / remove / replacement) 8" thick	LF	25	\$65.00	\$1,625.00
3	Flagstone removal and 4' sidewalk construction – Includes subgrade prep	LF	1600	\$32.00	\$51,200.00
4	New 4' attached or detached sidewalk construction – No existing sidewalk or flagstone (LF)	LF	2300	\$36.00	\$82,800.00
5	Attached 4' sidewalk w. rollover curb (remove/replacement)	LF	950	\$48.00	\$45,600.00
6	Attached 4' Sidewalk Removal & Replacement	LF	450	\$38.00	\$17,100.00
7	Detached 4' Sidewalk Removal & Replacement	LF	1000	\$34.00	\$34,000.00
8	Handicap Ramps single per CDOT specs (new, remove and replace) Directional	EA	34	\$2,000.00	\$68,000.00
9	Handicap Ramps single per CDOT specs (new, remove and replace) Diagonal	EA	18	\$2,100.00	\$37,800.00
10	1' Driveway transition Strip	LF	40	\$27.00	\$1,080.00
11	Concrete Trip Hazard Grinding	LF	20	\$20.00	\$400.00
12	Asphalt Patching (Grading S) (75) (PG 64-22) 4" Depth	TON	20	\$350.00	\$7,000.00
13	Traffic Control	EA	1	\$7,800.00	\$7,800.00
14	Mobilization	EA	1	\$8,000.00	\$8,000.00

TOTAL PROJECT COST: Bid Item A

\$ 364,105.00
E-M

Bid Item B: Road and Sidewalk Concrete Improvements – Various Location *Added 3/17

ITEM NO	ITEM DESCRIPTION	PAY UNIT	TOTAL QTY	PROJECT UNIT PRICE	PROJECT TOTAL PRICE
1	Concrete pan (6ft) removal and replacement	LF	290	\$75.00	\$21,750.00
2	Wing sections of drain pans to ramps	SF	1180	\$46.00	\$54,280.00
3	Vertical Curb and gutter removal and replacement	LF	20	\$65.00	\$1,300.00
4	Flat Curb – Serenity Ridge Area Only	LF	70	\$50.00	\$3,500.00
5	Alley 3" Curb and Gutter Removal and Replacement, 8" thick	LF	70	\$55.00	\$3,850.00
6	Attached 4' sidewalk w. rollover curb (remove/replacement)	LF	170	\$80.00	\$13,600.00
7	Handicap Ramps single per CDOT specs (new, remove and replace) Directional	EA	2	\$2,300.00	\$4,600.00
8	Asphalt Patching (Grading S) (75) (PG 64-22) 4" Depth	TON	10	\$350.00	\$3,500.00
9	Traffic Control	EA	1	\$6,200.00	\$6,200.00
10	Mobilization	EA	1	\$10,000.00	\$10,000.00

TOTAL PROJECT COST: Bid Item B \$ \$122,580.00

TOTAL PROJECT COST: Bid ITEM A + B \$ \$486,685.00

Bidder acknowledges that quantities are not guaranteed, and final payment will be based on actual quantities determined as provided in the Contract Documents.

E & M concrete

5. BIDDER agrees that the Work will be substantially complete and completed and ready for final payment in accordance with paragraph 14.04. in the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement. BIDDER accepts the provisions of the Agreement as to liquidated damages in case of failure to complete the Work on time.
6. The following documents are attached to and made a condition of this Bid.
 - (a) Required Bid Security.
 - (b) A tabulation of subcontractors, suppliers, and other persons and organizations required to be identified in this Bid (see paragraph 8, below).
7. The terms used in this Bid, which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents, have the meanings assigned to them in the General Conditions.
8. BIDDER shall complete the following listing of Subcontractors, Suppliers, and Equipment Manufacturers. (As used in submitting his Base Bid Price).

BOARD OF TRUSTEES INFORMATION



PUBLIC WORKS DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	2025 Tipton St. Improvements Bid Award
Type of Item:	Consent Agenda
Purpose:	Board approval to Award Contract
Presented by:	Keith Knoll – Public Works Operations Manager

ATTACHMENTS:

- Project Location
- Coulson Excavating Bid Form

BACKGROUND:

Town staff received 6 Bids for the 2025 Berthoud Tipton St. Improvements Project. Coulson Excavating submitted the lowest bid at \$152,939.50. Based on previous work experience with Coulson Excavating, including the 2024 2nd St. renovation, town staff approves awarding the contract to Coulson Excavating.

This project includes full reconstruction for the majority of the Tipton St. roadway to correct sunken areas. This includes curb and gutter replacement, leveling and compaction of base, and a new asphalt overlay. Sidewalks and drive approaches will also be renovated, as needed, throughout the project.

COMMUNITY TOUCHSTONES:

The Board of Trustees' Less-is-More Strategic Plan set a Measurable Milestone Goal of budgeting \$1 million per year for street maintenance for five years. This increased budget focused on Berthoud's infrastructure **Resiliency**, allows funding for both new asphalt repairs and road prolonging asphalt seals, thus increasing the **Sustainability** of our roadways.

FISCAL IMPACT AND FUND SOURCE:

51-00-5239.00 – Street Improvements - \$1,300,000.00

RECOMMENDED ACTION(S):

Board Approval for town staff to award the 2025 Tipton St. Improvements Bid Award to Coulson Excavating.

Project Location



4. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s).

The **2025 Berthoud Tipton St. Improvements Project** consists of a road section reconstruction on Tipton St. including asphalt removal, leveling, subgrade stabilization, asphalt lifts and adjacent curb, gutter, and sidewalk concrete replacement.

Bidders should follow CDOT standard specifications for ADA ramps, sidewalks, and curbs. LCUASS standards included for rollover curbs but many areas may match existing conditions.

ITEM NO	ITEM DESCRIPTION	PAY UNIT	TOTAL QTY	PROJECT UNIT PRICE	PROJECT TOTAL PRICE
1	Removal of Asphalt Mat	SY	1145	\$ 5.50	\$ 6,297.50
2	Removal of Sidewalk	SY	110	\$ 12.50	\$ 1,375.00
3	Removal of Concrete	SY	253	\$ 12.00	\$ 3,036.00
4	Removal of Curb and Gutter	LF	615	\$ 8.00	\$ 4,920.00
5	Sawing Asphalt Material (All Thicknesses)	LF	140	\$ 4.50	\$ 630.00
6	Sub Soil Prep and Grading – Top 3"-5" Removal and Regrade	CY	500	\$ 20.70	\$ 10,350.00
7	Subgrade Stabilization	CY	500	\$ 32.50	\$ 15,250.00
8	Street Sweeping (Sediment Removal)	Lump Sum	1	\$ 1,600.00	\$ 1,600.00
9	Hot Mix Asphalt (Grading SX)	Ton	92	\$ 125.00	\$ 11,500.00
10	Hot Mix Asphalt (Grading S)	Ton	153	\$ 117.00	\$ 17,901.00
11	Concrete Pavement (6 inch)	SY	253	\$ 80.00	\$ 20,240.00
12	Concrete Sidewalk (6 inch)	SY	110	\$ 79.00	\$ 8,690.00
13	Curb and Gutter	LF	615	\$ 31.80	\$ 19,557.00
14	Adjust Manhole	Each	1	\$ 550.00	\$ 550.00
15	Reset Water Meter	Each	2	\$400.00	\$ 800.00
16	6' Cross Pan	LF	34	\$ 89.50	\$ 3,043.00
17	Construction Surveying	Lump Sum	1	\$ 6,700.00	\$ 6,700.00
18	Geotech Testing	Lump Sum	1	\$ 4,200.00	\$ 4,200.00
19	Traffic Control	Lump Sum	1	\$ 6,100.00	\$ 6,100.00
20	Mobilization	Lump Sum	1	\$ 11,000.00	\$ 11,000.00

Project Total \$ 152,939.50

Quantities are estimates for bidding purposes. Contractor to verify actual quantities

Bidder acknowledges that quantities are not guaranteed, and final payment will be based on actual quantities determined as provided in the Contract Documents.

Coulson Excavating

Berthoud Board Update

April 2025



You are cordially invited to these April Events:

Arbor Day at Pioneer Park: Saturday, April 26, 10:00 am - We will be planting seven trees to commemorate Berthoud's 42nd year as a Tree City USA. Refreshments will be available and there will be drawings for prizes. We will also announce the winner of this year's Arbor Day Poster Contest. Come out, help plant a tree, and come back year after year to check on its progress.

Skate-A-Palooza, Skate Park at the Berthoud Rec Center: Saturday, April 26, 10:00 - 1:00 pm - Join us for a FREE skate jam at the Waggener Farm Skatepark for an exciting day of skateboarding! Bring your boards and helmets for skill competitions, enjoy a roller skating exhibition, and enter to win a skateboard deck in our art design contest. Plus, check out the latest gear from our skate-centric vendors.

Community Clean Up Event: Friday 4/25 - Saturday 5/10 : Vouchers for one trip to the Larimer County Landfill can be picked up at the front desk of Town Hall.

FORESTRY / OPEN SPACE

Submitted By Paul Furnas, Town Forester

The Forestry and Open Space departments are gearing up for spring as the weather is starting to warm up. With warmer temperatures, weeds start growing quickly so getting down pre-emergent sprays was a top priority for both departments. Other sites around town have needed early weed mitigation efforts. The Forestry Department, throughout the month of March, has been structurally pruning young trees and pruning branches for sign visibility and clearance. The Forestry Department contracted out tree pruning at Town Park to address mature trees near high-use areas to lighten up heavy branches. Both departments teamed up to put out the new spring pots on Mountain Ave, and finish up more spring cutbacks. The Open Space department has been repairing problem areas on features at the Bike Park. Open Space staff have also been putting the new Ventrac seeder attachment to work, getting down an early layer of seed before spring rains.

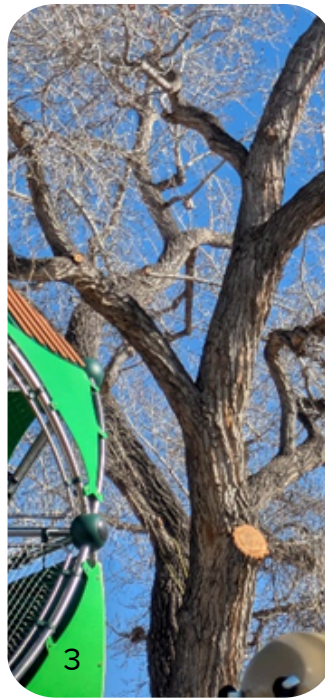


Pruning low branches at the Berthoud Reservoir and over Main Street in front of Glass of Art.



Forestry and Open Space: Spring Cutbacks





1 & 2) Forestry Staff have been pruning young (3-10 years planted) trees around town to correct structure to the best of their ability. This type of pruning should promote ideal structure on these younger trees. 3 & 4) Town Park trees were contracted to get pruned in March. A light reduction pruning was requested to reduce the weight off of large branches, and to clean the canopies.



Open Space: Bike Park maintenance/repairs

Open Spaces that were overseeded this month just in time for spring rains were Berthoud Reservoir, areas at Waggenger Recreation Center, along the Neilson Trail, North and east side of Pioneer.

The Bike Park also received a second round of seeding covering most areas of the Bike Park. Staff is hopeful the spring rain that followed the weeks of seeding will start this seed off on a good year of growth.



Main Street Spring Pots

New bulb pots are on display in the Main Street planter pots. Mixes of Dwarf Iris, Crocus, Daffodils, Tulips, Hyacinth and Fritillaria will be emerging from the pots over the next couple of months.



STREETS DEPARTMENT

Submitted By Brandon Keegan, Streets Supervisor

March has been a busy month, with the team focusing on cleaning storm drains, maintaining detention basins, hauling blocks, street sweeping, and repairing/installing signs. Additionally, I identified areas with asphalt and concrete issues and compiled a list of locations requiring patching, concrete work, crack sealing, and slurry sealing. These areas have been marked and were posted on Rocky Mountain Bid Net for the pre-bid process.



Streets crew purchased a new excavator to complete various tasks around town. 2) The day after the excavator was delivered, we put it to work digging a grave in the old section of the Green Lawn Cemetery which is an area that is typically contracted out because our larger excavator cannot fit. 3) Nielsen storm drain- Streets crew was able to clean out the storm drain of debris since we were able to get a smaller excavator to do the job



Waggener Farm Park- Streets crew cleaned up all the debris from the detention basin





We were able to remove the debris and tires from the Nielsen storm drain using the excavator, as they were too heavy to handle by hand



Sand shed- The Streets crew picked up 30 concrete barriers for the Forestry and Parks Department to help them separate their materials

Old Wastewater site improvements
With help from the Streets Department and Open Space, material bays were added to the old wastewater dump site to keep materials organized.



RECREATION

Submitted By Amanda Gustafson, Director of Recreation | Cultural Services

Operations, Memberships & Marketing

The Recreation Department made significant progress in membership services, facility maintenance, and program development this month. The summer pool schedule was finalized and Guest Services welcomed new hires, two additional personal trainers to meet increasing demand. We also worked with nonprofits to confirm the Spring Craft Show, ensuring a smooth and successful event.

Sports & Programs



Spring is here and new programs along with it. The spring adult volleyball leagues for co-ed and women started as well as the adult soccer league and adult pickleball league. We have 35 adult sports teams participating in those 4 programs.

This month we also hosted the mother/son nerf mania with 88 participants. We conducted a number of games, a shooting challenging and received some positive feedback.



Fitness

The sun is out, and the turf is open! (weather permitting) The fitness team has been brainstorming ideas on how to use the turf area more often. Last year, we brought the storage to the patio so that members could access equipment more easily. This year we will be striving to train more clients outdoors and pulling yoga classes out there every so often. The fitness area has been busy with 1,630 attendees for fitness classes that were included in memberships and 522 that attended our specialty classes.



Active Adults (50+)

This month we had our first run of the Berthoud Run Series. It was exciting to see that 20 of our active adults signed up to participate. Some walked and some ran, and all were very happy to be out and about in town exercising and having fun with all of the different ages.



Aquatics



March was another strong month for aquatics. The fitness classes, mornings and nights, see some of the highest numbers than ever before. Water walking in the mornings has grown to up to 10 or more at times in the river. March saw 7 no school days with spring break being the peak of those days off. Multiple days the staff saw over 200 people in the pool at a time with very steady usage in the latter half of spring break. The swimming instructor team taught over 190 kids to swim in the month of March.

Private Swim Lessons



St. Patty's Day Run



Town Staff going through CPR and FA Certification training.



COMMUNITY DEVELOPMENT

Submitted By Anne Johnson, Planning Director

Building Division data for February 2025



New Residential
14 - February 2025
41 - Year to Date



New Commercial
0 - February 2025
8 - Year to Date



Total Number of Permits
72 - February 2025



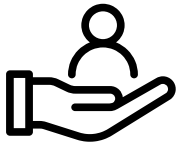
Total Valuation
\$10,171,409.19 - February
\$27,391,694.07 Year to Date



Engineering

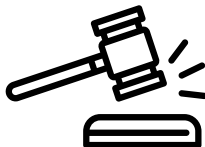
Construction Site Inspections: 40
Town Projects Inspected: 50
Response to Citizen Questions: 8
MS4 Inspections: 10
ROW Inspections: 17

Planning



Public Assistance

Walk-ins : 5
Emails : 4,377
Phone calls : 68
Site Visits : 1



Pre-Application meetings : 4
Public Hearings/Applications presented: 5
Codes/Comp Plan Action Items in-process: 2
Applications in Process: 26



The Town received a Grant from History Colorado to develop a Historic Preservation Plan. The intent is to retain the services of a consultant who will work with the Historic Preservation Advisory Committee and the community to develop work to be done to maintain the Town's status as a Certified Local Government. An RFP has been published and the Town is looking for a consultant/team to lead the Town through this plan development process. The RFP can be found here: [Berthoud-Historic-Preservation-Plan-RFP](#)

The Town received a grant to prepare a Housing Diversity Plan. Ayres Associates has been working with the Planning Commission, Mayor Pro Tem Murphy, Trustee Hardy, and leadership from Habitat for Humanity, Loveland Housing Authority and the Thompson School District to identify opportunities for diverse housing in Berthoud. Residents have been polled at events, in a survey and through interviews. The results of the work was presented to the Planning Commission on April 10 at 6 p.m. and to the Town Trustees on April 22 at 6:30 p.m. The final version of the plan can be accessed on the Town's website in either the Planning Commission or Board of Trustees packets for these dates.

The Building Division hosted their first 2025 B4 event (Berthoud Builder Breakfast Burrito). While making burritos out of our delightful building community, sharing news about the adoption of new I-Codes, stormwater management, and virtual roofing sections were on the agenda. Look for two additional B4 events in 2025.



PARKS / CEMETERY

Submitted By Sami Kouns, Parks Supervisor

Parks/Cemetery

The month of March was very productive for the Parks and Cemetery Departments. We accomplished routine maintenance and were also able to tackle numerous other projects that were warm weather dependent, such as painting, replacing a roof, replacing a fence and continuing work at the Community Garden. Both departments were able to work together to accomplish multiple tasks.

March also featured a couple of firsts for 2025 with dethatching, pick-up mowing and fertilizing all Town of Berthoud Parks properties. The warm, busy season is right around the corner, and March was the first step in setting us up for a productive and successful spring/summer season!



To go with the new Town Park sign, the pole in Fickel Park was sanded and repainted silver.



Following the Town Park Phase 1 reconstruction, a resident's fence was damaged. This fence was taken down, and a new corner fence post and support beams were installed. The gate that originally granted access to the yard was also reinstalled to the new corner post.



Dethatch, First Cuts, and Fertilize All Parks

Over the last two weeks, as many parks as possible were dethatched. Every park then received a first cut to pick up any of the material brought up by the dethatchers. All parks and the Green Lawn Cemetery were then fertilized to promote a healthy, green growing season.





Cemetery – Install New Water Reel/Irrigation Pipe Hook-Ups

To help accommodate the watering plan and schedule, a new metal T piece was installed onto two mainline hydrants at the cemetery. This T connection now offers both a water reel port and an irrigation pipe connection option that can be used interchangeably without having to be removed.



The Fickel Park bathroom floors were repainted to give the restrooms a new clean look that will also help us determine if the facility is damaged in any way.



Community Garden Work

Mulch was added to the raspberry section at the community garden to help give it a more finished and complete look. The in-ground planting bed was also completed. It was tilled and both peat moss compost were added to help promote growth for any future plantings.



The warmer weather in the middle of March granted us the perfect opportunity to replace the roof on one of the sheds at the Green Lawn Cemetery. The old roof had numerous holes and shingles that were peeling off. The new roof features new plywood, shingles, metal edging and fascia to help direct water away from the building.



After the roof was replaced, the shed was then cleaned out so that it can be used for storage.

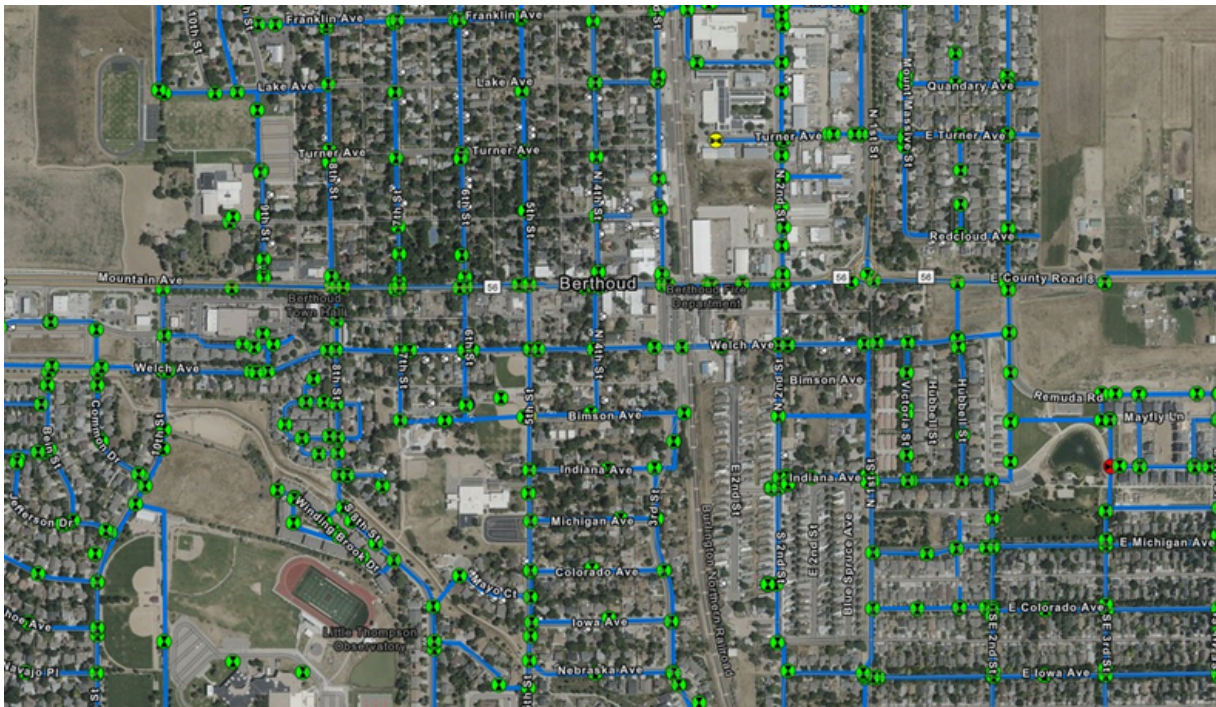


WATER / WASTEWATER

Submitted By Marie Mitchell, Administrative Tech / Water

Water System Improvements Underway

The Water Utilities department is launching a proactive project to replace aging, deteriorated water valves and install new ones in key areas of our distribution system. This effort will boost system reliability, improve emergency response, and support long-term maintenance goals in line with the Town's Water and Wastewater Master Plan. These upgrades will minimize unplanned outages, allow better service area isolation during repairs, and ensure Berthoud continues to provide reliable, high-quality water service and prepare for future system demands.



Water Utility Operations Highlights

Locates:

- 624 normal responses
- 16 emergency responses
- 1 investigation underway (utility potholing to be scheduled for utility confirmation)

Customer Service Calls / Billing / New Construction

- 11 customer service calls including 2 contracted repairs
- 2 fire hydrant repairs
- 19 new meters installed
- 26 final meter inspections
- 49 billing shut offs



Water Utility Operations

Projects

- BLR fire flow investigation ongoing
- AMI prop study and product comparison continues. Software demo scheduled for 4/28/25 (ops, admin, billing)
- Utility Operators attended the 44th Annual CRWA training conference and product expo for educational opportunities.
- Researching prices for utility locating equipment to complement existing equipment and to support, expand and maintain current operations.
- Collaborated with Thompson School District to install backflow prevention at Turner Middle School, following similar installation at Berthoud High School in February 2025.

bi-annual cleaning of the backwash pond.



Gopher Excavation Company completed 90% of the East Cell Vault project, enabling Carter Lake Water to be routed back to the water treatment plant via the Carter Pipeline.



WORTH NOTING

Berthoud receives another year of recognition as a Tree City USA as well as an Arbor Day Foundation Growth Award.



The Town of Berthoud welcomes Alex Tennant as the new Water Resources Administrator. With 7 years of experience at the City of Greeley, Alex brings knowledge in water rights accounting, raw water operations, acquisitions, and water court. He is excited to join the Water Utilities Team and contribute to the Berthoud community.



After ten years as the Town's Economic Development Manager, Walt Elish will be retiring at the end of April. His ability to develop relationships with our local business owners, to be a valuable resource for the business community, and his genuine love for Berthoud will be missed. Join us in wishing him all the best as he transitions away from meetings, carpools and desk top lunches, to sleeping in, bike riding, and travel.



BOARD OF TRUSTEES INFORMATION



ADMINISTRATION DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	Fire District Tax Measure Resolution of Support
Type of Item:	Regular Item
Purpose:	Consider a resolution of support for the sales tax Ballot Measure A proposed by the Berthoud Fire Protection District
Presented by:	Board of Trustees

BACKGROUND:

On April 8, 2025, representatives from the Berthoud Fire Protection District gave a presentation to the Town Board of Trustees regarding their proposed sales tax measure. Ballot Measure A will be considered on the May 6, 2025 election ballot. Following the presentation, members of the Board requested that an agenda item be added to the April 22, 2025, regular Town Board meeting to consider a resolution of support for Ballot Measure A.

RECOMMENDED ACTION(S):

Consider adoption of the Resolution of Support for Ballot Measure A, on the May 6, 2025, election ballot, increasing sales taxes by 1% to support revenues of the Berthoud Fire Protection District

**TOWN OF BERTHOUD
RESOLUTION NO. 2025-06**

**A RESOLUTION IN SUPPORT OF “BALLOT QUESTION A” ON THE
MAY 6, 2025 SPECIAL DISTRICT ELECTION BALLOT**

WHEREAS, the Berthoud Fire Protection District provides all-hazard emergency services to the Berthoud area, including the Town of Berthoud; and

WHEREAS, the financial sustainability of the Fire District is critical to the long-term safety and success of the Berthoud community; and

WHEREAS, reductions in the residential and commercial assessment rates through Colorado Senate Bills 22-238 and 23B-01, and House Bills 24B-1001 and 24B-1002 have reduced revenues for Colorado Special Districts such as the Fire District; and

WHEREAS, to mitigate the impact of such reductions in property tax revenue, the Colorado General Assembly passed SB24-194 to allow fire protection districts to propose a sales tax to their voters; and

WHEREAS, an election will be held on Tuesday, May 6, 2025, to consider Ballot Question A, which if approved, shall increase sales tax in the Berthoud Fire Protection District boundaries by 1%, or \$396,984.06 the first full fiscal year 2026 and by whatever amounts are collected annually thereafter; and

WHEREAS, the purpose of the increase in sales tax is to share the cost of fire and emergency services with business patrons who live outside of the Fire District boundaries and offset the lost revenue due to the limit on property assessment rates;

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF BERTHOUD, COLORADO AS FOLLOWS:**

Section 1. The Town Board of the Town of Berthoud supports the passage of Ballot Question A that will appear on the May 6, 2025, Election Ballot, and strongly urges the electors of the Town to vote in favor of such ballot question.

Section 2. Adoption of this resolution may be reported or distributed only through established, customary means, other than paid advertising, by which information about other proceedings of the Town Board is regularly provided to the public.

Section 3. This resolution is effective upon adoption.

The Board of Trustees of the Town of Berthoud hereby resolves to adopt this change to the previously adopted 2025 fee schedule as the fee schedule for the Town, effective upon approval.

PASSED, ADOPTED AND APPROVED THIS 22nd day of April, 2025.

TOWN OF BERTHOUD

BY: _____
William Karspeck, Mayor

ATTEST:

Town Clerk/Deputy Town Clerk

BOARD OF TRUSTEES



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	Final Presentation of the Housing Diversity Study, Housing Needs Assessment, and Action Plan with a Request to adopt by Resolution
Type of Item:	Regular Item
Purpose:	To present the final draft of the Housing Diversity Study, Housing Needs Assessment, and Action Plan for implementation through Resolution
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Resolution
- Resident comment
- Housing Diversity summary memo
- Housing Diversity Plan
- Strategic Action Plan

BACKGROUND:

Berthoud was awarded funds through the DOLA More Housing Now Grant program in late 2023. A Request for Proposals was issued, and the contract work was awarded to Ayres Associates in early Summer, 2025. The Berthoud Housing Steering Committee was formed with the Planning Commissioners along with representatives from the Loveland Housing Authority, School District, Berthoud Habitat for Humanity and two members of the Board of Trustees.

Several public engagement events including Oktoberfest, reaching out to families at sporting events, key stakeholder meetings, and an on-line survey resulted in valuable insight for the Steering Committee. Ayres Associates concluded the public engagement period, collected strategies from the Berthoud Housing Steering Committee and presented findings to the Steering Committee on December 12, 2024, February 13, 2025 and to the Town Board of Trustees on March 11, 2025.

The draft strategies and draft findings have been shared with DOLA Regional Representative Chris LaMay. The State enacted SB24-174 in 2024. SB24-174 requires Berthoud to complete a Housing Needs Assessment before December 31, 2026. This requirement occurred after Berthoud received the grant to perform a Housing Diversity study. DOLA was proactive and reviewed the current Housing Diversity study with the requirements of the Housing Needs Assessment and found that the Berthoud product was very close to meeting the requirements of SB24-174. Ayres has made the adjustments which means that the Town will not have to perform a separate Housing Needs Assessment. All qualifying communities in Colorado are now required to perform a Housing Needs

Assessment every six years. This will be Berthoud's first submittal and the next Assessment could potentially be rolled into the Comprehensive Plan update which may start in 2029.

The Housing Steering Committee moved to recommend the Town Trustees adopt this Plan as presented at their April 10, 2025 meeting.

UPDATE/NEXT STEPS:

Should the Town Board accept the Action Plan associated with Housing Diversity Plan through Resolution, Staff will start implementing the Action Plan items. Future years' budgets may include line item requests found in the Action Plan.

FISCAL IMPACT AND FUND SOURCE:

The project is grant-funded (\$100,460) and the local match (\$25,115) was included in the Town's 2024 budget. The implementation of the action plan will include staff time and outside consultant's time when warranted.

COMMUNITY TOUCHSTONES:

The ability to offer housing types strengthens the Town's sustainability and resiliency goals and is an outcome listed in the latest version of the Comprehensive Plan. Economic development and vitality are important to the Town and having diverse housing options and enabling Code language will support the Town's goal of retaining and growing local businesses, and attracting new businesses when their employees are able to afford to live in Berthoud.

RECOMMENDED ACTION(S):

Staff and Ayres Associates are looking for concurrence on the findings and outcome of this plan and a motion to approve the Resolution.

RESOLUTION NUMBER 07

(SERIES 2025)

A RESOLUTION APPROVING THE BERTHOUD HOUSING DIVERSITY PLAN

WHEREAS, the Colorado Division of Local Affairs recognizes the importance of housing diversity and affordability as an urgent matter in the State of Colorado and has established the More Housing Now and Land Use Initiative Grant to provide financial assistance to communities in enabling affordable housing; and

WHEREAS, the Town wishes to implement the vision and values expressed in the 2021 update to the Comprehensive Plan, as well as support the goals outline in Proposition 123; including strengthening the Town's sense of place, enhancing community identity, supporting community resilience and sustainability touchstones through housing diversity; and

WHEREAS, the Town of Berthoud received a grant from the Colorado Division of Local Affairs through the More Housing Now initiative to develop a Housing Diversity Plan for the Town to further support the vision and values outlined in the 2021 update to the Comprehensive Plan; and

WHEREAS, the Housing Steering Committee was formed with all members of the Planning Commission, two members of the Board of Trustees, the Berthoud Habitat for Humanity Director, the Loveland Housing Authority Director, and the Planner from Thompson School District for the purpose of guiding the development of the Housing Diversity Plan; and

WHEREAS, the Town of Berthoud retained the services of Ayres Associates to gather data, conduct public engagement activities, present findings to the Steering Committee, develop the Housing Diversity Plan, and present the final Plan and Action Plan for acceptance; and

WHEREAS, at their April 10, 2025 meeting, the Housing Steering Committee voted to send the Final Draft Housing Diversity Plan to the Town Board for acceptance as it supports the vision and values found in the 2021 update to the Comprehensive Plan; and

WHEREAS, at their April 22, 2025 meeting, the Town Board of Trustees voted to accept the findings and action plan contained in the Housing Diversity Plan for the Town of Berthoud.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. Plan Approval. The Housing Diversity Plan is hereby accepted as found Exhibits A, B and C attached hereto.

Section 2. Staff is hereby directed to commence implementation of the action plan.

Section 3. Interpretation: This Resolution shall be so interpreted and construed to effectuate its general purpose.

Section 4. Effective Date: The provisions of this Resolution shall take effect immediately.

INTRODUCED, READ, ADOPTED, AND APPROVED on this 22nd day of April, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

Exhibit A: First Street Corridor Plan draft

MEMORANDUM

To: Berthoud Mayor Karspeck and members of the Board of Trustees

From: Josh Olhava, AICP, PCCP, Planning and Development Supervisor
Karlyn Vasan, Senior Community Planner

Date: 04/22/2025

Re: Housing Diversity Plan Project – Final Meeting

Overview and Steering Committee Recommendation

Prior to their April 10, 2025, regular meeting, the Housing Diversity Plan Steering Committee members were provided with a copy of the final draft plan to review and provide final comments to staff and the project team. During the April 10th meeting, the project team presented a summary of the final draft plan and were available to answer questions and to receive final feedback. No new comments were received, and committee members expressed their appreciation for the process and the final plan that will help guide the community forward.

Steering Committee Recommendation: Following the presentation and discussions at the April 10th Steering Committee meeting, members voted unanimously to recommend the Housing Diversity Plan to the Board of Trustees for approval and adoption.

For Final Review and Adoption: Housing Diversity Plan and Strategic Action Plan

During this meeting of the Board of Trustees on April 22, 2025, staff and the project team will provide a recap of the planning process, community engagement, and the plan itself. This meeting provides the Board with an opportunity to review the final plan and make a motion to adopt the plan. Two final deliverables are ready for the Boards's review and adoption, included in the packet materials.

1. **Housing Diversity Plan:** The plan reflects extensive community feedback during the engagement process, direction provided by the Steering Committee, comments from the Board on March 11, 2025, and industry best practices tailored to align with the vision and values of the community as represented in the Comprehensive Plan.
 - a. The final plan is formatted to meet Colorado's accessibility requirements.
2. **Strategic Action Plan:** Though the action plan is included as Appendix A in the Housing Diversity Plan, the separate attachment is formatted for 11x17 for printing and ease of use.

You may provide feedback by inserting comments into the pdf directly or emailing your feedback to Anne Johnson prior to Monday, May 5, 2025.

Development Code Review

The project team is working with Town Staff on updates to the Design elements in the Land Use Code to strengthen the diversity requirements and expedited review process. Both are short-term strategies that were prioritized by the Housing Steering Committee. This is part of the larger effort by the Town to repeal and replace the entire Land Use Code, which needs to be completed by September 1, 2025.

Next Steps

- Final Town Board presentation and wrap-up on April 22, 2025
- Finalize development code redlines with Town staff
- Wrap-up and close-out

We want to thank the Town Board of Trustees, Town staff, and the Steering Committee for their commitment to this project, as well as the community for their insights and comments during the process.

2025

BERTHOUD HOUSING DIVERSITY PLAN



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Acknowledgements

The Town of Berthoud and the Project Team wish to extend our heartfelt gratitude to the residents and stakeholders of the Town of Berthoud for your invaluable contributions, input, and guidance throughout the development of the housing assessment report. Your involvement played a pivotal role in shaping a thorough and well-informed analysis. We are grateful for your commitment to this collaborative, community-led effort to provide housing opportunities to all current and future Berthoud residents.

Key Stakeholders

- ▷ Town of Berthoud
- ▷ Larimer County
- ▷ Habitat for Humanity
- ▷ Loveland Housing Authority

Steering Committee

- ▷ Karen Anderson, Planning Commission Chair
- ▷ Abigail Smith, Planning Commission Vice-Chair
- ▷ Nick Semedallas, Planning Commission Secretary
- ▷ Mark Hofmans, Planning Commissioner
- ▷ David Pond, Planning Commissioner
- ▷ Mark Brodie, Planning Commissioner
- ▷ Stacy Sigman, Planning Commissioner
- ▷ Sean Murphy, Mayor Pro-Tem
- ▷ Tim Hardy, Trustee
- ▷ Jeff Feneis, Executive Director, Loveland Housing Authority
- ▷ Tiffany Brodie, Executive Director, Berthoud Habitat for Humanity
- ▷ Ryan Baker, Planning Manager, Thompson School District

Ayres Project Team

- ▷ Josh Olhava, Western Planning Lead – Project Manager
- ▷ Karlyn Vasan, Community Planner – Project Lead
- ▷ Melissa Hunt, Planning and Economic Development Professional
- ▷ Jay Molokwu, Community Planner and Graphics
- ▷ Nathan Randall, Community Planner
- ▷ Lindsey Wilson, Community Planner

Berthoud Project Team

- ▷ Anne Johnson, Community Development Director
- ▷ Tawn Hillenbrand, Senior Planner
- ▷ Stephanie Horvath, Community Outreach Specialist
- ▷ Nathan Gabbard, GIS Analyst
- ▷ Town of Berthoud Staff

A special thank you to the staff at the Department of Local Affairs and funding for this assessment effort made possible by the More Housing Now grant program.



Chapter 1

Executive Summary

Introduction

On October 10, 2023, the Town Board of Trustees made a commitment along with other Colorado municipalities, districts and counties to increase the housing diversity availability in Berthoud. By “opting in” to Proposition 123, the Town has stated it is committed to supporting the development of a variety of housing products.

In 2024, the Town of Berthoud was awarded a More Housing Now grant by the Colorado Department of Local Affairs (DOLA). This grant program supports local governments to adopt land use and other qualifying strategies to increase attainable housing development and redevelopment opportunities. The grant will result in the development of a Housing Diversity Plan to help guide the community in providing housing opportunities for all current and future residents. While considering strategies for addressing housing affordability in Berthoud, it is important to emphasize the steps the town has already taken to start addressing the challenges, further explored in Chapter 7. For additional information on Proposition 123 and DOLA's qualifying strategies, refer to Appendix E.

Completing a housing needs assessment is one component of the Housing Diversity Plan. The community sought to understand the challenges residents of all ages and backgrounds face in finding stable, safe, and affordable places to live. The Town worked in partnership with Ayres to complete this community-wide assessment by identifying current housing and demographic trends, engaging with residents about their housing needs and experiences, and reviewing existing land use and related policies. The housing needs assessment offers strategies to address the needs and provides a roadmap for implementing targeted policies to address challenges related to housing opportunities and affordability.

While the Berthoud Housing Assessment is primarily focused on the housing needs of the Town, some factors in this analysis considered a broader area, looking at Loveland, Longmont, and Larimer and Weld Counties. The local housing market is also heavily influenced by trends occurring at the state and federal levels. To the greatest extent possible, the assessment seeks to localize the data where necessary and incorporate regional trends as needed.

Throughout this report the terms ‘affordable’, ‘attainable’, and ‘workforce’ will be used to describe households with incomes between 80% and 120% of the Area Median Income (AMI) as defined by the Department of Housing and Urban Development (HUD) for Larimer County. These three terms can be used interchangeably and do not mean low-income housing which is defined as households with incomes at 40% to 60% of the AMI. This information is discussed in greater detail in Chapter 5 of this report.

Purpose

This report will assist the community by achieving the following objectives:

1. Provide insights into the current housing market to guide informed decision-making for future investments in land use planning and infrastructure.
2. Identify gaps and unmet needs in the housing market.
3. Outline housing strategies and recommendations to guide actions over the next five to ten years.
4. Identify gaps and unmet needs in the support systems related to the housing market.

This assessment considered the housing needs of various life stages, including young professionals, families, retirees, and seniors, recognizing that housing needs evolve over time. Each demographic brings distinct expectations and opportunities for the local economy, services, and community culture. For example, a family with young children may prioritize active recreational opportunities, childcare, schools, and restaurants, while retirees and seniors may desire senior community programming, smaller housing for downsizing, and readily available access to health care services. Additionally, the cost and attainability of housing significantly impact these groups' ability to find suitable options, as each demographic faces unique financial considerations in securing stable housing.

To guide the report and recommendations, input was gathered from current residents and local stakeholders to better understand current circumstances, challenges, concerns, and future housing choices and preferences. The raw survey data is included as Appendix C and is also summarized and referenced throughout.

Process and Timeline

The assessment began with a project kick-off meeting in July of 2024 with Town staff and the consultant team. The discussion focused on identifying project goals, understanding community impressions of housing, identifying engagement opportunities and strategies, organizing a stakeholder list, and discussing potential implementation strategies to consider. The meeting provided further insights into the community and established a roadmap for completing the assessment effort.

After the kick-off meeting, the project team proceeded with a multi-faceted approach that included background research and data gathering, stakeholder meetings, community engagement, recurring discussions with Town staff, and multiple presentations and work sessions with the Steering Committee.

This approach provided an opportunity to understand the story behind the data and fact check the quantitative data against critically important qualitative information from the community. The perceptions of housing were compared to census, county, and state data to paint a holistic picture of the current state of housing within the community. Following the outreach efforts in September and October 2024, the project team drafted the assessment report in the Fall and Winter of 2024. This report includes a community profile, housing market projections, policies, and implementation strategies. The final report was presented to the Planning Commission, Steering Committee, and Town Board in the Winter of 2024. The project’s major milestones are captured in this project timeline illustrated.

Relevant Strategic Plans and Studies

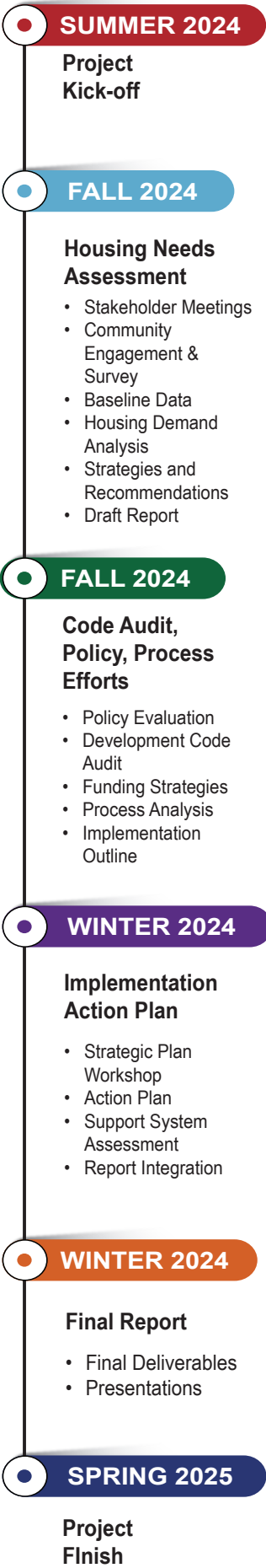
The project team considered the following strategic plans and studies while completing this assessment: Berthoud Comprehensive Plan (2021), Transportation Plan (2021), Mountain Avenue Plan (2019), First Street Corridor Plan (2023), Future Land Use Map (2021), Architectural Design Guidelines (2021), Landscape Design Guidelines (2023), Larimer County Housing Needs Assessment (2021), Loveland Housing Authority Regional Housing Study (2021).

Key Takeaways

Berthoud shares common housing challenges with the region and state; however, its’ desirable location in the heart of Northern Colorado’s rapidly growing economy presents unique challenges. This section highlights key themes found throughout the report that inform the strategies and action plan to address current and future housing needs.

Middle-income and workforce housing—both rental and ownership—is diminishing.

Attainable housing for middle-income and lower-income households has become increasingly scarce in Berthoud. Home prices have risen sharply, making homeownership out of reach for many. Over the past 12 months, the average home sale price was \$697,209, a 41% jump from the 2022 Census median home value of \$458,600. Rental costs have also surged by over 90% since 2017, with a 0% vacancy rate signaling a critically undersupplied rental market. New housing development has largely focused on owner-occupied units, which increased by 95% from 2017 to 2022. Both for-sale prices and rental rates are unattainable for households earning less than 120% of the



Area Median Income (AMI). As reflected in resident responses to the housing survey, many are either forced to seek housing elsewhere or remain in town while spending more than 30% of their income on housing costs, becoming cost burdened. These rising costs are shaping Berthoud's growth, attracting more affluent households, and impacting the town's demographic diversity.

Regional collaboration and public/private partnerships are essential.

Berthoud cannot address its housing challenges alone, as they are highly influenced by regional factors. Berthoud is centrally positioned within North Colorado's economy and has been shaped by the region's economy and job growth over the past ten to fifteen years. This expansion has driven population growth and heightened housing demand, pushing home prices higher. This trend is expected to continue, with the State Demographer projecting Berthoud's population to grow by 139% by 2040, more than doubling the number of households today. By 2050, Weld and Larimer counties are projected to grow by 77.7% and 33.5%, respectively. Given the population and housing demand pressures, regional collaboration is vital to address housing challenges and ensure sustainable growth. Berthoud must leverage its private sector and nonprofit organizational partners by fostering coordination, cooperation, and regular collaboration. These partners may include Berthoud Habitat for Humanity, Loveland Housing Authority, and local developers and non-profits.

Lack of housing diversity limits options for all life phases.

Although Berthoud's total housing units grew by 70% from 2017 to 2022, the diversity of home types and sizes remain limited. In 2022, single-family detached homes made up 82% of Berthoud's housing inventory. Between 2020 and 2024, only one small cluster of townhomes was permitted, while 82% of new residential permits were issued for single-family detached homes. This lack of housing diversity restricts options for first-time homebuyers, young professionals, and seniors, many of whom may prefer smaller, more affordable alternatives such as townhomes, duplexes, and multi-family developments. To align with the goals of the Comprehensive Plan, Berthoud must build on the progress it has made to address housing diversity and explore additional policies or programs that further promote greater diversity in housing development.

Shifting demographics are impacting housing preferences.

Since 2010, Berthoud's population has grown by 113%, with a notable increase in young professionals, families, and retirees. However, housing options have not kept pace with this growth. For example, as Berthoud's senior population increases, many may seek to downsize or require accessible housing, highlighting the need for greater housing diversity to accommodate a range of needs and incomes. A balanced housing strategy is essential, one that not only creates and preserves dedicated affordable housing but also removes barriers and incentivizes housing development that meets the needs of all stages of life.



Chapter 2

Community Context

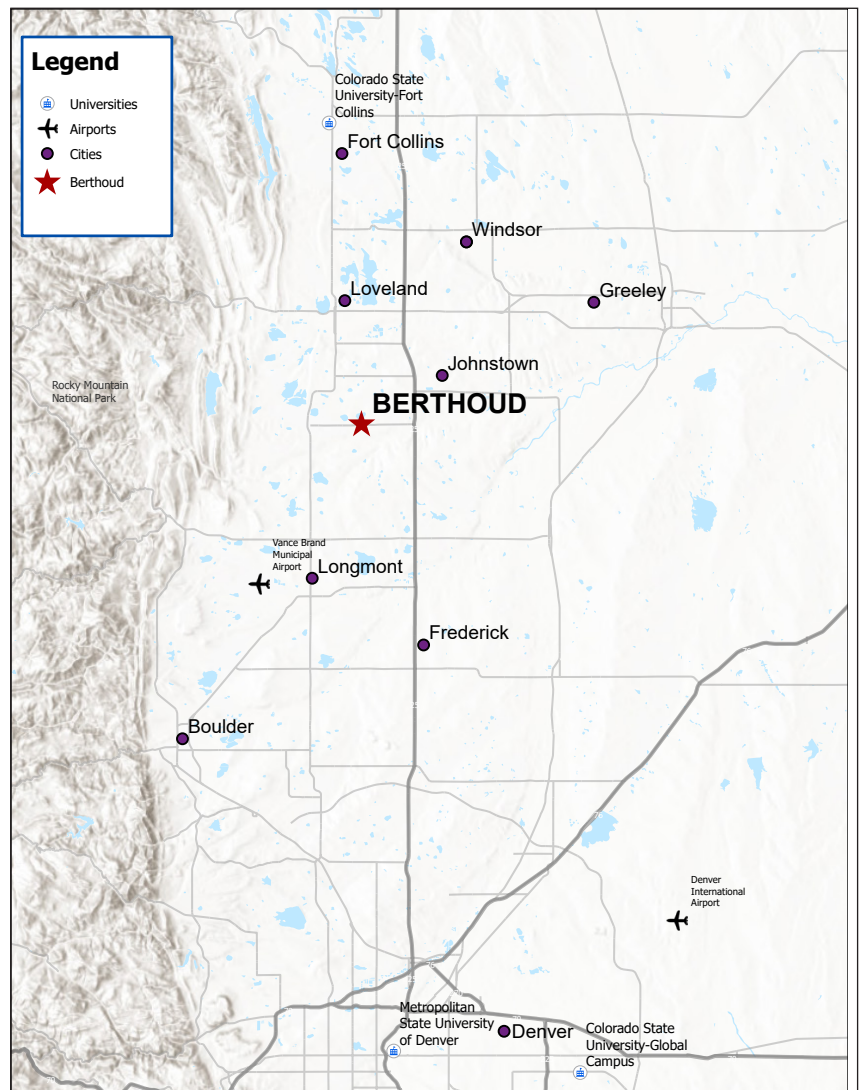
Regional Context and Setting

Berthoud is an incorporated town of about 12,500 residents and 13 square miles of land in Larimer and Weld counties in northern Colorado covering an area from I-25 to west of U.S. 287. Its larger growth management area stretches east of I-25 and west to Carter Lake. When including these residents who will call “Berthoud” the place they live, the population reaches approximately 14,000.

Its location 43 miles north of Denver and just east of the Rocky Mountain foothills places it within the growing Front Range Urban Corridor, which includes several cities and towns along the eastern slopes of the mountains. Its neighboring cities and towns include Loveland (6 miles north), Mead (9 miles southeast), Longmont (11 miles south), Johnstown (11 miles east), Fort Collins (21 miles north), and Greeley (26 miles northeast).

Founded in the 1800s as an agricultural hub, Berthoud has maintained its traditional compact development pattern, preserving its small-town feel, unlike other Northern Colorado communities that have allowed sprawling development patterns. Positioned on the high plains, it offers a mix of rural and suburban characteristics. Berthoud’s location among open rural lands and within the vibrant regional economic and cultural context of the expanding Front Range Urban Corridor have been key factors in attracting new residents and businesses to this growing suburban community. The outskirts of Berthoud, which were once mostly farms and ranches, have increasingly been developed for residential and recreational purposes.

The area west of I-25 is largely rural, with farmland and ranches, offering fantastic views of the Rocky Mountains. Once across the Larimer/Weld County line, the land becomes more developed, transitioning into residential subdivisions and the commercial areas of downtown Berthoud along Mountain Avenue. This main street features a historic district, residential areas, parks, restaurants,



Regional Context Map

and new commercial properties.

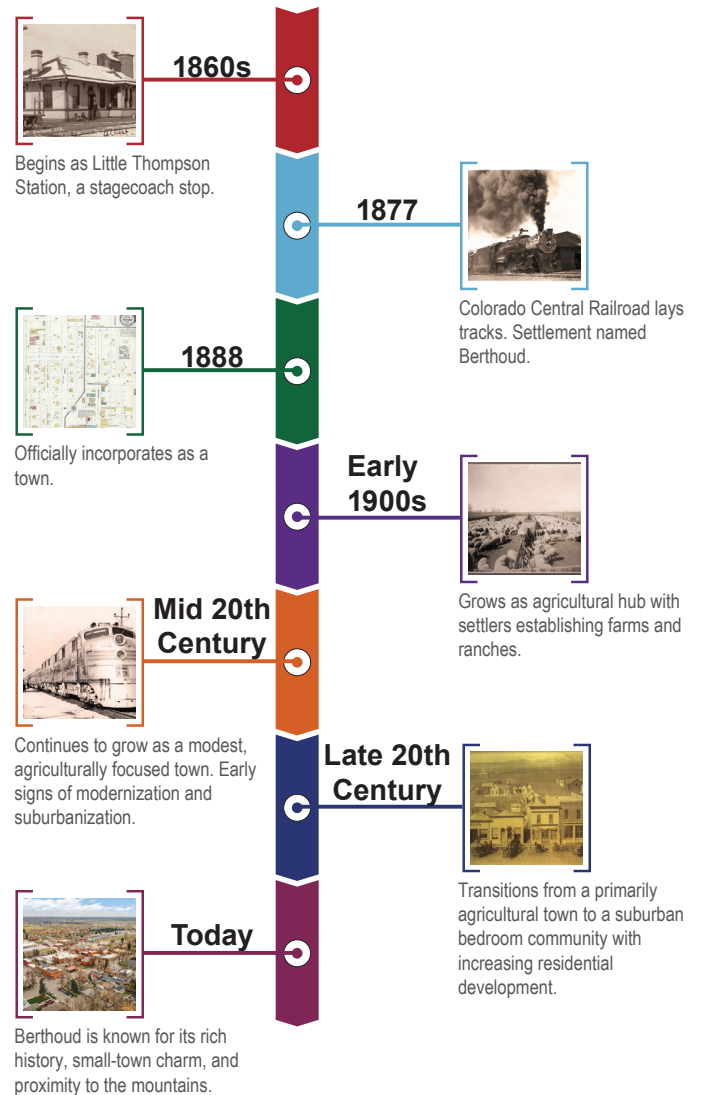
West of U.S. 287 the topography transitions to rolling hills with residential development mixed with farmlands and horse property. The lands to the north of Berthoud feature county-level subdivision developments, with some close enough to be served by Berthoud's wastewater utility. To the south of Berthoud, there are a few rural subdivisions followed by a stretch of lightly developed open land before reaching Longmont.

Historical Context

The Town of Berthoud began in the 1860s as Little Thompson Station as a small stagecoach stop near the Little Thompson River. The early settlement was a waypoint for travelers and settlers moving through the area. The fertile land and strategic location of the Little Thompson Valley attracted more settlers, which laid the foundation for this growing agricultural community.

The arrival of the Colorado Central Railroad in 1877 was a turning point for the settlement, bringing increased connectivity by facilitating the transportation of crops and goods which brought economic opportunities to the area. The community adopted the name Berthoud in honor of the surveyor Captain Edward L. Berthoud who played a key role in the development of the railroad. The railroad spurred growth and development, and by 1888, Berthoud was officially incorporated as a town which solidified its status as a growing agricultural center.

Berthoud's economy thrived on farming and ranching with the early development of ditch irrigation systems enabling the cultivation of diverse crops such as sugar beets, potatoes, wheat, and alfalfa. By the early 20th century, the town had become a bustling center for agriculture production, and the local farmers contributed significantly to the region's prosperity. Berthoud retained its rural, small-town charm, growing around its central downtown area and close connection to the surrounding farmland. This period saw gradual but consistent growth, driven by agricultural prosperity and the development of local businesses.



Images sourced: Berthoud Historical Society, Library of Congress

In the mid-20th century, Berthoud continued to be a modest, agriculturally focused town, though it began to experience the early signs of modernization and suburbanization. Farming and livestock remained the foundation of the local economy, but technological advancements and improved transportation gradually transformed the community's lifestyle. The population grew steadily, as it became a quieter alternative to larger nearby cities. Berthoud's downtown area retained its historic feel, with small businesses serving the local community, and the town preserved its close-knit, rural character with its agricultural roots remaining strong.

By the late 20th century, Berthoud was transitioning from a primarily agricultural town to a more suburban community. Many residents started commuting to nearby cities like Loveland, Longmont, and Fort Collins for work, and farming was no longer the dominant economic driver. Residential development increased, with new neighborhoods emerging to accommodate a growing population drawn to the small-town atmosphere. By the end of the century, Berthoud had evolved into a mix of its agricultural roots and a suburban bedroom community, balancing growth with a desire to preserve its unique identity.

Today, Berthoud is a growing, vibrant town that has become an attractive place for families and professionals seeking a small-town lifestyle within commuting distance of larger cities. The population has steadily increased while preserving much of its rural charm and scenic beauty. It is known for its close-knit community, tree-lined streets, and proximity to outdoor recreation. While maintaining its historical character, the downtown area has been revitalized to adapt to modern needs with cafes, boutiques, and local restaurants.





Chapter 3

Community Outreach

Community outreach was completed as part of the multi-faceted approach for this assessment. Outreach efforts included targeted stakeholder meetings, conversations with residents at engagement events, and an online community survey.

Stakeholder Interviews

Three targeted stakeholder group interviews were held on September 19 and 23, 2024 with individuals representing varying sectors including developers, economic development organizations, social service providers, employers, and Town Staff Leadership Team. Approximately 25 stakeholders participated.

Key Takeaways

- Affordability Definitions:** There were varying interpretations of terms like “affordable” and “attainable” housing, as well as “workforce” housing, which can confuse community members. These terms need to be appropriately defined and discussed.
- Housing Affordability:** It is widely agreed that Berthoud faces a shortage of available housing that is affordable, especially for first-time buyers, low-income families, seniors, and people with disabilities. Many local employees cannot afford to live in Berthoud, leading to longer commutes from nearby towns, and hiring challenges for local businesses. Flexible, non-subsidized housing solutions like accessory dwelling units (ADUs), smaller homes, and multi-generational housing were identified to potentially help address these issues.
- Public Perception Challenges:** Growth and higher-density housing remain controversial in the community. Concerns were raised about traffic, school capacity, crime, property values, and changes to the community’s small-town character. The phrasing of “affordable housing” is often misunderstood and associated with Housing Voucher Program. To address these concerns, more transparent communication, public involvement, and educational efforts showcasing successful affordable housing projects are needed to shift perceptions and demonstrate their benefits.
- Regulatory and Process Improvements:** Stakeholders expressed a need to simplify and expedite the development review process, as regulations were perceived as complex or conflicting – which can increase costs and cause delays. Suggestions included adopting more flexible zoning regulations and development standards, incentivizing developers with certain fee reductions, and improving feedback and guidance at pre-application meetings. A proposal

Berthoud Housing Needs Assessment

Berthoud, Colorado

Housing Type Descriptions





Single Family Detached (large lot)

A single-family detached house on a large lot offers more separation between neighbors and more space within its living areas. It's ideal for families needing extra room and those who appreciate defined levels for privacy and organization. This example has 4 bedrooms and 2.5 bathrooms.



Single Family Detached (small lot)

Single Family Detached (small lot) homes are compact but designed to feel more spacious through an open layout, built-in shelving, minimal hallways, and natural light from large windows. Often, this housing type is an affordable option for working-class families. This example has 2 bedrooms and 2 bathrooms.



Single Family Detached (duplex)

In a single-story or two-story duplex, each unit is a separate, self-contained living space, allowing two different families to live independently while sharing the same building. Each unit has its own entrance, kitchen, bathroom, and living areas, providing privacy and autonomy for each family.

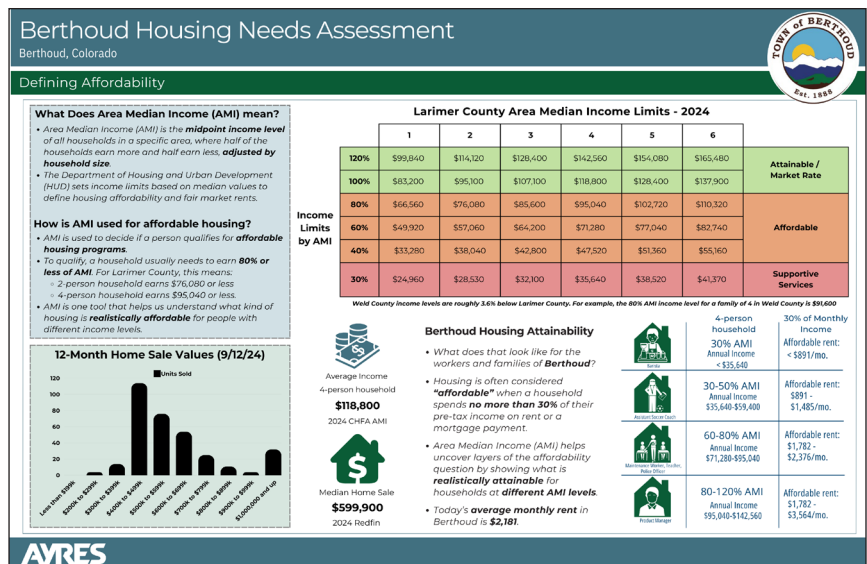


Modular Homes

A modular home is a prefabricated building constructed from sections, or "modules," that are manufactured in a factory and then assembled on-site. This approach offers a cost-effective, customizable, and often faster alternative to traditional home building.

AVRES

to create a “Staff Advocate” for housing projects classified as affordable or attainable in Berthoud was suggested to help developers navigate the process and provide support during public meetings. Innovative approaches to construction and sustainability were also encouraged, though high impact fees and construction defect laws are seen as barriers to housing diversity.



5. Water, Utility Costs, and Fees:

Housing Affordability

High water fees were a major concern, with calls for a water usage study to ensure fair and accurate fees based on actual consumption. There was also a desire to see impact fees more closely tied to a home’s size, number of bathrooms, and bedrooms. The cost of energy and water conservation efforts was also noted as a factor affecting development costs.

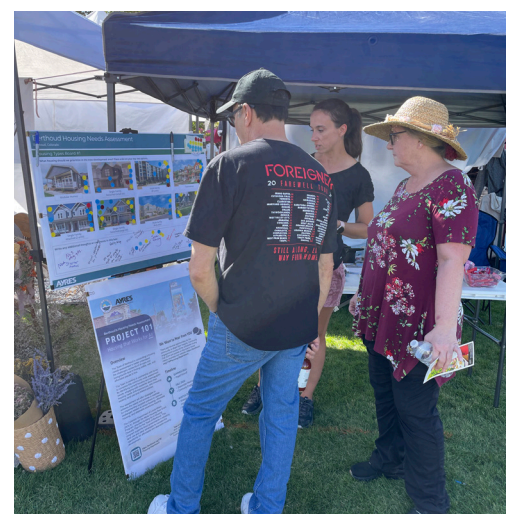
6. **Community and Regional Collaboration:** Participants emphasized the need for regional collaboration and partnerships with neighboring municipalities and organizations to share resources and strategies for addressing housing and development challenges. Local developers, builders, and housing organizations should also be engaged to create a shared vision for housing solutions.

7. **Financial Strategies:** Stakeholders suggested exploring funds or allocating tax revenue to support housing projects classified as affordable or attainable based on the area median income. Public-private partnerships were also recommended to leverage additional resources and expertise.

Community Engagement Events

Two community engagement events provided opportunities for residents to interact with the project team and share input on housing needs and preferences. Approximately 200 residents stopped by the two events, with most participants eager to discuss growth and housing issues.

- September 19, 2024: Soccer Fields at Recreation Center
- October 5, 2024: Oktoberfest booth



Berthoud Oktoberfest

Key Takeaways

1. **Housing Types:** While single-family homes remain popular, most residents recognize the affordability challenges and agree that considering different housing types makes sense. Courtyard homes and duplexes were particularly well-received.
2. **Multi-family:** Many residents are open to multi-family but want to ensure that the maximum height reflects the community's character. There are concerns about multi-family structures obstructing mountain views, and some residents suggested placing these developments along major roadways rather than next to single-family neighborhoods.
3. **Young Residents:** Younger couples are eager to live in Berthoud but face challenging finding housing that is affordable. Even some couples with higher dual incomes had resorted to purchasing homes in nearby towns like Johnstown or Mead or renting in Loveland due to the limited availability of attainable options in Berthoud.
4. **Multi-generational Living:** Some parents in Berthoud are housing their adult working children, while young families are living with grandparents due to high housing costs. Additionally, dual-income couples without children express a preference to live in Berthoud, but find it unaffordable, pushing them to explore housing elsewhere.
5. **Down-sizing:** Many older adults (including empty nesters or retirees) express a desire to downsize. However, they find that single-level and low-maintenance homes are hard to find and that it is often more expensive to sell their current home and buy a new, smaller home than to remain where they were.
6. **Growth Concerns:** Some residents voice concern about continued growth, preferring that it stop. Many recently moved to Berthoud from Longmont or Boulder in search of the quieter, rural character of Berthoud and did not want more growth. Their concerns include increased traffic, school capacity, crime, and the potential loss of community culture.



Berthoud Octoberfest



Engagement at the Soccer Fields



Housing Preferences

Community Survey

A community online survey launched on October 2, 2024, and was open for participation for 19 days. It included general housing questions, as well as targeted questions for homeowners, renters, and non-Berthoud residents. The survey was promoted through various methods to ensure broad and diverse community representation. These included:

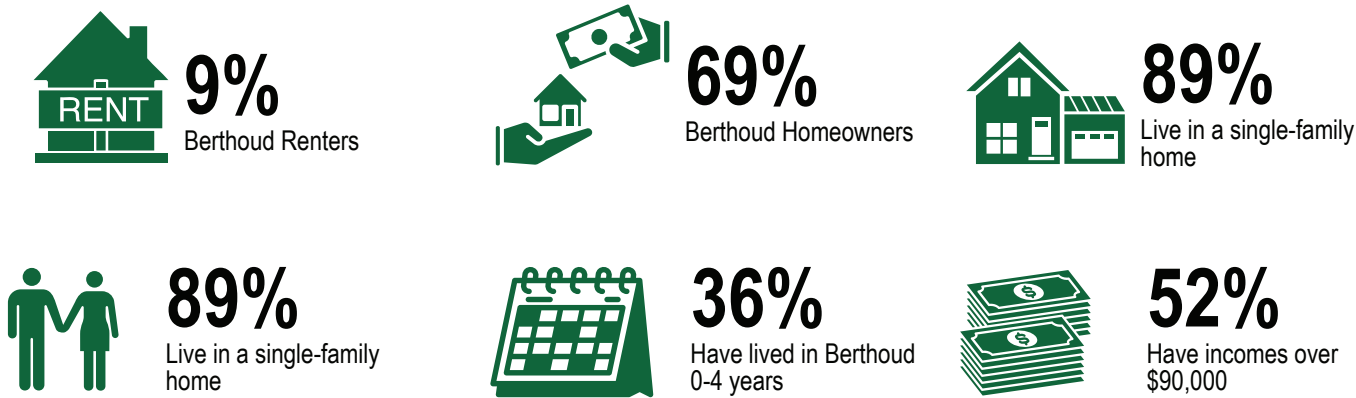
- ▶ Berthoud's e-newsletter, website, and social media platforms
- ▶ Printed inserts in utility bills
- ▶ Email campaigns via the steering committee and partner organizations
- ▶ Flyer promotion at Town Hall

A total of 365 respondents filled out the survey. The profile of resident survey respondents is similar to resident demographics in general (refer to Chapter 4 for greater detail). All survey responses are included in Appendix C.



Community Survey Flyer

Community Survey Respondent Profile



Top Housing Strategies	Top Preferred Housing Types	Top Housing Concerns
1. Build a variety of types and sizes (40.0%)	1. Single-family Home (73.7%)	1. Will not be able to afford to buy a home (27.1%)
2. Build senior / retirement housing (26.0%)	2. Courtyard Home (10.9%)	2. Housing quality (26.2%)
3. Add more housing close to downtown (14.8%)	3. Senior Housing (7.1%)	3. High rental rates (24.9%)

Key Takeaways

The survey included three opportunities for respondents to answer open-ended questions to share their experiences, preferences, and opinions. These themes emerged from the responses:

1. **Difficult to find housing:** 39% report that finding housing was Difficult or Very Difficult. Additionally, 44% know someone struggling to find housing. Some reasons cited include:
 - ▷ “Need more housing for early-career professionals looking to buy smaller townhomes or duplex-type options.”
 - ▷ “Single-family homes are too expensive. Not enough townhome options that help the renters to step into ownership without the price tag of single-family homes.”
 - ▷ “Renting a house or purchasing a house is too expensive, and there are no apartment options available in Berthoud for transitory housing while they save. This means that they are living with parents.”
 - ▷ “New college grads / young families / city or trade workers can’t afford rent or qualify for mortgages.”
2. **Consensus on the need to address affordability and housing diversity:** There is a call for more housing options at varying price points, including single-family homes and rentals, to accommodate a diverse population, from young professionals to retirees. Berthoud renters said the biggest challenges to buying a home will be finding a home in their price range (81%) and being able to afford the down payment (58%). Some responses include:
 - ▷ “It’s so expensive to live here. Our young adult kids must live with us because affordable options are just nonexistent in Northern Colorado.”
 - ▷ “There are so many large footprint homes here. Not enough smaller homes or affordable rentals. Elders need to age in place with a footprint they can handle without expenses bankrupting them. Many of my neighbors are over 80 trying to make a living in 3K square foot homes with lots of yard and landscaping maintenance work for them.”
 - ▷ “I am concerned by the sky-high rental prices and all the new homes being way out of affordable range.”
 - ▷ “The rising costs and lack of rental options push out longtime residents who truly love and care about this town. Growth is necessary but more people should be able to stay in their hometown after they’ve moved out of their parent’s houses.”
3. **Concern about overdevelopment and loss of small-town feel:** Many respondents expressed concern about the quickly growing population. They also expressed concern with multi-family apartment development. These respondents expressed fear that the Town will lose its identity and become more like neighboring larger cities or a bedroom community. Some concerns included:
 - ▷ “Be fair to all people in Berthoud and the surrounding area by maintaining open space

- ▷ “Berthoud is growing too fast without the infrastructure to support it. Police, schools, water etc.”
- ▷ “The Town needs a long-term view, not just looking at applications one by one. Berthoud should avoid becoming a crowded, traffic congested mess. Berthoud is rapidly digressing from being that “cute little town.”

What is your vision for housing in Berthoud?

- ▷ “Small town feel, cute downtown with great shops and easy parking, beautiful views.”
- ▷ “I like the small-town vibe, that it is close to Denver but out of the metro, I like its proximity to two major universities. I like that kids can safely play unsupervised in the street and parks. I like how accessible other communities are via so many routes.”

- [illegible]

- ▷ “Pair new housing projects with plans/funds/incentives to improve roads, increase bike paths, etc.”
- ▷ “Help/reduce fees for water tap fees for higher density apartments or condo buildings. Push back on the general public’s view of high-density housing by educating them on the need for attainable housing and how you will ensure traffic safety.”
- ▷ “Permitting process needs to be made easier and park requirements lowered.”
- ▷ “Invest in affordable housing incentive programs for developers, consider an Inclusionary Housing ordinance.”





Chapter 4

Community Snapshot

This chapter contains the demographic, economic, and housing profiles for the Town of Berthoud, reflective of the time this report was developed. The profiles highlight key characteristics and statistics while breaking down the data into digestible elements. Understanding the current local demographic trends helps inform current and future housing needs.

Data Sources: To the greatest extent possible, the most current data was used for this Housing Assessment. Some data sources may be more current than others and careful analysis was conducted to align “like” data and to avoid discrepancies. It is best practice to use the most up to date data which is why data from different years may be noted. The project team extrapolated data from multiple sources including U.S. Census, American Community Survey, State Demography Office, Social Explorer, Data USA, Larimer County, Weld County, Zillow, Realtor.com, and other locally available data to create the analysis and overview on the accompanying charts, tables, and graphics.

Demographic Profile

Demographic trends tell us about characteristics of the community: population size and growth, age, household size and income levels. This information is needed to understand and project the mix, size and type of housing that is needed for Berthoud.

Population Trends

Between 2010 and 2022, Berthoud experienced significant growth with a remarkable 113% increase, bringing its population to 10,892 residents. Nearby Johnstown increased 75% in the same period. In contrast, other nearby communities saw more modest increases in population, with Longmont and Loveland increasing only 14% and Greeley 18%. During this period, Larimer County grew by 20% to 359,363 residents and Weld County grew by 39% to 350,176 residents. For July 1, 2023, the State Demography Office estimated Berthoud’s population at 12,340. Based on this trend, it is estimated that Berthoud’s population at the end of 2024 may be between 13,000 and 14,000 residents.

According to the State Demographer, ninety percent of Colorado’s population growth from 2021 to 2022 occurred along the Front Range, with Weld County ranking 1st in terms of population growth (counts) and Larimer County ranking 4th. From 2020 to 2030, the State Demographer projects the population growth for Larimer and Weld counties to increase by 13%



Source: ACS 2018-2022, Town of Berthoud, Larimer County Assessor, Ayres

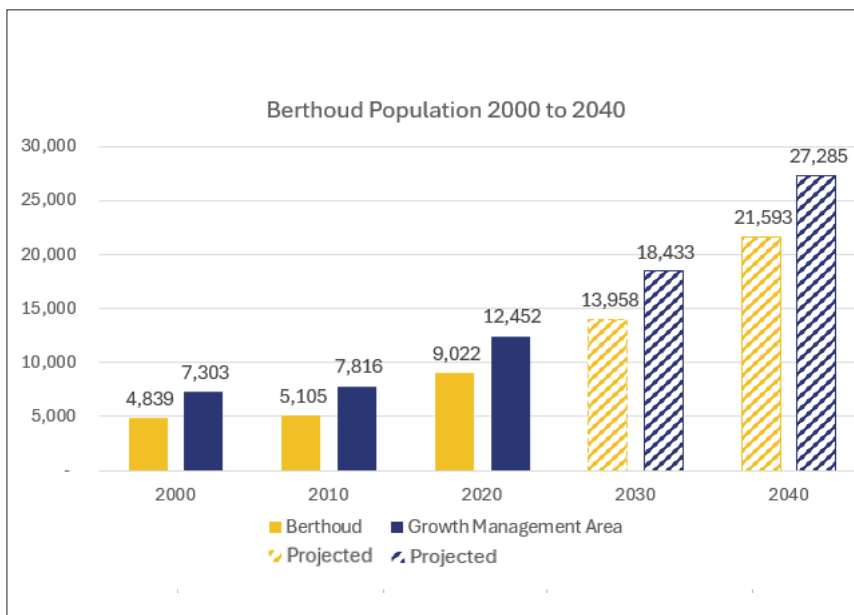
and 28% respectively, and another 12% and 22% between 2030 and 2040. The State Demographer projects that Weld County will surpass Larimer County in population by 2027. While Berthoud lies in both counties, it is important to note that only 2% of its population and only 1% of housing units are currently in Weld County, however, as Berthoud grows, more of its population may shift to Weld County.

Population Change by Jurisdiction, 2010 and 2022			
Jurisdiction	2010	2022	% Change
Berthoud	5,105	10,892	113%
Loveland	66,859	76,500	14%
Longmont	86,270	98,282	14%
Frederick	8,679	15,037	73%
Windsor	18,644	33,905	82%
Johnstown	9,887	17,327	75%
Larimer County	299,630	359,363	20%
Weld County	252,825	350,176	39%

Berthoud’s significant growth is expected to continue to outpace nearby communities. The graph shows Berthoud population by decade from 2020 through 2040 projections. From 2020 to 2040, the projected growth for Berthoud is 139% and the Growth Management Area (GMA) is 119%. The total number of households in Berthoud is projected to reach 9,535 by 2040 (up from 4,143 in 2022), and 10,753 households are expected in the Growth Management area.

The growth in Berthoud and the surrounding area can be attributed to several factors, including:

1. Berthoud maintains a rural atmosphere, while being conveniently located near other cities that have seen a rise in diverse job opportunities, making it ideal for commuters who want the best of both worlds.
2. Compared to other areas along the Front Range, Berthoud sometimes offers more attainable housing prices for its residents.
3. Berthoud offers a close-knit, friendly community with small-town charm and a slower pace of life, making it an attractive alternative to larger, busier cities.
4. The town’s high quality of life, with excellent schools, safe neighborhoods, proximity to recreational opportunities, and favorable climate, draws families and individuals seeking a balanced lifestyle.



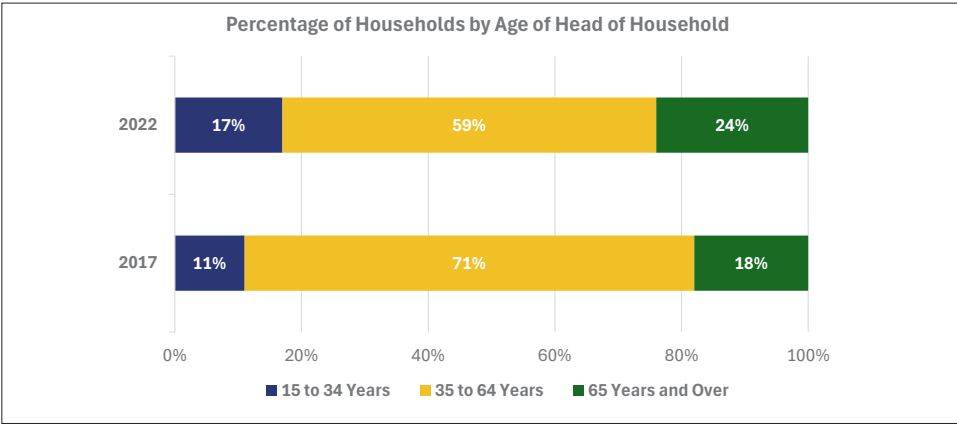
Age

From 2012 to 2022, the median age in Berthoud decreased from 41.0 to 38.5 years. The population of Berthoud’s college-aged young adults (18 to 24) and entry to mid-level professionals (25 to 44) increased by 160% and 165% respectively. This suggests that Berthoud is attracting young adults, professionals, and younger families. There is a strong workforce population and the potential for additional demand for schools, childcare services, and additional community amenities and services as families expand. Berthoud’s senior population aged 65 and older increased by 147% which could indicate a growing demand for senior services and housing as this age cohort grows.

As a proportion of Berthoud’s total population, the residents under 18 and aged 45 to 64 declined to 23% and 27% respectively, while the proportion of residents aged 25 to 44 increased to 29%. In 2022, the proportion of residents under 18 was 20% in both Loveland and Longmont, and the proportion aged 45 to 64 was 23% and 26%, respectively. Berthoud’s proportion of residents 65 and older increased to 14% in 2022, compared to 21% in Loveland and 17% in Longmont.

Berthoud Population Change by Age Group, 2012 and 2022						
Age Cohort	Population			Proportion of Population		
	2012	2022	% Change	2012	2022	% Point Change
Under 18	1,467	2,479	69%	28%	23%	-5%
Aged 18 to 24	343	892	160%	7%	8%	1%
Aged 25 to 44	1,174	3,107	165%	22%	29%	6%
Aged 45 to 64	1,659	2,887	74%	32%	27%	-5%
Aged 65 or older	618	1,527	147%	12%	14%	2%

When considering households based on the age of the head of household (defined as the person in whose name a housing unit is owned, rented, or being bought), the proportions at the younger and older end of the spectrum increased between 2017 and 2022. Seventeen percent of Berthoud heads of household were 34 years or younger, and 24% were 65 years and older.



Median Age
38.5


14%
65+


23%
under 18



2.6

Average Household
Size



42%

Married couples
with no children



9%

Seniors live alone

Historic population groupings by age and projections through 2050 are included in the Key Considerations section of Chapter 6, along with the implications for housing demand, design, and community planning.

Household Composition

In 2022, Berthoud had 4,143 total households, 71% greater than the number in 2017. Thirty three percent of Berthoud households included children (married with children or single parent households). Two-person households make up 41% of all households, while households of three or more people account for 40%. Berthoud's percentage of family households (81%) is high compared to nearby Loveland at 63%.

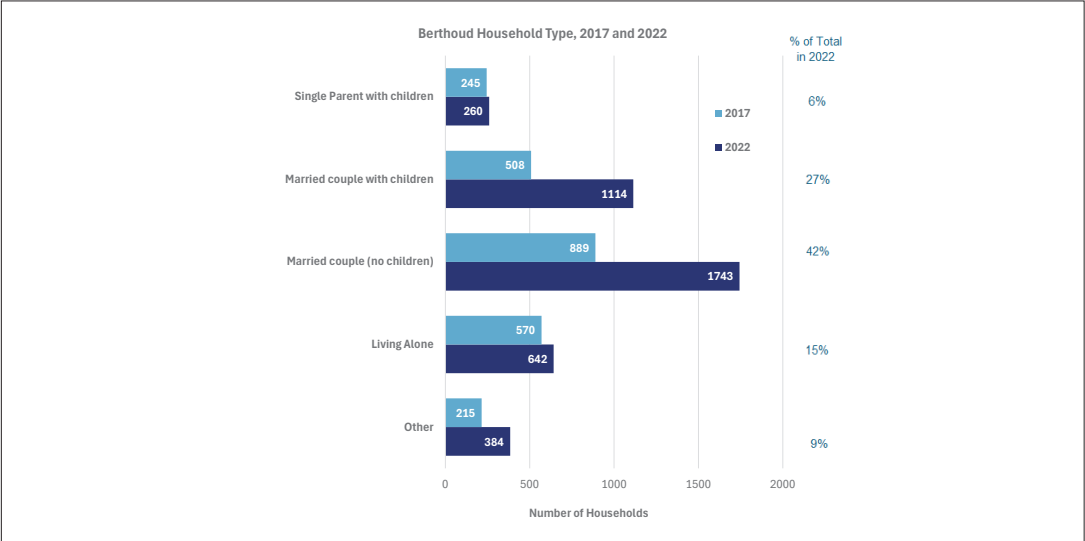
What is a household?

U.S. Census Bureau defines a family household as a group of people who live together in the same dwelling and share meals, including a householder and at least one other person related to the householder by birth, marriage, or adoption.

The table shows the percentage of Berthoud households categorized by family status and size. Berthoud's percentage of non-family households decreased significantly from 30% in 2017 to 19% in 2022. In comparison, Loveland's non-family households make up 37%. Fifteen percent of non-family households consist of individuals living alone, with nine percent being seniors aged 65 and over. Seniors living alone may enjoy greater independence and autonomy, but there is also the potential for social isolation and difficulty accessing support services or healthcare when needed, especially for older adults living without nearby family members. This is an important consideration when assessing senior housing needs.

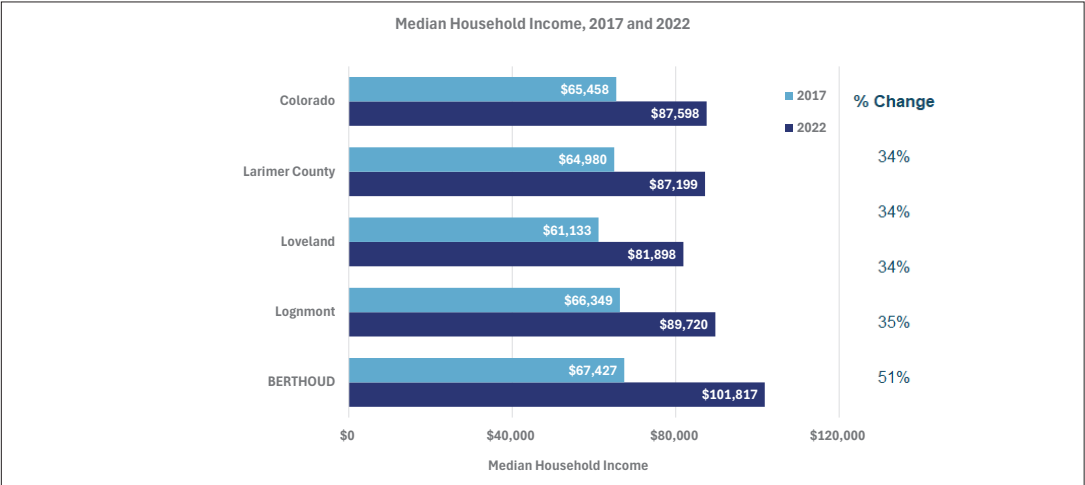
Berthoud Households by Family Status and Household Size				
	2017	% of Total	2022	% of Total
Family Households				
2-person	851	35%	1,690	41%
3-person	325	13%	642	16%
4+ persons	523	22%	1,007	24%
Family Subtotal	1,699	70%	3,339	81%
Non-Family Households				
1-person	570	24%	642	16%
2-person	158	7%	141	3%
3-person	-	0%	21	1%
4+ persons	-	0%	-	0%
Non-Family Subtotal	728	30%	804	19%

The most common household type in 2022 was married couples without children under 18, making up 42% of households. In comparison, this percentage in Loveland was 33%. Married couples whose adult children have moved away may look to downsize to smaller housing types, including townhomes, duplexes, single-story homes and smaller single-family homes. Younger married couples often look for these smaller housing types as well as starter, and more reasonably priced homes. While these households currently do not have children, a portion may start families in the future which has the potential to increase the demand for larger homes, daycare centers, schools, and child-friendly amenities in the coming years. Married couples with children made up 27% of households in Berthoud, compared to 17% in Loveland. This table shows the number of Berthoud households by type in both 2017 and 2022 and the percentage of total households by type in 2022.



Household Income

Berthoud’s median household income was \$101,817 in 2022, a 51% increase (about \$34.4K) from 2017. Berthoud’s increase outpaced surrounding communities, Larimer County, and the state, which all saw increases of either 34% or 35% during the same period.



\$101,817
Median Household Income



51%
earn \$100K+

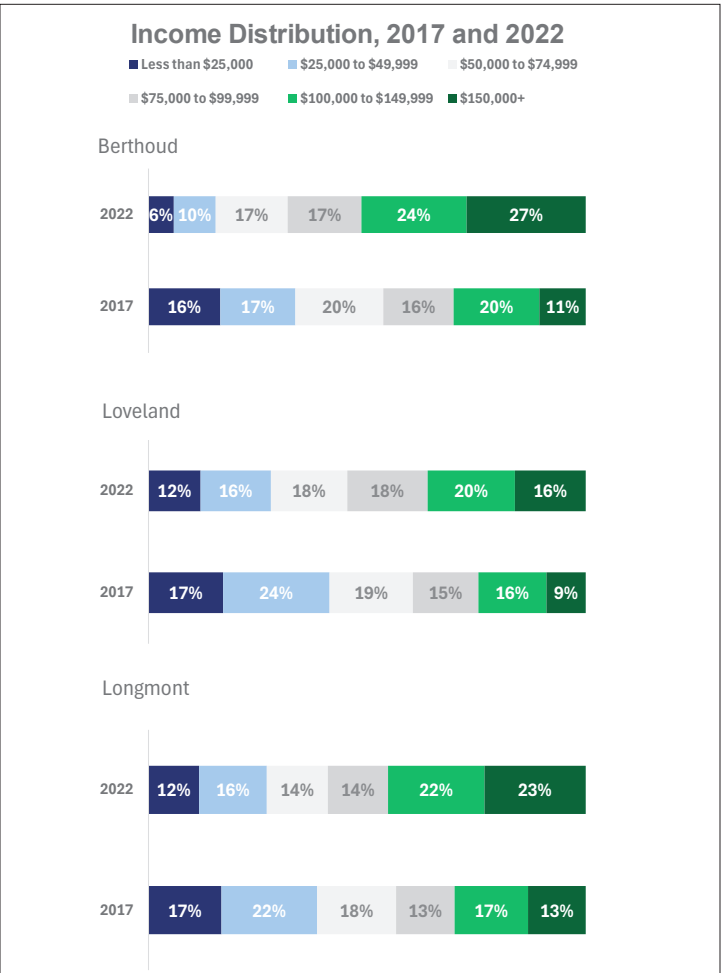
16%
earn <\$50K

Income Distribution

It is important to note that a rise in median income does not necessarily indicate rising incomes for all residents. It may reflect higher incomes among top earners, which can increase the median, or the displacement of lower-income households who may leave Berthoud due to rising housing costs.

The graph shows the changes in income distribution between 2017 and 2022 for Berthoud with comparisons of nearby Loveland and Longmont.

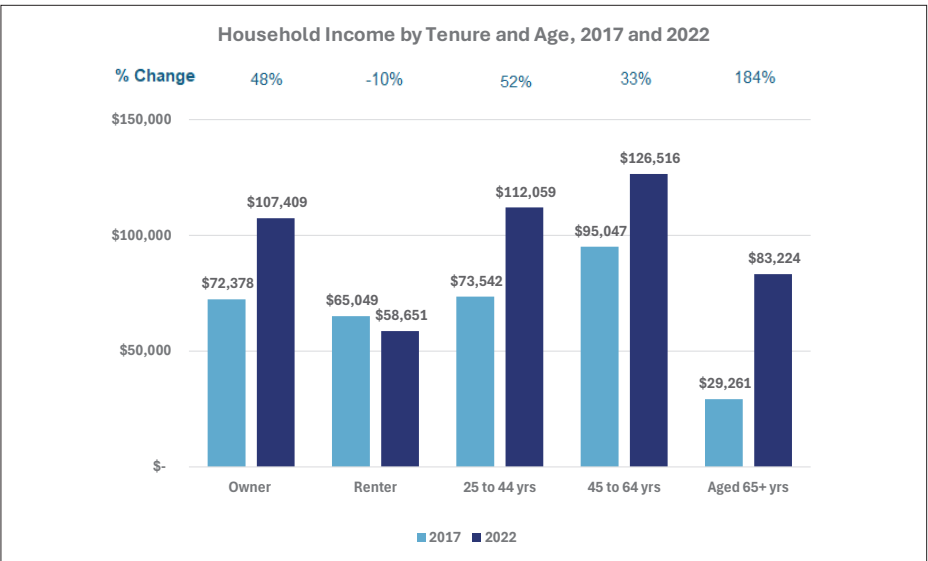
Between 2017 and 2022, the proportion of Berthoud households earning less than \$50,000 declined by 17 percentage points, while the proportion earning more than \$100,000 increased by 20 percentage points. The middle-income group, earning between \$50,000 and \$100,000, remained more stable but still declined by 2 percentage points. In contrast, for Loveland and Longmont, the proportion of households earning less than \$50,000 declined by 13 and 21 percentage points, respectively, while the proportion earning more than \$100,000 increased by 11 and 15 percentage points, respectively.



This significant shift over just five years suggests a change in the socio-economic character of Berthoud and the surrounding area which will impact housing needs and affordability.

Household Income by Tenure and Age

While Berthoud’s median homeowner income increased between 2017 and 2022 (from \$72,378 to \$107,409), the median renter income decreased by 10% (from \$65,049 to \$58,651). In contrast, the renter income in Loveland and Longmont increased by 50% and 47%, respectively. The median renter income in Larimer County overall increased by 49%. Berthoud’s decrease in renter



income could be attributed to Berthoud's sharp drop in renter occupied housing units from 23% to 12% during that period, while the proportion of renters in other jurisdictions remained largely stable.

Berthoud's household income increased across age groups, with an increase of 184% for residents aged 65 and older. This could be attributed to this age cohort doubling in size from 752 to 1,527 during this period. The implication of these income shifts on the housing market and affordability are explored in Chapter 5 and 6.

Educational Attainment

In Berthoud, 77% of residents over 25 years old have attained some college education or more, a notable increase from 64% in 2017. In 2022, approximately 26% of residents have a bachelor's degree and 12% have a graduate or professional degree, while only 3% have less than a high school diploma. In Larimer County, 80% of residents attained some college education or more, compared to 64% in Weld County.

Race and Ethnicity

Berthoud's racial and ethnic diversity increased between 2017 and 2022. In 2017, 94% of residents identified as Non-Hispanic White and 5% Hispanic or Latino. In 2022, 81% of residents identified as Non-Hispanic White, 15% Hispanic, 2% two or more races, and 2% Black, American Indian, Asian, or Other. Although still a small percentage, the increase in Hispanic or Latino residents from 292 to 1,649 over five years is notable, highlighting the growing importance of considering racial and language diversity when planning community programs and public communication.

From a regional context in 2022, Berthoud's Non-Hispanic White population percentage is the same as Larimer County, but 17% higher than Weld County (64%) and 15% higher than Colorado (66%). Meanwhile, Berthoud's Hispanic population percentage is roughly 3% higher than that of Larimer County (12%) and half the rate of Weld County (30%).

Poverty

According to the 2022 American Community Survey, 2% of Berthoud families have incomes below the poverty level. 3.4% of residents over aged 65 and 3.9% under 18 are living in poverty, compared to 11.6% and 8.1% in 2017. In Larimer County, 9% of residents under 18 and 7% over aged 65 are currently living in poverty, with similar rates in Loveland and Longmont.



81%
Non-Hispanic White

15%
Hispanic

Disability Characteristics

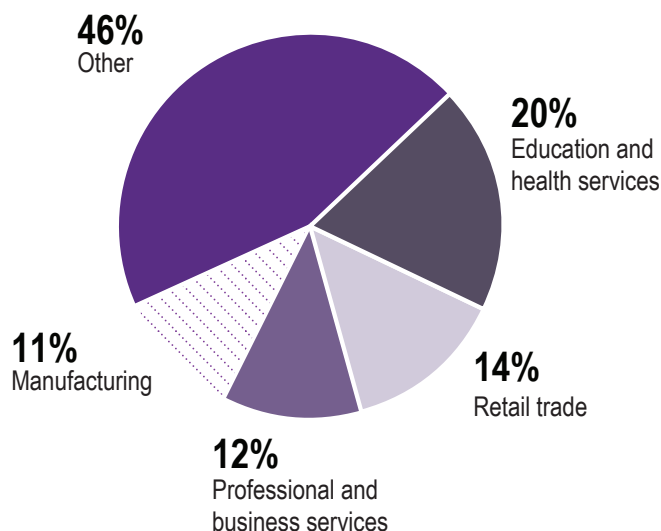
The U.S. Census collects data on six disability types: hearing, vision, cognitive, ambulatory, self-care, and independent living difficulties. Respondents who report any one of the six disability types are considered to have a disability. According to the 2022 American Community Survey estimates, approximately 8% (864) of Berthoud residents report having one or more disabilities, compared to 10% in Larimer County and 11% in Weld County. Seniors are disproportionately affected by disabilities, with about 28% (or 408) of Berthoud residents aged 65 and older reporting a disability. Among those with disabilities, 31% are adults aged 18 to 34, while 16% are aged 35 to 64. Notably, 87% of adults aged 35 to 64 with disabilities are female, as are 71% of those aged 18 to 34.

When assessing housing needs, residents with disabilities require special consideration to ensure inclusivity, accessibility, and support. Some implications include accessible housing design, affordability, minimal maintenance requirements, proximity and access to healthcare, transportation, and other essential services.

Economic Profile

The local and regional economy and job market trends play a big role in shaping the housing market. These trends help us understand current and future housing demand: community growth, household buying power, and what employers need to attract and retain employees. By examining these indicators, we can better assess the community's capacity to meet housing needs and address potential affordability challenges. Stable, diverse housing is critical for Berthoud and surrounding communities and the overall economy. Lack of housing affordability and options impacts local jobs and an employers' ability to retain and attract workers.

Top four industries employ **54%** of Berthoud residents



Labor Force

According to the 2022 American Community Survey, 6,274 of Berthoud residents over the age of 16, or 71%, are in the labor force. Of those in the labor force, the unemployment rate is 2.8%. Regionally, in Larimer and Weld counties, there are 379,499 residents in the labor force, representing a 15% increase from 2017. The unemployment rate is 4.6% in Larimer County and 4.9% in Weld County.

Industries and Occupations

Regionally, education and health services employ 25% of residents in Larimer County and 20% in Weld County. The professional services industry employs 15% of the residents in Larimer County and 11% in Weld County.

The total jobs for Berthoud residents increased by 91% between 2017 and 2022, from 3,201 to 6,101 and representing 3% of Larimer County jobs. According to the State Demography Office, job growth in Larimer and Weld counties is projected to continue at a rate of 5% per decade through 2050. The table provides an estimate of job growth in Berthoud based on these projections. Continued local and regional job growth will further increase the demand for housing.

Job Projections through 2050				
Jurisdiction	2022	2030	2040	2050
Berthoud	6,101	7,453	7,825	8,224
Larimer County	222,719	248,432	260,832	274,139
Weld County	150,438	170,373	181,562	190,484

The chart shows the jobs by sector and average annual wage in 2022. The top three employment sectors are educational, health care and social services (19.8%), professional, scientific and management (11.8%), and retail trade (11.2%). Although average annual wages have risen, they have not kept pace with the rapid increase in home values. The projected population growth in the region will continue to provide jobs for Berthoud's current and future residents, which will increase the pressure on the housing market.

Jobs by Sector by Average Annual Wage, 2022			
Sector	Number of Jobs	% of Total Jobs	Average Annual Wage
Agriculture, forestry, fishing and hunting, and mining	26	0.4%	\$43,524
Construction	600	9.8%	\$73,372
Manufacturing	666	10.9%	\$108,576
Wholesale trade	163	2.7%	\$97,084
Retail trade	686	11.2%	\$40,352
Transportation and warehousing, and utilities	345	5.7%	\$50,908
Information	223	3.7%	\$83,044
Finance and insurance	390	6.4%	\$94,640
Professional, scientific, and management	722	11.8%	\$120,848
Educational services, and health care and social assistance	1,208	19.8%	\$51,922
Arts, entertainment, and recreation, and accommodation and food services	479	7.9%	\$28,028
Other services, except public administration	379	6.2%	\$52,988
Public administration	214	3.5%	\$73,658
Total Jobs	6,101		

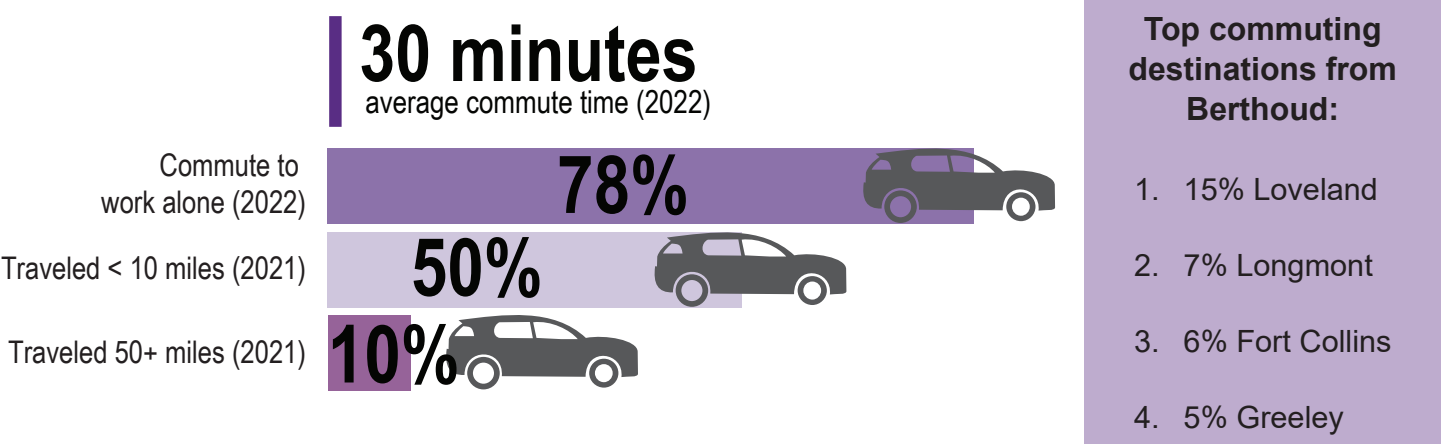
Top occupations for Berthoud residents (2022):

1. 39% - Management and business
2. 23% - Sales and office
3. 15% - Production and transportation

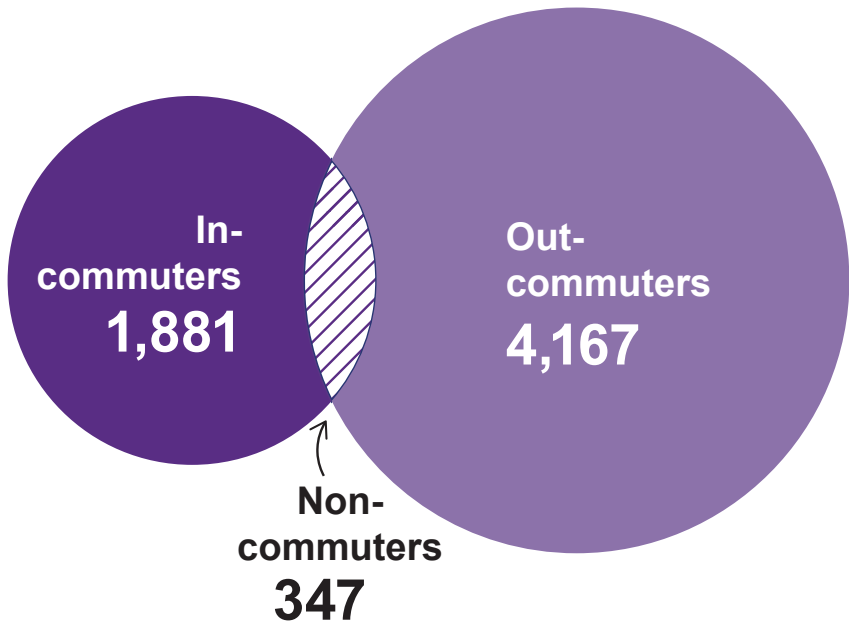
Commuting Patterns

Commuting plays an important role in the economy of the area because not all workers live where they work. Commuting impacts local job growth, access to employees, and transportation infrastructure. People employed in Berthoud and living outside of town are in-commuters and account for 84% (1,881) of all employees in Berthoud. In addition:

- ▶ 347 (8%) of Berthoud residents live and work in Berthoud
- ▶ 4,167 (92%) Out-Commuters: Berthoud residents live there and commute to work outside
- ▶ 1,881 (84%) In-Commuters: People employed in Berthoud and live outside of Berthoud

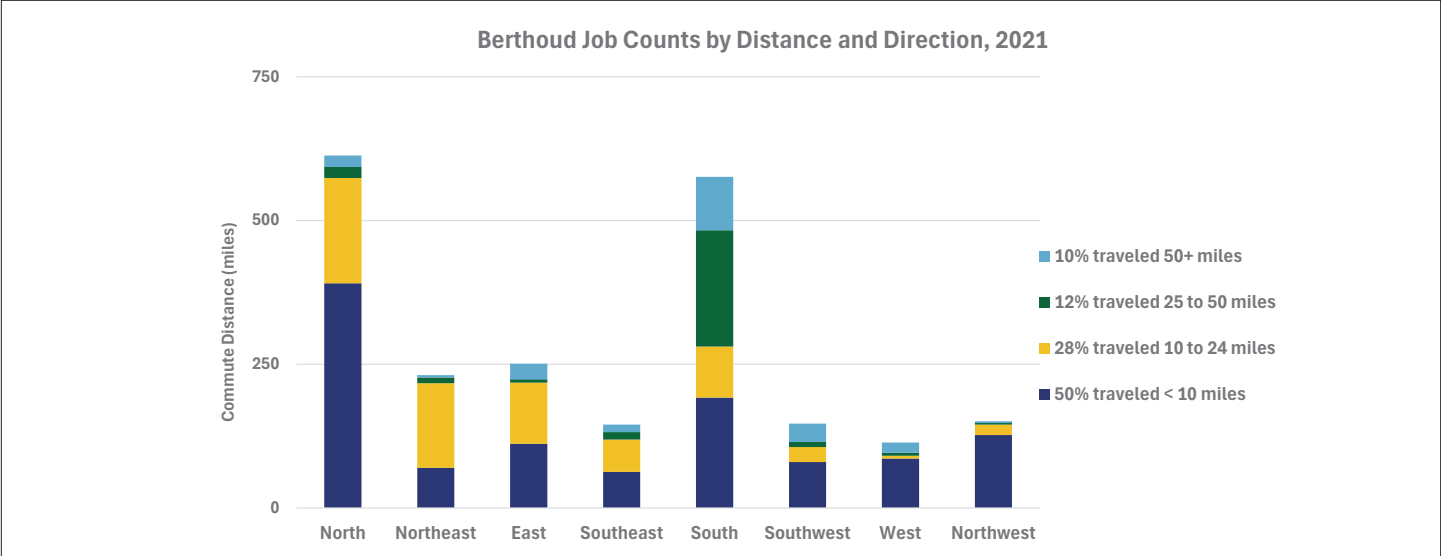


The commuting diagram identifies three groups of people with inflow and outflow counts of employees from 2021.



During the pandemic, many people transitioned to fully remote or hybrid work, giving them the flexibility to live further from their office location. Being centrally located in the region, communities like Berthoud may have become more attractive for remote or hybrid workers due to its proximity to a large employment base. In 2022, 13% of Berthoud residents worked from home, up from 7% in 2017. Berthoud should prioritize services and amenities that cater to both remote and hybrid workers.

The distance that workers are willing to travel from Berthoud has gradually increased over the years. The chart below shows commute distance and direction in 2021. The percentage breakdown of commuting distance remained largely stable in the last 5 years. However, looking back to 2010, 61% of workers traveled less than 10 miles, 27% 10 to 24 miles, 6% 25 to 50 miles, and 6% greater than 50 miles. With the commuting distances gradually increasing, there is a growing need for regional collaboration to expand public transportation options.



Housing Profile

An analysis of the existing housing inventory and unit characteristics—such as types, age, and size—provides valuable insight into the local housing supply and demand. By examining these trends alongside demographic and economic data, we can assess how well the current housing stock meets Berthoud’s needs, identify gaps in the market, and project future housing requirements. This evaluation is detailed in Chapter 6, where these factors are integrated into a market analysis to guide future planning.

Housing Units and Tenure

In 2022, Berthoud was home to 4,296 housing units, a 70% increase from 2017. This new housing increased Berthoud’s population density from 527 people per square mile in 2017 to 842 people per square mile in 2022. Housing units in surrounding jurisdictions increased as well during this period, with Windsor experiencing the second largest housing unit increase of over 53%.

As of July 1, 2023, the State Demography Office estimated a total of 5,516 total housing units in Berthoud, reflecting a 28% increase from 2022. Berthoud’s rapid housing unit growth and increased density could place additional strain on existing infrastructure and public services and require the Town of Berthoud to carefully manage land use and zoning to accommodate housing needs while continuing to preserve community character and open space.

The table shows the change in the number of housing units for 2017 and 2022 for nearby jurisdictions, as well as the proportion of owner-occupied and renter-occupied units.

Housing Units and Tenure by Jurisdiction, 2017 and 2022					
Jurisdiction	Total Housing Units			Tenure (2022)	
	2017	2022	% Change	Owner-Occupied	Renter-Occupied
Berthoud	2,522	4,296	70%	88%	12%
Loveland	32,212	33,958	5%	63%	37%
Longmont	36,336	41,429	14%	63%	37%
Johnstown	5,095	6,555	29%	75%	25%
Windsor	8,742	13,351	53%	79%	21%
Frederick	3,911	5,205	33%	95%	5%



Total Housing Units
4,296 (2022)
2,522 (2017)



Owner-occupied
88% (2022)
77% (2017)

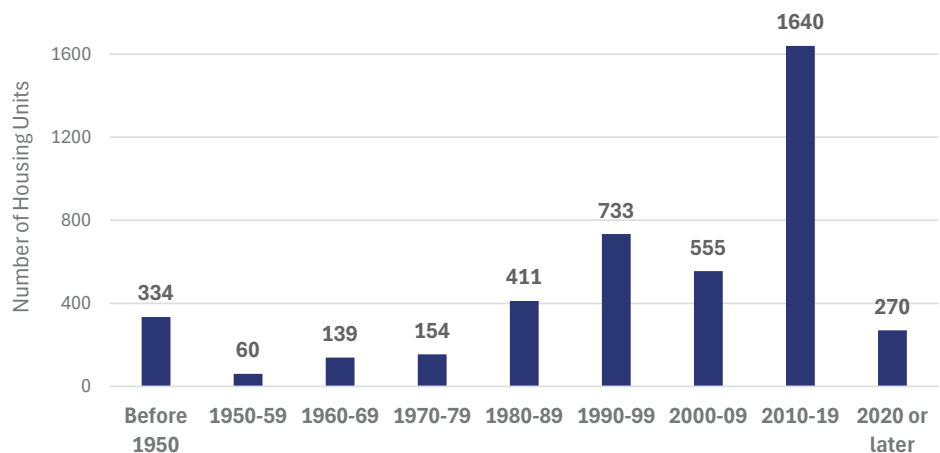


In 2022, 96% of Berthoud's housing units were occupied, maintaining the same 4% vacancy rate as 2017. Among the 4,143 occupied housing units in 2022, 88% were owner-occupied and 12% were renter occupied, marking a shift from 2017, when the rates were 77% and 23%, respectively. This shift may be attributed to the influx of newly built for-sale units entering the market to meet increasing demand, coupled with the lack of growth in available rental units. Except for Frederick, with only 5% renter-occupied units in 2022, other neighboring communities appear to be providing more rental housing options: Windsor 21%, Johnstown 25%, Longmont 37%, Loveland 37%.

Housing Unit Age and Move in Year

With 1,774 new housing units built in Berthoud between 2017 and 2022, the median age of Berthoud housing units went from 1992 to 2006. Fifty-seven percent of homes were built after 2000, and only 16% of homes are over fifty years old. By comparison, 39% of Longmont homes and 37% of Loveland homes are over fifty years old.

Berthoud Housing Units by Year Built, 2022



In 2022, 38% of occupied housing units in Berthoud had residents that moved there in the year 2018 or later, compared to 29% in Loveland and 30% in Longmont. Only 9% of Berthoud housing units had residents that moved there in 1990 or before. The chart shows the number and percentage of Berthoud housing units by move in year.

Median Age of Homes

2006 (2022)

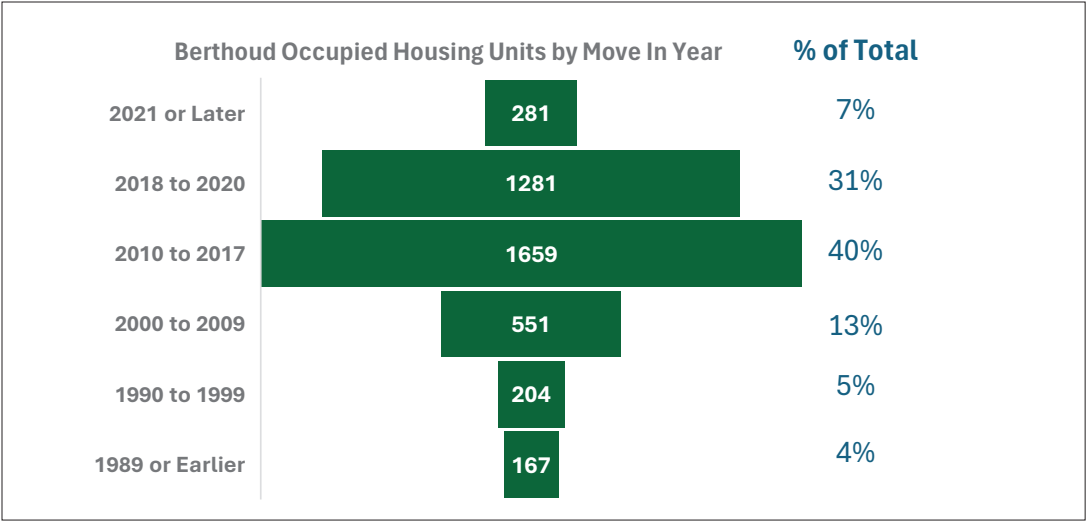
1992 (2017)



45%
of units were
built after 2010



78%
of residents moved
to Berthoud after
2010



Housing Types and Sizes

One of seven key strategies from the 2021 Berthoud Comprehensive Plan is to provide a mix of housing, goods and services that meet the varying needs, budgets, and life stages of residents. The range of options should include detached single-family homes, condominiums, townhouses, duplexes, apartments, assisted and independent senior living, modular homes, live-work spaces, ADUs, etc.

In July of 2024, the Town Board of Trustees approved zoning code changes to allow for these options as permitted or special uses in the applicable zone districts. In addition, the Planned Unit Development Overlay District is no longer available as an option for zoning, instead housing developments must include at least four housing types (for developments of 100+ single-family detached dwellings) or three types (for < 100 dwellings). This is an important step toward increasing housing diversity in Berthoud.

This change is supported by the data in the table showing the number of additional housing units by type from 2017 to 2022. During this period, 1,538 new single-family detached units were built in Berthoud. Only 299 housing units consisted of other housing types, while 63 multi-family units were removed from the inventory during this period. The largest multi-family housing type consists of properties with 10 to 19 units, with only 29 of these remaining. Mobile homes serve as another vital affordable housing option, with 246 mobile homes currently in the town’s inventory.



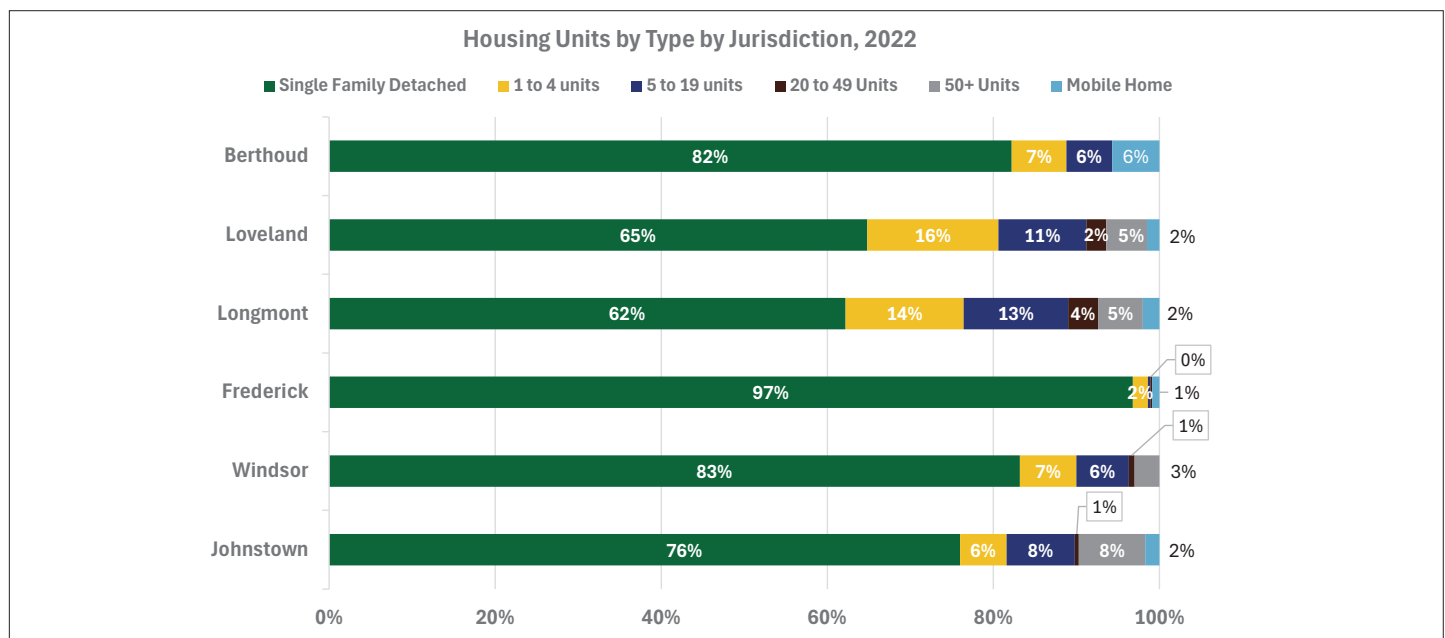
82%
Single-family detached



79%
3+ bedrooms

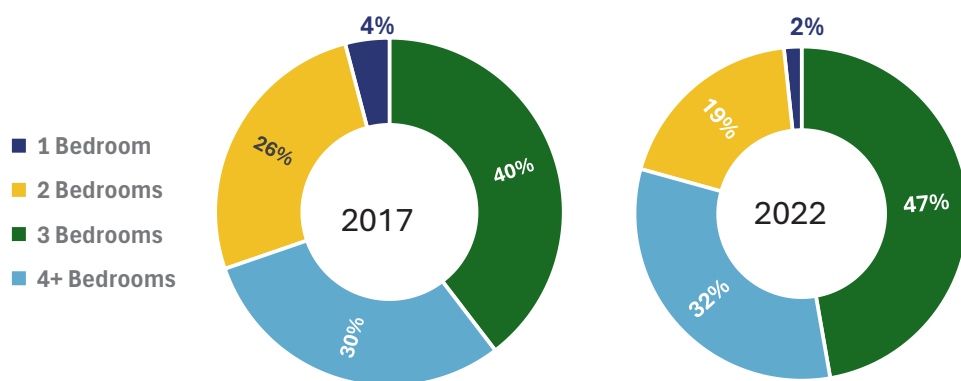
Berthoud Housing Units by Type, 2017 and 2022			
Type	2017	2022	# Change
Total Units	2,522	4,296	1,774
Single-family detached	1,993	3,531	1,538
1 to 4 units	187	283	96
5 to 9 units	27	207	180
10 to 19 units	77	29	(48)
20 to 49 units	15	-	(15)
50+ units	-	-	-
Mobile Home	223	246	23

Single-family detached homes accounted for 82% of Berthoud's housing units in 2022, up from 79% from 2017. Berthoud has no multi-family dwellings with 20 units or more. In comparison, single-family detached homes make up 65% of Loveland's housing stock and 62% in Longmont. Except for Frederick and Windsor, the other neighboring communities provide a greater diversity of housing types which may meet more life stages and budgets.



In 2022, 79% of the Berthoud's occupied housing units had 3 or more bedrooms, an increase from 70% in 2017. The median number of total rooms across all Berthoud housing units was 6.1 in 2022, with owner-occupied units averaging 6.3 and renter-occupied units averaging 4.2. The median number of rooms in neighboring communities is comparable, except for Frederick averaging 7.0 and Windsor 7.3 rooms.

Berthoud Housing Units by Number of Bedrooms, 2017 and 2022

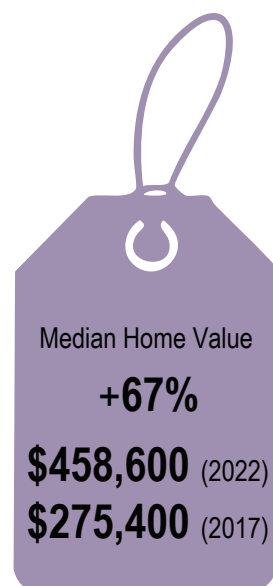


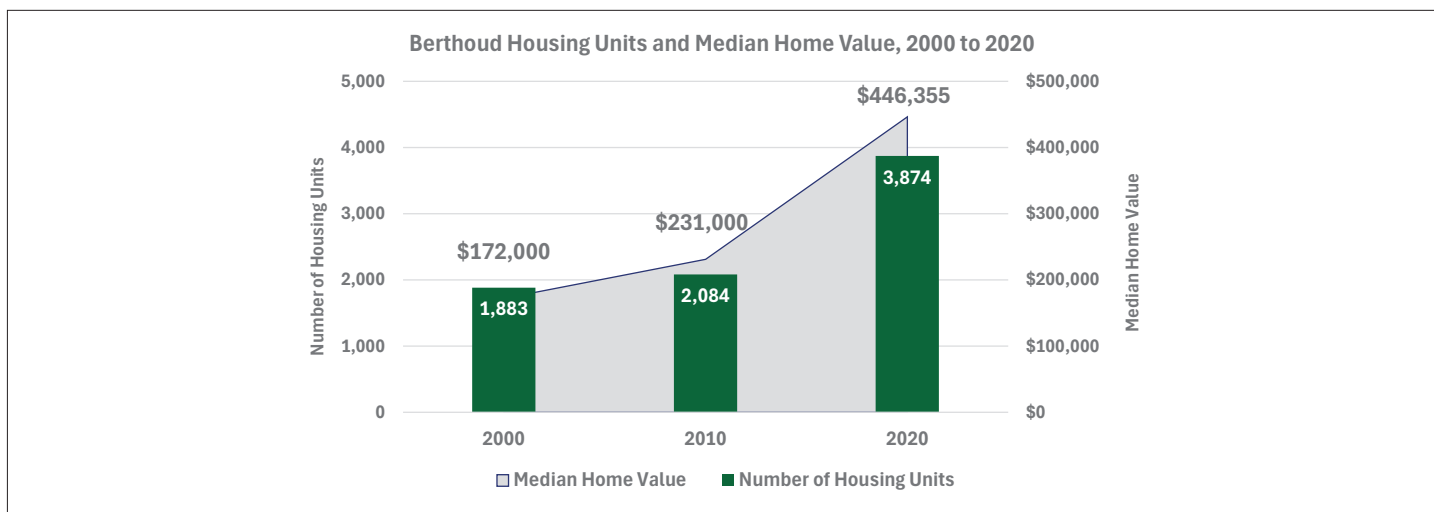
Accessory dwelling units (ADUs) up to 850 square feet are a permitted use in Berthoud's residential zone districts, as well as agricultural and limited commercial districts. An ADU is an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses located on the same lot as a single-family dwelling. In July 2024, the Town Board approved ADUs as an eligible housing type for short-term rentals. The Town limits the total short-term rental licenses to 50, and, as of January 6, 2025, only twelve STR applications had been submitted, and none of the applications were for ADUs. Research suggests that a policy allowing ADUs to be short-term rentals should not have a greater impact than any other housing type being allowed as a short-term rental.

Home Values

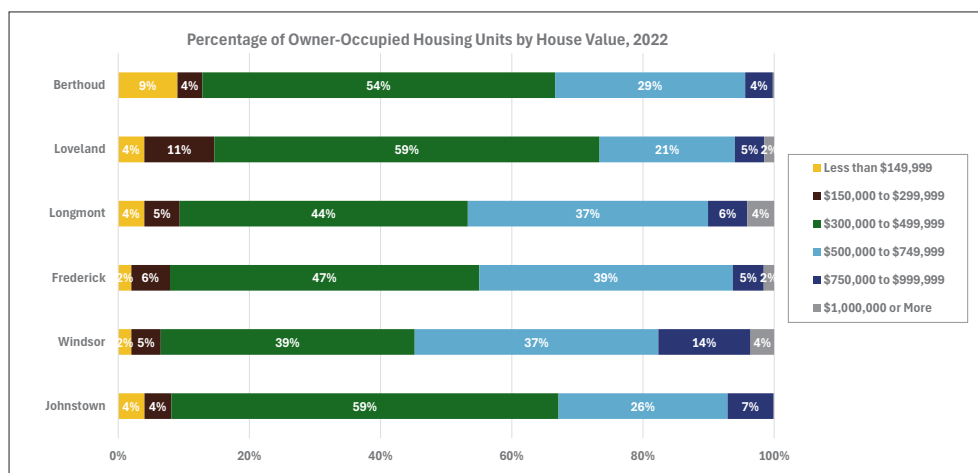
The home value data included below is a snapshot through 2022 based on the U.S. Census. The market conditions have become increasingly competitive in recent years with rapidly rising sale prices. Therefore, home values are expected to increase significantly in upcoming census data. For example, when reviewing recent sales from the last 12 months through September 2024, the average sale price was \$697,209, a 41% increase from the 2022 census median home value of \$458,600 shown here. A more detailed analysis of the current housing market is included in Chapter 6.

Berthoud home values have experienced significant appreciation since 2000. More recently, between 2017 and 2022, home values increased by 67%. For Larimer County overall, the increase was 59%. This rapid increase in value causes a strain on residents wanting to move to or continue to live in Berthoud. As the demographics indicate, Berthoud is home to an increasingly affluent population that can afford these homes.





Regional population growth, strong demand for housing, and limited housing supply have all contributed to significant increases in home values. Between 2017 and 2022, the percentage of higher-value homes grew sharply. In 2022, 33% of owner-occupied homes in Berthoud were valued at \$500,000 or more, rising from just 5% in 2017. Similarly, 55% of homes in Windsor and 47% in Longmont reached this value, rising from 19% and 8%, respectively. It is important to note that home values are not the same as the actual home sale price, which reflect market conditions and are expected to be higher.



New Residential Housing Development

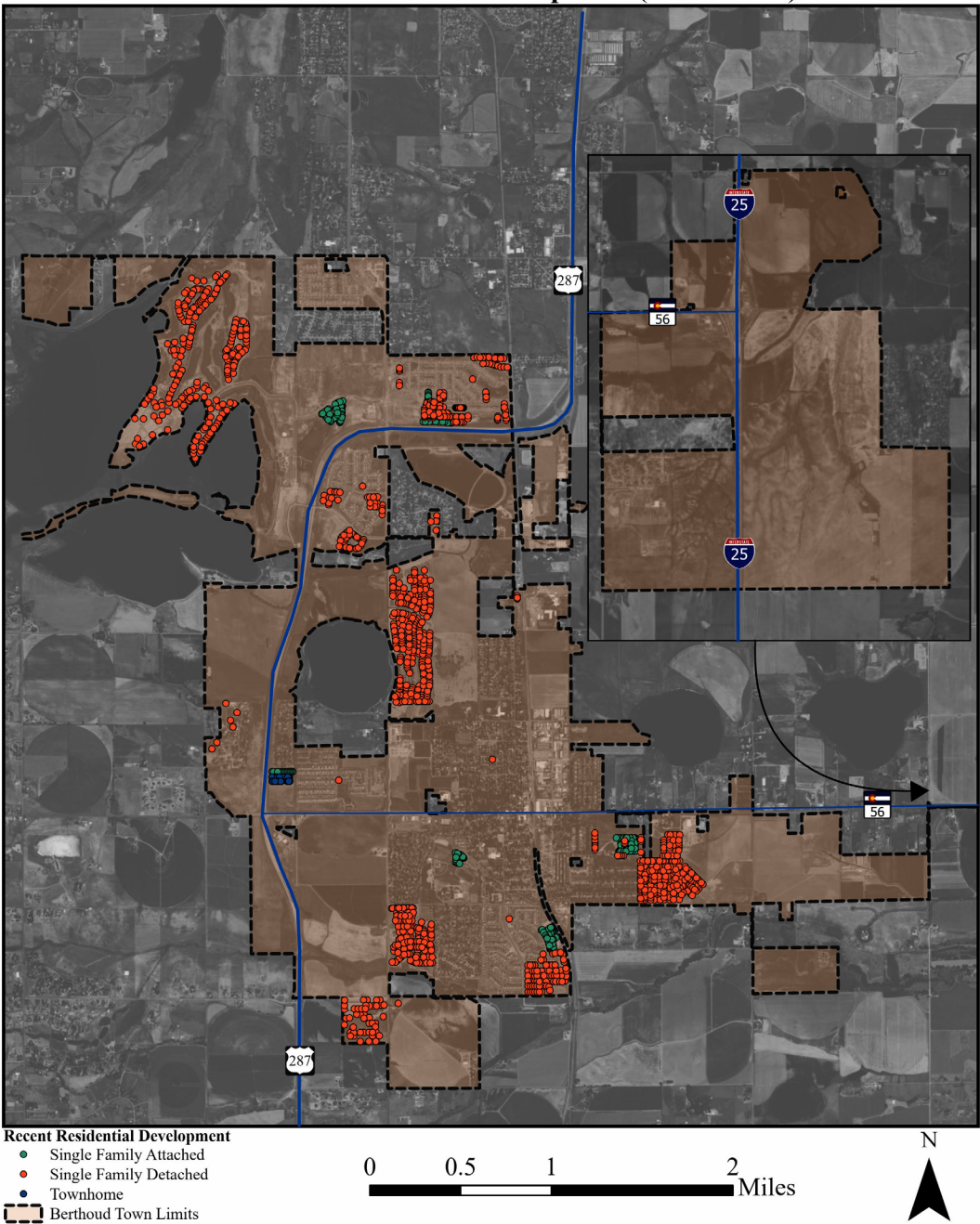
Between January 2020 and August 2024 1,612 residential permits were issued by the Town. Just under 300, or 18%, of the permits were for single-family attached homes (commonly known as duplexes) or townhomes with an average construction valuation of \$238,299 (excluding land and water costs that dramatically increase the for-sale price of new homes once construction is complete). The remaining 82% were for single-family detached homes with an average construction valuation of \$391,826.

Since October 1, 2023, when Berthoud committed to the Proposition 123 aim of increasing the availability of affordability housing products by 3% each year for 3 years, there have been 251 residential permits issued for single-family attached and detached units. 59% (148) have sold as of March 31, 2025, with an average sale price of \$707,115. Only 4 property sales met Berthoud's Proposition 123 obligation of sales under \$425,840. The table summarizes the annual residential development activity in Berthoud over the last 5 years by housing type, and the map shows the approximate location of all the residential permits for this period.

Berthoud Residential Permits by Type, January 2020 to August 2024					
Type	Single-Family Detached	Single-Family Attached	Townhomes	Total	% Single-Family Detached
Total Permits	1,320	252	40	1,612	82%
2024 (January to August)	119	34	0	153	78%
2023	145	34	40	219	66%
2022	169	56	0	225	75%
2021	450	62	0	512	88%
2020	437	66	0	503	87%

Source: Town of Berthoud residential permit records

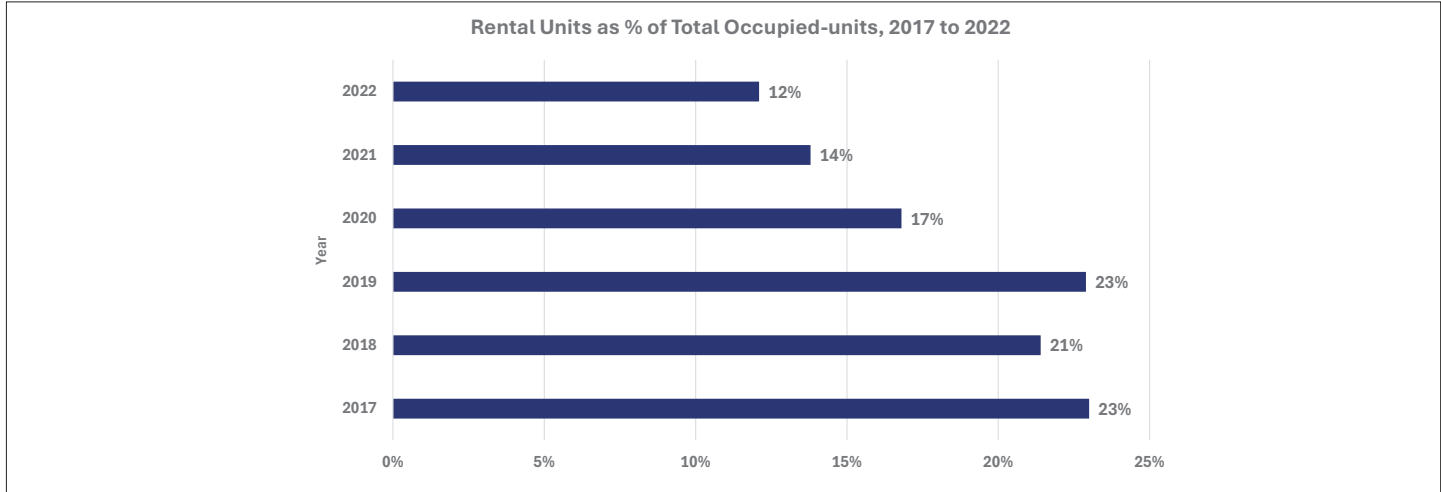
Berthoud: Residential Development (2020 - 2024)



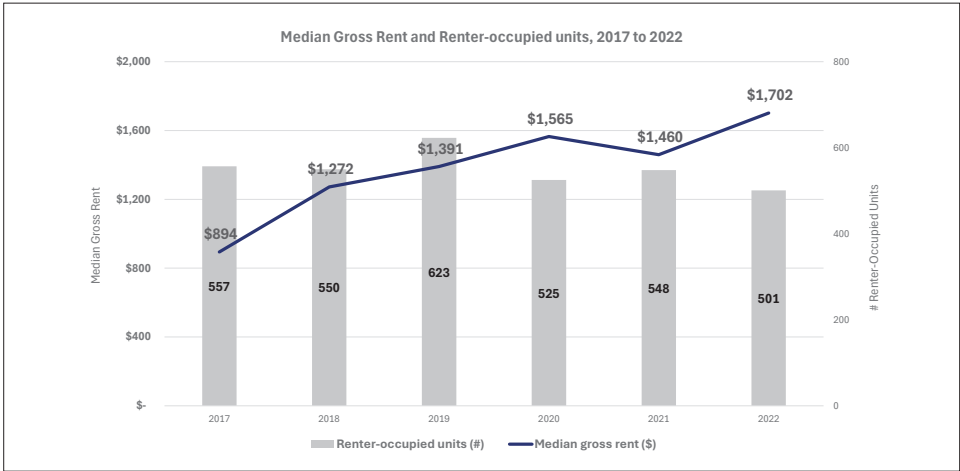
Rental Housing Units

From 2017 to 2022, Berthoud saw fluctuations in renter-occupied units. The number of renter-occupied units peaked at 623 in 2019, making up 22.9% of units. However, the highest proportion of renter-occupied units was 23% in 2017, with 557 units occupied. This indicates that while rental occupancy was highest in 2019, the community also saw an increase in owner-occupied units that year.

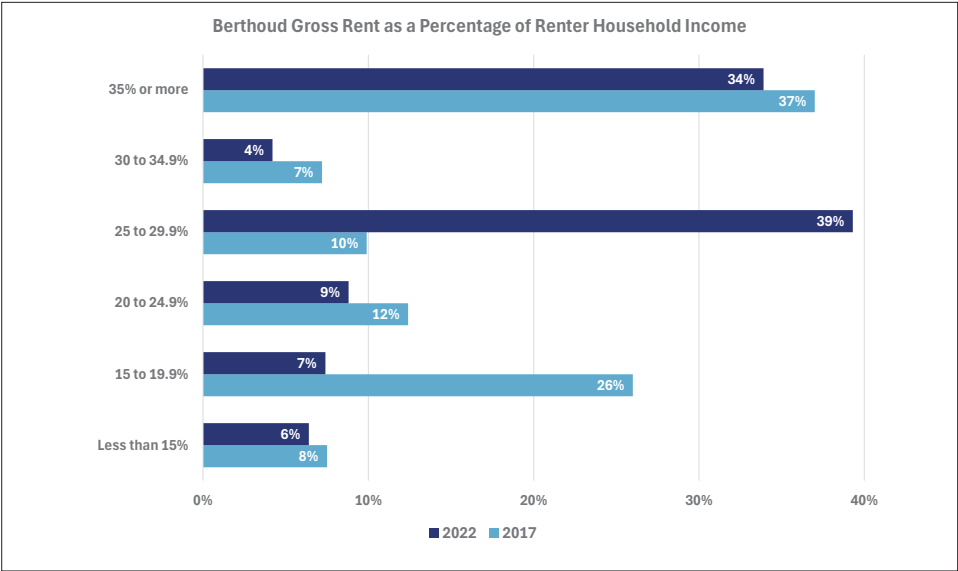
In 2022, Berthoud’s renter-occupied units fell to their lowest point since 2017, with 501 units, comprising 12.1% of units. Although rental occupancy fluctuated between 500 and 600 units over recent years, the number of owner-occupied units grew significantly, increasing by 94.8%, while renter-occupied units declined by 10.1%. This growth in owner-occupied units largely explains the shift in the renter-to-owner ratio, with the proportion of renter-occupied households dropping from 23% to 12.1%. The chart shows changes in the number and proportion of renter-occupied units from 2017 to 2022.



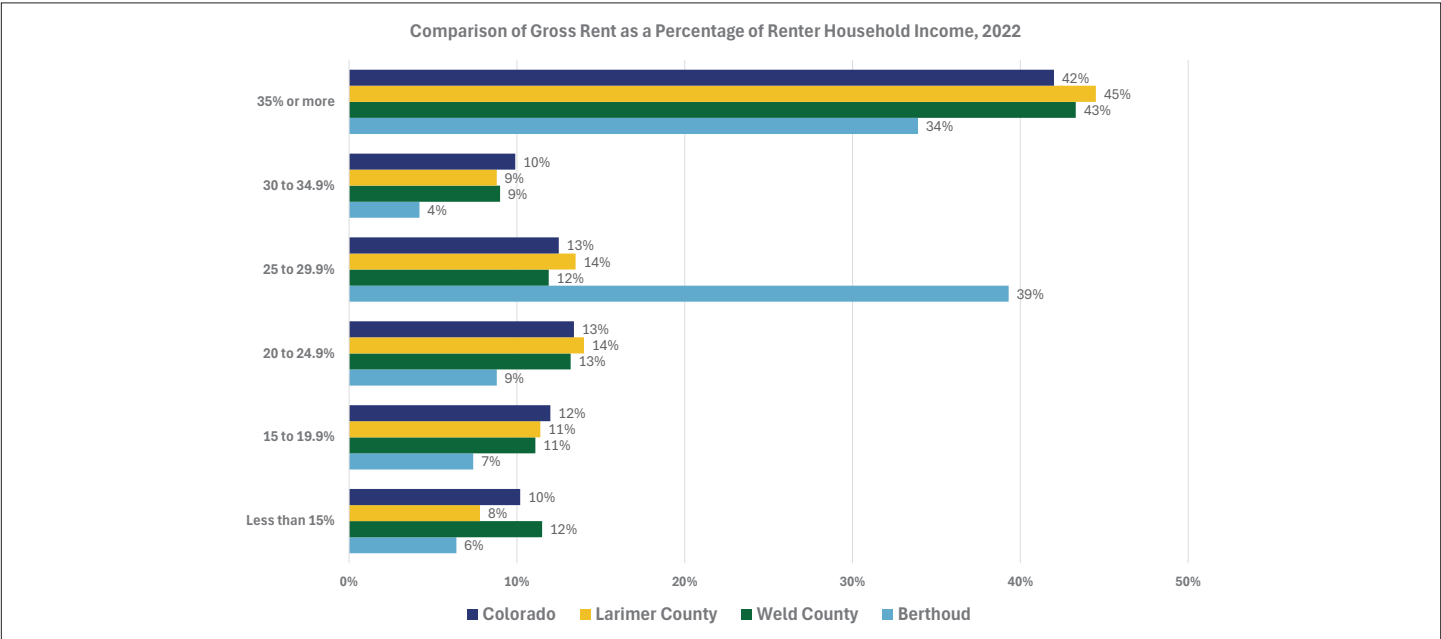
While renter-occupied units have declined during this period, rental costs have increased. Between 2017 and 2022, the average monthly rent increased by 90.4%, increasing from \$894 to \$1,702. This trend suggests a competitive rental market, driven by a regional increase in housing costs. The sharp rise in rental costs is also linked to Berthoud’s low vacancy rate. In 2017, the rental vacancy rate was 7%, generally indicative of a healthy market balance (typically between 5% and 8%). However, Census data from 2018 to 2022 indicates a sustained 0% vacancy rate in Berthoud, pointing to a critical shortage of rental supply amid strong demand. This imbalance has been a major factor behind the steep increases in rental prices during this period. The chart shows the changes in renter-occupied units and median gross rent from 2017 to 2022.



Housing is typically considered affordable when households spend less than 30% of their income on it. In 2017, 44.1% of renter households in Berthoud were cost-burdened, spending 30% or more of their income on rent. By 2022, this proportion decreased to 38.1%, possibly due to the decline in renter households. However, affordability within the rental market has become more constrained. The most significant change during this period is that households spending 25% to 30% of their income on rent increased dramatically from 9.9% to 39.3%. Even though this is below the cost burdened threshold, this indicates that more renter households are approaching levels of spending that can cause financial strain, making housing increasingly less attainable to more households. The chart shows income-to-rent percentages for 2017 and 2022.



In 2022, Berthoud had fewer renter households considered cost burdened than Weld County, Larimer County, and the state overall. At nearly every level of income-to-rent percentage, Berthoud falls below the regional and state averages. However, as shown in the graph below, Berthoud has a notably higher proportion of households spending between 25% to 30% of income on rent. Additionally, fewer households in Berthoud spend 25% or less of their income on housing compared to other areas. This suggests that Berthoud’s rental market offers a more limited range of housing options, with fewer households able to find rental properties that cost significantly less or more than the 30% threshold. The data indicates that the market has fewer rental units available across different price points, which could create challenges for residents with varied income levels looking for more flexible housing options.



Affordable Housing Inventory

While Berthoud currently contains no publicly assisted rental units, the surrounding area contains approximately 950 multi-family rental units for households between 30% and 60% AMI. These are publicly assisted with Low Income Tax Credits (LIHTC) as well as project-based Housing Choice vouchers (formerly Section 8). Most of the units are in and around Loveland, managed by the Loveland Housing Authority.

The Loveland Housing Authority is in the design process for 120 affordable units at the Grace Gardens site on the south side of Loveland, which also includes 47 affordable lots owned by Loveland Habitat for Humanity. It will likely not break ground for 2 to 3 years, depending on the awarding of tax credits for the project. While this project will be in Loveland, it will be the closest subsidized affordable housing to Berthoud at the northwest corner of Highway 287 and 19th Street SW.

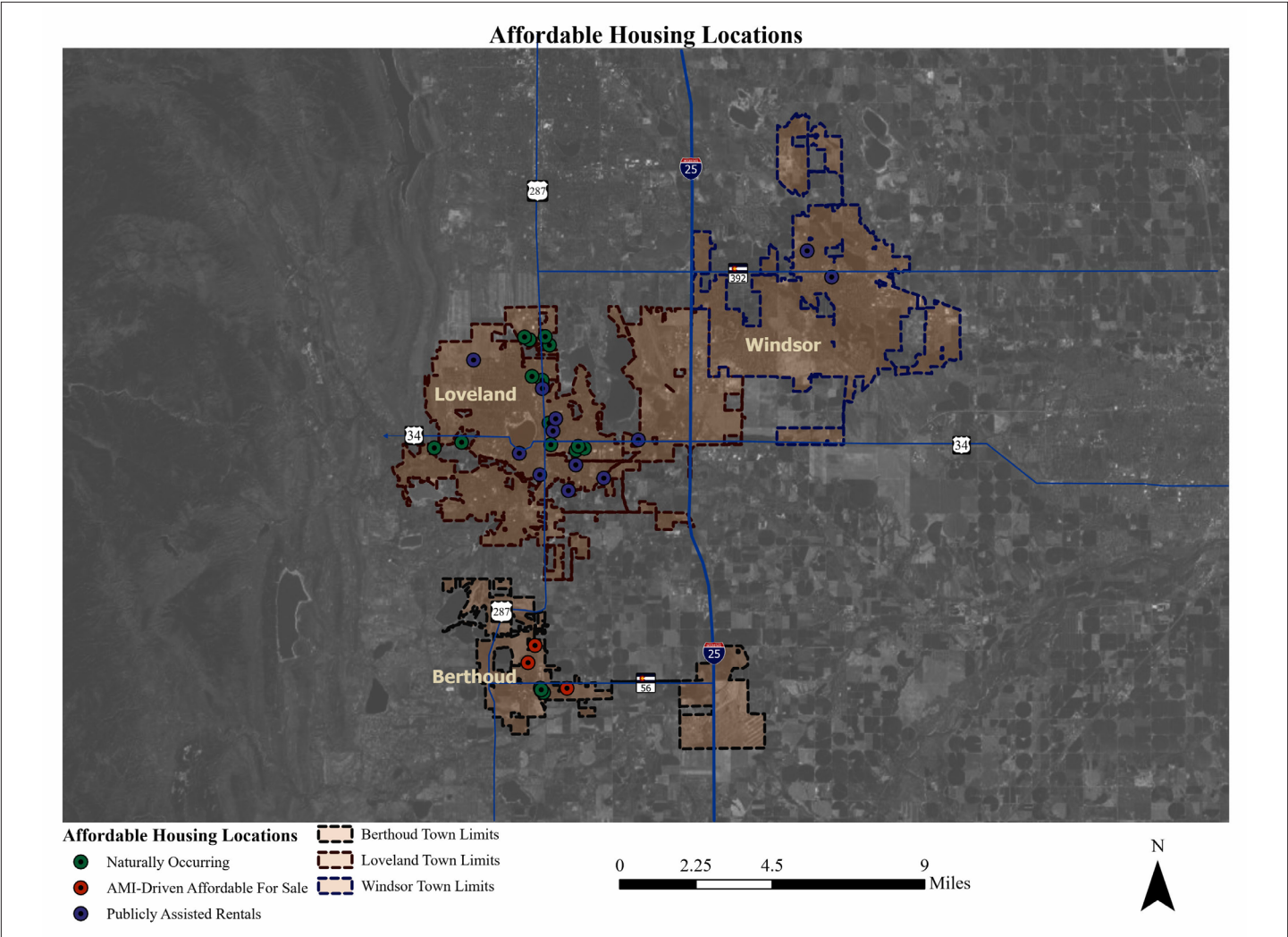
Habitat for Humanity Berthoud has constructed approximately 20 for-sale single-family homes in Berthoud. Households between 40% and 80% are eligible for these projects. They are in the planning stages for additional projects to add 20 or more homes in Berthoud.

Naturally Occurring Affordable Housing (NOAH) refers to unsubsidized units that are affordable because of low market values. Mobile homes are one form of NOAH. In 2022, Berthoud's housing inventory included 246 units (6% of total units), while Loveland's included 511 units (1.5% of its total units).

As the rental market becomes more competitive, low-income renters are finding it increasingly difficult to secure market-rate units. The drop in renter-occupied units in just five years demonstrates this trend. In addition, the shortage of naturally affordable housing increases the demand for publicly assisted rental housing (housing that receives some type of public subsidy in exchange for occupant income restrictions).



The map shows the approximate locations of affordable housing properties in Berthoud and Loveland, as well as locations with mobile home units.



Berthoud Citizen Personas

Building on the findings from the community snapshot, the project team developed representative personas to capture the diversity of Berthoud’s demographics, incomes, and housing preferences. These personas are based on local data, such as median age, income levels, and current housing values, and serve as examples of typical residents in Berthoud. By exploring their housing aspirations, financial constraints, and lifestyle needs, we can better identify gaps in the housing market, particularly for middle-income individuals, seniors, and families. These insights will guide the development of strategies to promote a more inclusive housing mix, ensuring Berthoud meets the needs of both current and future residents.

Citizen Persona Emily



Age: 39

Family Structure: Married, two children

Living Situation: Owns Home

Household Income: \$190,000/year

150% AMI

Profession: She is a remote IT Project Manager, and he is an HR Manager

What can Emily's family afford?

Loan Details	
Interest Rate	3.0%
Loan Term - Years	30
Down Payment 20%	\$ 153,106

Monthly Payment (30% of gross income)	
Mortgage	\$ 3,228
Property Tax	\$ 523
Home Insurance	\$ 500
Utilities	\$ 500
Total Monthly Payment	\$ 4,750

Maximum Affordable Home Price
\$918,634

Emily locked in a 3% interest rate in 2021.

Loan Details	
Interest Rate	3.0%
Loan Term - Years	30
Down Payment 20%	\$ 153,106

Monthly Payment (30% of gross income)	
Mortgage	\$ 3,228
Property Tax	\$ 523
Home Insurance	\$ 500
Utilities	\$ 500
Total Monthly Payment	\$ 4,750

Maximum Affordable Home Price
\$918,634

How do interest rates affect what Emily's family can buy?

Her family bought a new home in 2021 and were able to lock in a low 3% interest rate.

Look at the difference in what they could afford with rates of 3% vs 6.5%

Loan Details	
Interest Rate	6.5%
Loan Term - Years	30
Down Payment 20%	\$ 111,644

Monthly Payment (30% of gross income)	
Mortgage	\$ 3,528
Property Tax	\$ 380
Home Insurance	\$ 342
Utilities	\$ 500
Total Monthly Payment	\$ 4,750

Maximum Affordable Home Price
\$669,865

Citizen Persona

John



Age: **68**

Family Structure: **Single**

Living Situation: **Owns Home - 20 years**

Household Income: **\$40,000/year**
(Social Security, Retirement Income, and Pension)

40% AMI

Profession: **Retired Electrician**

John owns his home, and it is paid off.

Home value: \$550,000

John's affordable retirement income shows that he should not spend more than \$1,000/month on housing expenses.

What can John afford?

Loan Details	
Interest Rate	0%
Loan Term - Years	0
Down Payment 100%	\$ 550,000

Monthly Payment (30% of gross income)	
Mortgage	\$ -
Property Tax	\$ 350
Home Insurance	\$ 300
Utilities	\$ 350
Total Monthly Payment	\$ 1,000

Maximum Affordable Home Price
\$550,000

Citizen Persona

Lucas



Age: **29**

Family Structure: **Single**

Living Situation: **Renter - lives with roommate**

Household Income: **\$65,000/year**

60% AMI

Profession: **Environmental Consultant**

What can Lucas afford?

Loan Details	
Interest Rate	6.5%
Loan Term - Years	30
Down Payment 3%	\$ 4,897

Monthly Payment (30% of gross income)	
Mortgage	\$ 1,032
Property Tax	\$ 152
Home Insurance	\$ 92
Utilities	\$ 350
Total Monthly Payment	\$ 1,625

Maximum Affordable Home Price
\$168,117

Citizen Persona

Sarah and Ben



Age: **32 and 34**

Family Structure: **Married**

Living Situation: **Renting a house**

Household Income: **\$115,000/year**

120% AMI

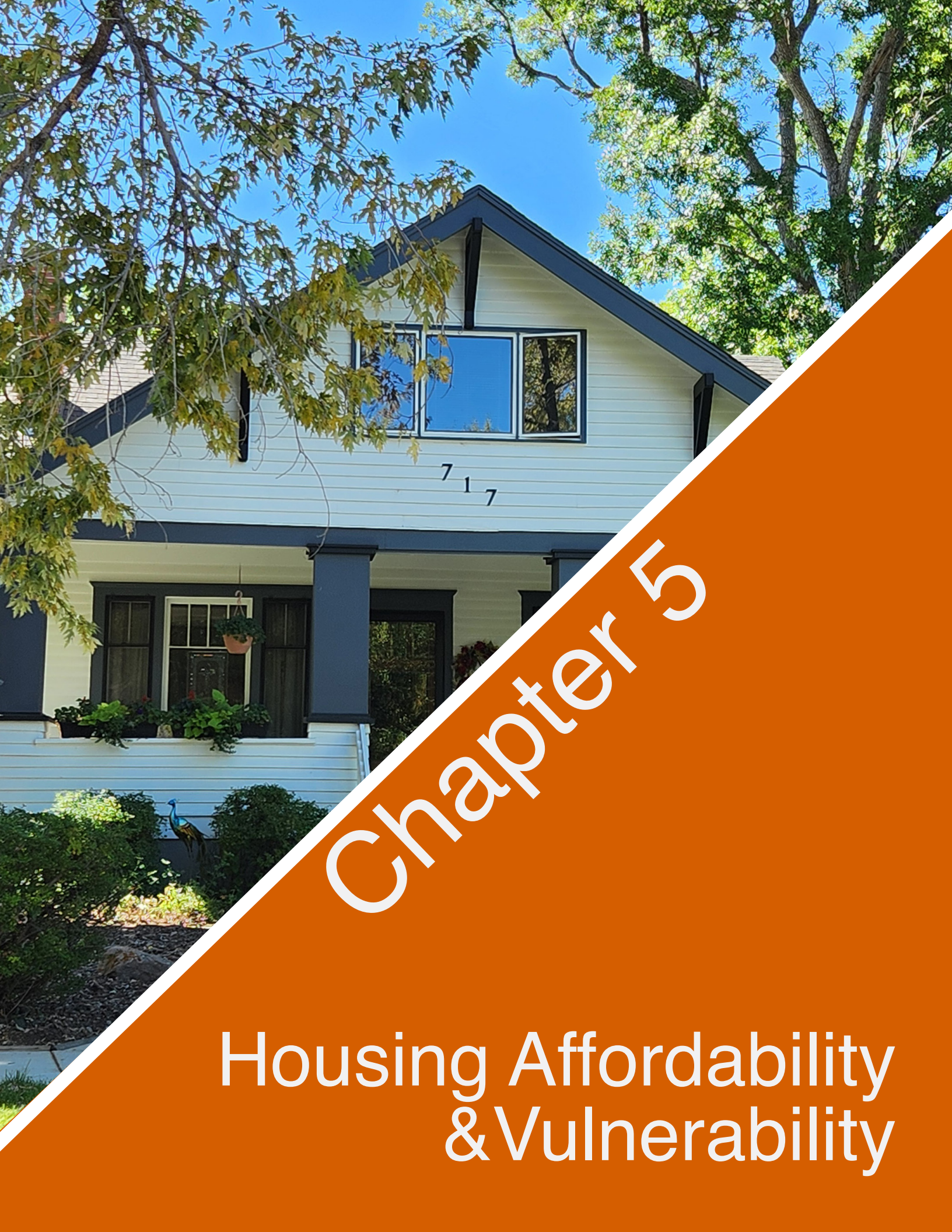
Profession: **Sarah is a registered nurse (RN), and Ben is an elementary school teacher in Loveland.**

What can Sarah & Ben afford?

Loan Details	
Interest Rate	6.5%
Loan Term - Years	30
Down Payment 20%	\$ 60,331

Monthly Payment (30% of gross income)	
Mortgage	\$ 1,907
Property Tax	\$ 268
Home Insurance	\$ 200
Utilities	\$ 500
Total Monthly Payment	\$ 2,875

Maximum Affordable Home Price
\$361,986



Chapter 5

Housing Affordability & Vulnerability

The previous chapter outlined Berthoud’s demographic, economic, and housing characteristics, providing a foundation for understanding housing affordability, vulnerable residents, market projections, and housing needs. The purpose of this chapter is to introduce common terms and concepts associated with housing affordability and how it applies to the unique Berthoud context which informs the market analysis.

Housing affordability is defined by household income (“ability to pay”) and the cost of an appropriate housing unit for that household.

Federal Definition of Affordability*

- ▶ Housing costs are “affordable” if they do not exceed 30% of a household’s gross income.
- ▶ “Costs” include basic utilities, mortgage insurance, HOA fees, and property taxes



Households paying more than **30%** for housing are **cost burdened**



Households paying more than **50%** for housing are severely **cost burdened**

*This is the Federal Housing metric used by the U.S. Department of Housing and Urban Development (HUD).



\$107,817
Median Household
Income



\$2,695
Attainable monthly
rent or mortgage in
Berthoud

Monthly costs include utilities, insurance, HOA fees, taxes



Attainable Housing vs. Affordable Housing

While often used interchangeably, “attainable housing” and “affordable housing” have distinct meanings.

- ▶ **Attainable housing** is housing that aligns with local incomes and the specific economic conditions of a community. It focuses on providing housing options that the average person in that area can reasonably afford based on typical local wages. Attainable housing units are diverse based on the community and what is available. These housing types offer attainable options for people who may not qualify for traditional subsidized affordable housing but still need access to reasonably priced homes in their community.
- ▶ **Affordable housing** is typically defined by federal or state guidelines, often based on a percentage of the area’s median income and may involve subsidies or specific income qualifications to assist lower-income individuals or families.

Affordability Example

Apply standard Federal affordability guidelines to Berthoud’s 2022 median household income.

Berthoud Median Household Income: **\$107,817 per year** (\$8,985/month)

Maximum Monthly Housing Expense (30% of Gross Income): $\$8,984 \times 0.30 = \mathbf{\$2,695}$
(monthly expenses include utilities, insurance, HOA fees, taxes without metro district)

Estimated Attainable Home Price: approximately **\$347,639**
(assumes a 30-year fixed mortgage at a 6.5% interest rate with a 20% down payment)

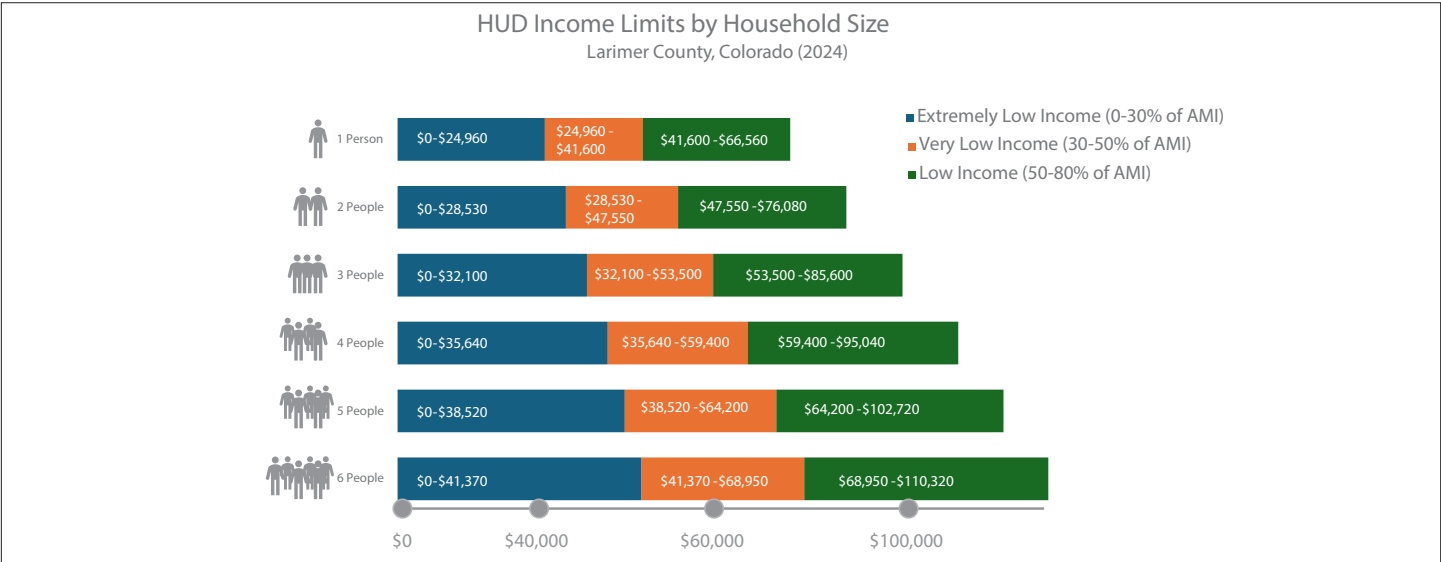
Note: These calculations are estimates based on conventional financing. Individual circumstances, such as existing debt, credit scores, and down payment amounts, can affect affordability. Consult with a financial advisor or mortgage professional for personalized assessments.

Area Median Income Limits

Each year, the U.S. Department of Housing and Urban Development (HUD) calculates the area median income (AMI) for every geographic region in the country using data from the U.S. Census American Community Survey. AMI is the midpoint income level of all households in a specific area, where half of the households earn more and half earn less, adjusted by household size. AMI is calculated using a household’s pre-tax income. HUD publishes the “Area Median Income” (AMI) tables, and they are one of the tools used by the State of Colorado, Colorado Housing Finance Authority (CHFA), and local housing organizations to determine if a person qualifies for affordable housing programs. Two different area median income tables apply to Berthoud since it lies in two counties. Weld County income levels are approximately 3.6% below Larimer County. Refer to Appendix F to see the 2024 HUD AMI tables for each county.

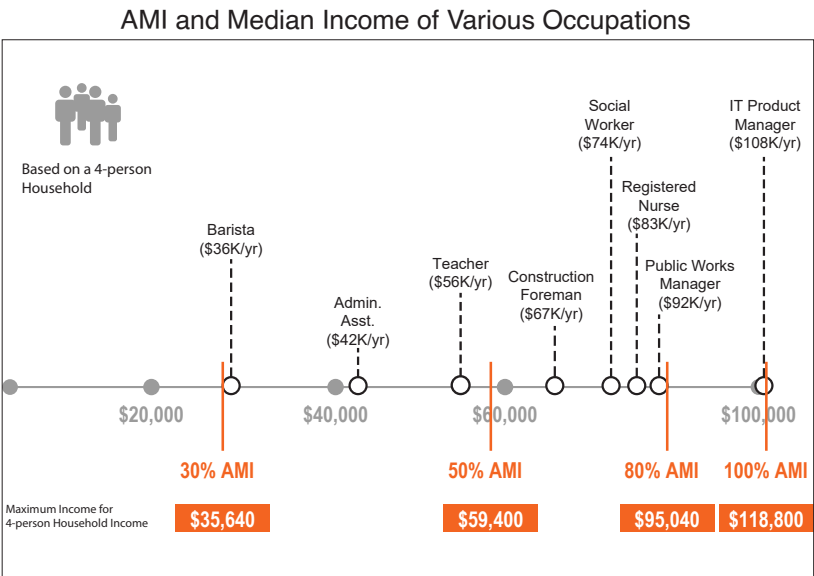
The following graphic illustrates the minimum and maximum income levels for households in Larimer County earning 80% or less of the AMI, categorized by household size.

- ▶ Extremely low-income 4-person households (earning 30% or less of the AMI) have incomes up to \$24,960 for a single-person household and \$35,640.
- ▶ Low-income 4-person households (earning 50-80% of the AMI) have incomes between \$41,600 and \$66,560 for a single-person household and between \$59,400 and \$95,040.



Source: HUD 2024 and CHFA 2024 income limits

Housing is becoming increasingly unaffordable and out of reach for many households in Berthoud. To better understand the local context of affordability, the graphic below highlights the range of professions for households that may face affordability challenges. It compares the approximate incomes of various local professions to the 2024 AMI table for a family of four in Larimer County. For further information on Berthoud’s current demographic, economic, and housing characteristics, see Chapter 4.



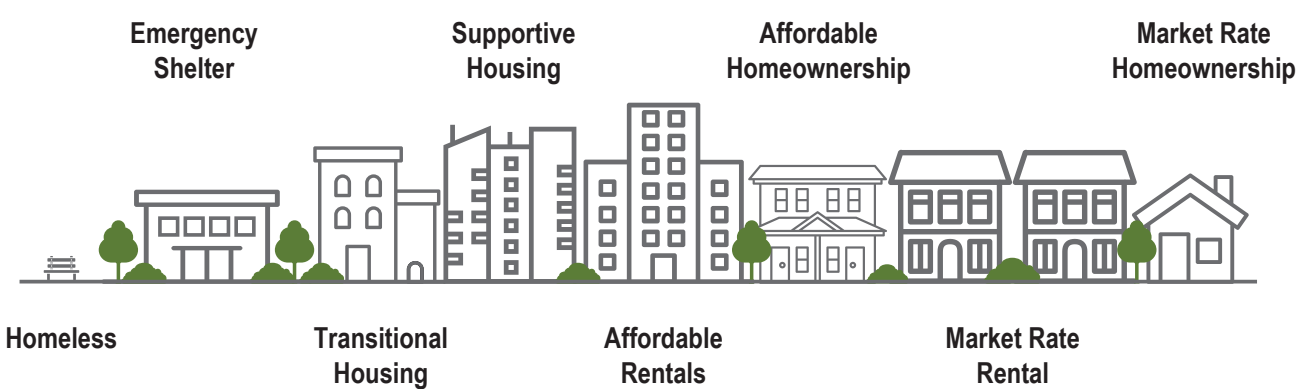
Like the previous affordability calculation, the table shows the maximum rent and maximum purchase price that households at each income level in Berthoud can afford if only 30% of gross income is spent on housing expenses. With a median home value of \$458,600 in 2022, many Berthoud residents will find housing unattainable without spending more than 30% on housing.

Maximum Rent and Purchase Price by Household Income				
	Area Median Income (AMI)	Household Income	Maximum Rent	Maximum Purchase
Supportive Services	<30%AMI	<\$32,345	\$808/month	\$76,090
Affordable	40% AMI	\$43,126	\$1078/month	\$110,689
	60% AMI	\$53,908	\$1,617/month	\$145,631
	80% AMI	\$86,253	\$2,156/month	\$251,072
Attainable / Market Rate	100% AMI	\$107,817	\$2,695/month	\$319,003
	120% AMI	\$129,380	\$3,234/month	\$389,406
	160% AMI	\$172,507	\$4,312/month	\$540,851
Purchase price includes multiple assumptions including: 3% down payment, 6.5% Interest Rate, no metro district.				
Monthly rent price was calculated by taking 30% of annual income and dividing by 12.				
Berthoud 2022 Median Household Income is \$107,817				

The Housing Continuum

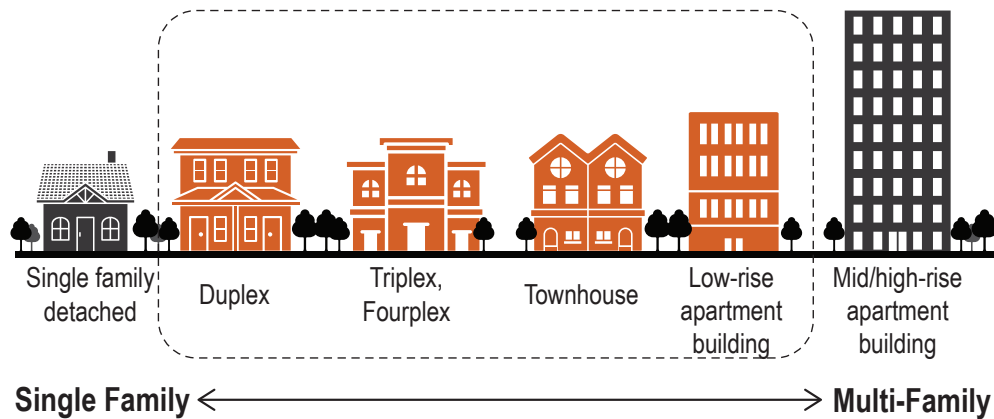
For a community to support all residents, regardless of their life stage or housing needs, it must a diverse range of housing types, often referred to as a “housing continuum.” Housings needs evolve over time due to factors such as aging, education and skill development, household size, employment changes, economic disruptions, caregiving responsibilities, and transitioning to a fixed income. Communities must provide housing options for everyone—from those just beginning their careers to older adults who may have retired many years ago. While affordability plays a key role in housing decisions, personal preferences for different housing types and living environments also play a significant role in shaping demand.

The graphic illustrates the levels of the housing continuum with a variety of housing options. At the far left of the continuum are unhoused residents. The next phase includes emergency shelters, transitional housing, and supportive housing, which provide stability for individuals facing housing insecurity or in need of additional services. The next phase includes affordable rental options and homeownership opportunities, which may consist of naturally occurring affordable housing (non-subsidized) or subsidized affordable housing. The final phase includes market rate rentals and homeownership.



Missing Middle Housing

Missing middle housing is a term often associated with efforts to improve housing affordability. This type of housing fills the gap between single-family homes and high-density, multi-family buildings, offering a range of options suitable for both renters and homeowners. Missing middle housing includes a diverse range of housing types, including duplexes, townhouses, triplexes, fourplexes, courtyard apartments, bungalow courts, townhouses, and multiplexes. These homes are typically smaller in size and designed to blend seamlessly into neighborhoods primarily composed of single-family homes, maintaining the character of the area.



Missing middle housing is crucial because it expands the housing mix by offering a range of options, addressing a key gap often overlooked in traditional neighborhoods and planning designs. Missing middle housing also supports key community goals by offering:

- Density that maintains neighborhood character,
- Attainability and affordability for a range of income levels,
- Walkability and accessibility to community amenities, and
- Diverse options for multigenerational living.

By addressing these needs, missing middle housing diversifies the housing supply to better meet community demands, particularly in growing areas, like Berthoud, where the housing options often lack alternatives to single-family homes and large multifamily rentals. Offering a balance of affordability, availability, and land efficiency, missing middle housing provides a practical solution for modern housing challenges, bridging the gap between traditional housing types and new, attainable options for communities.

Housing Vouchers vs. Subsidized Affordable Housing

Many people think of the Housing Choice Voucher Program (formerly Section 8) when hearing about subsidized affordable housing programs, but these terms are not synonymous. The Voucher Program helps very low-income families (less than 30% of the AMI), the elderly, and disabled residents by providing direct financial assistance to help them afford rent in the private market. In contrast, subsidized affordable housing refers to units that are specifically built or designated for low-income households (usually up to 60% of the AMI), where the rent is kept below market rates through government subsidies. Local Public Housing Authorities manage the program, but the money comes from the federal government.



Housing Vulnerability

An analysis of housing problems—including housing instability, displacement risk, and homelessness—provides a deeper understanding of the challenges that households face in accessing safe, stable, and affordable housing. In conjunction with the Support Systems Assessment (refer to Appendix B), this information can help identify where programs may be needed to improve outcomes for low- and moderate-income residents, particularly vulnerable populations.

Homelessness and Unstable Households

The Northern Colorado Continuum of Care (NoCO CoC) coordinates funding and delivery of housing and services for people experiencing homelessness in Larimer and Weld counties. As part of its efforts, NoCO CoC conducts an annual point-in-time (PIT) survey of people experiencing homelessness in the region. The 2024 PIT and Housing Inventory Count Report shows a total of 893 sheltered and unsheltered homeless individuals, with 622 (70%) sheltered and 271 (30%) unsheltered. Ninety-six percent of these individuals experiencing homelessness are in Fort Collins (43%), Greeley/Evans (35%), and Loveland (18%). In 2024, there were new concerted efforts to survey smaller communities like Berthoud, and no individuals were counted. It is recommended that Berthoud review these annual reports to stay informed if trends change that may impact the community and its needs to provide supportive services.

Displacement Risk

Identifying any areas with elevated displacement risk in Berthoud can inform potential strategies for Berthoud or a regional entity to consider while working to improve housing affordability, accessibility, and stability within the community or region. The Social Vulnerability Index (SVI) identifies eleven displacement measures that can be used to assess the most vulnerable populations in a community to determine any needed policy or programmatic responses. The following table shows the displacement measures for Berthoud as of 2022.

Berthoud Displacement Measures, 2022	
Households making at or below 30%, 50%, and 80% AMI	31.9%
Renter Occupied Households	501
Housing cost-burdened occupied housing units with annual income less than \$75,000 (30%+ of income spent on housing costs)	531
Persons (age 25+) with no high school diploma estimate	272
Persons (age 5+) who speak English "less than well"	29
Single-parent household with children under 18 estimate	103
Housing stock built prior to 1970	12.4%
Overcrowded (more people than rooms)	0.60%
Civilian noninstitutionalized population with a disability estimate	8.90%
Persons aged 65 and older estimate	1416
Race and Ethnicity	81% Non-hispanic white 15% Hispanic 4% Other

Support Systems Assessment

This section identifies and evaluates resources available to support the development, maintenance, and accessibility of housing that is attainable and affordable, as well as housing supportive services and transportation services in Berthoud and the surrounding area. These resources can help address the housing needs identified in this housing assessment. Larimer and Weld Counties have a network of service providers and housing-focused nonprofits, though resources are primarily concentrated in nearby Fort Collins, Loveland, and Longmont. Berthoud often benefits from this expanding network, but as the Town grows, additional resources and programs tailored to Berthoud may be necessary.

To ensure Berthoud remains a livable and accessible community for its residents, it is essential to proactively address these gaps by expanding local resources, strengthening partnerships, and advocating for targeted housing and transportation solutions. Stakeholders, policymakers, and community members must collaborate to develop strategies that support sustainable growth and improve access to these essential services.

Housing Development

Public Housing Authorities, including Housing Catalyst (Fort Collins), Loveland Housing Authority and Longmont Housing Authority, play a key role in increasing the affordable housing supply in Larimer County. They receive state and federal funds through programs like Community Development Block Grants, HOME Investment Partnership funds, and State Private Activity Bonds to support housing and community development. Currently, their efforts are primarily concentrated in Fort Collins and Loveland, with no current developments or properties in Berthoud.

While Berthoud does not currently have dedicated funding to support the development of affordable housing, some neighboring communities have created dedicated funding streams in recent years to support affordable housing initiatives.

- ▶ **Fort Collins:** Passed by voters in 2023, Fort Collins has a 3-mill property tax that could raise up to \$16 million per year to fund the land bank, grants and incentives for developers and nonprofits, and permanent supportive housing with wraparound services.
- ▶ **Loveland:** In 2016, the City Council approved using 1.25% of the city’s sales tax revenue to create an affordable housing fund and approved Loveland Habitat for Humanity and Loveland Housing Authority as the preferred providers for the city to work with.
- ▶ **Longmont:** Approved by voters in 2023, the Boulder County Affordable and Attainable Housing Tax is 0.185% countywide sales and use tax. The funds are divided by population across the county, with 30% going to Longmont for housing development, housing supportive services, and grant funding.

Several other organizations in the county contribute to affordable housing development. While some focus on specific municipalities, others operate countywide or across the broader Northern Colorado region. However, most affordable housing developments are concentrated within municipal boundaries or Growth Management Areas (GMAs), where multifamily-zoned land and essential infrastructure are more readily available resulting in more affordable infrastructure extension.

The table below outlines the housing development organizations in the area that could serve as potential partners for the Town of Berthoud in future housing developments. The organizations are listed alphabetically, without any indication of priority or importance. The “Services” column below contains information obtained from the organization website.

Organization	Services	Location(s)
Berthoud Habitat for Humanity	To date, approximately 20 single-family homes have been constructed in Berthoud. Eligible for households between 40% and 80% of the AMI. Additional development is in the planning stages to increase supply. Manages a ReStore retail location with profits from purchases along with donations helping fund housing construction.	Office in Berthoud
CARE Communities	Through innovative public and private partnerships, CARE develops and manages affordable housing communities that also provide transformative resident services to empower families and build community.	Office in Fort Collins Property locations in: Fort Collins (6 sites) Windsor (1 site)
Housing Catalyst (Fort Collins Housing Authority)	Supports community development by managing over 1,600 residences, providing rental assistance to 1,500 families annually, and offering affordable rentals, housing choice vouchers, and real estate development. Programs focus on reducing homelessness, stabilizing lives, and promoting empowerment, self-sufficiency, and community engagement.	Property locations in Fort Collins
Impact Development Fund (IDF)	A lender, partner and community builder that expands access to capital to build more resilient and equitable communities. As a Community Development Financial Institution (CDFI), IDF connects mission-driven organizations to financial products and partnerships, bringing together multi-faceted community stakeholders including nonprofit organizations, developers, community banks, individuals, and local and state government agencies.	Office in Loveland
Longmont Housing Authority	Provides housing and related services to low- and moderate-income families and elderly and disabled households. It manages over 400 units across nine properties and administers the federally funded Housing Choice Voucher program.	Office in Longmont Property locations in Longmont (9 sites)
Loveland Housing Authority	Owns and manages properties (approx. 1,000 units) that serve low to moderate income individuals and families, including senior housing. Housing programs include Choice Voucher (Section 8), tax credit properties, Larimer home improvement programs (LHIP), grant assistance programs, and other affordable housing programs and services.	Property locations in Loveland Windsor (2 sites) Milliken (1 site)

Supportive Services and Resources

Non-profits in Berthoud and the surrounding area provide supportive services and resources for low- and moderate-income residents, including rental assistance, homebuyer support, homeowner assistance, senior services, and support for individuals experiencing homelessness. Most of the resources are not specifically tailored to Berthoud and may be less accessible and less familiar to its residents. Nearby Longmont is home to additional housing support resources, including senior and homelessness services, though these are intended for Boulder County residents only.

The table below outlines organizations in the area offering supportive services to Berthoud residents, which could serve as potential partners for the Town of Berthoud in future housing resource initiatives. The organizations are listed alphabetically, without any indication of priority or importance.

Organization	Services	Location(s)
Berthoud Life Center	Uses a bundled-services model to offer a centralized hub where HNS and partner agencies (including the Food Bank of Larimer County, BridgePoint, SNAP Outreach Assistance, and others) provide integrated, collaborative support.	Two locations: one in each Berthoud and Loveland
House of Neighborly Services (HNS)	Supports individuals and families facing poverty or crisis by providing basic needs services and promoting self-sufficiency. Programs include food, utility, and clothing assistance, homeless case management, family support, and parent education.	Two locations: one in each Berthoud and Loveland
Catholic Charities of Larimer County	Provides shelter, affordable housing, early childhood education, counseling, emergency services, rent and utilities, employment, food and clothing, case management, family and senior services, and more.	Office in Fort Collins
Larimer County Human Services	Provides food, medical, and cash assistance, protection for vulnerable populations, care options for those with disabilities, and referrals to community agencies. Eligibility is determined by federally set income limits.	Locations in Fort Collins Loveland Estes Park
Larimer County Office on Aging	Serves adults aged 60+, adults living with a disability, and caregivers. Programs include long-term care options, ombudsman, community resource navigation, caregiver support, vouchers to support daily living, and more.	Locations in Fort Collins Loveland Estes Park
Neighbor to Neighbor	Dedicated to providing sustainable housing, supportive services, and education to families and individuals in Larimer County. Programs include eviction prevention, rental and utility assistance, homeownership support, affordable housing options, home share matching, and financial services.	Office in Fort Collins Property locations in Fort Collins Loveland

Northern Colorado Continuum of Care (NoCO CoC)	Supports a community-wide system across Larimer and Weld Counties to rapidly connect individuals and families experiencing homelessness with permanent housing and services, coordinating policies, strategies, and funding with Housing First best practices.	Multiple partner offices across Northern Colorado
Salvation Army	Provides rent, mortgage and utility assistance, homelessness services, and emergency services (food, clothing, shelter).	Office in Fort Collins

Transportation

Berthoud provides transportation options for elderly residents and individuals with disabilities, including local door-to-door services like the Berthoud Area Transportation (BATS) and volunteer-based Rural Alternatives for Transportation (RAFT) for those in outlying areas. Regional connectivity is provided by FLEX and the Colorado Department of Transportation's Bustang, though limited stop locations in Berthoud may reduce convenience for regular use. These services are cost-effective, with many free or highly subsidized, and most include accessibility accommodation like ADA-compliant vehicles. However, limitations such as restricted operating hours, reliance on advanced scheduling, and variability in accessibility present challenges for spontaneous or urgent travel needs.

Better integration of existing services could improve convenience and inclusivity, while the introduction of Micro-Transit in 2025 may bring greater flexibility and efficiency. The new Berthoud Mobility hub opens opportunities for the Town to pursue moderate-to-high density residential and transit-oriented development with a mix of residential and commercial to create an accessible, connected community. Looking ahead, the proposed Front Range Passenger Rail has the potential to transform regional mobility for residents and create new opportunities for area employers. Berthoud may be poised well for a downtown stop along the rail line, which could bring significant benefits, including economic growth and investment, the development of diverse housing options downtown, and reduced traffic congestion.

The table below outlines the transportation options currently available to Berthoud residents. These are listed alphabetically, without any indication of priority or importance.

Service	Coverage	Operations	Eligibility / Cost	Funding / Support
Berthoud Area Transportation (BATS)	Door-to-door in Berthoud or to Loveland Longmont service ended in 2023	In-town operates daily 8 am to 4 pm Loveland operates Monday through Friday 8 to 11:30 am (and to 3 pm on Thursdays) 11 passenger vans 1 ADA space/van	Free for ages 60+ For other residents the fees are \$1 in-town, \$4 to Loveland All must request 1 day prior	Town of Berthoud Larimer County Office on Aging City of Fort Collins
Bustang Northline (Denver to Fort Collins)	Stops in Longmont, Berthoud, Loveland, Fort Collins Harmony, Fort Collins downtown	Stops at Berthoud Mobility Hub & Loveland Park-n-Ride along Interstate 25 12 trips each way Monday to Friday, 6 trips each way weekends & holidays	\$4–\$7 per trip \$3–\$5.25 for seniors and those with disabilities	Colorado Department of Transportation (CDOT)
FLEX Bus Regional Service	Stops in Fort Collins, Loveland, Berthoud, Longmont, and Boulder	1 Berthoud stop 13 trips each way Monday to Friday, 4 trips each way Saturdays ADA ramps, lifts, 2 wheelchair space	\$0 fare	Transfort City of Fort Collins State grants Federal grants
Front Range Passenger Rail (in planning & development)	Ft Collins to Pueblo. Stops may include Boulder, Longmont, Denver, Colorado Springs	Expected in 4 to 5 years Ft Collins to Denver, using current freight tracks Schedule is TBD	Fare is TBD	\$66M federal grant \$27M state funds
Micro-Transit (coming 2025)	Proposed service within Berthoud, to South Loveland, I-25 Mobility Hub, North Longmont	3-4 vehicles Uber/Lyft style 7 am to 7 pm Monday to Saturday Mobile app	Fare is TBD In-town: Low/no cost Out-of-town: higher fees	\$864K federal appropriation to Berthoud for pilot project
Rural Alternative for Transportation (RAFT)	For residents of Berthoud Fire Protection District (outside BATS area) Connects to nearby towns	All volunteers Use personal cars Accessibility varies 1 ADA PARA Van is available	Adults aged 60+ or 18+ with disabilities No fixed cost	Larimer County Grants Foundations Donations

Gaps and Other Considerations

The assessment of housing development and support services identifies several key gaps for Berthoud residents and underscores the need for a strategic approach to align resources with the Town's growth and changing demographics.

1. **Lack of Subsidized Affordable Housing and Attainable Housing Development:** With strong regional development organizations nearby, the Town could benefit by partnering on local housing projects to meet diverse housing needs, including affordable and attainable housing.
2. **Minimal Local Resource Accessibility:** Many housing-related services are located in Fort Collins or Loveland and may not be easily accessible to Berthoud residents. Tailored local programs and resources are necessary to bridge this gap.
3. **Limited Transportation Options to Access Services:** While Berthoud has some transportation options for the elderly and adults with disabilities, the limited in-town transit and regional connections can hinder access to regional services and housing opportunities, particularly for low- to moderate-income individuals and families. To enhance accessibility to services in Loveland and Fort Collins, housing projects should prioritize locations near the I-25 Mobility Hub or the FLEX bus stop. It is also recommended that the Town collaborate with Transfort to develop additional FLEX bus stops in Berthoud to further enhance accessibility.
4. **Dedicated Funding:** Unlike larger cities, Berthoud does not receive federal housing funds or have a dedicated funding stream, limiting its ability to develop housing projects independently. While creating a local housing authority may not be preferable, the Town can prioritize partnering with the nearby housing authorities and other partner agencies on projects in Berthoud. In addition, the Town could create a dedicated housing fund through the implementation of housing development strategies, like an inclusionary zoning ordinance.



Chapter 6

Market Analysis & Projections

This chapter presents an analysis and recommendations regarding housing and rental needs in Berthoud, along with comparisons to nearby communities. It examines past market trends alongside demographic factors to anticipate future housing needs. The following sections outline trends from the last decade, the last 12 months, and the present to develop housing projections. As noted in previous sections, housing supply, home values, and other market and housing characteristics are subject to change over time. The analysis is based on data from the U.S. Census American Community Survey, MLS.com, Redfin.com, Realtor.com, and Zillow.com.

Key Findings

The analysis estimates the following projected housing needs for Berthoud:

- ▶ **For Sale Units:** Current demand ranges from 11 to 18 units, with an annual demand for 124 to 207 units and a ten-year projection of 828 to 1380 units.
- ▶ **For Rent Units:** Currently demand ranges from 13 to 21 units, with an annual demand for 25 to 41 units and a ten-year projection of 81 to 135 units.

The following sections outline the key factors considered in this evaluation and provide a detailed analysis supporting these projections, as well as housing needs allocations by area median income.

Ownership Market Analysis

Recent Home Sales: Last 12 Months

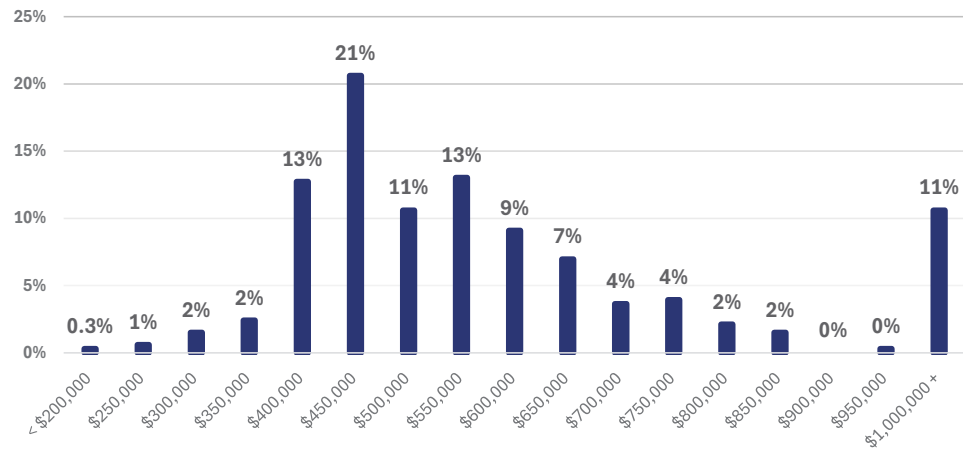
Over the last 12 months, Berthoud recorded 330 home sales, with 220 occurring in spring and summer and the remaining one hundred in fall and winter. The average sale price was \$697,209, a 41% increase from the 2022 Census median home value of \$458,600, indicating a highly competitive market with rapidly rising prices. During this period, sale prices ranged from \$245,500 to \$3,550,000 million, showing a wide variety of home prices within the community.

The challenge with rapidly rising home prices is that they are outpacing household income growth. For example, according to the 30% rule, a 4-person household in Berthoud earning \$110,000 could afford a home of around \$390,000 with a 20% down payment of \$65,000. However, with the average sale price reaching \$697,209 over the past year, homeownership becomes increasingly unattainable for the average household. Purchasing a home above \$390,000 would jeopardize the household's financial stability.

In the past 12 months:

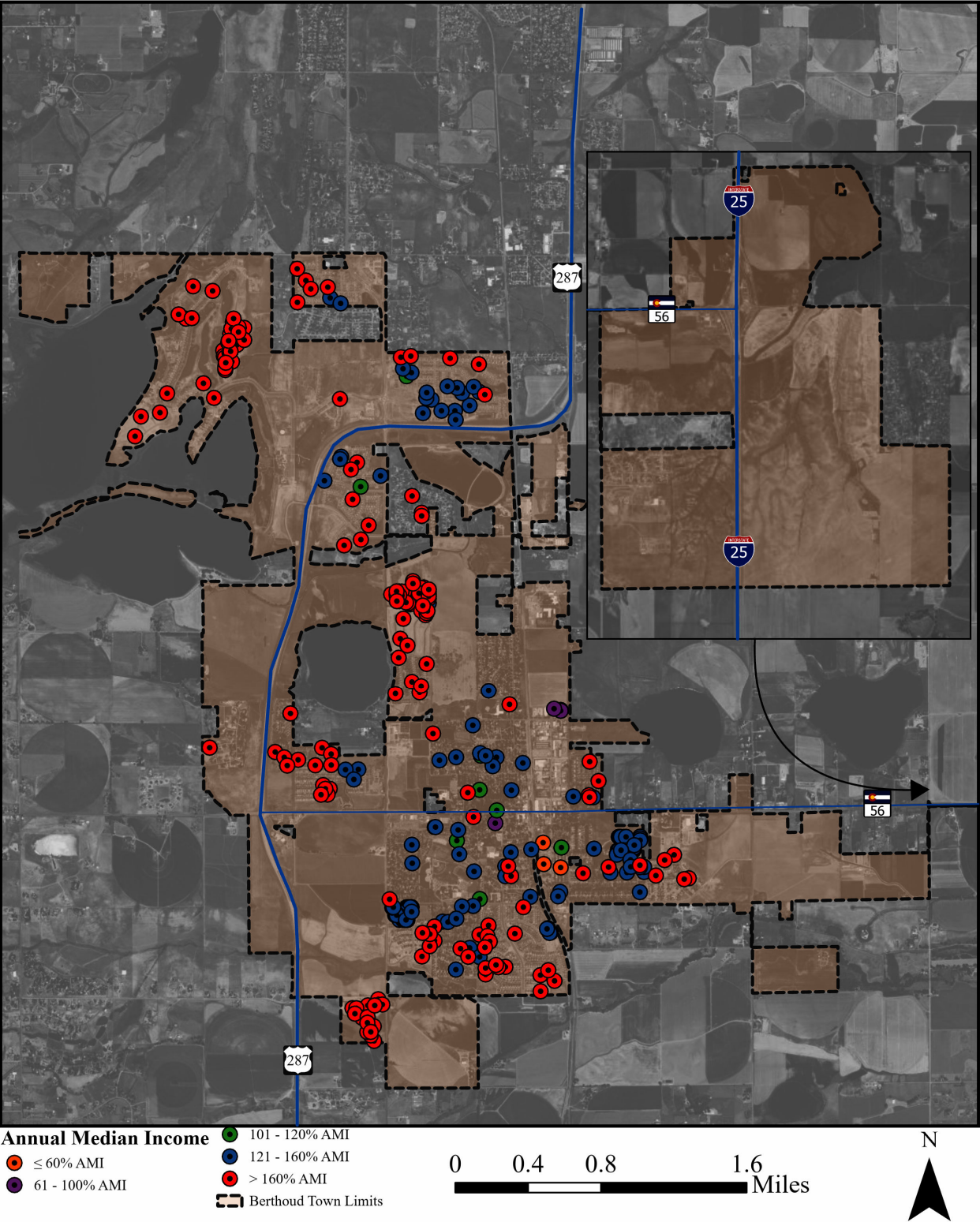
- ▶ 21% of sales were in the \$450,000 to \$499,999 range.
- ▶ 11% of homes sold for over \$1,000,000, including 8 that sold for over \$2,000,000.
- ▶ No homes sold for less than \$199,999.

Percentage of Berthoud Home Sales by Price - Last 12 Months



The map below shows the location of the 330 sales by level of affordability according to the 2024 Larimer County AMI table.

Berthoud: Recent 12-Month Sales by Affordability Level (Oct 2023-Sept 2024)



Among the 330 recent sales, the average construction year was 2011. More than half (55%) of the homes sold were built between 2020 and 2024, and 25% were built between 2000 and 2019. This trend aligns with the residential permit data in Chapter 4, reflecting a rapid increase in new home construction. Although 43% of Berthoud’s current housing units were built before 2000, recent sales have primarily favored newer homes, as shown in the map above, where sold homes are clustered mainly in new development areas.

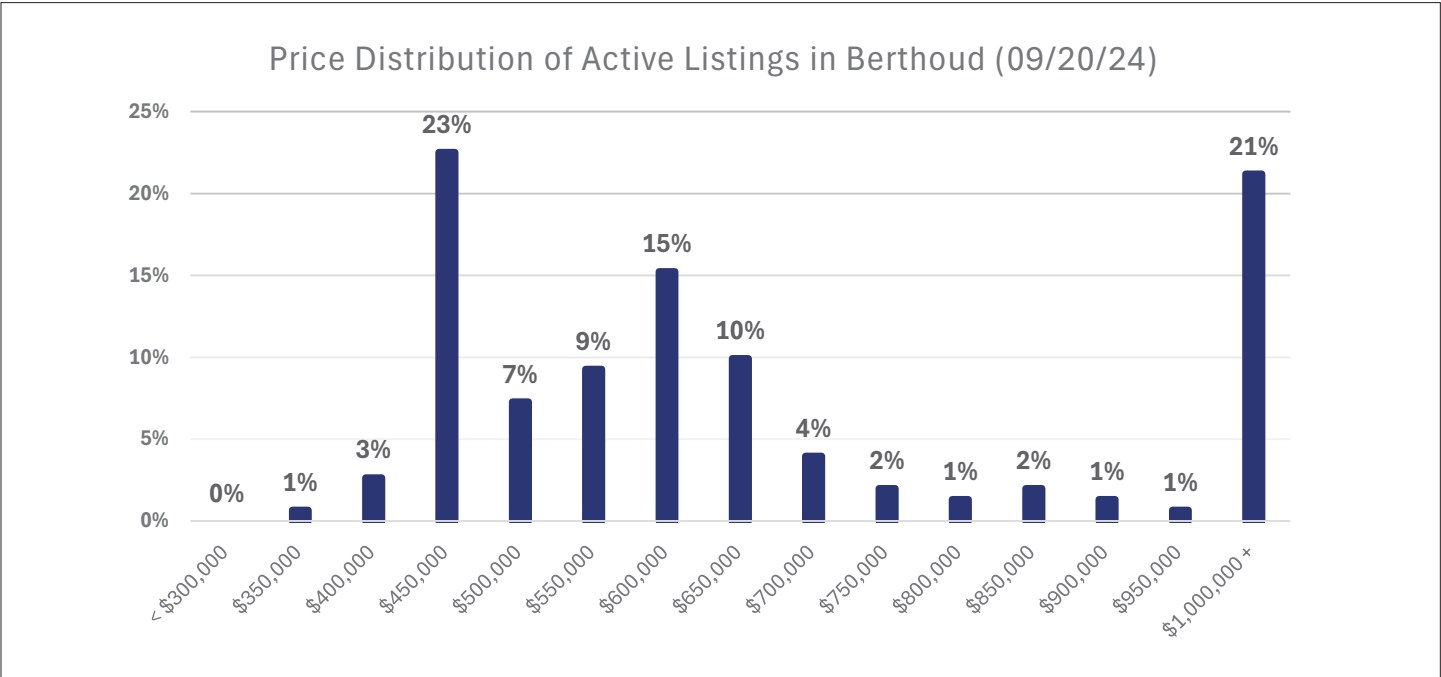
Of the 330 sales, the average home had 3.5 bedrooms and was approximately 2,800 square feet. Notably, 25% of homes sold exceeded 3,500 square feet, and 42% had 4 or more bedrooms. These trends highlight a strong demand for larger homes suited for growing families or multi-resident households, while options for smaller homes are more limited.

Current Home Ownership Market

As of September 24, 2024, online real estate listings show 151 properties for sale, including 22 open lots. Open lots are excluded from this analysis as they do not provide immediate housing options for prospective buyers. The average listing price is \$939,395, a 35% increase from the previous 12-month sale price average of \$697,209, indicating continued home value appreciation driven by population growth and high housing demand. The lowest-priced home on the market is \$380,000, while the highest is \$3,999,500, both exceeding the lowest and highest sale prices in the last 12 months.

Of the current active for-sale listings:

- ▶ No homes are priced below \$349,999.
- ▶ 23% are listed between \$450,000 and \$499,999.
- ▶ 15% are listed between \$600,000 and \$650,000.
- ▶ 21% are listed at \$1,000,000 or higher.



Active listing prices have risen compared to the previous 12 months of sales, accompanied by an increase in newer homes on the market. The average construction year for current listings is 2017, up from 2011 for homes sold in the last year. As shown in Chapter 4, the high number of new home permits in recent years may be contributing to the increase in for-sale prices. Additionally, the average square footage of current listings is approximately 3,000 square feet, up from 2,800 square feet. The average number of bedrooms of current listings remains the same, suggesting that homes with 3 or 4 bedrooms continue to be in high demand.

Current Home Ownership Demand

Berthoud has a current demand of 11 to 18 housing units. This recommendation serves as a reference for immediate housing needs, drawing from sales from the past 12 months and current market supply. Best practices recommend that a community should maintain an inventory that meets its 6-month demand.

With 330 previous homes sold over the past year, the average monthly demand is 28 homes. Applying this to a 6-month demand results in a need for 168 units. With 151 active listings at the time of the assessment, this indicates a need for an additional 11 to 18 units. The recommendation provides a range to account for ongoing housing developments and market fluctuations.

The allocation of the current for sale housing demand estimates by AMI is shown in the table below. This ensures balanced estimates that include a full range of housing options.

Days on the Market (DOM)

Short DOM (<30 days):

Indicates high demand and a seller’s market, where homes are priced competitively and often sell quickly, often receiving multiple offers.

Moderate DOM (30-60 days):

Reflects a balanced market, where homes are priced near market value, and buyers have more time to make decisions.

Long DOM (60+ days):

Signals lower demand or overpriced properties. Sellers may hold on to homes, anticipating rising values, which can contribute to higher housing costs as supply tightens over time.

Current For Sale Housing Needs			
AMI Category	Estimate (low)	Estimate (high)	Avg For Sale Units Needed
Extremely Low Income (≤30% AMI)	1	1	1
Very Low Income (31-50% AMI)	1	1	1
Low Income (51-80% AMI)	2	3	2
Moderate Income (81-120% AMI)	3	5	4
Middle Income (121-140%)	1	2	1
Upper Income (above 140% AMI)	3	5	4
Total Catch-Up Units Needed	11	18	14

Annual, Five-Year, and Ten-Year Home Ownership Demand

Annual for-sale demand for housing in Berthoud ranges from 124 and 207 units, while the ten-year demand ranges from 828 to 1380 units. These estimates are based on historic and projected growth from the 2021 Comprehensive Plan, State Demography Office, and Census data. The estimates also consider past sales trends, current market conditions, projected economic growth in the region, and target vacancy rates. Introducing this range of homes will help address local affordability challenges and support a stable, diverse housing market. Demand will fluctuate over time due to market shifts and demographic changes, making this range a key target for Berthoud's housing strategy.

The allocation of home ownership demand estimates by AMI for each period is shown in the table below. The greatest estimated need is for homes that are affordable for households with moderate income (81-120% of the AMI).

Projected For Sale Housing Needs									
Category	Annual			Five-Year			10-Year		
	Estimate (low)	Estimate (high)	Avg For Sale Units Needed	Estimate (low)	Estimate (high)	Avg For Sale Units Needed	Estimate (low)	Estimate (high)	Avg For Sale Units Needed
Extremely Low Income (≤30% AMI)	10	17	14	34	57	46	68	113	90
Very Low Income (31-50% AMI)	9	15	12	30	50	40	59	99	79
Low Income (51-80% AMI)	20	34	27	69	115	92	136	227	182
Moderate Income (81-120% AMI)	38	63	51	128	213	171	253	421	337
Middle Income (121-140%)	13	22	17	44	73	58	86	143	115
Upper Income (above 140% AMI)	34	56	45	114	190	152	226	376	301
Total Keep-Up Units Needed	124	207	166	419	699	559	828	1380	1104

Rental Market Analysis

Current Rental Market Characteristics

Unlike previous home sales, online resources do not provide data on previously leased units, so the information reflects a specific moment in time. As of September 20, 2024, there are eight rental listings on the market, with prices ranging from \$1,225 to \$2,980 per month, averaging \$2,181. Unit sizes vary from 838 to 3,029 square feet, with an average of 1,831 square feet and 2.6 bedrooms.

Based on the 2022 Census, the percentage of total rental units (501) by number of bedrooms in Berthoud is as follows:

- ▶ 14% One-bedroom units
- ▶ 72% Two-bedroom units
- ▶ 11% Three-bedroom units
- ▶ 3% Four-bedroom units

This distribution indicates a balanced variety of rental units, with a mix of smaller and larger units to accommodate different household sizes. However, the limited supply of current rental listings underscores the need for more rental opportunities in Berthoud.

In terms of market activity, Berthoud rental units spend an average of 23.5 days on the market. While the national average ranges from 20 to 40 days, rentals in high-demand urban areas typically lease within 10 to 20 days. While Berthoud is not an urban center, the 23.5-day average indicates a competitive rental market and strong demand for rental units.

A healthy vacancy rate is typically between 5% and 8%. In 2022, Berthoud’s rental vacancy rate was 0%. Rates below the 5% to 8% range indicate a rental market that has low inventory and high demand. With a 0% vacancy rate, Berthoud’s rental market is clearly undersupplied, highlighting the urgent need for more rental opportunities. As the community’s population continues to grow, Berthoud should act quickly to address the shortage. The recommendations below outline both short-term and long-term strategies to effectively meet the community’s growing rental housing needs.

Current Rental Demand

The current demand for rental units in Berthoud is estimated to be between 13 and 21 units. The recommended range considers factors such as current demand, rental vacancies, past rental rates, active listings, and total renter-occupied units, with the goal of maintaining a target rental vacancy rate of five percent. This ensures a balanced market with a broader variety of rental rates and unit types. Introducing the additional rental units will help stabilize rental supply and improve housing options for the community.

Current For Rent Housing Needs			
AMI Category	Estimate (low)	Estimate (high)	Avg For Sale Units Needed
Extremely Low Income (≤30% AMI)	1	2	1
Very Low Income (31-50% AMI)	1	2	1
Low Income (51-80% AMI)	2	4	3
Moderate Income (81-120% AMI)	4	7	5
Middle Income (121-140%)	1	2	2
Upper Income (above 140% AMI)	3	6	5
Total Catch-Up Units Needed	13	21	17

The allocation of the current rental housing demand estimates by AMI is shown in the table. A range of rental options are needed for a diverse and inclusive rental market.

Annual, Five-Year, and Ten-Year Rental Demand

Annual rental demand in Berthoud ranges from 25 to 41, while the ten-year demand ranges from 81 to 135 units. These estimates are based on historical rental trends, market supply, target vacancy rates, and population projections. New rental developments will support a stable market with diverse rental housing types and price ranges. Given the continued growth and the increasing proportion of youth and young adults in the community, it is essential to ensure there are sufficient rental opportunities to meet the housing needs of all demographics.

The allocation of rental housing demand estimates by AMI for each period is shown in the table below. This distribution aims to maintain affordability for moderate-income renters while also providing options in higher price ranges to support varying income levels in the community.

Projected For Rent Housing Needs									
Category	Annual			Five-Year			10-Year		
	Estimate (low)	Estimate (high)	Avg For Sale Units Needed	Estimate (low)	Estimate (high)	Avg For Sale Units Needed	Estimate (low)	Estimate (high)	Avg For Sale Units Needed
Extremely Low Income (≤30% AMI)	2	3	3	6	10	8	7	11	9
Very Low Income (31-50% AMI)	2	3	2	6	9	7	6	10	8
Low Income (51-80% AMI)	4	7	5	13	21	17	13	22	18
Moderate Income (81-120% AMI)	8	13	10	23	39	31	25	41	33
Middle Income (121-140%)	3	4	3	8	13	11	8	14	11
Upper Income (above 140% AMI)	7	11	9	21	35	28	22	37	29
Total Keep-Up Units Needed	25	41	33	77	128	102	81	135	108

Housing Market for Vulnerable Populations

Accessible and visitable units are housing units that are designed and constructed to be safe and accessible for any individual regardless of age or abilities. For example, these are homes that can accommodate seniors and residents with disabilities. These units may not always be new construction. In many cases, this may involve renovating existing housing units. This estimate can be an indication of the number of existing households that could use some assistance renovating current homes. This estimate is a subset of the total housing units indicated previously, and these may be a mix of for sale or for rent units.

10- Year Estimated Accessible and Visitable Housing Needs			
	Estimate (low)	Estimate (high)	Avg Units Needed
Total Estimated Units Needed	81	135	108

Supportive housing units are intended to help people experiencing homelessness or housing instability. This housing typically combines affordable housing with intensive wrap-around services to help people maintain stable housing and receive appropriate health care. As indicated in Chapter 5, there were no individuals experiencing homelessness counted in the most recent Larimer County PIT survey. The current need may be zero, however, some individuals may be at risk of displacement. Local social service organizations, like the House of Neighborly Services, may be a good resource for the Town to gather more detailed information on vulnerable populations on an annual basis.

Estimated Current Supportive Housing Needs			
	Estimate (low)	Estimate (high)	Avg Units Needed
Total Estimated Units Needed	0	10	5

Key Considerations & Influencing Factors

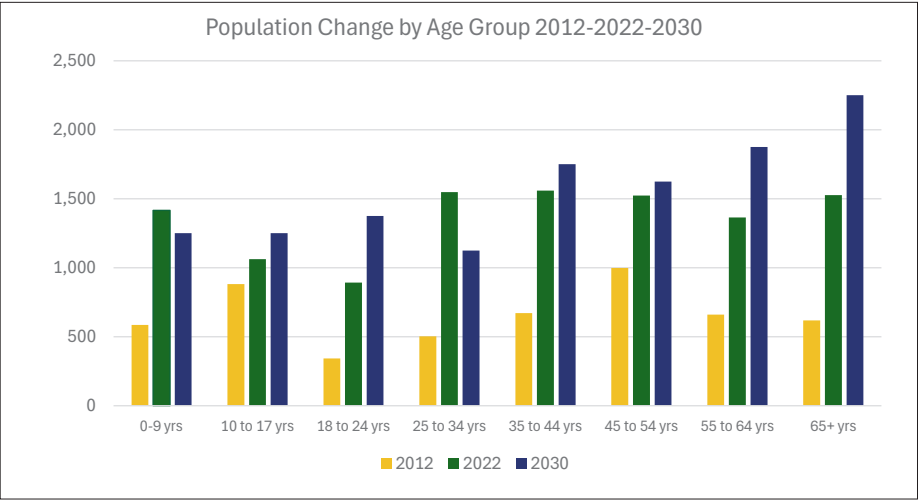
This section highlights the key considerations and influencing factors that were incorporated into the analysis and projection calculations during this assessment.

Demographic Shifts Require Housing Diversity

Population projections for Berthoud, as shown in Chapter 4, indicate continued growth, driven by its desirable location near employment hubs and its appeal to both young professionals and retirees. The growth is mirrored by concurrent growth at the county level in Larimer and Weld counties. The shift toward younger professionals and an aging population will reshape the demographic landscape and require different housing options.

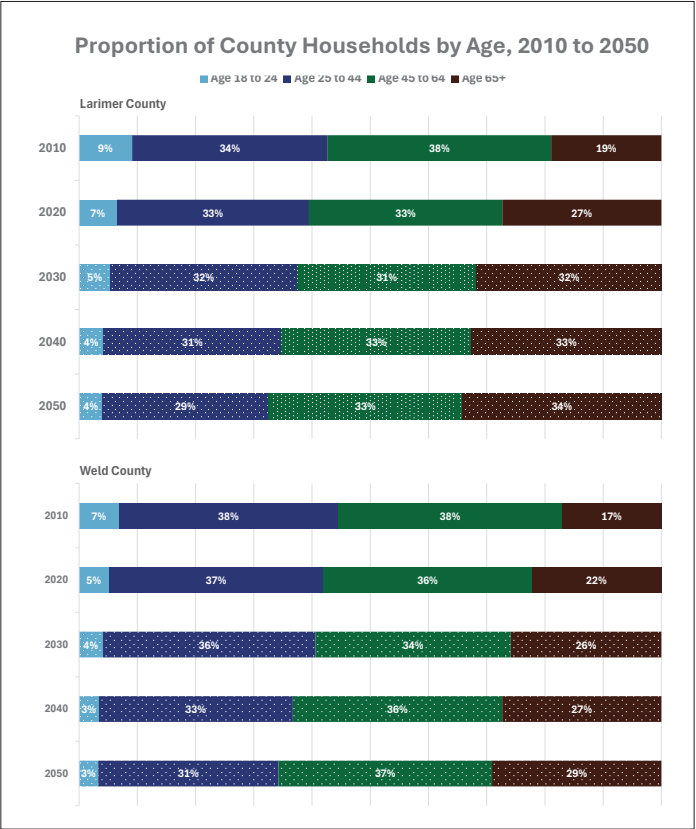
The table shows historic and projected population changes by age group in Berthoud from 2012 to 2030, highlighting significant shifts across different ages. The total Berthoud population is projected to grow from 5,261 in 2012 to 13,958 by 2030, and the larger Growth Management Area to 18,433. Notably, the 65 and older age group is projected to experience the largest increase, rising from 12% in 2012 to 18% by 2030, and the 55 to 64 age group will reach 15% by 2030. In contrast, the younger age groups (0-9 and 10-17 years) are projected to decline slightly as a percentage of the total population, both shifting to 10% by 2030. The 35- to 44-year-old age group will maintain a steady share at approximately 14%, indicating stable growth for this segment.

The shifting demographics will have long-term impacts on housing demand. Younger residents are likely to drive the need for starter homes and moderately priced rentals, while an aging population may increase the demand for age-friendly, accessible housing options as well as additional services. Over time, the lack of diverse housing options could create barriers for middle-income families, workforce members, and first-time homebuyers, risking the community’s ability to maintain a diverse population. The 0% vacancy rate for rental units underscores the urgent need to expand rental options to maintain a healthy rental market and mitigate upward pressure on rent prices. As a variety of housing units become scarcer, Berthoud’s ability to maintain a balanced population will depend on strategic housing initiatives.



Demand for Growing Senior and Retirees Population

Like national and state demographic trends, the proportion of seniors and retirees in Larimer and Weld counties is projected to continue in the coming decades. The graph shows the proportion of county households by age group from the 2010 and 2020 Census, along with the decade projections through 2050. In Larimer County, the proportion of households with the head of household aged 65 or older is projected to reach 34% by 2050, marking a 7-percentage point increase from 2020. In Weld County, this demographic is projected to comprise 29% of households by 2050. Just as the previous section indicated a large increase in the senior population in Berthoud by 2030, it is reasonable to expect that Berthoud’s shifting proportion of senior households will be similar to the county levels.



The increase in households with seniors and retirees has important implications for housing, demand, design, and community planning.

1. **Increased Demand for Age-Appropriate Housing:** More households led by those aged 65 and older will likely drive demand for accessible, low-maintenance, and single-story homes that allow for aging in place. This could mean a shift toward ranch-style homes, senior-friendly apartment complexes, and housing developments that offer on-site services or proximity to healthcare facilities.
2. **Growth in Retirement Communities and Assisted Living Facilities:** These counties may see an increase in demand for age-specific housing, such as retirement communities and assisted living options. Developers may also begin to offer “active adult” communities, offering social and recreational amenities tailored to retirees.
3. **Demand for Community Services and Infrastructure:** A larger elderly population will drive greater demand for healthcare services, accessible public transportation, and supportive infrastructure that enables independent living. This shift may impact zoning and land-use policies to prioritize the development of supportive services and resources in proximity. (An assessment of supportive services is included in Appendix B.)
4. **Potential Strain on Housing Supply:** As older adults remain in their homes longer, whether due to preference for aging in place or financial barriers to downsizing, fewer properties may become available for younger families. This could further tighten the housing market and push prices up, especially if the supply of accessible housing cannot meet the demand.

Scenario-Based Analysis

Looking at potential scenarios based on the projected trends helps illustrate how demand could evolve. For instance, if current population growth projections hold, Berthoud will face increased pressure on both rental and ownership markets, with rising demand for for-sale homes in the \$400,000 to \$600,000 range and rental units priced between \$1,500 to \$2,500. This scenario would see home values and rental costs continuing to rise, leading to affordability challenges for median-income households. Alternatively, if population growth accelerates beyond current estimates, Berthoud’s market could face even greater strain, exacerbating the supply-demand imbalance and potentially increasing housing burdens across income levels.

Housing Affordability and Accessibility

The data highlights a critical challenge in housing affordability and accessibility, particularly as home prices and rental rates rise faster than income growth. Over the past year, the average sale price of homes increased by over 40%, placing most homes out of reach for the average household income in Berthoud. Without targeted initiatives, this trend may lead to further affordability constraints, making homeownership inaccessible to a larger segment of the community and increasing the housing cost burden on renters. This affordability gap underscores the need for policies and programs that foster

a more inclusive housing market, such as incentives for diverse housing developments and strategic partnerships to expand housing options for moderate- to low-income residents.

Balancing Renter and Owner-Occupied Housing

A balanced mix of renter- and owner-occupied housing is crucial for a resilient community. This balance can vary based on local demographics, economic conditions, and specific housing market dynamics. A higher percentage of owner-occupied homes may promote neighborhood stability, as homeowners are more likely to invest in their properties, which can increase property values. Meanwhile, rental units provide vital housing options for those unable to purchase a home due to income or life circumstances. A mix of renters and owners creates a diverse community, bringing together people from diverse backgrounds and income levels, enriching the social fabric. Several factors influence the ideal renter-to-owner ratio. Areas with high job turnover or a large student population often require more rental units to meet short-term housing needs. Limited housing availability can also drive rental demand as a more accessible option. Community goals, such as prioritizing housing diversity, may also result in a higher proportion of rental units to accommodate low-income residents. In Berthoud, achieving an ideal balance will be key to supporting a stable and inclusive community that meets the diverse housing needs of its population.

Future Housing Demand: Recommendations for Diversified Housing Supply

Berthoud's projected housing demand over the next several years highlights the need for both for-sale and rental units. The analysis estimates a five-year demand of up to 574 for-sale units and up to 172 rental units, which could help alleviate the current market pressures if adequately met. To meet this demand, a diversified housing supply is essential, with a focus on increasing mid-range homes for sale between \$400,000 and \$599,999, and rental units in the \$1,500 to \$2,499 range. Developing rental options at moderate price points is essential for supporting the workforce and younger residents not yet ready for homeownership. Providing this range of options will address current demand and promote long-term community stability by fostering a more inclusive and adaptable housing market.

Initiatives for Sustainable Growth

Berthoud's housing challenges require proactive efforts beyond market forces to maintain an attainable and balanced market. Strategies may include zoning adjustments to support multifamily housing, developer incentives to promote diverse housing options, and financial programs for first-time homebuyers. Meeting market demand and aligning with Berthoud's growth objectives will depend on collaborative efforts among stakeholders and strong regional partnerships to address housing challenges. The next chapter outlines strategies and recommendations to help meet the commitment to Proposition 123 and meet the 2021 Comprehensive Plan goals, promoting a sustainable, equitable housing landscape for a vibrant and diverse community.

Regional Market Context

When projecting housing needs for Berthoud, it is important to consider the broader region, as a regional, collaborative approach will more effectively address housing affordability and availability in the area. This section compares recent ownership and rental market data for Berthoud and five neighboring communities, with additional comparative data from 2017 and 2022 provided in Appendix D.

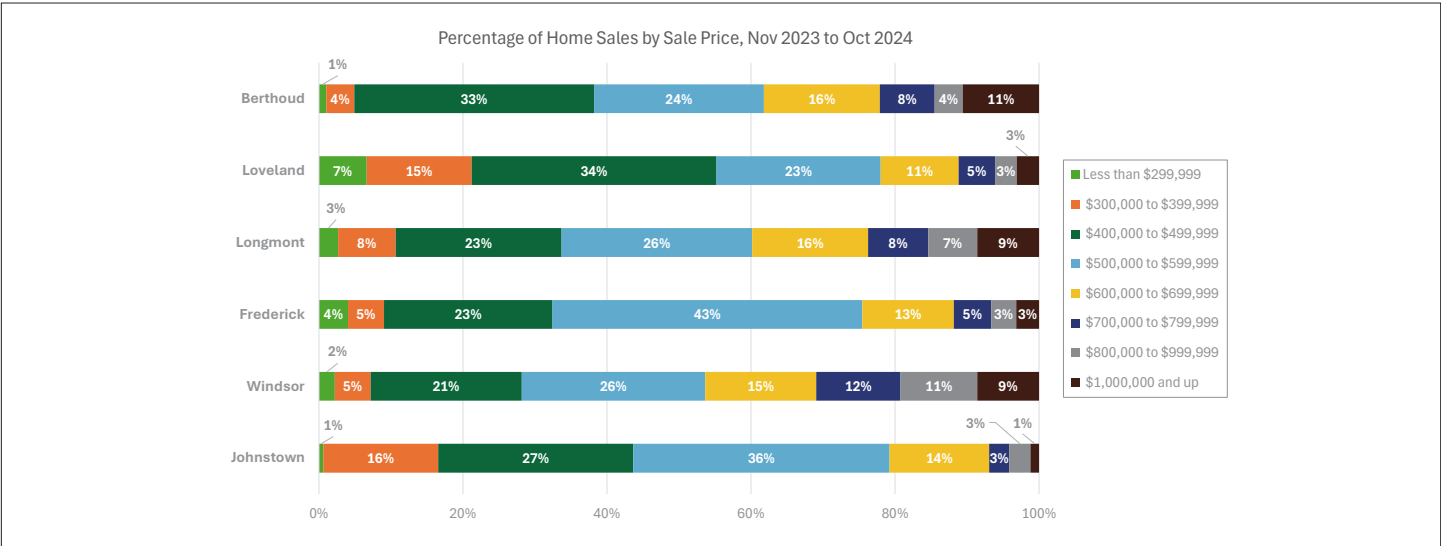
Regional Ownership Market

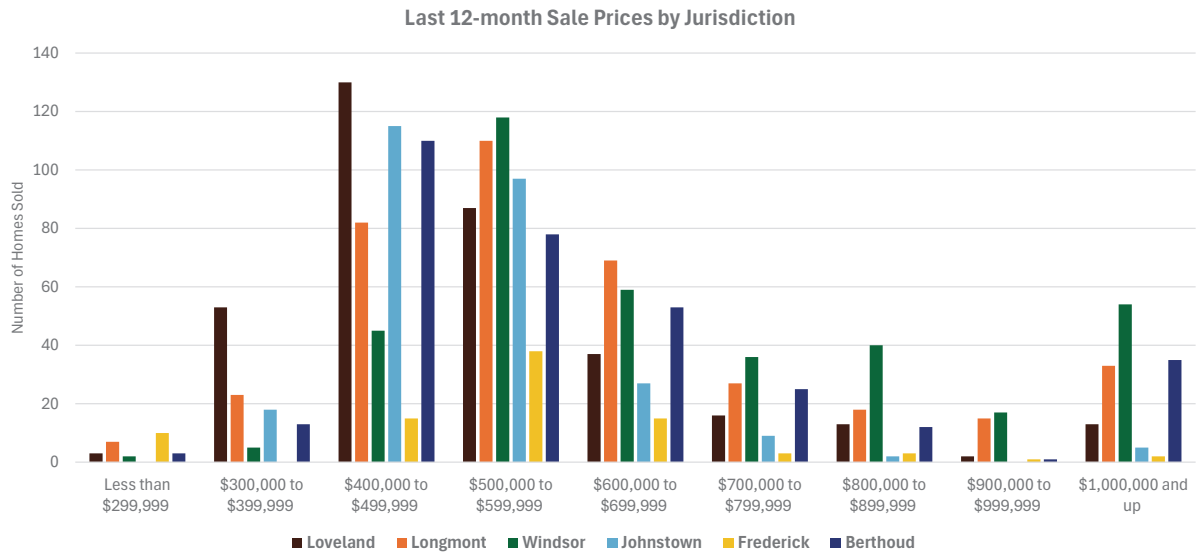
Over the past 12 months, home sale prices in Berthoud have been significantly higher than those in nearby communities. The table compares sale prices for the last 12 months and current market for-sale listings. On average, homes in Berthoud sold for \$133,755 higher than Longmont (\$563,454) and \$299,895 more than Windsor (\$639,500).

It is instructive to compare the proportion of home sales by price range. The first table shows the proportion of home sales by price range over the last 12 months for each community, and the second table shows the counts by price range. For homes sold under \$400,000, Loveland and Johnstown had the largest proportion with 21% and 17%, respectively, while this range accounted for only 5% of Berthoud’s sales. Forty-seven percent of Windsor’s homes sold for over \$600,000 and 38% of Berthoud’s homes. Given its smaller size, even though Berthoud had the smallest number of sales in the last 12 months, it had the highest percentage (11%) of homes sold for over one million.

Regional For Sale Market Comparison - Recent Sales vs. Active					
	Housing Units	Avg sale price	Price / sq ft	Avg sq footage	Avg bdrm count
Berthoud					
12-month sales	330	\$ 697,209	\$ 249	2797	3
Active listings	151	\$ 939,395	\$ 312	3012	3
Loveland					
12-month sales	1,359	\$ 491,011	\$ 225	2,192	3
Active listings	354	\$ 499,000	\$ 244	2,038	3
Longmont					
12-month sales	1,280	\$ 563,454	\$ 271	2,145	3
Active listings	384	\$ 549,500	\$ 273	2,023	3
Windsor					
12-month sales	859	\$ 546,500	\$ 208	2,832	4
Active listings	51	\$ 639,500	\$ 221	3,192	4
Johnstown					
12-month sales	505	\$ 511,500	\$ 206	2,503	3
Active listings	273	\$ 505,000	\$ 247	2,083	3
Frederick					
12-month sales	346	\$ 530,000	\$ 245	2,108	3
Active listings	87	\$ 543,952	\$ 231	2,190	3

Source: Redfin, October 18, 2024





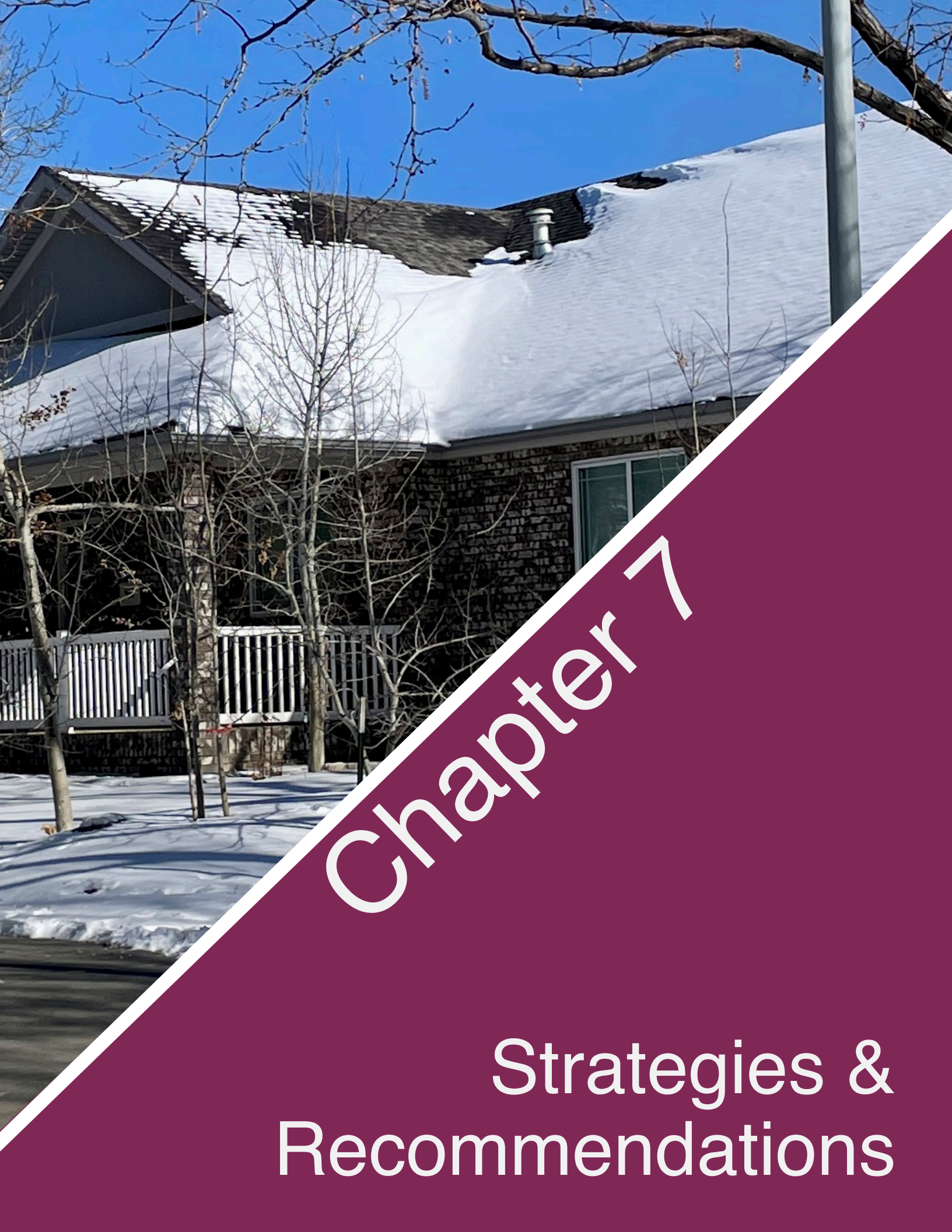
Regional Rental Market

For rental listings, the following table shows all active rental listings on October 10, 2024. The 278 active rental listings have an average list price of \$2,267 and square footage of 1,782. According to the 2024 Larimer County AMI income limit tables, \$2,267 is slightly higher than the maximum rent for a 1-bedroom unit for a household earning 100% of the AMI, and it would be out of reach for households earning less without becoming cost-burdened. The current rental homes tend to be larger, with the average number of bedrooms higher than two, leaving fewer 1-bedroom rentals that may appeal to seniors or young professionals. Comparing the six communities, the highest rental prices and largest rental homes are in Windsor, followed by Frederick and Johnstown.

For Rent Listings by Jurisdiction					
Jurisdiction	# Listings	Avg Rental List Price	Bedrooms	Sq Ft	Days on Market
Berthoud	8	\$2,181	2.6	1,831	24
Loveland	100	\$1,865	2.4	1,399	37
Longmont	116	\$2,026	2.4	1,392	29
Windsor	28	\$2,635	4.0	2,283	30
Johnstown	17	\$2,348	3.1	1,741	20
Frederick	9	\$2,549	3.0	2,044	24

Source: Redfin, October 18, 2024

Refer to Appendix D for additional regional comparative data.



Chapter 7

Strategies & Recommendations

This section provides a framework for understanding the range of approaches to addressing housing attainability and affordability in Berthoud. It is essential for any community to recognize that a municipality cannot achieve its housing goals alone. This challenge extends beyond local boundaries and resonates as a shared concern regionally and nationally. The most effective approaches are usually multi-faceted, not one-size-fits-all or quick-fix solutions, and are implemented strategically to harness resources, partnerships, and the political will of communities. Berthoud must leverage its private sector and nonprofit organizational partners by fostering coordination, cooperation, and regular collaboration.

Prioritized by Berthoud’s Housing Diversity Plan Steering Committee, the strategies support the goals of Berthoud’s Comprehensive Plan and its commitment to Proposition 123. This range of options provides high-level guidance for considering approaches that exist in common practice within and outside Colorado. Each strategy includes: 1) description, 2) considerations for the Berthoud context, and 3) relevant community examples. These strategies do not suggest that Berthoud can solve all problems or that any one strategy is more suitable than another, but they are intended to drive meaningful change.

In February 2025, the Steering Committee further prioritized the strategies and action steps by breaking them down into short-term and medium- to long-term strategies to recommend to the Board. This breakdown is provided in the sections below. The project team and Steering Committee also evaluated the feasibility of a transfer of development rights program and density bonus program. Since the Town’s code already allows great flexibility for additional density, it was determined that these programs are not likely to succeed in Berthoud.

The strategies are set up to form a strategic action plan for the Town, which was further developed in a collaborative workshop with the Steering Committee. The action plan is incorporated as Appendix A to this report. In addition to the strategies proposed, the project team performed a code audit of Berthoud’s current land use code and recommended possible updates to further support the Town’s housing affordability goals. As Berthoud plans for future housing development, it is essential to evaluate and incorporate water conservation and energy efficiency goals into each of these strategies to ensure sustainable growth and long-term resource management.

Strategies Previously Implemented

While considering strategies for addressing housing affordability challenges in Berthoud, it is important to emphasize what Berthoud has already accomplished to start addressing these challenges. The Town of Berthoud has adopted more than one of DOLA’s qualifying strategies (included in Appendix E) in its current land use code to further the vision and goals of the 2021 Comprehensive Plan. The Town’s current code includes the following strategies:

Qualifying Strategy	Berthoud Current Code
Affordable housing as a use by right in residential zoning districts	Duplexes use-by-right in R1 and R2 residential districts.
ADU use by right in single family zoning districts	ADU allowed in single-family districts

Qualifying Strategy	Berthoud Current Code
Allow small square footage residential unit sizes	Smaller lot sizes are allowed in the residential zone districts ranging in size from 1,200 sq. ft. up to 3,500 sq. ft. Additionally, the code requires a mix of lot types and small square footage residential unit sizes is one option for developers to consider.
Expedited development review for affordable housing up to 120% AMI	While not tied strictly to affordable housing, the application and review processes have been designed to expedite the process for some site plans by being an administrative review process.
Expedited development review for acquiring or repurposing underutilized commercial property	There are no specific regulations related to this strategy.
Housing Diversity (“Other novel, innovative, creative approaches”)	A mix of permitted housing types shall be included in any individual development plan to promote housing diversity with the following minimum standards: ▷ Two types for 20+ acre development ▷ Three types for 30+ acre development ▷ Four types for 50+ acre development ▷ Any development with 100+ single-family detached homes

Short-term Strategies

The following strategies were prioritized by the Steering Committee as having the most immediate impact to meet Berthoud’s housing goals. These can be pursued while still working towards the necessary steps for the medium- to long-term strategies.

1. **Create Expedited Development Review Process:** Develop an abbreviated development review process for the subdivisions incorporating at least 50% of affordable and attainable housing into their plans (State parameters). Develop a development review guidebook to better educate developers on the process, including streamlined application materials process flows.
2. **Amend Development Code Design Standards 30-2-116:** To encourage greater housing diversity at a variety of points in new developments, strengthen the housing diversity code to include a specific percentage of each housing type within the lot diversity requirement.
3. **Broaden Ordinance 847:** This ordinance currently allows the Board to waive a portion of fees for the development of a maximum of two houses per year to build affordable homes. Expand this ordinance to align with the goals of Berthoud’s Proposition 123 commitment of 13 homes per year.

4. **Consider Housing Consortium:** To continue the momentum created by the Housing Steering Committee during development of the Housing Diversity Plan, create a Berthoud Housing Consortium comprised of two Trustees, two Planning Commissioners, and our key housing partners. The group will meet quarterly and report back to the Board on the progress on the housing strategy progress. There is no intention to create a Berthoud Housing Authority.
5. **Develop Community Education on Housing Affordability:** In order to help demystify misconceptions about affordable housing and the Berthoud community members that would benefit from it (e.g. teachers, nurses, police officers, etc.), develop educational materials to educate residents and partners and organize events to engage the community. This effort could be led by our local housing partners.
6. **Begin Land and Water Banking Research:** Given the lengthy process to implement this valuable development tool, the Steering Committee recommends the initial research component of this strategy be started in the short-term.

Long-term Strategies

The following long-term strategies were prioritized by the Steering Committee as recommendations for Berthoud to consider pursuing to address housing affordability goals.

Inclusionary Zoning Ordinance

Description

Inclusionary zoning ordinances are an increasingly prevalent tool to address housing affordability issues and to promote mixed-income communities and housing diversity. The ordinance specifies a certain percentage of affordable housing units that a developer should or must include within new market-rate residential developments, designated for specific AMI ranges, as a condition for obtaining approvals and building permits. The requirements can apply to rental or for-sale development, or both, and be voluntary or mandatory. Recognizing that it is not always feasible to include affordable on-site units within market-rate projects, some mandatory ordinances allow developers to choose among alternatives, such as payment of an in-lieu fee or provision of affordable off-site units in another project.

Incentives are a component in many, but not all, inclusionary housing programs to encourage developers to build affordable units by offsetting some of the development cost of providing these units. The most common incentives for these ordinances include density bonuses or other zoning waivers, such as reducing site development standards or architectural design requirements and the reduction of parking requirements. Financial incentives outlined in the previous section are less commonly used incentives. If the program is voluntary, providing valuable incentives, such as the right to build higher density, is most important.

- ▶ Berthoud should carefully consider the staffing needs to manage such a program and work to reduce the administrative complexity of the program to maintain efficiency.
- ▶ A feasibility study may be considered to provide a clearer sense of the impact of inclusionary housing requirements on development profits and land prices.

► Two, among many, possible options to consider:

- Option 1 – Adopt a mandatory or voluntary inclusionary housing ordinance with a certain percentage of affordable units for new developments. One possibility is to make it mandatory for both new rental developments and optional for new for-sale developments.
- Option 2 – Modify the current housing diversity requirement to not only define how many housing types are required, but also to define a certain % of non-single-family home product types that must be included in a development. The rates under the current regulations can also be reduced to capture smaller developments.

Community Examples

Longmont. Its Affordable Housing Program (adopted in 2018) requires all new residential developments to include permanently affordable units. Incentives for the projects that meet the minimum requirements include fee waivers, density bonuses, reduced parking, and increased building height. Projects exceeding the minimum affordability requirements may qualify for City subsidies on water and sewer system development and partial offsets for raw water cash-in-lieu fees. Developers have other options to meet the requirements of the program, including paying a fee-in-lieu, building affordable housing in another location, or donating land to the City or a nonprofit affordable housing developer.

Tenure	% of Units	Income Qualified	Deed Restricted
Rental	12%	≤ 50% of the AMI	Yes
For-Sale	12%	≤ 80% of the AMI	Yes

Broomfield. Its inclusionary housing requirements (adopted in 2020) apply to new residential developments containing 25 or more for-sale residential units or containing more than 5 units of residential units marketed primarily as “rental” housing. The other options for meeting the requirements include providing affordable units at another site, developing an alternative agreement with approval by the City Council, or fee-in-lieu. The fee-in-lieu option was designed with a phased increase in the first three years after adoption. By year three, the fee will be \$106,635 for rental development and \$165,669 for for-sale development.

Tenure	SF/Duplex (1-2 units per foundation)	Townhome/Rowhome (3-9 units per foundation)	Multifamily (10+ units per foundation)
Rental	20% units @ 80% AMI	20% units @ 70% AMI	20% units @ 60% AMI
For-Sale	12% units @ 100% AMI	12% units @ 90% AMI	12% units @ 90% AMI

Superior. Its inclusionary housing requirements (adopted in 2020) dictate that all new residential developments of 10 units or more have 15% of the units as deed restricted to serve households making up to 80% AMI. There are no incentives available to developers. Superior offers a fee-in-lieu option, and the fees are used by the Town for the purpose of planning for, subsidizing, or developing affordable housing. Affordable housing developments may be exempt from all or part of the requirements if the Town determines that the affordable housing development meets or exceeds the standards.

Housing Incentives

Description

In many communities, it can be difficult to finance and develop affordable and attainable housing types, and the development process can be particularly challenging in environments where land is often more costly, and neighborhood opposition can derail a project. Local governments may find that additional incentives, in the form of fee waivers and land development incentives, are needed to encourage this type of development.

Incentives can be awarded case-by-case or universally for projects meeting specific criteria, such as specific locations within the community and/or meeting specific attainable housing goals by constructing a certain number of units or a percentage thereof. While a case-by-case approach allows tailored packages, it reduces predictability and may hinder the development of attainable and affordable housing. To improve predictability and minimize political influence, jurisdictions can publish a clear list of incentives linked to desired housing goals and outcomes.

Incentives can be grouped into two types:

1. **Land development incentives:** No density limit, density bonus, increased building height, reduced setbacks or landscaping standards, reduced or flexible parking requirements, lot size and width reductions.
2. **Financial incentives:** fee waivers or deferrals, subsidies for infrastructure and/or impact fees, offsets for cash-in-lieu of raw water deficits (requires backfilling budgets).

Considerations for Berthoud

- Berthoud should decide which financial incentives could be feasible, since some cannot be waived, such as water dedication requirements.
- Consider which housing type(s) these incentives will be designed to encourage since the targeted housing type(s) will dictate the incentives that are most likely to be effective.
- Consider if eligibility criteria are limited to certain locations only. For example, areas targeted for development in the comprehensive plan, locations surrounding transportation nodes, or portions of residential areas along busier arterials.
- If an inclusionary zoning ordinance is considered for Berthoud, the fee-in-lieu funds could be used to offset and backfill these waivers and deferrals.

Community Examples

Loveland. The City of Loveland provides incentives for for-rent and for-sale projects with an affordable housing designation. These include fee waivers, design flexibility, expedited reviews, and reduced parking requirements. The level of incentives depends on the level of affordability provided by the project, with more incentives for those targeting 60% AMI or below. Additionally, for-sale projects must commit to a 20-year deed restriction, while multifamily projects require a 50-year deed

restriction to gain the affordable housing designation.

An important note about deed restrictions: in most instances, they do not hinder a for-sale project from earning equity for the homebuyer/owner, but it may grow at a lower rate than that of a market rate product to maintain affordability for the next buyer.

Longmont. As part of the inclusionary zoning ordinance, Longmont's incentives include partial fee waivers, density bonuses, and reduced parking requirements. Projects exceeding standard affordability requirements may also qualify for subsidies on water and sewer system development and partial offsets for raw water cash-in-lieu fees.

Fort Collins. Fort Collins grants certain development incentives to for-rent projects where at least 10 percent of units are affordable at or below 80 percent of the AMI, and for-sale units are affordable at or below 80 percent of the AMI. These incentives include fee credits, impact fee delays, a density bonus, and priority development review and permit processing.

Dedicated Funding to Subsidize Housing Affordability Projects

Description

A dedicated revenue source for affordable housing provides an ongoing committed stream of funding for affordable housing, often deposited into an Affordable Housing Fund. While the amount of funding raised can fluctuate from year-to-year, a dedicated source can help increase the total funding available for affordable housing and reduce the risk associated with reliance on annual appropriations decisions. Popular examples of dedicated revenue sources include a percentage of real estate transfer tax or document recording fee revenues, developer fees (such as linkage fees), proceeds from permit fees, taxes on legalized medical or retail marijuana, taxes or fees on luxury housing, and taxes or license fees on short-term rentals.

Establishing a new dedicated revenue source for housing affordability projects is a long-term effort that requires strong leadership and a substantial commitment of time and energy. This process involves identifying who will pay for the new tax or fee, how much, and through which activities. Local jurisdictions often find community partners who can help lead the campaign, including those who can mobilize a strong and vocal network of supporters.

Most affordable housing funds focus on the development of new affordable housing and not on the preservation of Naturally Occurring Affordable Housing (NOAH). With most communities in the U.S. losing NOAH at a faster rate than can be replaced due to the long timelines for new development and fewer robust federal programs for affordable housing preservation, the impact of these investments can help fill a key gap in the affordable housing stock.

- ▷ In addition to some new construction, an affordable housing fund could consider taking on NOAH preservation-based projects to maximize its impact. Investing in these preservation projects has advantages because it prevents immediate displacement of households and has a shorter timeline than new development.
- ▷ Consider potential collaborators, both investors and developers, which bolsters the fund's success. Being well-connected in the regional affordable housing ecosystem will enable Berthoud to make an impact more rapidly when opportunities arise. For example, strong relationships with local housing agencies can move projects forward more quickly.
- ▷ Consider the political will of the community to support a sales tax allocation to provide initial funding for a certain number of years. It may also be helpful to identify a local elected official who will champion the cause and sponsor a local ordinance, resolution, or piece of legislation.
- ▷ Evaluate grant and funding sources to help support the program.

Community Examples

Loveland. In 2017, the Community Housing Development Fund (CHDF) was initially funded by a one-time contribution of \$400,000 from the Council Special Projects Reserve. During 2018-2019, it was funded by a dedicated allocation of 1.25% of sales tax for use on affordable housing initiatives. Starting in 2020, an annual allocation of \$450,000 is planned in perpetuity. Funds are appropriated by Council as needed to support affordable housing and homelessness projects. CHDF is managed by the Community Partnership Office in the City Manager's Department.

Longmont. Funded locally, Longmont's Affordable Housing Fund (AHF) allocates \$1.1 million annually to support the construction and preservation of affordable rental housing, with a particular focus on units affordable at or below 40 percent of the AMI. The Longmont AHF is funded through a combination of General Fund dollars and one-half of the marijuana sales tax. Funds must be repaid, with all repayments returned to the Fund for future re-lending.

Fort Collins. Started in 2015, the Fort Collins Affordable Housing Capital Fund is funded through a portion of a quarter-cent sales tax, which will be sunset in 2025. The fund generates approximately \$400,000 annually and can be used to subsidize site acquisition costs, soft costs, relocation expenses, construction costs, and rehabilitation costs on affordable housing projects. Each year, the City of Fort Collins allocates funding through a competitive process for housing and human service projects and agencies.

Expedited Review Processes

Description

Across Colorado and the nation, communities are re-evaluating their development review processes to increase efficiency, transparency, and predictability. This effort often focuses on removing redundancies, clarifying application requirements, and streamlining decision-making through administrative approvals where appropriate. The goal is to balance the need for thorough review with the growing demand for timely project approvals, particularly for affordable housing.

For communities like Berthoud that have opted into Proposition 123, establishing an expedited review process is not just a best practice—it's a statutory requirement. This process mandates a decision on qualifying affordable housing projects within 90 calendar days of receiving a complete application. Meeting this requirement calls for intentional adjustments to the development review process, such as:

- ▶ Clear application checklists and criteria to reduce back-and-forth and ensure applicants understand submission expectations upfront.
- ▶ Detailed pre-application or concept meetings to address potential issues early and establish a clear pathway for formal applications.
- ▶ Shortened review timeframes to keep projects on track while maintaining quality assurance.
- ▶ Consolidated or parallel reviews to avoid delays caused by sequential evaluations.
- ▶ Adjusted decision-making practices, including the delegation of specific approvals to staff-level review when appropriate.

These improvements not only align with statutory obligations but also help foster a more collaborative and efficient process, encouraging the development of diverse housing options that meet community needs.

Considerations for Berthoud

- ▶ Staff and the community have already taken significant steps to streamline the development process, including adopting administrative decision-making for site plan applications and reducing the number of public hearings for subdivision processes. These changes have provided greater clarity and removed unnecessary procedures, setting a strong foundation for further refinement.
- ▶ The Development Code and online resources managed by the Planning Department already outline detailed submittal requirements and workflows for applications. Expanding and refining these resources can further support applicants and ensure consistency in the review process.
- ▶ To meet statutory requirements for expedited review under Proposition 123, the Town should consider adopting a policy resolution that formalizes staff guidance and reinforces the Town's commitment to completing the review process – from application completeness to a decision – within 90 calendar days. This policy can serve as a framework for collaboration between the Town and the development community, fostering trust and shared expectations
- ▶ The Town should create a specific workflow with supporting application materials for affordable housing projects eligible for the expedited review process. This initiative would ensure clarity for applicants and streamline the steps needed to meet statutory deadlines while maintaining quality and transparency.

Community Examples

Fort Collins. The City's expedited process includes prioritization by staff to complete eligible affordable housing project reviews within two weeks for each submittal/resubmittal. This along with clear checklists and application workflows helps ensure clarity in the process and a collaborative

partnership approach with eligible applicants.

Windsor. Much like Berthoud, Windsor has developed a robust set of tools and resources to help guide an applicant in submitting a complete application, including checklists, process workflows, applications, and submittal requirements. The staff-level concept review process is similar to the Town's pre-application process and allows an applicant to have their preliminary plan reviewed and discussed by the Town's core review team.

Multiple Colorado Communities. Many communities are working to either develop a specific affordable housing development review process within their current regulations or are working to adopt a policy to solidify their commitments to meeting the statutory requirements of Proposition 123 that must be in place by January 2026. By adopting a resolution and policy, many communities can administratively create workflows and application materials to guide an applicant through the process.

Enterprise Fund Waivers, Reductions, and Deferrals

Description

This strategy focuses on harnessing market momentum and the development industry's expertise in delivering supply-driven housing solutions. Various development-based approaches, like those outlined below, are commonly implemented, with many communities adopting a combination of these strategies.

Fee Waivers or Reductions: Recognizing that off-setting development cost is critical to incentivizing affordable housing development, municipalities may choose to waive or reduce specific fees. These may include development impact fees, building permit fees, or other fees. This offers clear benefits when fees are high, but municipalities must also backfill the lost revenues through other sources.

Fee Deferrals: Deferrals take advantage of the time value of money by postponing costs within the development cash flow, reducing the duration that upfront equity is needed to cover fees. This approach is particularly effective for addressing upfront costs, such as fees, which typically require equity with a high rate of return. By shortening the time equity remains invested, the required return on that initial investment is minimized. For deferrals, regulations need to specify when payment of deferred fees is required (e.g., when permanent financing is secured, when a certificate of occupancy is issued, etc.), as well as any penalties associated with failure to deliver the affordable units within the promised timeframe.

Considerations for Berthoud

- Berthoud's Ordinance No. 847 promotes homeownership for persons of lower incomes. This Ordinance gives the Board of Trustees the authority to waive any or all fees for a maximum of two homes per year. The Town could consider expanding the program to more houses per year in partnership with Habitat for Humanity.

- ▷ Consider the process of granting the fee waivers or reductions and deferrals such that it is not administratively burdensome for the Town. In addition, it should not make the development process and associated costs less transparent and predictable for developers, as developers need a clear picture of development costs to develop an accurate project budget.
- ▷ Establish clear criteria for evaluating developments and what the waivers or reductions may apply to. For example, how to handle mixed-use development, or if waivers apply to all units in the development or only the ones that meet the affordability criteria.

Community Examples

Fort Collins. Written requests are required for affordable housing fee credits. Written requests must contain the following and should be discussed with the project's Development Review Coordinator.

Loveland. The City of Loveland may offer fee waivers for both for-rent and for-sale projects granted an affordable housing designation. The exact level of incentive depends on the level of affordability provided by a project.

Land Banking with Water Banking

Description

Publicly owned land is a valuable tool for developing affordable housing. A land bank is an organizational structure for strategically acquiring, holding, managing, and sometimes redeveloping property in service of community goals, such as increasing affordable housing or stabilizing property values. Water banking can be incorporated into land banking by acquiring land with secure and sustainable water rights or strategically developing water resources alongside the land holdings. Land banks can be government supported, quasi-governmental or independent non-profit organizations. Local governments often work very closely with land banks to identify land that can be used to create more options for housing or to address a community need.

Land banks traditionally convert vacant, abandoned, or tax-delinquent properties into productive use, but they can also obtain land through municipal government transfers, donations, or open-market purchases. For affordable housing, they focus on acquiring and holding land for 5 to 15 years with the intent to develop later by leveraging future market conditions like rising land costs. Revenue from the sale of a land bank asset can fund further property acquisitions for development.

Considerations for Berthoud

- ▷ As a high-cost community, Berthoud has fewer tax delinquent properties to purchase at low cost which will make the acquisition cost much higher.
- ▷ There may be an opportunity for Northern Colorado Habitat for Humanity organizations and their partners to come together to create a land bank to serve the region. This was done in Dallas to create the Dallas Land Bank, a governmental entity run by the Dallas Housing and

Acquisition Development Corporation that acquires properties for the development of single-family homes and multifamily rental buildings, along with commercial development.

Community Examples

Fort Collins. The Land Bank program is Fort Collins' only long-term affordable housing tool. Between escalating land prices and the realities of a fixed Growth Management Area (GMA), this program ensures land will be available in the future to increase the stock of affordable housing units. The strategy is to acquire sites currently lacking infrastructure, which lowers the price, and then wait until development occurs. As surrounding projects construct the utilities and streets, in theory, the Land Bank property will be less expensive to develop in the long run. As of 2021, the land bank had acquired six total sites and has sold one to Housing Catalyst (the Fort Collins Housing Authority) for the development of 96 permanently affordable apartments. Most of these properties have been held past the suggested minimum level of maturity for the program (five years).

Urban Land Conservancy (ULC). Founded in 2003, the ULC is a nonprofit that acquires and preserves land to preserve the affordability of future developments for long term community benefit. ULC has invested in more than 50 properties for community benefit in Denver and throughout the Front Range.





Appendices

Sources

A variety of sources of published information were used in the preparation of this report, including but not limited to:

U.S. Census Bureau

- 2010 Decennial Census
- 2020 Decennial Census
- 2018-2022 American Community Survey
- 2013-2017 American Community Survey

U.S. Bureau of Labor Statistics

Town of Berthoud, Colorado

- Berthoud Code of Ordinances (2024)
- Comprehensive Plan (2021)
- Transportation Plan (2021)
- Mountain Avenue Plan (2019)
- First Street Corridor Plan (2023)
- Future Land Use Map (2021)
- Architectural Design Guidelines (2021)
- Landscape Design Guidelines (2023)
- Town of Berthoud new residential building permits, January 2000 to August 2024

Loveland Housing Authority Regional Housing Study (2021)

Larimer County Housing Needs Assessment (2021)

Colorado State Demography Office

- Population estimates for July 1, 2023
- 2022 Population Summary Report
- July 2023 Municipal estimates

2024 Area Median Income from Colorado Housing and Finance Authority (CHFA) and U.S. Department of Housing (HUD)

Larimer County Assessor Records

Weld County Assessor Records

Current MLS listings, recent home sales and historic sale trends: [MLS.com](https://www.mls.com), [Redfin.com](https://www.Redfin.com), [Zillow.com](https://www.Zillow.com)

Appendix A: Strategic Action Plan

APPENDIX A

Strategic Action Plan

Berthoud 2025 Housing Diversity Plan

The Strategic Action Plan is a detailed, step-by-step guide for putting the strategies and goals outlined in the Housing Diversity Plan into practice. This is meant to be a dynamic document that will be revised and changed over time as the Town works through the implementation steps and as prioritization shifts over time. The plan provides a way to identify specific actions, timelines, responsible parties, partners, and expected outcomes. It will be used by the Town, its partners, and stakeholders to ensure accountability, track progress, and secure necessary resources for each initiative.

SHORT-TERM STRATEGIES						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
1. Create Expedited Review Process a. Develop an abbreviated development review process for the subdivisions incorporating at least 50% of affordable and attainable housing into their plans (State parameters). b. Develop a development review guidebook to better educate developers on the process, including streamlined application materials process flows. c. See Expedited Review Process table below for additional actions.						
2. Amend Development Code Design Standards 30-2-116 a. Diversity % requirements (i.e. 50% housing of type 1; 25% housing of type 2; 25% housing of type 3) b. Require % Attainable product per Prop 123 OR if a development proposed a certain % of homes and agrees to partner with a non-profit home builder, then the whole development can by-pass the public hearing portion of the Preliminary Plat as their incentive c. See Development Codes and Standards table below for additional actions to consider.						
3. Broaden Ordinance 847 a. Research what other communities do b. Increase to 14/year (or other number) to meet the Prop 123 commitment. 5-10% of previous year's # of building permits						

SHORT-TERM STRATEGIES					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
c. Application for relief can be requested at the time of building permit application d. 10-year minimum deed restriction e. See Funding Programs table below for additional actions to consider.					
4. Consider Housing Consortium a. Define structure: two Trustees, two Planning Commissioners, two housing partners b. Meet quarterly and report back to the Board on progress. c. See Strategic Partnerships below for additional actions to consider.					
5. Develop community education on affordability a. The goal is to demystify misconceptions on affordable housing b. Develop educational materials c. Leverage housing partners for events to engage the community d. See Strategic Partnerships below for additional actions to consider.					
6. Begin Land and Water Banking Research a. Research case studies from other communities b. Identify funding stream c. Identify partners and legal parameters d. Develop partnerships with local builders/developers and non-profits e. See Land and Water Banking below for additional actions to consider.					
7.					

INCLUSIONARY HOUSING ORDINANCE					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
8. Research and Initial Planning					

INCLUSIONARY HOUSING ORDINANCE						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
a. Conduct a comparative analysis of inclusionary zoning ordinances in similar communities. b. Identify appropriate affordability thresholds and housing targets specific to Berthoud.						
9. Fee Structure Analysis a. Calculate fees or contributions using local cost estimates and comparable communities. b. Determine whether in-lieu fees will fund affordable housing directly or through partnerships.						
10. Stakeholder Engagement a. Host workshops with elected and appointed officials to gather input. b. Engage with local developers and community partners to ensure buy-in and address concerns.						
11. Develop Ordinance a. Create draft ordinance language tailored to Berthoud's housing market and legal framework. b. Incorporate options for land dedication, unit allocation, fee-in-lieu, and/or other incentive considerations. c. Present draft for final stakeholder input.						
12. Ordinance Adoption and Implementation a. Present the ordinance for formal adoption by the Town Board. b. Develop an implementation timeline, including monitoring and enforcement mechanisms.						
13. Conduct Organization/Department Assessment a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing strategy. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs to implement and manage. d. Develop position, job description e. Pursue grant programs that support housing support staff						

INCLUSIONARY HOUSING ORDINANCE						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
14. Leverage external partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.						
15.						
FUNDING PROGRAMS FOR ATTAINABLE AND AFFORDABLE HOUSING						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
1. Inventory Current Programs a. Identify existing waivers and reductions in town policies and educate staff on what is available. b. Outline gaps in current programs related to attainable / affordable housing goals. c. Evaluate the intended goal(s) and objectives of adding housing incentives in Berthoud.						
2. Research and Recommendations a. Research and compile best practices of like communities for housing incentives. b. Evaluate the financial feasibility of implementing enterprise fund waivers, fee reduction, and fee deferrals (including expanding ordinance 847). c. Evaluate the potential impact of each incentive on the development community and its ability to achieve the desired housing goals. d. Outline recommendations for new incentives or revisions to existing incentives to achieve desired housing goals.						
3. Implement and Evaluate a. Following formal adoption, educate the development community on new or revised offerings. b. Continually assess the intended outcome of the new and/or revised incentives to determine level of success and areas for refinement.						
4. Conduct Organization/Department Assessments a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff						
5. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.						
1. Fee Study						

FUNDING PROGRAMS FOR ATTAINABLE AND AFFORDABLE HOUSING						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
a. Conduct a feasibility study for introducing or adjusting housing impact fees as either standalone fee or tied to an inclusionary housing ordinance. b. Consider aligning fees with home size and affordability criteria, for projects not allocating affordable units or land.						
2. Stakeholder Outreach a. Facilitate discussions with local development community and officials to educate on intended approach and outcomes.						
3. Develop Policy and Implement a. Draft resolutions/ordinances as appropriate to establish funding source as part of housing program. b. Create a process for collecting and allocating funds to housing projects. c. Educate development community and partners of new program requirements.						
4. Conduct Organization/Department Assessments a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff f. Implement onboarding and training for staff success.						
5. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.						

EXPEDITED REVIEW PROCESS						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
1. Analysis and Assessment a. Review Proposition 123 guidelines for expedited review processes requirements. b. Conduct an internal assessment of current review processes to identify existing timelines, challenges, and opportunities (including administrative review options). c. Evaluate feedback from developers and stakeholders on current review processes to identify areas for improvement. d. Gather best practices from other municipalities that have successfully implemented expedited review processes to determine best fit and approach for Berthoud.						
2. Code Review and Alignment with Proposition 123 Guidelines a. Identify and review existing regulations that impact the review process for affordable housing projects in alignment with Proposition 123 eligible project types. b. Draft proposed changes to align with Proposition 123 requirements (decisions are made within 90 calendar days of a complete application, optional extensions as a tool for draft regulations, etc.) c. Determine appropriate approach for Berthoud for adoption of the expedited review process either through regulations in the code or as an adopted policy of the town. d. Draft policies or regulations establishing expedited review process in alignment with Proposition 123 requirements. - e.						
3. Draft Review a. Present draft regulations or policies to the Planning and Zoning Commission and Board for review and to answer questions regarding Proposition 123 requirements. b. Share information with community partners as appropriate to inform them of the changes and process options for developing affordable housing.						
4. Implementation a. Finalize and present for adoption the revised regulations and/or policies.						

EXPEDITED REVIEW PROCESS						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
b. Develop and distribute educational materials and resources to inform community partners and stakeholders about the new expedited review process. c. Develop internal checklists or workflows to ensure clarity in process and consistency in administering the expedited review process. d. Train staff on the new procedures to ensure consistent and efficient implementation. e. Optional: Establish a dedicated team or point of contact to manage expedited review applications and ensure timely processing.						
5. Evaluation a. Define key performance indicators to measure the effectiveness of the expedited review process. b. Regularly assess the impact of the new process on affordable housing development and make adjustments as needed. c. Report findings and progress to community partners and DOLA to ensure reporting requirements are met. d. Keep decision-makers informed on progress, understanding projects can take multiple years to have effective documentation.						
6. Conduct Organization/Department Assessment a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description. e. Pursue grant programs that support housing support staff. f. Implement onboarding and training for staff success.						
7. a.						

DEVELOPMENT CODES AND STANDARDS EVALUATIONS AND UPDATES						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
1. Ongoing Annual Code Evaluation a. Conduct annual review of existing regulations and engineering standards to identify unintended barriers to the development of affordable/attainable housing. a. Evaluate year-round feedback from the development community regarding regulations and standards for practical update considerations. b. Establish a timeline for the annual review process and roles and responsibilities of staff to ensure consistency.						
2. Draft Regulation Updates a. Draft proposed revisions to address barriers. b. Engage with local development community and partners to evaluate proposed changes and unintended impacts. c. Propose draft regulations during a Work session with appointed and elected officials to receive input. d. Depending on the nature of the updates, develop an outreach approach to gather community feedback on the updates.						
3. Adoption and Implementation a. Prepare supporting documentation and educational resources on what the revisions do and what they do not do to inform the public and officials. b. Present revisions for recommendation and adoption by appointed and elected officials. c. Roll out updated regulations and update necessary forms and handouts as appropriate. d. Train staff and stakeholders on new updates to ensure an effective implementation of the new regulations or standards.						
4. Evaluation a. Define a time threshold from new code implementation to code evaluation that allows enough time to adequately assess its impact before suggesting revisions (generally, several years). a. Following the roll out of updated regulations, assess their intended and unintended impacts on the underlying community goals and consider adjustments if necessary.						

DEVELOPMENT CODES AND STANDARDS EVALUATIONS AND UPDATES						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
b. Develop key performance indicators to measure the effectiveness of the new regulations and report findings to management and the Board.						
5. Conduct Organization/Department Assessment a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description. e. Pursue grant programs that support housing support staff. f. Implement onboarding and training for staff success.						
6. a.						

LAND AND WATER BANKING PROGRAM						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
1. Create Policy Framework and Goals a. Develop a comprehensive policy outlining the purpose, goals, and mechanisms for land and water banking. Include how it relates to affordable housing. b. Identify the specific objectives (e.g., supporting affordable housing, preserving land for public uses, etc.). c. Determine eligible properties (e.g., vacant, underutilized, with/without water rights) and prioritization factors. d. Consider land dedications as one consideration of the inclusionary ordinance to facilitate land banking for affordable housing partnerships. e. Establish a timeline for policy development and stakeholder engagement to ensure timely progress.						
2. Draft Policy and Procedures a. Include processes for acquisition, maintenance, and disposal of banked land. Specify mechanisms for partnerships with developers and non-profits. b. Discuss draft policy with community partners and stakeholders for input. c. Present the draft policy to the Board for review and feedback.						
3. Policy Adoption a. Present the final policy to the Board for adoption. b. Create an implementation guide to assist staff and community partners in understanding and applying the new policy.						
4. Inventory and Feasibility Assessment a. Conduct a detailed inventory of existing town-owned, vacant, and underutilized land and assess its suitability for banking activities. b. Evaluate water rights, zoning, and infrastructure needs. c. Map potential sites and their attributes using GIS, maintain a map and database for town use.						
5. Funding Strategy a. Explore grants, dedicated fees, public-private partnerships, and impact fees to support acquisitions. b. Tie the land banking policy to an existing or new housing fund for ease of financing.						

LAND AND WATER BANKING PROGRAM						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
6. Implementation Plan a. Identify and prioritize specific parcels for acquisition. b. Form agreements to integrate affordable housing into future development projects using banked land.						
7. Monitor and Evaluate a. Regularly assess the effectiveness of the policy and how banked land is being used and its contributions to housing goals. b. Refine the policy to address challenges or for new opportunities based on market conditions. c. Establish key performance indicators to measure success and report findings to the Board.						
8. Conduct Organization/Department Assessment a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff. f. Create onboarding and training resources for staff working with the land and water banking program.						
9. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity. b. Establish a regular meeting schedule with partners to coordinate efforts and share best practices (i.e., quarterly, bi-annually, etc.).						

STRATEGIC PARTNERSHIPS						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
A) Housing Communications Strategy						
1. Identify Key Stakeholders and Local Champions a. Identify key stakeholders, including Town officials and community partners. b. Leverage key partnerships to lead ongoing community education. c. Establish a timeline for stakeholder engagement to ensure timely involvement.						
2. Material Development and Ongoing Communication a. Develop talking points and FAQs for staff and officials to ensure consistent messaging. b. Evaluate and update messaging and materials based on Berthoud branding campaign. c. Partner with stakeholders on outreach materials. d. Create a feedback loop to continuously improve communication materials based on input received.						
3. Developer Workshops a. Host workshops for developers to educate them on affordable and attainable housing policies and programs as they are considered and discussed by the town. b. Develop a process to gather feedback on new policies or programs being considered, including after implementation. c. Assess feedback to strengthen the policy or program. d. Identify recurring follow-up opportunities to address ongoing challenges and updates, as appropriate.						
4. a.						
B) Housing Task Force						
1. Research and Scoping Phase a. Evaluate housing task force models from other communities. b. Assess the model that would be best for Berthoud. c. Decide if Berthoud should move forward with this strategy.						
2. Feasibility Analysis a. Evaluate the intended goal(s) and objectives of a task force or other working group focused on housing in Berthoud.						

STRATEGIC PARTNERSHIPS						
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES	
b. Define anticipated roles and responsibilities. c. Identify key stakeholders, including Town officials and community partners. d. Conduct a fiscal analysis and/or identify financial support needs to ensure the task force's sustainability.						
3. Structure and Approach a. Draft a charter outlining the task force's mission, goals, and governance structure. b. Secure funding or staffing support to sustain the task forces' efforts. c. Develop a communication plan to keep Town officials informed about the task force's activities – such as Board updates at regular Board meetings.						
4. Implementation a. Appoint members, hold the first meeting, and establish a regular schedule. b. Identify focus areas such as policy development, data analysis, etc. as part of a workplan.						
5. a.						

Appendix B: Community Survey Responses

Respondent Profile

The table breaks down the respondent demographics by homeowner, renter, non-resident.

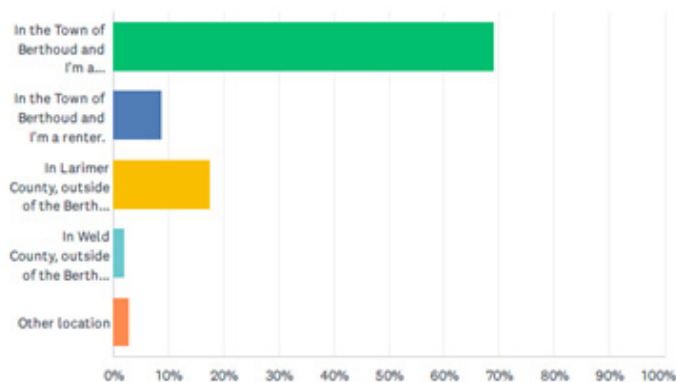
	Survey Respondents			Total	% of Total
	Resident Owners	Resident Renters	Non Residents		
Total Respondents	252	32	81	365	100%
Household Income					
\$0 up to \$59,999	28	9	10	47	13%
\$60,000 to \$89,999	39	11	13	63	17%
\$90,000 to \$119,999	45	7	12	64	18%
\$120,000 or more	96	4	27	127	35%
Prefer not to answer	44	1	19	64	18%
Age					
18 to 34 years	18	11	7	36	10%
35 to 64 years	169	20	52	241	66%
65 years or older	65	1	12	88	24%
Current Housing Situation					
Homeowner with mortgage	189	1	52	242	66%
Homeowner no mortgage	60	0	16	76	21%
Renter	0	30	7	37	10%
Stay with friends/family	2	1	3	6	2%
Temporary living situation	1	0	3	4	1%
Length of Time Living in Berthoud					
Less than 12 months	15	4	–	19	7%
Between 1 and 4 years	92	13	–	105	37%
Between 5 and 10 years	81	9	–	90	32%
For 11+ years	64	6	–	70	25%
Household Composition					
With Children under 18	82	16	19	117	32%
Without Children under 18	170	16	62	248	68%

Source: Ayres Associates Berthoud Community Survey 2024

General Questions for All Respondents

Q2 Where do you currently live?

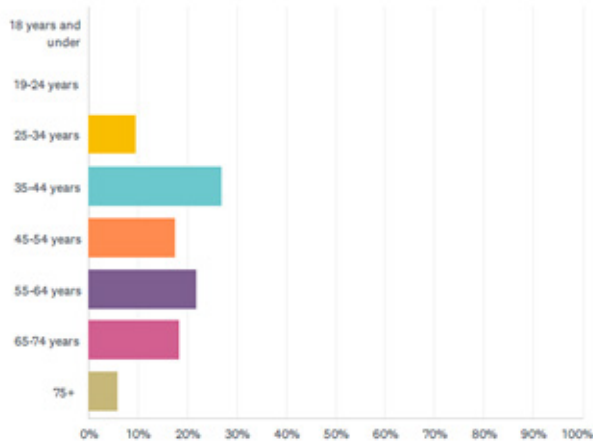
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
In the Town of Berthoud and I'm a homeowner.	69.04%	252
In the Town of Berthoud and I'm a renter.	8.77%	32
In Larimer County, outside of the Berthoud Town limits	17.53%	64
In Weld County, outside of the Berthoud Town limits	1.92%	7
Other location	2.74%	10
TOTAL		365

Q3 What is your age?

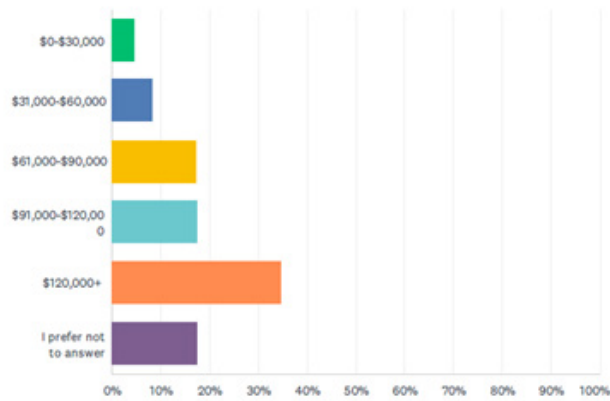
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
18 years and under	0.00%	0
19-24 years	0.27%	1
25-34 years	9.59%	35
35-44 years	26.85%	98
45-54 years	17.53%	64
55-64 years	21.64%	79
65-74 years	18.36%	67
75+	5.75%	21
TOTAL		365

Q4 What is your average annual income?

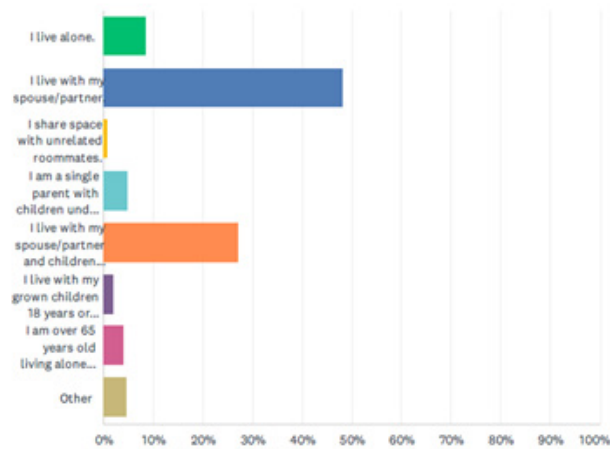
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
\$0-\$30,000	4.66%	17
\$31,000-\$60,000	8.22%	30
\$61,000-\$90,000	17.26%	63
\$91,000-\$120,000	17.53%	64
\$120,000+	34.79%	127
I prefer not to answer	17.53%	64
TOTAL		365

Q5 What is your current housing composition?

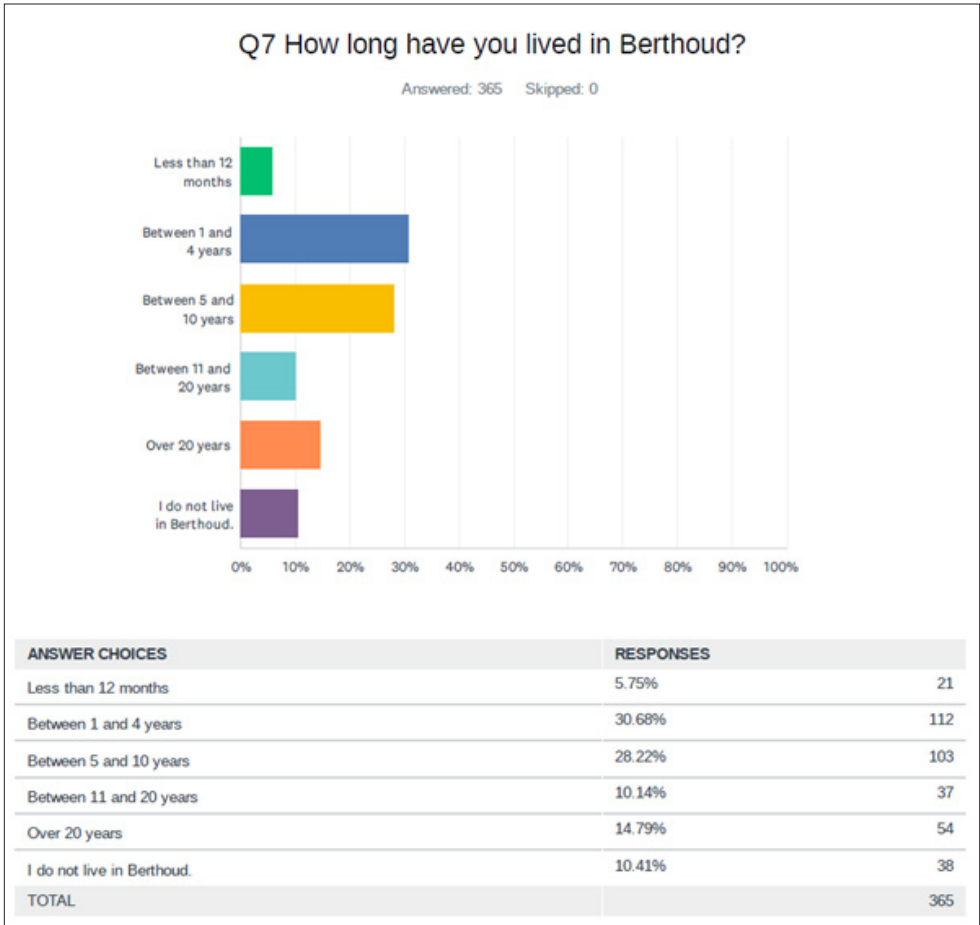
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ANSWER CHOICES	RESPONSES	
I live alone.	8.49%	31
I live with my spouse/partner.	48.22%	176
I share space with unrelated roommates.	0.55%	2
I am a single parent with children under 18.	4.93%	18
I live with my spouse/partner and children under 18.	27.12%	99
I live with my grown children 18 years or older.	1.92%	7
I am over 65 years old living alone or with a spouse/partner.	4.11%	15
Other	4.66%	17
TOTAL		365

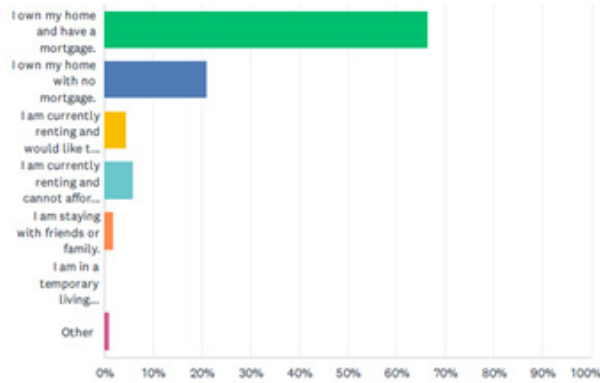
Q6 What is your current household size including you? Average 2.17 (n=365)

Household Size	Count	%
1	35	10%
2	160	44%
3	58	16%
4	71	19%
5	28	8%
6	11	3%
7+	2	1%



Q8 Which of the following best describes your current housing situation?

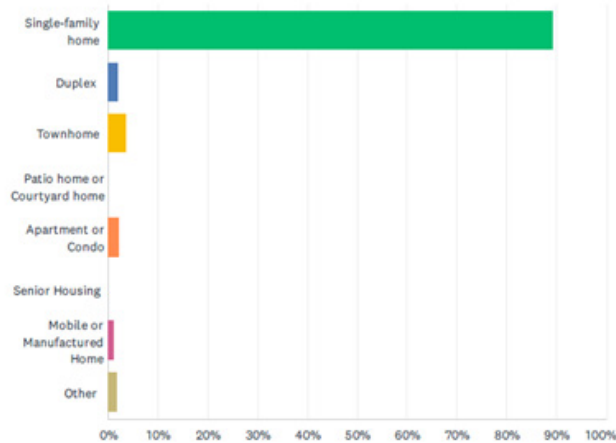
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
I own my home and have a mortgage.	66.30%	242
I own my home with no mortgage.	20.82%	76
I am currently renting and would like to buy a home someday.	4.38%	16
I am currently renting and cannot afford to buy a home even if I wanted to.	5.75%	21
I am staying with friends or family.	1.64%	6
I am in a temporary living situation (RV, short term, couch surfing, etc.)	0.27%	1
Other	0.82%	3
TOTAL		365

Q9 Which of the following best describes your current housing type?

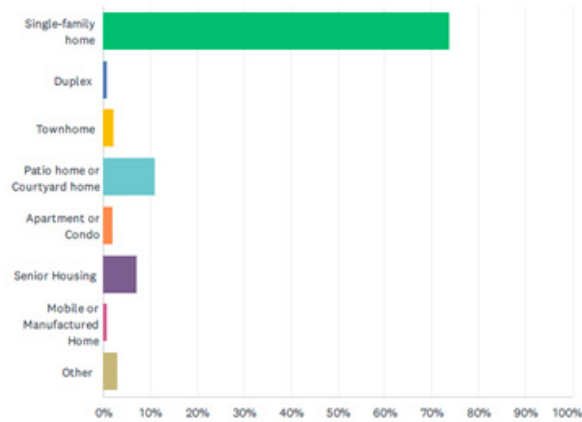
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
Single-family home	89.32%	326
Duplex	1.92%	7
Townhome	3.56%	13
Patio home or Courtyard home	0.27%	1
Apartment or Condo	2.19%	8
Senior Housing	0.00%	0
Mobile or Manufactured Home	1.10%	4
Other	1.64%	6
TOTAL		365

Q10 If you were to move, which housing type would you be most interested in for your next home?

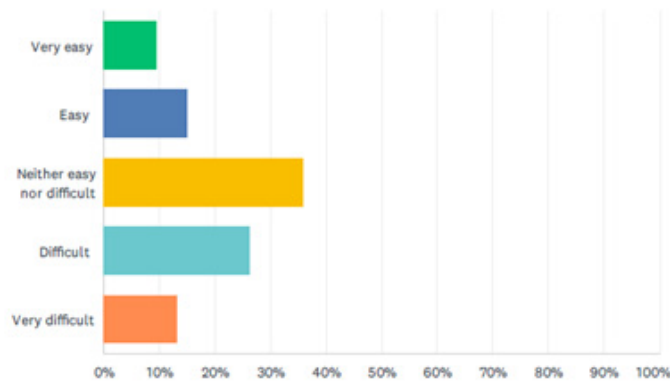
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
Single-family home	73.70%	269
Duplex	0.55%	2
Townhome	2.19%	8
Patio home or Courtyard home	10.96%	40
Apartment or Condo	1.92%	7
Senior Housing	7.12%	26
Mobile or Manufactured Home	0.55%	2
Other	3.01%	11
TOTAL		365

Q11 What is your experience with finding housing that meets your needs?

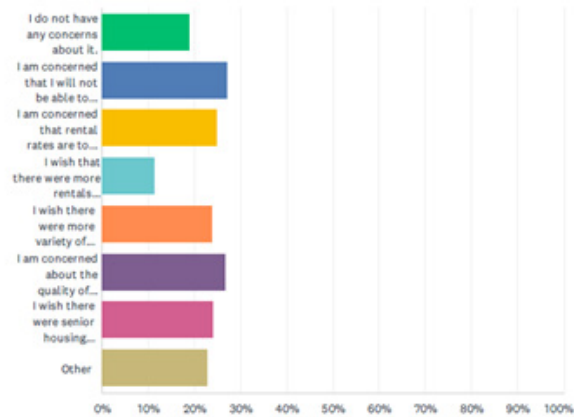
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very easy	9.59%	35
Easy	15.07%	55
Neither easy nor difficult	35.89%	131
Difficult	26.30%	96
Very difficult	13.15%	48
TOTAL		365

Q12 What do you think of the current state of housing in Berthoud or surrounding area? Select all that apply.

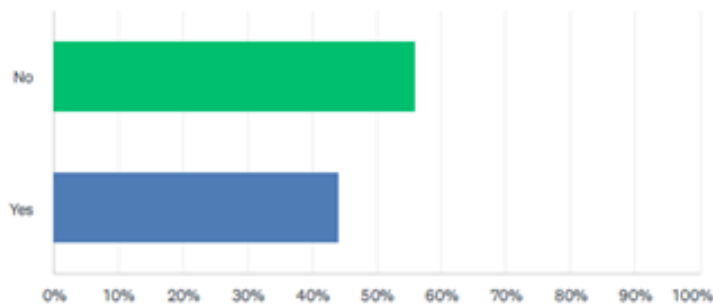
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
I do not have any concerns about it.	18.90%	69
I am concerned that I will not be able to afford to purchase housing.	27.12%	99
I am concerned that rental rates are too high.	24.93%	91
I wish that there were more rentals available.	11.23%	41
I wish there were more variety of housing types (duplex, townhome, apartment, single-family, etc.).	23.84%	87
I am concerned about the quality of housing that is available.	26.58%	97
I wish there were senior housing options.	24.11%	88
Other	22.74%	83
Total Respondents: 365		

Q13 Do you know someone who is struggling to find housing or remain in their current housing?

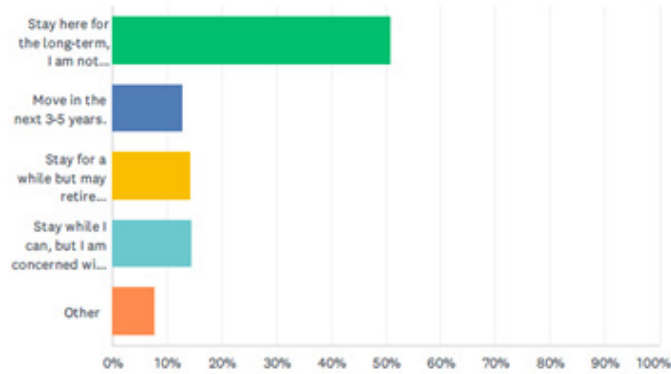
Answered: 358 Skipped: 7



ANSWER CHOICES	RESPONSES	
No	55.87%	200
Yes	44.13%	158
TOTAL		358

Q14 Looking ahead to the future and my current housing situation, I plan to:

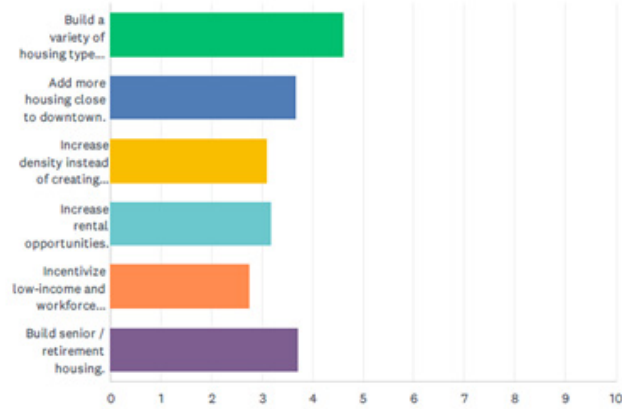
Answered: 365 Skipped: 0



ANSWER CHOICES	RESPONSES	
Stay here for the long-term, I am not planning to move.	50.68%	185
Move in the next 3-5 years.	12.88%	47
Stay for a while but may retire elsewhere.	14.25%	52
Stay while I can, but I am concerned with long-term affordability.	14.52%	53
Other	7.67%	28
TOTAL		365

Q15 When planning for housing opportunities in Berthoud over the next 10 years, how would you rank the following strategies? (1= highest priority)

Answered: 365 Skipped: 0

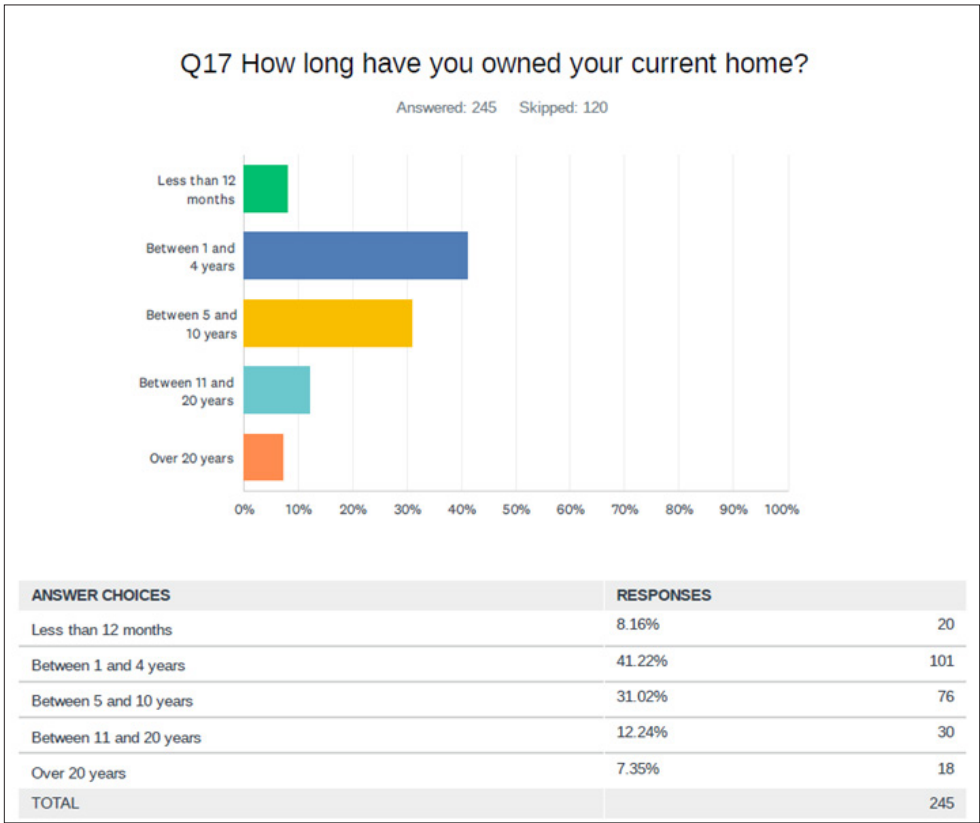


	1	2	3	4	5	6	TOTAL	SCORE
Build a variety of housing types and sizes (duplexes, patio homes, apartments, townhomes, etc.).	40.00% 146	21.37% 78	14.52% 53	12.33% 45	6.03% 22	5.75% 21	365	4.60
Add more housing close to downtown.	14.79% 54	23.56% 86	17.81% 65	14.52% 53	15.07% 55	14.25% 52	365	3.66
Increase density instead of creating more sprawl.	8.77% 32	11.78% 43	20.27% 74	18.36% 67	21.92% 80	18.90% 69	365	3.10
Increase rental opportunities.	2.74% 10	16.16% 59	19.45% 71	29.32% 107	21.37% 78	10.96% 40	365	3.17
Incentivize low-income and workforce housing within the community.	7.67% 28	9.59% 35	14.79% 54	15.34% 56	23.56% 86	29.04% 106	365	2.75
Build senior / retirement housing.	26.03% 95	17.53% 64	13.15% 48	10.14% 37	12.05% 44	21.10% 77	365	3.72

- Q16** Are there any other strategies that you would like to recommend? N=175
- Q35** Please describe your vision for the future of housing in Berthoud. N=272
- Q36** Please share any other thoughts or concerns that you have about housing in Berthoud. N=215
- (Refer to Chapter 3 for key themes from open-ended responses.)

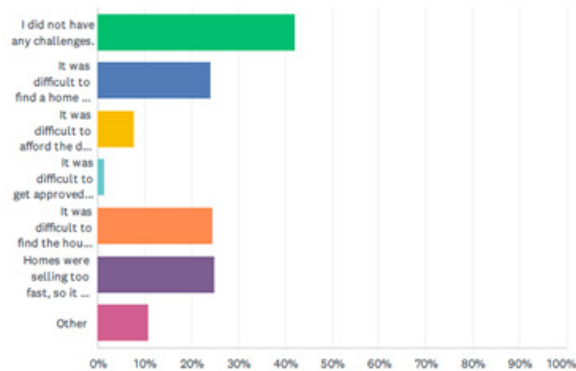
Questions for Berthoud Homeowners Only

252 (69%) respondents identified as Berthoud homeowners.



Q18 What were the biggest challenges you faced when buying your current home? Select all the apply.

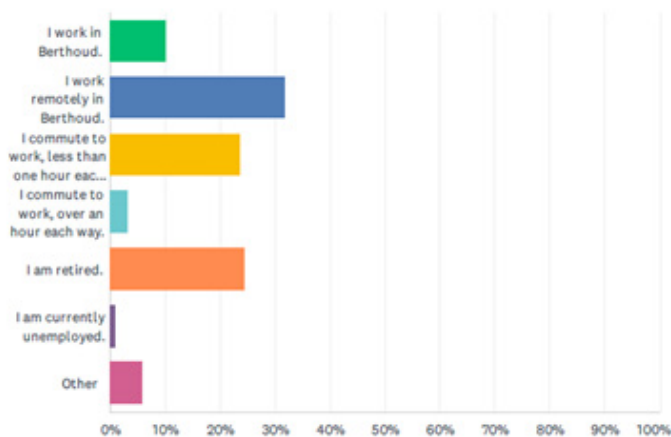
Answered: 245 Skipped: 120



ANSWER CHOICES	RESPONSES	
I did not have any challenges.	42.04%	103
It was difficult to find a home in my price range.	24.08%	59
It was difficult to afford the down payment.	7.76%	19
It was difficult to get approved for a mortgage.	1.22%	3
It was difficult to find the house I wanted to buy.	24.49%	60
Homes were selling too fast, so it was hard to compete.	24.90%	61
Other	10.61%	26
Total Respondents: 245		

Q19 Where do you or other household member work?

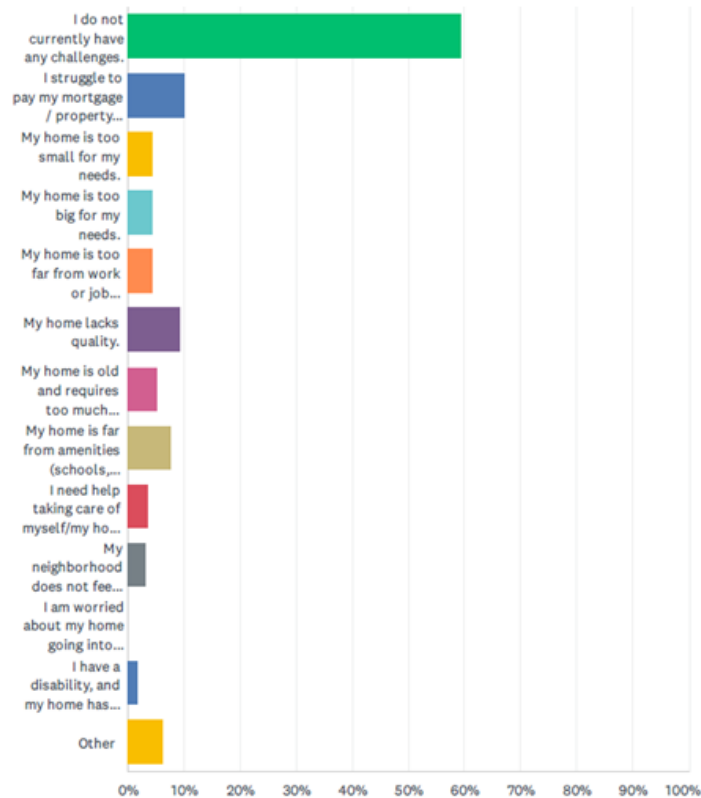
Answered: 245 Skipped: 120



ANSWER CHOICES	RESPONSES	
I work in Berthoud.	10.20%	25
I work remotely in Berthoud.	31.84%	78
I commute to work, less than one hour each way.	23.67%	58
I commute to work, over an hour each way.	3.27%	8
I am retired.	24.49%	60
I am currently unemployed.	0.82%	2
Other	5.71%	14
TOTAL		245

Q20 Do you face any of these challenges in your current housing situation? Select all that apply.

Answered: 245 Skipped: 120



ANSWER CHOICES	RESPONSES	
I do not currently have any challenges.	59.59%	146
I struggle to pay my mortgage / property taxes.	10.20%	25
My home is too small for my needs.	4.49%	11
My home is too big for my needs.	4.49%	11
My home is too far from work or job opportunities.	4.49%	11
My home lacks quality.	9.39%	23
My home is old and requires too much maintenance.	5.31%	13
My home is far from amenities (schools, retail, healthcare, etc.).	7.76%	19
I need help taking care of myself/my home and cannot afford to hire someone.	3.67%	9
My neighborhood does not feel safe.	3.27%	8
I am worried about my home going into foreclosure.	0.00%	0
I have a disability, and my home has accessibility challenges.	1.63%	4
Other	6.12%	15
Total Respondents: 245		

Q21 What do you like about living in Berthoud? N=229

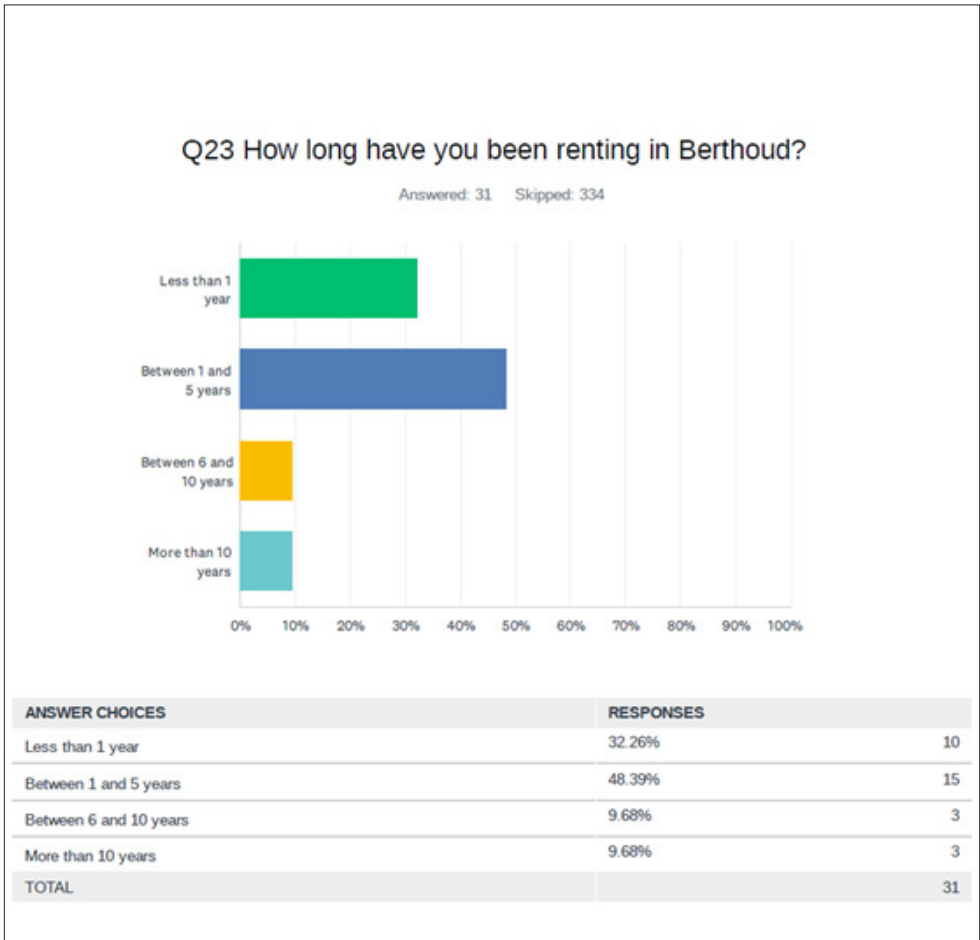
(Refer to Chapter 4 for key themes from open-ended responses.)

Q22 Approximately how much do you spend per month on housing (mortgage, homeowner insurance, utilities, property taxes)? N=206

Average = \$2,654

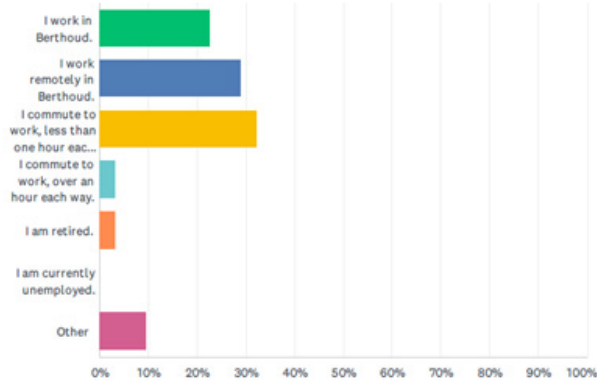
Questions for Berthoud Renters Only

32 respondents (9%) identified as Berthoud renters.



Q24 Where do you or other household member work?

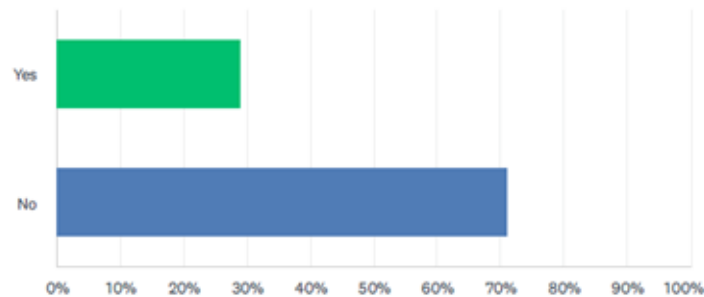
Answered: 31 Skipped: 334



ANSWER CHOICES	RESPONSES	
I work in Berthoud.	22.58%	7
I work remotely in Berthoud.	29.03%	9
I commute to work, less than one hour each way.	32.26%	10
I commute to work, over an hour each way.	3.23%	1
I am retired.	3.23%	1
I am currently unemployed.	0.00%	0
Other	9.68%	3
TOTAL		31

Q25 In the past 5 years, have you had to move from your housing situation when you did not want to?

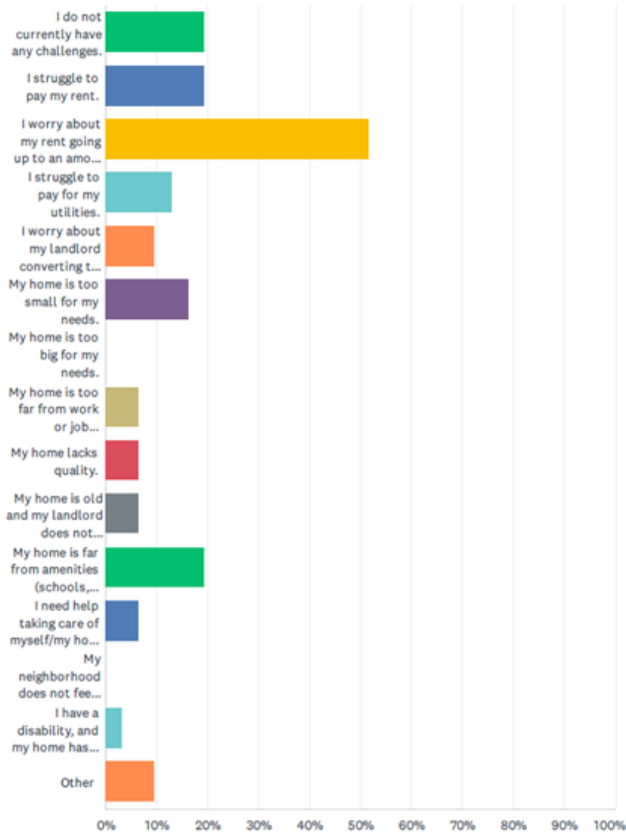
Answered: 31 Skipped: 334



ANSWER CHOICES	RESPONSES	
Yes	29.03%	9
No	70.97%	22
TOTAL		31

Q26 Do you face any of these challenges in your current housing situation? Select all that apply.

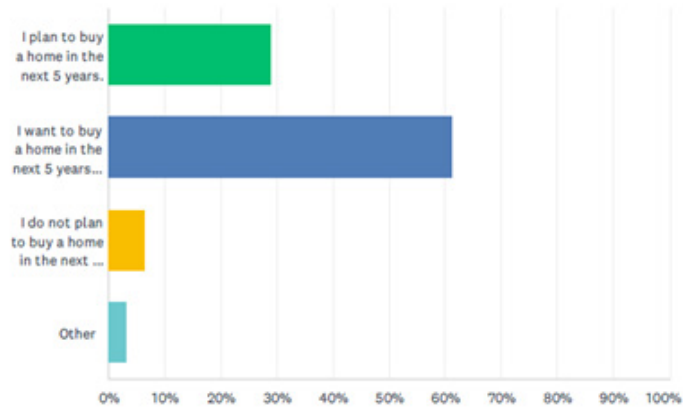
Answered: 31 Skipped: 334



ANSWER CHOICES	RESPONSES	
I do not currently have any challenges.	19.35%	6
I struggle to pay my rent.	19.35%	6
I worry about my rent going up to an amount I cannot afford.	51.61%	16
I struggle to pay for my utilities.	12.90%	4
I worry about my landlord converting the home to a short-term rental.	9.68%	3
My home is too small for my needs.	16.13%	5
My home is too big for my needs.	0.00%	0
My home is too far from work or job opportunities.	6.45%	2
My home lacks quality.	6.45%	2
My home is old and my landlord does not maintain it well.	6.45%	2
My home is far from amenities (schools, retail, healthcare, etc.).	19.35%	6
I need help taking care of myself/my home and cannot afford to hire someone.	6.45%	2
My neighborhood does not feel safe.	0.00%	0
I have a disability, and my home has accessibility challenges.	3.23%	1
Other	9.68%	3
Total Respondents: 31		

Q27 What is most true about you?

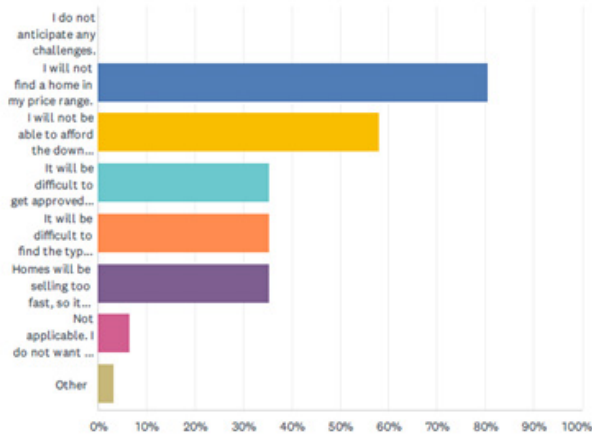
Answered: 31 Skipped: 334



ANSWER CHOICES	RESPONSES
I plan to buy a home in the next 5 years.	29.03% 9
I want to buy a home in the next 5 years, but do not know if I can afford to.	61.29% 19
I do not plan to buy a home in the next 5 years.	6.45% 2
Other	3.23% 1
TOTAL	31

Q28 What are the biggest challenges you are likely to face when buying a home in Berthoud? Select all the apply.

Answered: 31 Skipped: 334



ANSWER CHOICES	RESPONSES
I do not anticipate any challenges.	0.00% 0
I will not find a home in my price range.	80.65% 25
I will not be able to afford the down payment.	58.06% 18
It will be difficult to get approved for a mortgage.	35.48% 11
It will be difficult to find the type of home I want to buy.	35.48% 11
Homes will be selling too fast, so it will be hard to compete.	35.48% 11
Not applicable. I do not want to buy a home in Berthoud.	6.45% 2
Other	3.23% 1
Total Respondents: 31	

Q29 What do you like about living in Berthoud? N=29
(Refer to Chapter 4 for key themes from open-ended responses.)

Q30 Approximately how much do you spend per month on housing (rent, renter insurance, utilities). N=30

Average = \$2,395

Questions for Non-Residents Only

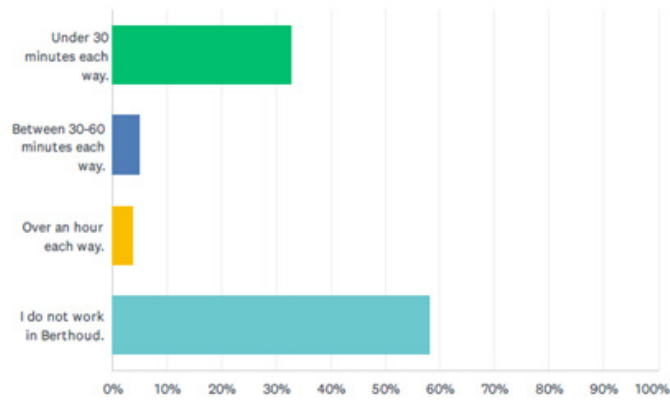
81 (22%) respondents identified as Berthoud homeowners.

Q31 Where do you currently live? N=79

Location	Count
Outside Berthoud city limits	35
Loveland	22
Johnstown	5
Fort Collins	3
Greeley	3
Windsor	2
Longmont	1
Colorado Springs	2
Other	8

Q32 If you work in Berthoud, how long is your commute?

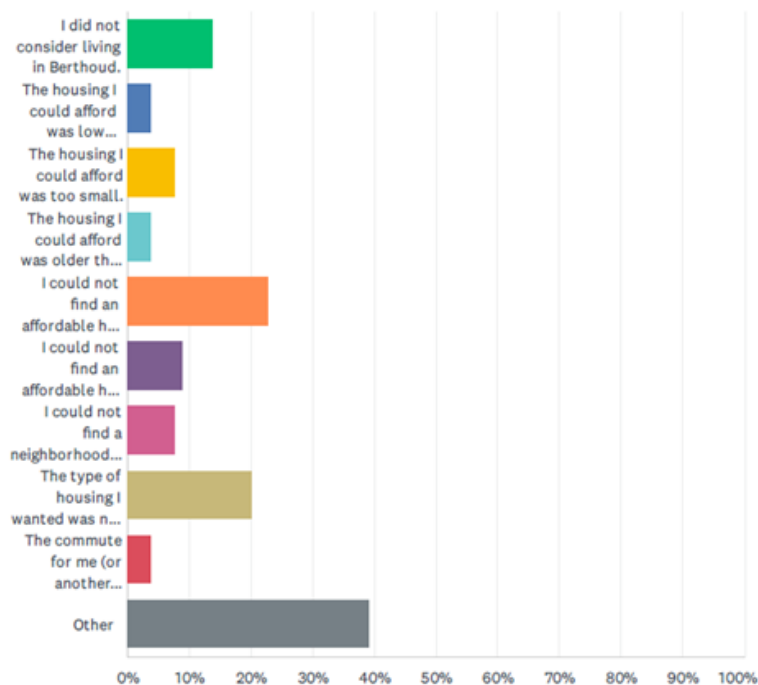
Answered: 79 Skipped: 286



ANSWER CHOICES	RESPONSES	
Under 30 minutes each way.	32.91%	26
Between 30-60 minutes each way.	5.06%	4
Over an hour each way.	3.80%	3
I do not work in Berthoud.	58.23%	46
TOTAL		79

Q33 When you were looking for your current housing, what were the reasons you chose not to live in Berthoud? Select all that apply.

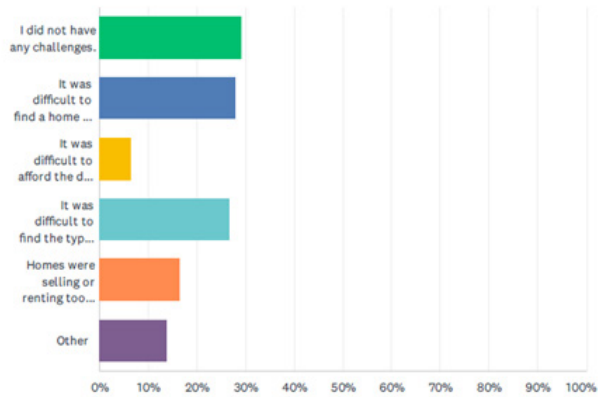
Answered: 79 Skipped: 286



ANSWER CHOICES	RESPONSES	
I did not consider living in Berthoud.	13.92%	11
The housing I could afford was low quality.	3.80%	3
The housing I could afford was too small.	7.59%	6
The housing I could afford was older than I prefer.	3.80%	3
I could not find an affordable home to buy.	22.78%	18
I could not find an affordable home to rent.	8.86%	7
I could not find a neighborhood I liked.	7.59%	6
The type of housing I wanted was not available.	20.25%	16
The commute for me (or another household member) was too long.	3.80%	3
Other	39.24%	31
Total Respondents: 79		

Q34 What were the biggest challenges you faced when finding your current home? Select all the apply.

Answered: 79 Skipped: 286



ANSWER CHOICES	RESPONSES	
I did not have any challenges.	29.11%	23
It was difficult to find a home in my price range to buy or buy.	27.85%	22
It was difficult to afford the down payment or rent deposit.	6.33%	5
It was difficult to find the type of house I wanted to buy.	26.58%	21
Homes were selling or renting too fast, so it was hard to compete.	16.46%	13
Other	13.92%	11
Total Respondents: 79		

Appendix C: Supplemental Regional Market Analysis

Chapter 6 provided a current snapshot of the regional housing market context. The following data highlights additional housing trends from 2017 and 2022.

Between 2017 and 2022, Colorado’s population grew by 6% and housing units increased by 8%. During this period, both Larimer and Weld counties experienced housing and population growth that outpaced that of the state. Larimer County’s population rose by 9% and housing units increased by 12%, while Weld County saw a16% increase in both population and housing. As noted in the demographic profile in Chapter 4, the State Demographer projects the population growth in these counties will continue to outpace the rest of Colorado for the next several decades.

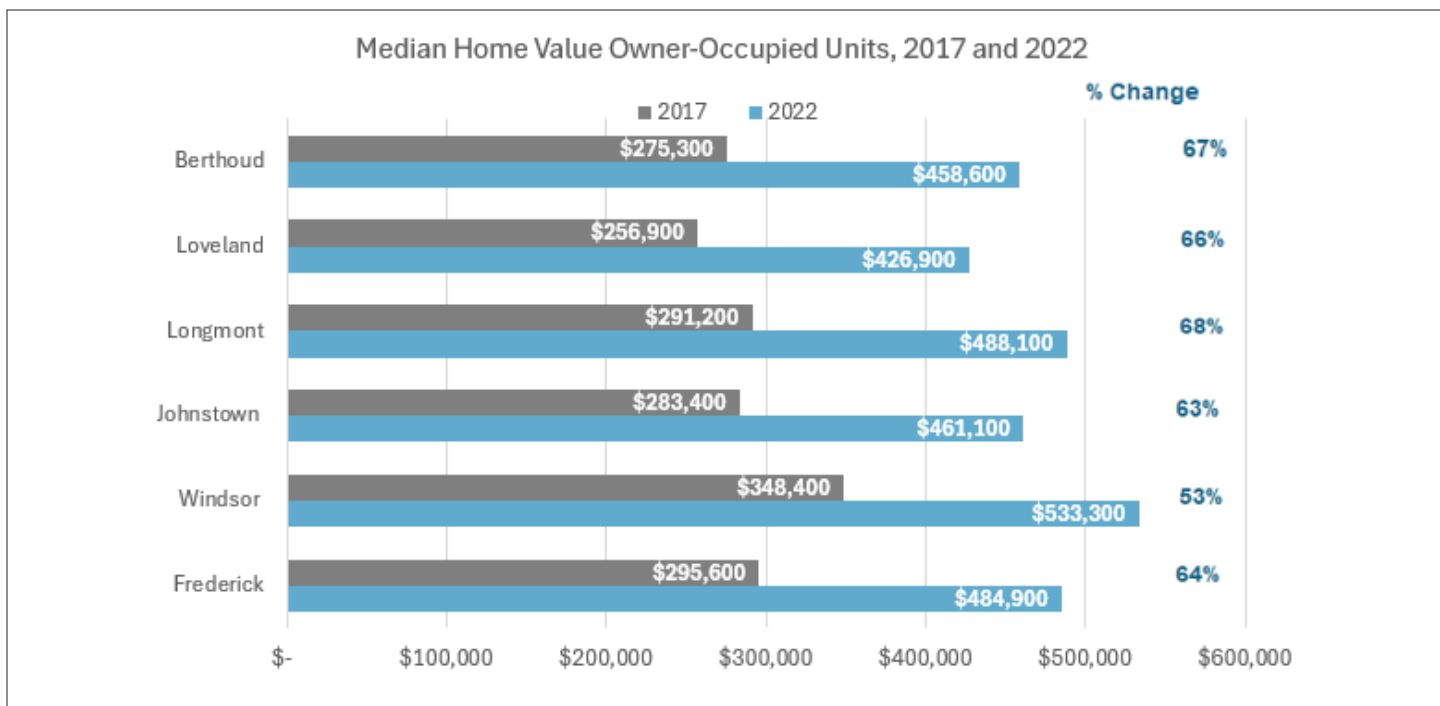
Regional Housing Stock

The table shows 2022 housing stock data for five communities compared to Berthoud, as well as for Larimer and Weld counties as a whole. Across all communities, vacancy rates are notably low, and the proportion of owner-occupied homes generally tends to be higher than the county overall. With the exception of Loveland and Longmont, these communities have a higher percentage of single-family homes compared to the counties overall.

Housing Stock Community Comparison, 2022								
	Berthoud	Loveland	Longmont	Johnstown	Windsor	Frederick	Larimer County	Weld County
Total Housing Units	4,296	33,958	41,429	6,555	13,351	5,205	159,083	120,293
Owner-Occupied	87.9%	62.9%	63.3%	75.3%	78.5%	95.0%	64.5%	75.2%
Vacancy Rate	3.6%	2.5%	3.6%	0.5%	1.8%	2.5%	6.4%	4.0%
Single-family Detached	82.2%	64.8%	62.2%	75.9%	83.2%	96.8%	65.1%	73.1%

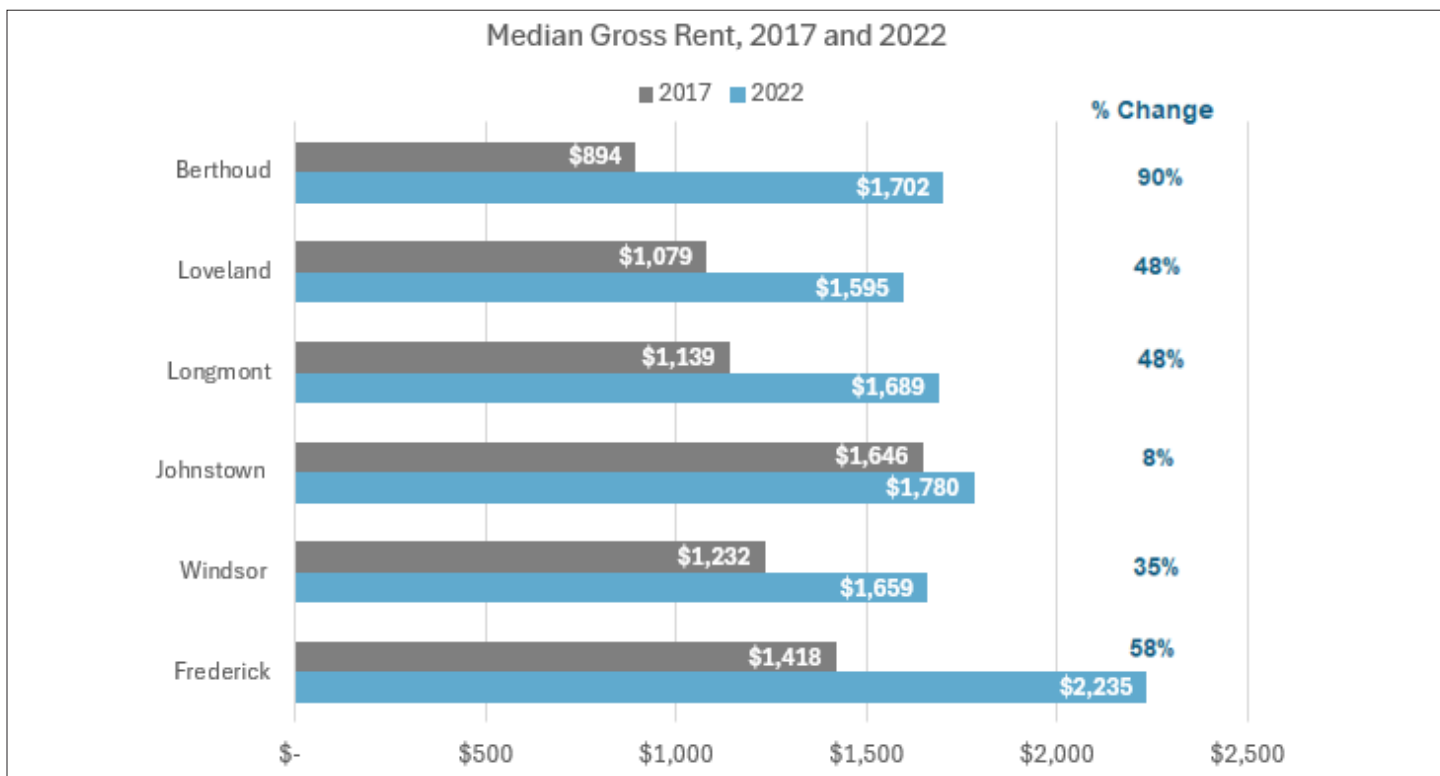
Regional Home Values

Over a 5-year period, all communities experienced significant percentage increases in median home values, similar to Berthoud. The graph shows the median home values of owner-occupied units by jurisdiction for 2017 and 2022. Longmont experienced the highest percentage increase, followed by Berthoud and Loveland. Despite this growth, Berthoud’s 2022 median home value of \$458,600 remains the second lowest among the six communities.



Regional Gross Rent

Rental rates across Northern Colorado rose significantly over the five-year period. Berthoud experienced the highest percentage increase (90%), followed by Frederick (58%). All communities saw notable increases in gross rent except Johnstown. The graph shows the median gross rent for rental units by jurisdiction for 2017 and 2022, along with the percentage change.



Appendix D: Proposition 123

The information presented reflects the Town's commitment to Proposition 123 as well as the deliverables required for the Division of Local Affairs (DOLA) More Housing Now! grant.

Proposition 123 Overview

On October 10, 2023, the Town Board of Trustees committed to increasing housing diversity in Berthoud by opting into Proposition 123, alongside other Colorado municipalities. This commitment aims to boost affordable housing availability by 3% annually for three years, for a total increase of 9%. While there is no financial obligation or penalty if the goal is not met, this move allows Berthoud to partner with organizations like Habitat for Humanity and the Loveland Housing Authority, enabling them to apply for funding to support affordable housing projects.

In 2022, Colorado voters approved the concept of, and by doing so established the State Affordable Housing Fund. This fund provides financial assistance to communities who make a commitment to provide affordable housing products through activities such as land and water banking, low interest loans for construction, down payment assistance, and building local planning department capacity.

Berthoud Baseline Commitment

For Berthoud, the baseline is 13 affordable housing units each year over the next three years at or below the baseline value for ownership and rental units. The unit count starts at the time a building permit is issued after the Town has "opted in" (October 10, 2023). Local builders were contacted to determine if the current products offered would meet the single-family affordable housing cap. Two of the three builders indicated their products would be close to meeting the cap.

Berthoud's goal is to provide: 13 housing units per year that are not greater than \$425,840 for sale and \$1,670 for rent.

The Town received a More Housing Now! grant from DOLA in late 2023 for support to strengthen the Town's sustainability and resiliency goals by developing a Housing Diversity Plan.

Qualifying Strategies

The Town of Berthoud must adopt at least one qualifying strategy prescribed by DOLA as an outcome of the grant, including the following considerations (refer to Chapter 7 for details on the strategies that Berthoud has implemented already):

- Use of vacant publicly owned property for affordable housing development
- Subsidize/reduce local government fees
- Expedited development review for affordable housing up to 120% AMI

- ▷ Expedited development review for acquiring or repurposing underutilized commercial property
- ▷ Density bonus program for housing needs
- ▷ Promote sub metering utility charges for affordable housing
- ▷ Dedicated funding source to subsidize affordable housing infrastructure costs and fees
- ▷ Middle multifamily (duplex, triplex, other) use by right in single family residential zoning districts
- ▷ Affordable housing as a use by right in residential zoning districts
- ▷ ADU use by right in single family zoning districts
- ▷ Allow small square footage residential unit sizes
- ▷ Lessened minimum parking requirements for new affordable housing
- ▷ Land donation/acquisition/banking program
- ▷ Inclusionary zoning ordinance (House Bill 21-1117)
- ▷ Other novel, innovative, creative approaches

Appendix E: 2024 Area Median Income (AMI) Tables

The following tables are the 2024 AMI Tables for Larimer and Weld County. AMI is the midpoint income level (pre-tax) of all households in a specific area, where half of the households earn more and half earn less, adjusted by household size. AMI tables are one of the tools used by the State of Colorado, Colorado Housing Finance Authority (“CHFA”), and local housing organizations to determine if a person qualifies for affordable housing programs.

LARIMER COUNTY

Household Size

	1	2	3	4	5	6		
2024 Income Limits by AMI	120%	\$99,840	\$114,120	\$128,400	\$142,560	\$154,080	Attainable / Market Rate	
	100%	\$83,200	\$95,100	\$107,100	\$118,800	\$128,400		\$137,900
	80%	\$66,560	\$76,080	\$85,600	\$95,040	\$102,720	Affordable	
	60%	\$49,920	\$57,060	\$64,200	\$71,280	\$77,040		\$82,740
	40%	\$33,280	\$38,040	\$42,800	\$47,520	\$51,360		\$55,160
	< 30%	\$24,960	\$28,530	\$32,100	\$35,640	\$38,520	\$41,370	Supportive Services

WELD COUNTY

Household Size

	1	2	3	4	5	6		
2024 Income Limits by AMI	120%	\$96,240	\$109,920	\$123,720	\$137,400	\$148,440	\$159,480	Attainable / Market Rate
	100%	\$80,200	\$91,600	\$103,100	\$114,500	\$123,700	\$132,900	
	80%	\$64,160	\$73,280	\$82,480	\$91,600	\$98,960	\$106,320	Affordable / Workforce
	60%	\$48,120	\$54,960	\$61,860	\$68,700	\$74,220	\$79,740	
	40%	\$32,080	\$36,640	\$41,240	\$45,800	\$49,480	\$53,160	
	< 30%	\$24,060	\$27,480	\$30,930	\$34,350	\$37,110	\$39,870	Supportive Services

Appendix F: Term Glossary

Affordable: Typically defined by federal or state guidelines, often based on a percentage of the area's median income and may involve subsidies or specific income qualifications to assist lower-income individuals or families.

Area Median Income (AMI): AMI is a measure used to determine affordable and attainable housing eligibility based on county of residence and household size compared to the median income for a household in that county. AMI is updated annually by the U.S. Department of Housing and Urban Development (HUD). Common affordability categories used are as follows:

- Extremely Low Income – At or below 30% AMI
- Very Low Income – Between 31% and 50% AMI
- Low Income – From 51% to 80% AMI
- Moderate Income – From 81% to 100% AMI

American Community Survey (ACS): The ACS is part of the Decennial Census Program of the U.S. Census. The survey was fully implemented in 2005, replacing the decennial census long form. Because it is based on a sample of responses, its use in smaller areas (under 65,000 persons) is best suited for monitoring general changes over time rather than for precise estimates due to margins of error. All ACS data used in the report is based on ACS 5-year estimates.

Attainable: As used in this report, housing is attainable if the monthly rent or mortgage payment is equal to or less than 30% of gross household income (before taxes).

CHFA: Colorado Housing and Finance Authority – administers housing tax credits and provides mortgage funding.

Cost burdened: When housing costs exceed 30% of a household's gross (pretax) income. Housing costs include rent or mortgage and may or may not include utilities, homeowner association fees, transportation or other necessary costs depending upon its application.

Extremely cost burdened: Household who pay more than 50% of their household income on total housing costs.

Household: a group of people who live together in the same dwelling and share meals, including a householder and at least one other person related to the householder by birth, marriage, or adoption.

Housing Unit Types:

- ▷ *Accessory dwelling unit (ADU)* – a smaller, independent residential dwelling unit located on the same lot as a stand-alone single-family home
- ▷ *Multi-family dwelling* – a building or complex of buildings that contains multiple separate housing units for residential use, which can be built in a variety of styles and densities, from low-rise duplexes to high-rise apartment complexes
- ▷ *Manufactured home* – a factory-built home on a permanent chassis constructed after 06/15/1976

- ▷ *Mobile home* – a factory-built home on a permanent chassis constructed prior to 06/15/1976
- ▷ *Modular home* – houses built off-site in sections, then transported to the site where they are assembled by builders and installed into the foundations
- ▷ *Single-family attached (duplexes)* – A single-family attached home is a single-family dwelling unit that is built next to another similar unit, sharing one or more exterior walls
- ▷ *Single-family detached* – a structure maintained and used as a single dwelling unit and occupied by a single household

HUD: Housing and Urban Development, a federal agency providing funding and regulations for low-income housing.

Median Household Income: It is the income level at which half of households earn more and half earn less. It is a more accurate measure of how Americans are doing financially than average household income because averages can be skewed by a small number of households with very high incomes.

MLS: Multiple Listing Service used for purchase and sale of residential real estate.

Tenure: Housing tenure refers to the arrangement by which a household occupies a dwelling, and whether the household owns or rents it.

Vacancy Rate: A housing vacancy rate is the percentage of available housing units that are unoccupied at a given time. It's an economic indicator that can be used to gauge the health of a rental market and the desirability of a neighborhood.

Workforce (or Employee) Housing: Housing intended for and affordable to employees and households earning local wages.



AYRES
PLANNING+DEVELOPMENT

APPENDIX A

Strategic Action Plan

Berthoud 2025 Housing Diversity Plan

The Strategic Action Plan is a detailed, step-by-step guide for putting the strategies and goals outlined in the Housing Diversity Plan into practice. This is meant to be a dynamic document that will be revised and changed over time as the Town works through the implementation steps and as prioritization shifts over time. The plan provides a way to identify specific actions, timelines, responsible parties, partners, and expected outcomes. It will be used by the Town, its partners, and stakeholders to ensure accountability, track progress, and secure necessary resources for each initiative.

SHORT-TERM STRATEGIES					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
1. Create Expedited Review Process a. Develop an abbreviated development review process for the subdivisions incorporating at least 50% of affordable and attainable housing into their plans (State parameters). b. Develop a development review guidebook to better educate developers on the process, including streamlined application materials process flows. c. See Expedited Review Process table below for additional actions.					
2. Amend Development Code Design Standards 30-2-116 a. Diversity % requirements (i.e. 50% housing of type 1; 25% housing of type 2; 25% housing of type 3) b. Require % Attainable product per Prop 123 OR if a development proposed a certain % of homes and agrees to partner with a non-profit home builder, then the whole development can by-pass the public hearing portion of the Preliminary Plat as their incentive c. See Development Codes and Standards table below for additional actions to consider.					
3. Broaden Ordinance 847 a. Research what other communities do b. Increase to 14/year (or other number) to meet the Prop 123 commitment. 5-10% of previous year’s # of building permits					

SHORT-TERM STRATEGIES

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
c. Application for relief can be requested at the time of building permit application d. 10-year minimum deed restriction e. See Funding Programs table below for additional actions to consider.					
4. Consider Housing Consortium a. Define structure: two Trustees, two Planning Commissioners, two housing partners b. Meet quarterly and report back to the Board on progress. c. See Strategic Partnerships below for additional actions to consider.					
5. Develop community education on affordability a. The goal is to demystify misconceptions on affordable housing b. Develop educational materials c. Leverage housing partners for events to engage the community d. See Strategic Partnerships below for additional actions to consider.					
6. Begin Land and Water Banking Research a. Research case studies from other communities b. Identify funding stream c. Identify partners and legal parameters d. Develop partnerships with local builders/developers and non-profits e. See Land and Water Banking below for additional actions to consider.					
7.					

INCLUSIONARY HOUSING ORDINANCE

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
8. Research and Initial Planning					

INCLUSIONARY HOUSING ORDINANCE

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
a. Conduct a comparative analysis of inclusionary zoning ordinances in similar communities. b. Identify appropriate affordability thresholds and housing targets specific to Berthoud.					
9. Fee Structure Analysis a. Calculate fees or contributions using local cost estimates and comparable communities. b. Determine whether in-lieu fees will fund affordable housing directly or through partnerships.					
10. Stakeholder Engagement a. Host workshops with elected and appointed officials to gather input. b. Engage with local developers and community partners to ensure buy-in and address concerns.					
11. Develop Ordinance a. Create draft ordinance language tailored to Berthoud's housing market and legal framework. b. Incorporate options for land dedication, unit allocation, fee-in-lieu, and/or other incentive considerations. c. Present draft for final stakeholder input.					
12. Ordinance Adoption and Implementation a. Present the ordinance for formal adoption by the Town Board. b. Develop an implementation timeline, including monitoring and enforcement mechanisms.					
13. Conduct Organization/Department Assessment a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing strategy. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs to implement and manage. d. Develop position, job description e. Pursue grant programs that support housing support staff					

INCLUSIONARY HOUSING ORDINANCE					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
14. Leverage external partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.					
15.					

FUNDING PROGRAMS FOR ATTAINABLE AND AFFORDABLE HOUSING

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
1. Inventory Current Programs a. Identify existing waivers and reductions in town policies and educate staff on what is available. b. Outline gaps in current programs related to attainable / affordable housing goals. c. Evaluate the intended goal(s) and objectives of adding housing incentives in Berthoud.					
2. Research and Recommendations a. Research and compile best practices of like communities for housing incentives. b. Evaluate the financial feasibility of implementing enterprise fund waivers, fee reduction, and fee deferrals (including expanding ordinance 847). c. Evaluate the potential impact of each incentive on the development community and its ability to achieve the desired housing goals. d. Outline recommendations for new incentives or revisions to existing incentives to achieve desired housing goals.					
3. Implement and Evaluate a. Following formal adoption, educate the development community on new or revised offerings. b. Continually assess the intended outcome of the new and/or revised incentives to determine level of success and areas for refinement.					
4. Conduct Organization/Department Assessments a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff					
5. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.					
1. Fee Study					

FUNDING PROGRAMS FOR ATTAINABLE AND AFFORDABLE HOUSING

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
a. Conduct a feasibility study for introducing or adjusting housing impact fees as either standalone fee or tied to an inclusionary housing ordinance. b. Consider aligning fees with home size and affordability criteria, for projects not allocating affordable units or land.					
2. Stakeholder Outreach a. Facilitate discussions with local development community and officials to educate on intended approach and outcomes.					
3. Develop Policy and Implement a. Draft resolutions/ordinances as appropriate to establish funding source as part of housing program. b. Create a process for collecting and allocating funds to housing projects. c. Educate development community and partners of new program requirements.					
4. Conduct Organization/Department Assessments a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff f. Implement onboarding and training for staff success.					
5. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity.					

EXPEDITED REVIEW PROCESS

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
1. Analysis and Assessment a. Review Proposition 123 guidelines for expedited review processes requirements. b. Conduct an internal assessment of current review processes to identify existing timelines, challenges, and opportunities (including administrative review options). c. Evaluate feedback from developers and stakeholders on current review processes to identify areas for improvement. d. Gather best practices from other municipalities that have successfully implemented expedited review processes to determine best fit and approach for Berthoud.					
2. Code Review and Alignment with Proposition 123 Guidelines a. Identify and review existing regulations that impact the review process for affordable housing projects in alignment with Proposition 123 eligible project types. b. Draft proposed changes to align with Proposition 123 requirements (decisions are made within 90 calendar days of a complete application, optional extensions as a tool for draft regulations, etc.) c. Determine appropriate approach for Berthoud for adoption of the expedited review process either through regulations in the code or as an adopted policy of the town. d. Draft policies or regulations establishing expedited review process in alignment with Proposition 123 requirements. - e.					
3. Draft Review a. Present draft regulations or policies to the Planning and Zoning Commission and Board for review and to answer questions regarding Proposition 123 requirements. b. Share information with community partners as appropriate to inform them of the changes and process options for developing affordable housing.					
4. Implementation a. Finalize and present for adoption the revised regulations and/or policies.					

EXPEDITED REVIEW PROCESS

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
b. Develop and distribute educational materials and resources to inform community partners and stakeholders about the new expedited review process. c. Develop internal checklists or workflows to ensure clarity in process and consistency in administering the expedited review process. d. Train staff on the new procedures to ensure consistent and efficient implementation. e. Optional: Establish a dedicated team or point of contact to manage expedited review applications and ensure timely processing.					
5. Evaluation a. Define key performance indicators to measure the effectiveness of the expedited review process. b. Regularly assess the impact of the new process on affordable housing development and make adjustments as needed. c. Report findings and progress to community partners and DOLA to ensure reporting requirements are met. d. Keep decision-makers informed on progress, understanding projects can take multiple years to have effective documentation.					
6. Conduct Organization/Department Assessment a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description. e. Pursue grant programs that support housing support staff. f. Implement onboarding and training for staff success.					
7. a.					

DEVELOPMENT CODES AND STANDARDS EVALUATIONS AND UPDATES

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
1. Ongoing Annual Code Evaluation a. Conduct annual review of existing regulations and engineering standards to identify unintended barriers to the development of affordable/attainable housing. a. Evaluate year-round feedback from the development community regarding regulations and standards for practical update considerations. b. Establish a timeline for the annual review process and roles and responsibilities of staff to ensure consistency.					
2. Draft Regulation Updates a. Draft proposed revisions to address barriers. b. Engage with local development community and partners to evaluate proposed changes and unintended impacts. c. Propose draft regulations during a Work session with appointed and elected officials to receive input. d. Depending on the nature of the updates, develop an outreach approach to gather community feedback on the updates.					
3. Adoption and Implementation a. Prepare supporting documentation and educational resources on what the revisions do and what they do not do to inform the public and officials. b. Present revisions for recommendation and adoption by appointed and elected officials. c. Roll out updated regulations and update necessary forms and handouts as appropriate. d. Train staff and stakeholders on new updates to ensure an effective implementation of the new regulations or standards.					
4. Evaluation a. Define a time threshold from new code implementation to code evaluation that allows enough time to adequately assess its impact before suggesting revisions (generally, several years). a. Following the roll out of updated regulations, assess their intended and unintended impacts on the underlying community goals and consider adjustments if necessary.					

DEVELOPMENT CODES AND STANDARDS EVALUATIONS AND UPDATES					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
b. Develop key performance indicators to measure the effectiveness of the new regulations and report findings to management and the Board.					
5. Conduct Organization/Department Assessment a. Inventory current roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description. e. Pursue grant programs that support housing support staff. f. Implement onboarding and training for staff success.					
6. a.					

LAND AND WATER BANKING PROGRAM

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
1. Create Policy Framework and Goals a. Develop a comprehensive policy outlining the purpose, goals, and mechanisms for land and water banking. Include how it relates to affordable housing. b. Identify the specific objectives (e.g., supporting affordable housing, preserving land for public uses, etc.). c. Determine eligible properties (e.g., vacant, underutilized, with/without water rights) and prioritization factors. d. Consider land dedications as one consideration of the inclusionary ordinance to facilitate land banking for affordable housing partnerships. e. Establish a timeline for policy development and stakeholder engagement to ensure timely progress.					
2. Draft Policy and Procedures a. Include processes for acquisition, maintenance, and disposal of banked land. Specify mechanisms for partnerships with developers and non-profits. b. Discuss draft policy with community partners and stakeholders for input. c. Present the draft policy to the Board for review and feedback.					
3. Policy Adoption a. Present the final policy to the Board for adoption. b. Create an implementation guide to assist staff and community partners in understanding and applying the new policy.					
4. Inventory and Feasibility Assessment a. Conduct a detailed inventory of existing town-owned, vacant, and underutilized land and assess its suitability for banking activities. b. Evaluate water rights, zoning, and infrastructure needs. c. Map potential sites and their attributes using GIS, maintain a map and database for town use.					
5. Funding Strategy a. Explore grants, dedicated fees, public-private partnerships, and impact fees to support acquisitions. b. Tie the land banking policy to an existing or new housing fund for ease of financing.					

LAND AND WATER BANKING PROGRAM

STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
6. Implementation Plan a. Identify and prioritize specific parcels for acquisition. b. Form agreements to integrate affordable housing into future development projects using banked land.					
7. Monitor and Evaluate a. Regularly assess the effectiveness of the policy and how banked land is being used and its contributions to housing goals. b. Refine the policy to address challenges or for new opportunities based on market conditions. c. Establish key performance indicators to measure success and report findings to the Board.					
8. Conduct Organization/Department Assessment a. Inventory existing roles and responsibilities related to housing, planning, and economic development. b. Map task distribution to identify overlaps, underutilization, or gaps in the structure to meet housing goals. c. Evaluate staff workloads through Director and Manager discussions and outline anticipated needs. d. Develop position, job description e. Pursue grant programs that support housing support staff. f. Create onboarding and training resources for staff working with the land and water banking program.					
9. Leverage External Partnerships a. Formalize partnerships with housing authorities, non-profits, or consultants to supplement staff capacity. b. Establish a regular meeting schedule with partners to coordinate efforts and share best practices (i.e., quarterly, bi-annually, etc.).					

STRATEGIC PARTNERSHIPS					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
A) Housing Communications Strategy					
1. Identify Key Stakeholders and Local Champions a. Identify key stakeholders, including Town officials and community partners. b. Leverage key partnerships to lead ongoing community education. c. Establish a timeline for stakeholder engagement to ensure timely involvement.					
2. Material Development and Ongoing Communication a. Develop talking points and FAQs for staff and officials to ensure consistent messaging. b. Evaluate and update messaging and materials based on Berthoud branding campaign. c. Partner with stakeholders on outreach materials. d. Create a feedback loop to continuously improve communication materials based on input received.					
3. Developer Workshops a. Host workshops for developers to educate them on affordable and attainable housing policies and programs as they are considered and discussed by the town. b. Develop a process to gather feedback on new policies or programs being considered, including after implementation. c. Assess feedback to strengthen the policy or program. d. Identify recurring follow-up opportunities to address ongoing challenges and updates, as appropriate.					
4. a.					
B) Housing Task Force					
1. Research and Scoping Phase a. Evaluate housing task force models from other communities. b. Assess the model that would be best for Berthoud. c. Decide if Berthoud should move forward with this strategy.					
2. Feasibility Analysis a. Evaluate the intended goal(s) and objectives of a task force or other working group focused on housing in Berthoud.					

STRATEGIC PARTNERSHIPS					
STRATEGY AND ACTION(S)	RESPONSIBILITY	STATUS	EXPECTED OUTCOME (METRIC)	PARTNER GROUPS/AGENCIES	NOTES
b. Define anticipated roles and responsibilities. c. Identify key stakeholders, including Town officials and community partners. d. Conduct a fiscal analysis and/or identify financial support needs to ensure the task force’s sustainability.					
3. Structure and Approach a. Draft a charter outlining the task force’s mission, goals, and governance structure. b. Secure funding or staffing support to sustain the task forces’ efforts. c. Develop a communication plan to keep Town officials informed about the task force’s activities – such as Board updates at regular Board meetings.					
4. Implementation a. Appoint members, hold the first meeting, and establish a regular schedule. b. Identify focus areas such as policy development, data analysis, etc. as part of a workplan.					
5. - a.					

From: [Anne Johnson](#)
To: [Vasan, Karlyn](#); [Olhava, Josh](#)
Subject: FW: A Heartfelt Appeal for More Affordable Housing in Berthoud
Date: Tuesday, March 11, 2025 6:49:00 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

FYI

From: Anne Johnson
Sent: Tuesday, March 11, 2025 6:48 AM
To: rodlie.ortiz@gmail.com
Cc: Christian Samora <CSamora@berthoud.org>
Subject: FW: A Heartfelt Appeal for More Affordable Housing in Berthoud

Dear Rodlie,

Thank you for your email. It takes time to send an email, regardless of the purpose. As staff, we rarely receive emails that are positive and this was pleasant to receive. Thank you for taking the time to send. At tonight's Town Trustees meeting, we will be discussing the first draft of the Housing Diversity Plan and I'll pass your email out to the Trustees.

Thank you.

Sincerely,
Anne



Anne Best Johnson, AICP MBA
Community Development Director
Phone: 970.344.5818
ajohnson@berthoud.org
Berthoud.org
807 Mountain Ave. Berthoud, CO 80513
Town Hall Hours:
Monday through Thursday
0700-1730



All messages sent or received by this address may be subject to public disclosure pursuant to the Colorado Open Records Act (CORA) C.R.S. 24-72-200.1 et seq.

From: Rodlie Ortiz <rodlie.ortiz@gmail.com>
Sent: Monday, March 10, 2025 4:05 PM
To: Information Berthoud <Information@berthoud.org>
Subject: A Heartfelt Appeal for More Affordable Housing in Berthoud

You don't often get email from rodlie.ortiz@gmail.com. [Learn why this is important](#)

Dear Town of Berthoud,

I wasn't quite sure who to address this to, so I'm writing to the general email address in hopes that my voice—and the voices of many others in our community—can be heard.

My name is Rodlie Ortiz, and my family and I made the beautiful town of Berthoud our home a little over a year and a half ago, moving here from Southwest Michigan. My wife is a dedicated special education teacher at Berthoud Elementary School, and I serve as the senior pastor of Champion Church on the campus of Champion Academy. We love this town—its warmth, its community, its charm. This is where we want to plant our roots.

But here's our reality: Despite both of us working full-time in professional, middle-income careers, owning a home here remains out of reach. We currently rent in the Vantage subdivision, but what we truly long for is something we can call our own—a place where we can invest in the community for the long term, not just temporarily occupy space within it.

I'm writing not just for myself, but for the many hardworking individuals and families facing the same challenge. The dream of homeownership shouldn't feel impossible for teachers, pastors, first responders, and others who serve and enrich this town every day.

I urge you to consider solutions that could make homeownership a reality for more families like mine:

1. **Smaller Home Communities** – Developments like Prairie Star have provided an attainable entry point into homeownership for many. I understand the same company is now building in northwest Loveland. Could Berthoud encourage and facilitate similar projects here? Thoughtfully designed smaller homes with reasonable price points could help bridge the gap for those of us eager to buy but unable to afford current market rates.
2. **Innovative Housing Solutions** – Greeley has recently seen a national company create 3D-printed homes, which are cost-effective and built efficiently. [Here's](#) an article from their webpage. Could Berthoud explore opportunities for a similar initiative? Opening the door to alternative construction methods could be a game-changer for affordability.

We are not asking for handouts—we are asking for opportunities. We want to be able to invest in this community, not just live in it temporarily.

Is there anything currently in development that might offer affordable options? Have you considered the possibilities mentioned above? I would love to hear your thoughts and learn about any upcoming plans that might bring hope to those of us longing to call Berthoud home—truly and permanently.

Thank you for your time, and for your commitment to making Berthoud a place where families of all income levels can thrive.

With appreciation,

Rodlie Ortiz

April 15, 2025

Town of Berthoud
Mayor Karspeck and Members of the Board of Trustees
807 Mountain Avenue
Berthoud, CO 80513

Dear Mayor Karspeck and Members of the Board of Trustees,

First and foremost, I want to express my sincere gratitude for the robust, meaningful conversation that took place at the Board of Trustees meeting on March 11, 2025, when the Housing Needs Assessment and preliminary strategies were presented, by Ayres Associates, on behalf of the Berthoud Housing Steering Committee. Regrettably, due to a family event we have scheduled, I am unable to attend the meeting on April 22nd when the final recommendations will be presented to you for consideration. Therefore, I am writing to each of you with content I would have shared during public comment.

Since the meeting on March 11th, I continue to marvel at the unified, collective voice and desire of the Trustees to address the housing needs in our community. I left feeling an immense amount of hope for the future. I repeatedly heard the question asked, “which of the recommended strategies would move the needle the most and make a significant, positive impact in regard to increasing affordable and attainable housing supply in our community with a focus on leveraging partnerships”. Upon continued reflection, I would be remiss for not sharing a potential, viable solution that aligns with the recommended strategies - which would result in moving said needle in a big way within a relatively short timeframe!

That said, I believe it is worth respectfully asking the Board of Trustees to consider allocating/reallocating funds in which to purchase land for nonprofit housing partner, Berthoud Habitat for Humanity, to build affordable, deed restricted homes on for individuals who fall within the 40-80% area median income (AMI). I invite you to imagine with me for a moment as I expand upon this concept further. For together, we have an amazing opportunity right in front of us to leverage partnerships that have already begun forming.

Alex Hoime, a developer with HT Land Partners LLC, who has a heart for both our community and affordable/attainable housing, recently purchased two large parcels of land in Berthoud in which to develop. Months ago, Alex shared with me that he endeavors to set aside 10-acres in each of the two developments for Berthoud Habitat, which would equate to approximately 80-90 new, affordable single-family homes!!!

Back in September 2024, I submitted a Letter of Intent to Apply for the Proposition 123 Land Banking Program to the Colorado Housing and Finance Authority (CHFA) in an effort to secure funds to purchase the initial 10-acres. Unfortunately, we were not awarded the grant given the competitive process and limited state funding. If the Town were to consider purchasing the land – we could jump start this initiative and begin significantly impacting our community in a positive way by increasing affordable housing supply!

Following the meeting on March 11th, in further collaboration with Alex - the beauty is that he has not yet formally engaged in the development process and the master plans are yet to be fully conceptualized. He is open to and has already engaged in conversations with a builder whose price point falls within the attainable housing category, and we also discussed the possibility of incorporating a multi-family product as well. Furthermore, I see opportunity for Berthoud Habitat to further strengthen our partnership with Asher Architects + Engineering in

regards to design and I also foresee an opportunity to partner with a local builder to construct some of the Habitat homes thereby increasing supply at a faster rate.

Berthoud Habitat would continue doing what we do – serving as the builder and lender offering 30-year mortgages at 0% interest with payments capped at 30% of their gross monthly household income, while managing and maintaining affordability by way of 30-year deed restrictions. We maintain first right of repurchase, in which to preserve affordability, and offer shared appreciation with Habitat homeowners who will reap the transformational benefits of homeownership as summarized below:

Health

- Since moving into a home, 91% of Habitat homeowners experienced better mental health
- 90% observed improvements in their family's health
- 75% could more easily afford healthcare

Financial Stability

- 81% of Habitat homeowners felt somewhat or much more financially secure since moving into their Habitat home
- 52% of homeowners report a decrease in the total number of public assistance programs used

Education

- 98% of Habitat homeowners observed a stable or positive impact on their children's performance in school since moving into their home
- 2/3 expect their children to earn a bachelor's degree or greater

Workforce

- 72.2% of homeowners report that their work commute decreased or stayed the same after moving into their Habitat home
- Top five work industries of Habitat homeowners are 1) healthcare, 2) education, training, or library, 3) office administrative support, 4) transportation or warehousing, and 5) sales and retail

Talk about moving the needle and impacting our community in a BIG way, eh?!

In closing, I greatly appreciate your time and consideration! I welcome the opportunity to answer any questions and further brainstorm and collaborate.

Thank you to each of you for your service to our community.

Sincerely,



Tiffany D. Brodie
Executive Director

BOARD OF TRUSTEES



COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	April 22, 2025
Agenda Title/Subject:	Public Hearing: Consider adoption of proposed amendment to Chapter 30, specifically regarding Natural Healing Centers and Natural Medicine Businesses, Introduction Ordinance 1353
Type of Item:	Public Hearing
Purpose:	Amendment to Chapter 30, specifically regarding the consideration of language to create Section 14: Regulations for Natural Medicine Healing Centers and other Natural Medicine Businesses, Introduction Ordinance 1353
Presented by:	Anne Johnson, Community Development Director

ATTACHMENTS:

- Ordinance 1353
- Exhibit A to Ordinance: Code language
- Potential Properties for Natural Medicine
- State-issued Frequently Asked Questions
- State Summary Information
- Legislative Summary for Senate Bill 23-290
- Senate Bill 23-290, executed version
- Article, "Colorado's Bold Move to Legalize Psychedelics" from the periodical, *Colorado Lawyer* dated July/August 2024
- Evidence of public notice

BACKGROUND:

The State of Colorado voted to pass Proposition 122 in November, 2022. This new legislation is known as the Natural Medicine Health Act which accomplished two items: 1) to establish a regulatory program for access to natural medicine; and 2) to decriminalize personal use of natural medicine for adults.

The State Department of Revenue (DOR) is responsible for licensing and regulating healing centers as well as licensing and regulating cultivation, manufacturing and testing facilities. DOR has established that Natural Medicine currently includes Psilocybin and Psilocyn initially and the listing of medicines may expand. Proposition 122 also allows for personal use.

Planning Commission held a work session on March 27, 2025 to learn of the specific uses and ask questions of the State regulatory authority. Planning Commission held a public hearing on April 10, 2025 and voted to send the draft Code language to the Board of Trustees for approval and inclusion into the Land Development Code.

UPDATE AND NEXT STEPS:

The public hearings before the Town Trustees include the introduction of Code language scheduled for April 22, 2025 followed by the May 13, 2025 potential adoption of the language. Publication was made in accordance with the Municipal Code.

FISCAL IMPACT AND FUND SOURCE:

There is no negative fiscal impact to the Town in establishing regulations for local control to ensure the uses proposed will conform to the Town's land use requirements.

COMMUNITY TOUCHSTONES:

Consideration of the addition to the Town Code does not negatively impact community touchstones. Consideration of approval of the request does provide a mechanism to ensure any proposed uses are developed in accordance with the Town's guidelines which support sustainability, resiliency and community identity.

RECOMMENDED ACTION(S):

For Approval

I move to approve the introduction of the regulations for Natural Medicine Healing Centers and Other Natural Medicine Businesses as presented. The State of Colorado voted to pass Proposition 122 in November, 2022 and the Town has the ability to regulate time, place and manner of operation of these facilities. The Town Trustees will have a second public hearing on May 13, 2025 to potentially adopt these regulations.

For Denial

I move to deny the introduction of the regulations for Natural Medicine Healing Centers and Other Natural Medicine Businesses to the Town Board of Trustees for the following reasons: _____

**TOWN OF BERTHOUD ORDINANCE
NUMBER 1353**

**AN ORDINANCE ADOPTING THE TOWN OF BERTHOUD NATURAL MEDICINE HEALING
CENTERS AND NATURAL MEDICINE BUSINESSES REGULATIONS AS SECTION 14 IN
CHAPTER 30 OF THE BERTHOUD MUNICIPAL CODE**

WHEREAS, the People of the State of Colorado approved the citizens’ initiative known as “Proposition 122: Access to Natural Psychedelic Substances,” which is now codified in C.R.S. §§ 12-170-101 through 115 (the “Enabling Act”); and

WHEREAS, the Enabling Act decriminalizes the personal possession, growing, sharing, and use, but not the sale, of five (5) natural psychedelic mushrooms (psilocybin and psilocin) and three (3) plant-based psychedelic substances (dimethyltryptamine, ibogaine, and mescaline); and

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

WHEREAS, the Enabling Act allows the state to expand the type of substances that may be used in licensed facilities to include plant-based psychedelic substances (dimethyltryptamine, ibogaine, and mescaline), starting in 2026; and

WHEREAS, the Enabling Act prohibits local governments from banning licensed facilities, services, and use of natural psychedelic substances permitted by the Enabling Act, while allowing local governments to regulate the time, place and manner of operation of these facilities; and

WHEREAS the State of Colorado has established that local jurisdictions are only allowed to regulate time, place and manner for Natural Medicine Healing Centers and Natural Medicine Businesses; and

WHEREAS, the State Legislature enacted Senate Bill 23-290, which is codified in C.R.S. §§ 44-50-101 through 904 (the “Regulatory Act”), to create the regulatory structure for the operation of these licensed facilities, which includes the licensing and registration of facilities and related businesses that provide for the use, cultivation, manufacture and testing of these substances; and

WHEREAS, the Regulatory Act also provides that local jurisdictions, such as the Town of Berthoud, “may enact ordinances or regulations governing the time, place, and manner of the operation of licenses issued within its boundaries;” and

WHEREAS, the Regulatory Act provides that the “state licensing authority” as defined by the Regulatory Act, will “not receive or act upon an application for the issuance of a natural medicine business license” ... “[f]or a location in an area where the cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine or natural medicine product as contemplated is not permitted under the applicable zoning laws of the local jurisdiction;” and

WHEREAS, the Regulatory Act further provides that the state licensing authority will not receive or act upon an application for the issuance of a Natural Medicine Business License “[i]f the

building where natural medicine services are provided within one thousand feet of a child care center; preschool; elementary, middle, junior or high school; or a residential child care facility;” and

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

WHEREAS, the Town Board of the Town of Berthoud desires to enact this Ordinance to regulate the time, place and manner of the operation of licenses issued pursuant to the Regulatory Act; to establish the appropriate zoning districts for the operation of licenses issued pursuant to the Regulatory Act; and to establish distance restrictions for buildings where natural medicine services are provided within the vicinity of a child care center; preschool; elementary, middle, junior or high school; a residential child care facility; or residential dwellings pursuant to the Regulatory Act.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. The attached Exhibit A which contains a new Section 14 to Chapter 30 of the Berthoud Municipal Code has been approved.

Section 2. Interpretation: This Ordinance shall be so interpreted and construed to effectuate its general purpose.

Section 3. Effective Date: The provisions of this Ordinance shall take effect thirty (30) days following the date of public hearing to adopt the Berthoud Natural Healing Centers and Natural Medicine Businesses regulations.

[INTENTIONALLY LEFT BLANK]

INTRODUCED, READ, AND APPROVED on first reading this 22nd day of April, 2025.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

INTRODUCED, READ, ADOPTED, AND APPROVED on second reading this 13th day of May, 2025.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

By: _____
Christian Samora, Town Clerk

Chapter 30 Section 14: REGULATIONS FOR NATURAL MEDICINE HEALING CENTERS AND OTHER NATURAL MEDICINE BUSINESSES

30-14-101 Authority; relationship to other laws

- A. The Town Board of Trustees hereby finds and declares that it has the power to adopt this Section and the prohibitions set forth herein pursuant to Part 1 of Article 50 Colorado Natural Medicine Code of Title 44 of the Colorado Revised Statutes, and Part 3 of Article 50 License Types of Title 44 of the Colorado Revised Statutes; the Town of Berthoud Municipal Code; and Article 20 of Title 29 Local Government Regulation of Land Use, Article 15 Exercise of Municipal Powers, and Part 3 of Article 23 Zoning of Title 31 of the Colorado Revised Statutes, as may be amended from time to time.
- B. This Section is known and may be cited as the "Berthoud Natural Medicine Code." Reference to the Berthoud Natural Medicine Code and the applicable section or sections thereof shall be sufficient when citing the provisions of this Section in any legal document, including, but not limited to, summons, subpoena, pleading, summons and complaint, and memorandum.
- C. All natural medicine businesses shall meet the requirements of the Colorado Natural Medicine Code, all other applicable state laws, the Colorado Regulated Natural Medicine Rules, as promulgated by the department of revenue and the Natural Medicine License Rules and Regulations, as promulgated by the department of regulatory agencies. The Colorado Regulated Natural Medicine Rules and the Natural Medicine License Rules and Regulations as either or both may be amended are collectively referred to in this Section as the Colorado Natural Medicine Rules.
- D. All persons cultivating natural medicine, and operating natural medicine cultivation facilities, testing facilities, products manufacturing facilities, and natural medicine healing centers shall meet the requirements of the Town of Berthoud Development Code, as provided in Chapter 30 of the Berthoud Municipal Code, including all applicable overlay district provisions and standards. For example, a person redeveloping any land for any such shall meet the requirements of the then current site design, architectural and landscaping standards.

30-14-102 Purpose

The Town Board of Trustees declares that the purpose of this Section is to provide for the regulation of natural medicine businesses within the Town for the purpose of protecting the health, safety, and welfare of Berthoud residents and guests.

30-14-103 Definitions

As used in this Section, unless the context clearly requires otherwise, the following words and terms shall have the meanings set forth in this Section. Other definitions not specifically enumerated in this Section shall be as defined, as applicable, in the Colorado Natural Medicine Code, and the Colorado Natural Medicine Rules.

Administration session means a session conducted at a healing center, or other location if permitted by the Colorado Natural Medicine Code or Colorado Natural Medicine Rules, during which a

participant consumes and experiences the effects of natural medicine under the supervision of a facilitator.

Colorado Natural Medicine Code means Article 50 of Title 44 of the Colorado Revised Statutes, as may be amended from time to time.

Colorado Natural Medicine Rules means those rules governing state-licensed natural medicine businesses and state-licensed facilitators as set forth in the Colorado Code of Regulations, 1 CCR 213-1 and 4 CCR 755-1, as may be amended from time to time.

Facilitator means an individual who is 21 years of age or older; has the necessary qualifications, training, experience, and knowledge, as required pursuant to the Colorado Natural Medicine Rules, to perform and supervise natural medicine services for a participant(s); and is licensed by the director of the department of regulatory agencies division of professions and occupations to engage in the practice of facilitation.

Healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant.

Micro-healing center means a healing center licensee tier which is not permitted to store more than 750 milligrams of total psilocin on site.

Natural medicine business means any healing center, natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility, licensed to operate pursuant to the Colorado Natural Medicine Code.

Natural medicine cultivation facility means a facility licensed by the state licensing authority where regulated natural medicine is grown, harvested, and prepared in order to be transferred and distributed to either a healing center, facilitator, a natural medicine products manufacturer, or to another natural medicine cultivation facility.

Natural medicine products manufacturer means a person licensed by the state licensing authority who manufactures regulated natural medicine products for transfer to a healing center, facilitator, or to another natural medicine products manufacturer.

Natural medicine services means a preparation session, administration session, and a post-administration integration session.

Natural medicine testing facility means a public or private laboratory licensed or approved by the department of revenue division of natural medicine to perform testing and research on regulated natural medicine and regulated natural medicine products.

Participant means a person who is 21 years of age or older and who receives natural medicine services performed by or under the supervision of a facilitator.

Regulated natural medicine means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, transferred, or dispensed pursuant to the Colorado Natural Medicine Code.

State licensing authority means the executive director of the Colorado Department of Revenue.

30-14-104 Location of licensed natural medicine businesses.

- A. *Where natural medicine cultivation facilities, testing facilities, and products manufacturers permitted.* Natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers are permitted only in the Industrial M1 and M2 zone districts and on land appropriately zoned and only on land located 100' north of Mountain Avenue, south of Bunyan Avenue, east of the rail line and west of 1st Street. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.
- B. *Where healing centers permitted.* Natural medicine healing centers and micro-healing centers are permitted only in the Commercial C1 and C2, and Suburban and Urban Commercial/Business zone districts except for those located on Mountain Avenue between 6th Street and 1st Street, and in addition, must be at least 1,000 feet from any childcare center, residential childcare center, preschool, elementary school, middle school, or high school. The distance shall be computed by direct measurement from the nearest property line of the land used for a school or facility to the nearest portion of the building in which natural medicine services are provided, using a route of direct pedestrian access. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.
- C. *Separation of similar uses.* There shall be a distance of at least 1,000 feet between natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers. The distance shall be computed by direct measurement from the nearest property line of the land used for a facility or manufacturer to the nearest portion of the building in which the facility or manufacturer is housed, using a route of direct pedestrian access.
- D. *Permanent location required.* Natural medicine businesses must be operated from a permanent location. Natural medicine businesses are prohibited from operating from or storing regulated natural medicine or natural medicine products in a moveable, mobile, or transitory location.
 - 1. All storage of natural medicine and natural medicine product shall be in a secured and locked container. Natural medicine cultivation facilities shall ensure that any natural medicine under cultivation is kept in an enclosed locked area.
 - 2. No natural medicine business shall be operated as a home occupation; this does not preclude facilitators from providing natural medicine services at a person's residence in compliance with the Colorado Natural Medicine Rules and other applicable state regulations.
 - 3. Healing centers and micro-healing centers shall not operate outside of the hours of 7 a.m. to 7 p.m., Monday through Saturday.
- E. *Public View.* All doorways, windows and other openings of a natural medicine business shall be located, covered or screened in such a manner as to prevent a view into the interior of said businesses. All activities associated with natural medicine businesses shall occur indoors.
 - 1. The primary entrance shall face the street.

-
- F. *Processing.* The processing of natural medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.
1. Nonhazardous materials used to process natural medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of natural medicine.
 2. The processing of natural medicine shall meet the requirements of all adopted Town building and life/safety codes.
 3. The processing of natural medicine shall meet all of the requirements of all adopted water and sewer regulations promulgated by the applicable water and sewer provider.
- G. *Lighting.* All facility lighting shall comply with the lighting standards of the Berthoud Municipal Code. In addition, primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing lights to provide for after-dark visibility for all patrons, employees and the general public.
- H. *Security.* The following shall apply to all natural medicine healing centers and all other natural medicine businesses.
1. A security plan for the secure storage of natural medicine and natural medicine products approved by the Colorado Natural Medicine Division shall be provided to the Town prior to beginning operation, and shall provide any updated plans to the Town within ten (10) business days.
 2. Video surveillance recordings shall be retained for a minimum of sixty (60) days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as the full unedited version.
 - a. Video surveillance shall provide coverage of all facility entrances and exits.
 - b. Video surveillance recordings shall be maintained in a locked area on the licensed premises.
 - c. Video surveillance recordings shall be duplicated and stored at a secure off-site location or through a network (cloud) service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the Town and updated within seventy-two (72) hours of any change to the location or provider.
 - d. Video surveillance records and recordings must be made available immediately upon request of the state licensing authority, or Town police department.
 - e. If video surveillance or storage equipment becomes inoperable or storage network service becomes disabled, the natural medicine healing center or other natural medicine business shall cease all transactions and require all patrons to exit the building until the equipment or network service is made operable.

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3. A monitored security alarm shall be present to provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with interior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults.

- I. *Odor from Natural Medicine Business.* An air filtration and ventilation system shall be designed and installed to ensure the odors from a natural medicine business are confined to the premises and are not detectable or discernible beyond the property boundaries of the land on which the licensed premises is located.
- J. *Nuisance.* It is unlawful and deemed a nuisance under this Code to dispose of, discharge out of or from, or permit to flow from any facility associated with natural medicine, any foul or noxious liquid or substance of any kind whatsoever, including, without limitation, by-products of the natural medicine process, into or upon any adjacent ground or lot, into any street, alley or public place, or into any municipal storm sewer, sanitary sewer, potable water, or non-potable water system in the Town.
- K. *Waste product, remnants or byproduct.* Natural medicine businesses shall provide for secure disposal of natural medicine waste product, remnants or byproduct. Natural medicine waste, remnants and/or byproduct shall not be placed in the facilities' exterior waste container, nor shall it be in any way accessible to the public.
- L. *Unlawful conduct.*

It shall be deemed unlawful for any natural medicine business to violate any provision of the Berthoud Natural Medicine Code. It shall further be deemed unlawful for any natural medicine business to administer natural medicine to a minor, a visibly intoxicated person, or anyone who is not otherwise eligible or appropriate for administration of natural medicine under state laws.

M. *Unlawful cultivation of natural medicine*

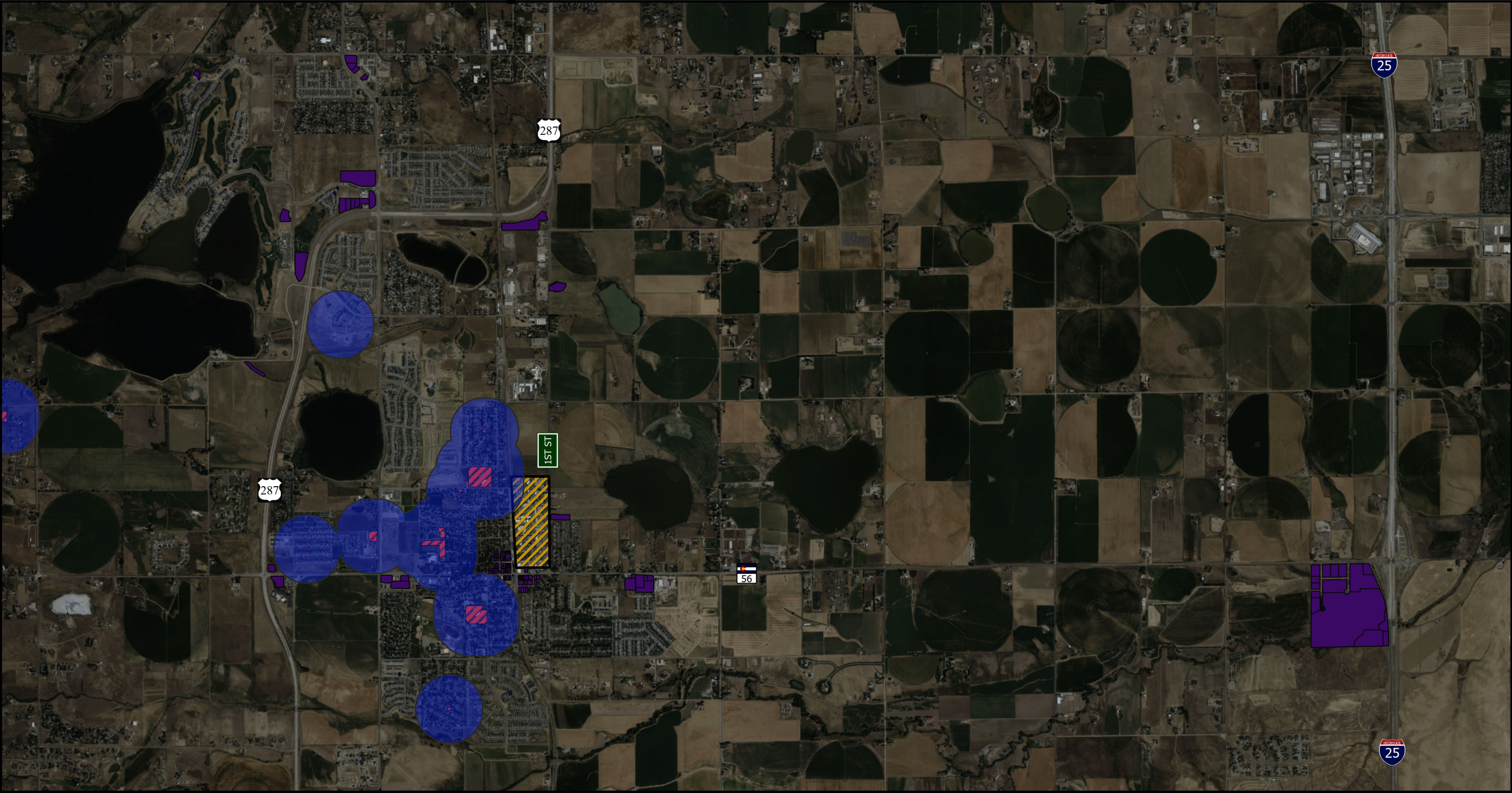
1. It shall be unlawful for any person to knowingly cultivate natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on private property.
2. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on such private property.
3. It shall be unlawful for any person to knowingly cultivate natural medicine on private property outside of an enclosed and locked space.
4. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine on such private property outside of an enclosed and locked space.

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5. It shall not be a violation off Subsections (c) and (d) above if the person cultivating natural medicine is twenty-one (21) years of age or older, if the cultivation area is locked in a dwelling on the private property; provided that if a person under twenty-one (21) years of age lives at the dwelling, the cultivation area itself is enclosed and locked; or if a person is under twenty-one (21) years of age enters a dwelling that contains external locks, the person cultivating the natural medicine shall ensure that access to the cultivation area is reasonably restricted for the duration of the person under twenty-one (21) years of age's presence in the private property.

N. *Severability.*

If any clause, sentence, or paragraph, or part of this ordinance shall be held invalid, the validity of the remainder of this ordinance shall not be invalidated or effected thereby.

Potential Properties for Natural Healing Centers



- Potential Properties for Natural Healing Centers
- Industrial Area
- Child Care Locations
- 1000' Buffer

0 6,000 12,000 Feet



Frequently Asked Questions

This resource was prepared by Natural Medicine Division staff as a resource of local jurisdictions as they prepare for licensed natural medicine operations in 2025. This resource should not be construed as legal advice. Local jurisdictions across the state submitted the questions reflected below.

When will licenses start being issued?

- The Division will begin accepting applications on December 31, 2024. We anticipate **issuing** licenses in the first quarter of 2025.

Do the state rules anticipate that localities will have local licensing, or does it imply that local licensing is not allowed?

- The Natural Medicine Code (sections 44-50-101 et seq., C.R.S.) does not contemplate dual licensing or require local licensure. Rather, local jurisdictions have the authority to establish time, place, and manner requirements for Natural Medicine Businesses.

Can you confirm that distance requirements are only from childcare and schools and not residential uses broadly?

- Healing Centers, where natural medicine services will be provided, must be at least 1,000 feet from any **child care center, preschool, elementary, middle, junior, or high school; or a residential child care facility**. See § 44-50-302(1)(d)(I), C.R.S.
- Other types of Natural Medicine Businesses (cultivations, product manufacturers, and testing laboratories) are not subject to this distance restriction.

How will the Natural Medicine Division measure distance requirements for healing centers?

- The Natural Medicine Code requires distances to be computed by direct measurement from the nearest property line of the land used for a school or childcare facility to the nearest portion of the building where the natural medicine services will be provided. See § 44-50-302(1)(d)(II), C.R.S.
- This means **direct pedestrian access** to the business.

Are there distance restrictions between natural medicine businesses?

- **No.** For issuance of the state license, the Natural Medicine Division is not required to evaluate or verify the distance between Natural Medicine Businesses.

When do local zoning requirements need to be implemented to be in effect for a license?

- If the State Licensing Authority confirms the application complies with all state requirements and any existing local requirements, the license will be issued.
- Issuance of the state license is not dependent on local jurisdiction approval; however, licensees must comply with any local time, place, manner requirements the local jurisdiction adopts in accordance with section 44-50-302, C.R.S., and the Natural Medicine Rules.

If our local jurisdiction decides not to pass an ordinance regarding time, place, or manner, how will that affect applicants?

- Prior to issuing a license, the State Licensing Authority must confirm the proposed location complies with the statutory 1,000 feet, or specific local, distance restriction and complies with applicable local zoning ordinances.
- In the absence of local zoning ordinances specifically addressing Natural Medicine Business operations, the state license will be issued if all other requirements, including both the Natural Medicine Code distance restriction and any other local requirements, are met.

Last updated: 12/26/24



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
<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. <u>Board Recommendation Subjects, Pg. 14-15:</u> ➤ 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 <u>Other Board Duties, Pg. 15:</u> ➤ Shall, on an ongoing basis: ○ 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)
<u>Federally Recognized American Tribes & Indigenous Community Working Group</u> ➤ 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)
<u>Facilitator License Requirements & Restrictions</u> ➤ 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) ○ Name, address, and phone # of the licensee; ○ Explanation of regulations applicable to the licensee; ○ Listing of training, educational and experiential requirements and qualifications satisfied	

- to obtain a license ○ 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)
<u>DORA Permissive Authority to Take Disciplinary or Other Action Upon Proof of Following:</u> ➤ 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)
<u>Protections Include:</u> (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. (b) Contracts enforceable (federal prohibition does not render a contract unenforceable) (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. (d) Nothing prevents the Director from enforcing rules or limits state or local LE to investigate unlawful activity in relation to a licensee. (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.	

SECTIONS 13-16	12-170-114 - 12-170-117. Construction & Repeal (P. 23)
➤ 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)
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. <u>Minimum testing rules must include:</u> ➤ 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)
44-50-103. Definitions: Consistent with Title 12 (underlined terms are new) 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>	

SECTION 21	PART 1: 44-50-104. Applicability (P. 32)
<u>Application Procedures</u> ➤ Requires SLA to <u>prioritize review</u> of applications from Colorado residents ➤ Application & License fees are credited to the Regulated Natural Medicine Cash Fund <u>Employer, School, Hospital, Detention Facility, Related Protections</u> ➤ 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 <u>Local Jurisdiction Authority & Limitations</u> ➤ May enact ordinances/regulations governing time, place, manner of operation of licenses ➤ May NOT prohibit: ○ 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)
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.	
SECTION 21	PART 2: 44-50-202. Powers & Duties of SLA (P. 33)
<u>Licensing & Enforcement: PP. 33-34</u> ➤ 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 <u>Reporting, Public Education & Training: PP. 34-36</u> ➤ In coordination with DORA, publish an ANNUAL REPORT on the implementation/administration (must not include information that could disclose the identity of a participant) ○ 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) <u>Other Duties & Limitations: PP. 35-36</u> ➤ 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)

- 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)

- 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)
<u>General Requirements & Restrictions</u> ➤ 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 <u>Additional Rulemaking Authority</u> ➤ 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)
<u>Transfer Allowances/Restrictions</u> ➤ License may be issued only to a person who cultivates regulated NM for transfer and distribution to NM healing centers, manufacturers, or other cultivations <u>Activities Restricted on Premises</u> ➤ NM cannot be consumed on the premises unless co-located with HC premises	
SECTION 21	PART 4: 44-50-403. Product Manufacturer (P. 48)
<u>General Requirements & Restrictions</u> ➤ License may be issued only to a person who manufactures regulated NM products ➤ Licensee shall NOT: ○ 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 <u>Activities Restricted on Premises</u> ➤ NM cannot be consumed on premises unless co-located with HC premises	
SECTION 21	PART 4: 44-50-404. Testing Facility (P. 49)
<u>General Requirements & Restrictions</u> ➤ 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 <u>Additional Rulemaking Authority</u> ➤ Acceptable testing and research practices, including but not limited to: ○ 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)
➤ 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)
<u>Establishes the Regulated Natural Medicine Division Cash Fund</u> ➤ 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)
<u>44-50-901. Protections (PP. 53-54)</u> ➤ 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. <u>44-50-902 - 904. Construction, Preemption, Severability (P. 55)</u> 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.	
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)
<u>NEW PERSONAL USE PROVISIONS FOR NATURAL MEDICINE</u> OFFENSES P. 58 <u>(1) Persons under 21 Years of Age - Knowingly Possess or Consume</u> P. 58 <i>*Aligns with 18-13-122 for MJ</i> ➤ 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 <u>(2) Open and Public Display or Consumption:</u> P. 58 <i>*Aligns with 18-18-406(5)(b) for MJ</i> ➤ Drug petty offense - subject to: ○ Fine of not more than \$1,000; AND ○ Not more than twenty-four (24) hours of useful public service. <u>(3)(a) Knowing Cultivation (or allowance) - Private Property Exceeding 12x12 (non-contiguous)</u> P. 59 <i>*Aligns with lowest level penalty in 18-18-406(3) for MJ</i> ➤ 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)
➤ 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
(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. ➤ 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)
➤ 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)

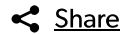
Appropriates funding to agencies for purposes of implementation

SECTION 45

Effective Date and Safety Clause (P. 74)

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

END



SB23-290

Natural Medicine Regulation And Legalization

Concerning natural medicine, and, in connection therewith, making an appropriation.

SESSION: 2023 Regular Session

SUBJECT: Liquor, Tobacco, & Marijuana

BILL SUMMARY

The act amends the regulatory framework for natural medicine and natural medicine product.

The act requires the director of the division of professions and occupations to:

- Regulate facilitators and the practice of regulation, including issuing licenses for facilitators;
- Promulgate rules necessary for the regulation of facilitators and the practice of facilitation; and
- Perform duties necessary for the implementation and administration of the “Natural Medicine Health Act of 2022”, including investigatory and disciplinary authority.

The act creates the natural medicine advisory board (board). The board’s duties include examining issues related to natural medicine and natural medicine product, and making recommendations to the director of the division of professions and occupations and the executive director of the state licensing authority.

The act creates the federally recognized American tribes and Indigenous community working group (working group). The working group’s duties include studying issues related to legalizing and regulating natural medicine and natural medicine product, the effect of legalization and regulation on federally recognized American tribes and Indigenous people and communities, and making recommendations to the director of the division of professions and occupations and the board.

The act creates within the department of revenue the natural medicine division for the purpose of regulating and licensing the cultivation, manufacturing, testing, storage, distribution, transport, transfer, and dispensation of natural medicine or natural medicine product between natural medicine licensees. The act requires the natural medicine division to:

- Regulate natural medicine, natural medicine product, and natural medicine businesses, including healing centers, cultivators, manufacturers, and testers, and issue licenses for such businesses;
- Promulgate rules necessary for the regulation of natural medicine, natural medicine product, and natural medicine businesses; and

The act requires the department of revenue to coordinate with the department of public health and environment concerning testing standards of regulated natural medicine and natural medicine product.

The act requires a sunset review for the articles governing the department of regulatory affairs and the department of revenue in the regulation of natural medicine, natural medicine product, facilitators, and natural medicine businesses.

The act states that:

- A person who is under 21 years of age who knowingly possesses or consumes natural medicine or natural medicine product commits a drug petty offense and is subject to a fine of not more than \$100 or not more than 4 hours of substance use education or counseling; except that a second or subsequent offense is subject to a fine of not more than \$100, not more than 4 hours of substance use education or counseling, and not more than 24 hours of useful public service;
- A person who openly and publicly consumes natural medicine or natural medicine product commits a drug petty offense and is subject to a fine of not more than \$100 and not more than 24 hours of useful public service;
- A person who knowingly cultivates natural medicine is required to do so on the person's private property, subject to area and physical security requirements. A person who violates this provision commits a drug petty offense and is subject to a fine of not more than \$1,000.
- A person who is not licensed to manufacture natural medicine product and who knowingly manufactures natural medicine product using an inherently hazardous substance commits a level 2 drug felony;
- Unless expressly limited, a person who, for the purpose of personal use and without remuneration, possesses, consumes, shares, cultivates, or manufactures natural medicine or natural medicine product does not violate state or local law; except that nothing permits a person to distribute natural medicine or natural medicine product to a person for certain unlawful purposes;
- Unless expressly limited, a person who performs testing on natural medicine or natural medicine product for another person who is 21 years of age or older who submits for testing natural medicine or natural medicine product intended for personal use does not violate state or local law;
- A peace officer is prohibited from arresting, and a district attorney is prohibited from charging or prosecuting, a person for a criminal offense pursuant to part 4 of article 18 of title 18 involving natural medicine or natural medicine product, unless expressly provided by the act;
- A lawful action related to natural medicine or natural medicine product must not be the sole reason to subject a person to a civil penalty, deny a right or privilege, or seize assets;
- A lawful action related to natural medicine or natural medicine product must not be used as the sole factor in a probable cause determination of any criminal offense; except that an action may be used in such determination if the original stop or search was lawful and other factors are present to support a probable cause determination of any criminal offense;
- The fact that a person is entitled to consume natural medicine or natural medicine product does not constitute a defense against any charge for violation of an offense related to operation of a vehicle, aircraft, boat, machinery, or other device;

- A local jurisdiction is prohibited from adopting, enacting, or enforcing a conflicting law; and

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- A person who occupies, owns, or controls property may prohibit or otherwise regulate the cultivation or manufacture of natural medicine or natural medicine product on or in that property.

The act states that the juvenile court has exclusive original jurisdiction in proceedings concerning a juvenile 10 years of age or older who has violated an offense concerning natural medicine or natural medicine product. Furthermore, the juvenile court and county court have concurrent jurisdiction over a juvenile who is 10 years of age or older who has violated an offense concerning natural medicine product; except that if the juvenile court accepts jurisdiction, the county court jurisdiction terminates.

The act states that an act involving natural medicine or natural medicine product that is performed by a person:

- Does not solely constitute child abuse or neglect, or grounds for restricting or prohibiting family time;
- Does not constitute an offense such that its possession or use constitutes a violation of conditions of probation or parole;
- Does not solely constitute grounds for denying health insurance coverage;
- Does not solely constitute grounds for discrimination for organ donation; and
- Must not be considered for public assistance benefits eligibility, unless required by federal law.

The act makes a person eligible to file a motion to have conviction records related to natural medicine or natural medicine product sealed.

Under federal law, certain expenses are disallowed under section 280E of the internal revenue code. Under state law, the state income tax code permits taxpayers who are licensed under the "Colorado Marijuana Code" to subtract expenses that are disallowed by section 280E of the internal revenue code. The act expands this permission to taxpayers who are licensed under the "Colorado Natural Medicine Code".

For the 2023-24 state fiscal year, the act appropriates:

- \$733,658 from the general fund to the department of revenue, of which, \$190,332 is reappropriated to the department of law;
- \$101,150 from the legal services cash fund to the department of law; and
- \$838,402 from the general fund to the department of public health and environment.

APPROVED by Governor May 23, 2023

EFFECTIVE July 1, 2023

(Note: This summary applies to this bill as enacted.)

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PRIME SPONSORS



Senator Steve Fenberg (/legislators/steve-fenberg).



Representative Judy Amabile (/legislators/judy-amabile).

COMMITTEES

Senate Finance (/committees/finance/2023-regular-session).

Senate Appropriations (/committees/appropriations/2023-regular-session).

House Finance (/committees/finance/2023-regular-session-o).

House Appropriations (/committees/appropriations/2023-regular-session-o).

Status

Introduced

Passed

Menu

Bill Text

Bill Text

All Versions (7)



DATE	BILL TYPE	DOCUMENTS
05/23/2023	Signed Act	PDF (https://leg.colorado.gov/sites/default/files/2023a_290_signed.pdf)
05/08/2023	Final Act	PDF (https://leg.colorado.gov/sites/default/files/documents/2023A/bills/2023a_290_enr.pdf)
04/29/2023	Rerevised	PDF (https://leg.colorado.gov/sites/default/files/documents/2023A/bills/2023a_290_rer.pdf)
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[Multi-serving Liquid Marijuana Products \(/bills/hb16-1427/\)](#)

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[Workplace Expectations \(https://leg.colorado.gov/workplace-expectations\)](https://leg.colorado.gov/workplace-expectations)

[Workplace Harassment Policy \(https://leg.colorado.gov/workplace-harassment-policy\)](https://leg.colorado.gov/workplace-harassment-policy)

FOR LEGISLATORS & STAFF

[Ethics Tutorial \(https://sites.google.com/view/coga-ethics-tutorial/\)](https://sites.google.com/view/coga-ethics-tutorial/)

[IT Login \(https://leg.colorado.gov/user/login\)](https://leg.colorado.gov/user/login)

[Social Calendar \(/social-calendar\)](/social-calendar)

[House and Senate Rules \(/house-senate-rules\)](/house-senate-rules)

[Policy on Member Requests for CSP Protection](#)

[\(https://leg.colorado.gov/sites/default/files/images/executive_committee_policy_for_seeking_csp_protection.pdf\)](https://leg.colorado.gov/sites/default/files/images/executive_committee_policy_for_seeking_csp_protection.pdf)

An Act

SENATE BILL 23-290

BY SENATOR(S) Fenberg, Bridges, Ginal, Jaquez Lewis, Marchman,
Priola;
also REPRESENTATIVE(S) Amabile, Garcia, McCormick, Valdez.

CONCERNING NATURAL MEDICINE, AND, IN CONNECTION THEREWITH,
MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 12-170-102, **amend**
(1)(b); and **add** (2) as follows:

12-170-102. Legislative declaration. (1) The voters of the state of
Colorado find and declare that:

(b) Coloradans are experiencing problematic mental health issues,
including but not limited to suicidality, addiction, END-OF-LIFE DISTRESS,
depression, and anxiety.

(2) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) CONSIDERABLE HARM MAY OCCUR TO THE FEDERALLY

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes
through words or numbers indicate deletions from existing law and such material is not part of
the act.*

RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS IF NATURAL MEDICINE IS OVERLY COMMODIFIED, COMMERCIALIZED, AND EXPLOITED IN A MANNER THAT RESULTS IN THE ERASURE OF IMPORTANT CULTURAL AND RELIGIOUS CONTEXT;

(b) CONSIDERABLE HARM MAY OCCUR TO THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS IF FACILITATORS, HEALING CENTERS, AND OTHER NATURAL MEDICINE LICENSEES WITH MINIMAL OR NO CONNECTION TO TRADITIONAL USE OF NATURAL MEDICINE MISAPPROPRIATE OR EXPLOIT TRIBAL AND INDIGENOUS CULTURES AND RELIGIONS;

(c) IT IS THE GENERAL ASSEMBLY'S INTENT TO ENSURE THAT THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS ARE HONORED AND RESPECTED AS THE STATE LEGALIZES AND REGULATES NATURAL MEDICINE. BY ENACTING LAWS, RULES, AND ORDERS TO IMPLEMENT THIS ARTICLE 170 AND ARTICLE 50 OF TITLE 44, THE GENERAL ASSEMBLY, DIVISION, AND STATE LICENSING AUTHORITY SHALL CONSIDER THE POTENTIAL FOR DIRECT AND INDIRECT HARM THAT MAY OCCUR TO THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS THAT HAVE A CONNECTION TO NATURAL MEDICINE; AND

(d) ALTHOUGH THERE MAY BE TREMENDOUS POTENTIAL IN UTILIZING NATURAL MEDICINE FOR MANAGING VARIOUS MENTAL HEALTH CONDITIONS, HEALING, AND SPIRITUAL GROWTH, THIS POTENTIAL MUST BE APPROPRIATELY BALANCED WITH THE HEALTH AND SAFETY RISKS THAT IT COULD POSE TO CONSUMERS AS WELL AS THE CULTURAL HARMS IT COULD POSE TO THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS AND TRADITIONAL COMMUNITIES THAT HAVE CONNECTIONS TO NATURAL MEDICINE.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-103 as follows:

12-170-103. Applicability of common provisions. ARTICLES 1 AND 20 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 170.

SECTION 3. In Colorado Revised Statutes, **repeal and reenact**,

with amendments, 12-170-104 as follows:

12-170-104. Definitions. AS USED IN THIS ARTICLE 170, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTRATION SESSION" MEANS A SESSION CONDUCTED AT A HEALING CENTER, OR ANOTHER LOCATION AS ALLOWED BY THIS ARTICLE 170 AND ARTICLE 50 OF TITLE 44, DURING WHICH A PARTICIPANT CONSUMES AND EXPERIENCES THE EFFECTS OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT UNDER THE SUPERVISION OF A FACILITATOR.

(2) "BOARD" MEANS THE STATE NATURAL MEDICINE ADVISORY BOARD CREATED IN SECTION 12-170-106.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE DIRECTOR'S DESIGNEE.

(4) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND OCCUPATIONS CREATED IN THE DEPARTMENT PURSUANT TO SECTION 12-20-103.

(5) "FACILITATION" MEANS THE PERFORMANCE AND SUPERVISION OF NATURAL MEDICINE SERVICES FOR A PARTICIPANT.

(6) "FACILITATOR" MEANS AN INDIVIDUAL WHO IS TWENTY-ONE YEARS OF AGE OR OLDER; HAS THE NECESSARY QUALIFICATIONS, TRAINING, EXPERIENCE, AND KNOWLEDGE, AS REQUIRED PURSUANT TO THIS ARTICLE 170 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 170, TO PERFORM AND SUPERVISE NATURAL MEDICINE SERVICES FOR A PARTICIPANT; AND IS LICENSED BY THE DIRECTOR TO ENGAGE IN THE PRACTICE OF FACILITATION.

(7) "FEDERALLY RECOGNIZED AMERICAN TRIBE" HAS THE SAME MEANING AS "INDIAN TRIBE" AS DEFINED BY THE FEDERAL "FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994", AS AMENDED.

(8) "HEALING CENTER" MEANS A FACILITY WHERE AN ENTITY IS LICENSED BY THE STATE LICENSING AUTHORITY PURSUANT TO ARTICLE 50 OF TITLE 44 THAT PERMITS A FACILITATOR TO PROVIDE AND SUPERVISE NATURAL MEDICINE SERVICES FOR A PARTICIPANT.

(9) "HEALTH-CARE FACILITY" MEANS AN ENTITY THAT IS LICENSED, CERTIFIED, OR OTHERWISE PERMITTED BY LAW TO ADMINISTER MEDICAL TREATMENT IN THIS STATE, INCLUDING A HOSPITAL, CLINIC, HOSPICE ENTITY, COMMUNITY MENTAL HEALTH CENTER, FEDERALLY QUALIFIED HEALTH CENTER, RURAL HEALTH CLINIC, ORGANIZATION PROVIDING A PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY, LONG-TERM CARE FACILITY, CONTINUING CARE RETIREMENT COMMUNITY, OR OTHER TYPE OF ENTITY WHERE HEALTH CARE IS PROVIDED.

(10) "INTEGRATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND FACILITATOR THAT OCCURS AFTER THE COMPLETION OF AN ADMINISTRATION SESSION.

(11) "LOCAL JURISDICTION" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(12)(a) "NATURAL MEDICINE" MEANS THE FOLLOWING SUBSTANCES:

(I) PSILOCYBIN; OR

(II) PSILOCYN.

(b) IN ADDITION TO THE SUBSTANCES LISTED IN SUBSECTION (12)(a) OF THIS SECTION, "NATURAL MEDICINE" INCLUDES:

(I) DIMETHYLTRYPTAMINE, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY FOR INCLUSION ON OR AFTER JUNE 1, 2026;

(II) IBOGAINE, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY; OR

(III) MESCALINE, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY FOR INCLUSION ON OR AFTER JUNE 1, 2026.

(c) "NATURAL MEDICINE" DOES NOT MEAN A SYNTHETIC OR SYNTHETIC ANALOG OF THE SUBSTANCES LISTED IN SUBSECTIONS (12)(a) AND (12)(b) OF THIS SECTION, INCLUDING A DERIVATIVE OF A NATURALLY

OCCURRING COMPOUND OF NATURAL MEDICINE THAT IS PRODUCED USING CHEMICAL SYNTHESIS, CHEMICAL MODIFICATION, OR CHEMICAL CONVERSION.

(d) NOTWITHSTANDING SUBSECTION (12)(b)(III) OF THIS SECTION, "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 THE PLANT, AND EVERY COMPOUND, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT; OR ITS SEEDS OR EXTRACTS.

(13) "NATURAL MEDICINE PRODUCT" MEANS A PRODUCT INFUSED WITH NATURAL MEDICINE THAT IS INTENDED FOR CONSUMPTION.

(14) "NATURAL MEDICINE SERVICES" MEANS A PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION PROVIDED PURSUANT TO THIS ARTICLE 170.

(15) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND WHO RECEIVES NATURAL MEDICINE SERVICES PERFORMED BY AND UNDER THE SUPERVISION OF A FACILITATOR.

(16) "PREPARATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND FACILITATOR THAT OCCURS BEFORE AN ADMINISTRATION SESSION. "PREPARATION SESSION" DOES NOT MEAN AN INITIAL CONSULTATION, AN INQUIRY, OR RESPONSE ABOUT NATURAL MEDICINE SERVICES.

(17) "REGULATED NATURAL MEDICINE" MEANS NATURAL MEDICINE THAT IS CULTIVATED, MANUFACTURED, TESTED, STORED, DISTRIBUTED, TRANSPORTED, TRANSFERRED, OR DISPENSED PURSUANT TO ARTICLE 50 OF TITLE 44.

(18) "REGULATED NATURAL MEDICINE PRODUCT" MEANS NATURAL MEDICINE PRODUCT THAT IS CULTIVATED, MANUFACTURED, TESTED, STORED, DISTRIBUTED, TRANSPORTED, TRANSFERRED, OR DISPENSED PURSUANT TO ARTICLE 50 OF TITLE 44.

(19) "REMUNERATION" MEANS ANYTHING OF VALUE, INCLUDING MONEY, REAL PROPERTY, TANGIBLE AND INTANGIBLE PERSONAL PROPERTY,

CONTRACT RIGHT, CHOSE IN ACTION, SERVICE, AND ANY RIGHT OF USE OR EMPLOYMENT OR PROMISE OR AGREEMENT CONNECTED THEREWITH, BUSINESS PROMOTION, OR COMMERCIAL ACTIVITY.

(20) "STATE LICENSING AUTHORITY" MEANS THE AUTHORITY CREATED FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURING, TESTING, STORING, DISTRIBUTION, TRANSPORTATION, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT IN THIS STATE PURSUANT TO SECTION 44-50-201.

SECTION 4. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-105 as follows:

12-170-105. Director powers and duties - prohibition - rules.

(1) IN ADDITION TO ANY OTHER POWERS AND DUTIES GRANTED OR IMPOSED ON THE DIRECTOR PURSUANT TO THIS ARTICLE 170 OR BY ANY OTHER LAW, THE DIRECTOR HAS THE FOLLOWING POWERS AND DUTIES:

(a) TO PROMULGATE RULES PURSUANT TO SECTION 12-20-204 CONCERNING THE FOLLOWING SUBJECTS:

(I) REQUIREMENTS FOR THE SAFE PROVISION OF REGULATED NATURAL MEDICINE, REGULATED NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES TO A PARTICIPANT, INCLUDING:

(A) PARAMETERS FOR A PREPARATION SESSION, AN ADMINISTRATION SESSION, AND AN INTEGRATION SESSION, INCLUDING REQUIREMENTS FOR PROVIDING AND VERIFYING THE COMPLETION OF EACH SESSION; WHETHER ANY OF THE SESSIONS MAY BE CONDUCTED USING TELEPHONE OR AUDIO-VISUAL COMMUNICATION TECHNOLOGY; AND ANY TIMELINESS REQUIREMENTS FOR WHEN EACH SESSION MUST BE COMPLETED IN RELATION TO THE OTHER SESSIONS;

(B) HEALTH AND SAFETY WARNINGS THAT MUST BE PROVIDED TO A PARTICIPANT BEFORE THE PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION BEGIN;

(C) EDUCATIONAL MATERIALS THAT MUST BE PROVIDED TO A PARTICIPANT BEFORE THE PREPARATION SESSION, ADMINISTRATION SESSION,

AND INTEGRATION SESSION BEGIN;

(D) A FORM THAT A PARTICIPANT, FACILITATOR, AND AN AUTHORIZED REPRESENTATIVE OF THE HEALING CENTER MUST SIGN, UNLESS THE FACILITATOR IS A SOLE PRACTITIONER, THEN ONLY THE PARTICIPANT AND FACILITATOR MUST SIGN, BEFORE THE PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION BEGIN. AT A MINIMUM, THE FORM MUST PROVIDE THAT THE PARTICIPANT PROVIDED THE PARTICIPANT'S COMPLETE AND ACCURATE HEALTH INFORMATION TO THE FACILITATOR AND THAT THE FACILITATOR PROVIDED TO THE PARTICIPANT IDENTIFIED RISK FACTORS BASED UPON THE PARTICIPANT'S PROVIDED HEALTH INFORMATION AND DRUG CONTRAINDICATIONS; PARTICIPANT EXPECTATIONS OF THE NATURAL MEDICINE SERVICES; PARAMETERS FOR PHYSICAL CONTACT DURING NATURAL MEDICINE SERVICES, THE REQUIREMENT OF INFORMED CONSENT PERMITTING PHYSICAL CONTACT, AND THE RIGHT TO WITHDRAW CONSENT FOR PHYSICAL CONTACT; AND RISKS OF PARTICIPATING IN NATURAL MEDICINE SERVICES.

(E) PROPER SUPERVISION BY THE FACILITATOR DURING THE ADMINISTRATION SESSION, AND REQUIREMENTS TO ENSURE THAT THE PARTICIPANT HAS A DISCHARGE PLAN OR SAFE TRANSPORTATION FROM THE HEALING CENTER;

(F) PROVISIONS FOR GROUP ADMINISTRATION SESSIONS, INCLUDING REQUIREMENTS FOR AN ADMINISTRATION SESSION THAT HAS ONE OR MORE FACILITATORS PERFORMING AND SUPERVISING THE ADMINISTRATION SESSION FOR MORE THAN ONE PARTICIPANT;

(G) PROVISIONS TO PERMIT A FACILITATOR TO REFUSE TO PROVIDE NATURAL MEDICINE SERVICES TO A PERSON BASED UPON HEALTH AND SAFETY RISKS, OR CIRCUMSTANCES PROMULGATED BY RULE; AND

(H) THE DOSAGE LIMIT OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT THAT MAY BE PROVIDED TO A PARTICIPANT FOR CONSUMPTION DURING AN ADMINISTRATION SESSION.

(II) REQUIREMENTS FOR THE LICENSING OF FACILITATORS, PRACTICE OF FACILITATION, AND PROFESSIONAL CONDUCT OF FACILITATORS, INCLUDING:

(A) THE FORM AND PROCEDURES FOR APPLYING FOR A NEW LICENSE OR RENEWING OR REINSTATING A LICENSE ISSUED PURSUANT TO THIS ARTICLE 170;

(B) THE EDUCATIONAL AND EXPERIENTIAL REQUIREMENTS AND QUALIFICATIONS FOR AN INDIVIDUAL TO BECOME A FACILITATOR, 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. THE EDUCATIONAL REQUIREMENTS MUST NOT REQUIRE A PROFESSIONAL LICENSE OR PROFESSIONAL DEGREE OTHER THAN A FACILITATOR LICENSE ISSUED PURSUANT TO THIS ARTICLE 170, EXCEPT THAT IF THERE ARE MULTIPLE TIERS OF FACILITATOR LICENSES, AN ADVANCED TIER OF FACILITATOR LICENSES MAY REQUIRE ANOTHER PROFESSIONAL LICENSE OR PROFESSIONAL DEGREE;

(C) OVERSIGHT AND SUPERVISION REQUIREMENTS, INCLUDING PROFESSIONAL RESPONSIBILITY STANDARDS AND CONTINUING EDUCATION REQUIREMENTS;

(D) ESTABLISHMENT OF PROFESSIONAL STANDARDS OF CONDUCT TO PRACTICE FACILITATION, OR A LICENSE, REGISTRATION, PERMIT, OR CERTIFICATION PURSUANT TO THIS ARTICLE 170;

(E) PARAMETERS FOR PHYSICAL CONTACT WITH A PARTICIPANT DURING NATURAL MEDICINE SERVICES, INCLUDING REQUIREMENTS FOR OBTAINING SIGNED INFORMED CONSENT FOR PERMISSIBLE PHYSICAL CONTACT AND PERMITTING A PARTICIPANT TO WITHDRAW CONSENT FOR PERMISSIBLE PHYSICAL CONTACT WITH A PARTICIPANT IN ANY MANNER AND AT ANY TIME;

(F) PERMITTING REMUNERATION FOR THE PROVISION OF NATURAL MEDICINE SERVICES;

(G) PERMITTING PROVISION OF GROUP ADMINISTRATION SESSIONS BY ONE FACILITATOR WHO IS PERFORMING AND SUPERVISING THE ADMINISTRATION SESSION FOR MORE THAN ONE PARTICIPANT, AND ESTABLISH A LIMIT ON THE TOTAL NUMBER OF PARTICIPANTS WHO MAY PARTICIPATE IN A GROUP ADMINISTRATION SESSION THAT IS PERFORMED AND SUPERVISED BY ONE FACILITATOR;

(H) RECORD-KEEPING, PRIVACY, AND CONFIDENTIALITY REQUIREMENTS FOR LICENSEES, REGISTRANTS, PERMITTEES, AND CERTIFICATE HOLDERS, INCLUDING PROTECTIONS PREVENTING DISCLOSURE OF A PROSPECTIVE PARTICIPANT'S OR PARTICIPANT'S PERSONALLY IDENTIFIABLE INFORMATION TO THE PUBLIC, THIRD PARTIES, OR ANY GOVERNMENT AGENCY, EXCEPT AS ALLOWED FOR PURPOSES EXPRESSLY STATED PURSUANT TO THIS ARTICLE 170, RULES PROMULGATED PURSUANT TO THIS ARTICLE 170, ARTICLE 50 OF TITLE 44, RULES PROMULGATED PURSUANT TO ARTICLE 50 OF TITLE 44, OR FOR STATE OR LOCAL LAW ENFORCEMENT AGENCIES TO ACCESS RECORDS AND INFORMATION FOR OTHER STATE OR LOCAL LAW ENFORCEMENT. THE INFORMATION OR RECORDS RELATED TO A PARTICIPANT CONSTITUTE MEDICAL DATA AS DESCRIBED IN SECTION 24-72-204 (3)(a)(I), AND THE INFORMATION OR RECORDS MAY ONLY BE DISCLOSED TO THOSE PERSONS DIRECTLY INVOLVED WITH AN ACTIVE INVESTIGATION OR PROCEEDING.

(I) PARAMETERS FOR A FACILITATOR'S PERMISSIBLE AND PROHIBITED FINANCIAL INTERESTS IN A HEALING CENTER, LICENSE PURSUANT TO THIS ARTICLE 170, OR LICENSE PURSUANT TO ARTICLE 50 OF TITLE 44; EXCEPT THAT A FACILITATOR MAY NOT HAVE A FINANCIAL INTEREST IN MORE THAN FIVE NATURAL MEDICINE BUSINESS LICENSES PURSUANT TO ARTICLE 50 OF TITLE 44.

(J) PARAMETERS FOR A FACILITATOR TO PROVIDE AND SUPERVISE NATURAL MEDICINE SERVICES AT AN AUTHORIZED LOCATION THAT IS NOT A HEALING CENTER'S LICENSED PREMISES, INCLUDING A HEALTH-CARE FACILITY OR A PRIVATE RESIDENCE;

(K) STANDARDS FOR ADVERTISING AND MARKETING A LICENSEE'S SERVICES, INCLUDING: AVOIDING THE MISAPPROPRIATION AND EXPLOITATION OF THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS; AVOIDING THE EXCESSIVE COMMERCIALIZATION OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES; PROHIBITING ADVERTISING AND MARKETING OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES DIRECTED TO INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE; AND OTHER PARAMETERS DETERMINED NECESSARY BY THE DIRECTOR.

(III) ANY RULES NECESSARY TO DIFFERENTIATE BETWEEN THE TYPES

OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT PROVIDED FOR PARTICIPANT CONSUMPTION DURING AN ADMINISTRATION SESSION BASED ON QUALITIES, TRADITIONAL USES, AND SAFETY PROFILE;

(IV) ANY RULES DETERMINED NECESSARY BY THE DIRECTOR RELATED TO THE POWERS OR DUTIES GRANTED OR IMPOSED ON THE DIRECTOR PURSUANT TO THIS ARTICLE 170 OR BY ANY OTHER LAW; AND

(V) ANY OTHER MATTERS DETERMINED NECESSARY BY THE DIRECTOR TO IMPLEMENT OR ADMINISTER THIS ARTICLE 170.

(b) BEGINNING ON OR BEFORE DECEMBER 31, 2024, TO REVIEW APPLICATIONS IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR FOR NEW LICENSES, REGISTRATIONS, PERMITS, OR CERTIFICATES AFTER PAYMENT OF THE REQUIRED FEE AND TO GRANT OR DENY LICENSES, REGISTRATIONS, PERMITS, OR CERTIFICATES AS PROVIDED IN THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170. THE DIVISION SHALL PRIORITIZE REVIEWING APPLICATIONS FROM APPLICANTS WHO HAVE ESTABLISHED RESIDENCY IN COLORADO.

(c) TO ESTABLISH LICENSES, REGISTRATIONS, PERMITS, OR CERTIFICATES DETERMINED NECESSARY BY THE DIRECTOR TO IMPLEMENT OR ADMINISTER THIS ARTICLE 170, AND TO ESTABLISH ELIGIBILITY REQUIREMENTS AND PRIVILEGES UNDER THE LICENSES, REGISTRATIONS, PERMITS, OR CERTIFICATES;

(d) TO ESTABLISH, WHEN FINANCIALLY FEASIBLE, PROCEDURES, POLICIES, AND PROGRAMS TO ENSURE THIS ARTICLE 170 AND RULES PROMULGATED PURSUANT TO THIS ARTICLE 170 ARE EQUITABLE AND INCLUSIVE AND PROMOTE THE LICENSING, REGISTRATION, AND PERMITTING OF, AND PROVISION OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT TO, PERSONS FROM COMMUNITIES THAT HAVE BEEN DISPROPORTIONATELY HARMED BY HIGH RATES OF ARREST FOR CONTROLLED SUBSTANCES, PERSONS WHO FACE BARRIERS TO HEALTH-CARE ACCESS, PERSONS WHO HAVE TRADITIONAL, TRIBAL, OR INDIGENOUS HISTORY WITH NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, OR TO PERSONS WHO ARE VETERANS. THE DIRECTOR MAY CONSULT THE BOARD WHEN CONSIDERING PROCEDURES, POLICIES, AND PROGRAMS PURSUANT TO THIS SUBSECTION (1)(d).

(e) TO CONDUCT INVESTIGATIONS AND HEARINGS, GATHER EVIDENCE, AND PURSUE DISCIPLINARY ACTIONS PURSUANT TO SECTIONS 12-20-403, 12-20-404, AND 24-4-105, AND THIS ARTICLE 170, WITH RESPECT TO LICENSES, REGISTRATIONS, PERMITS, OR CERTIFICATES WHEN THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL OR ENTITY IS VIOLATING THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170;

(f) TO TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 OR LIMIT THE SCOPE OF PRACTICE OF AN APPLICANT, LICENSEE, REGISTRANT, PERMITTEE, OR CERTIFICATE HOLDER UPON PROOF OF A VIOLATION OF THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170;

(g) TO ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405;

(h) (I) TO PETITION A DISTRICT COURT FOR AN INVESTIGATIVE SUBPOENA APPLICABLE TO A PERSON WHO IS NOT LICENSED, REGISTERED, PERMITTED, OR CERTIFIED PURSUANT TO THIS ARTICLE 170 TO OBTAIN DOCUMENTS OR INFORMATION NECESSARY TO ENFORCE A PROVISION OF THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170 AFTER REASONABLE EFFORTS HAVE BEEN MADE TO OBTAIN REQUESTED DOCUMENTS OR INFORMATION WITHOUT A SUBPOENA;

(II) TO APPLY TO ANY COURT OF COMPETENT JURISDICTION TO TEMPORARILY RESTRAIN OR PRELIMINARILY OR PERMANENTLY ENJOIN THE ACT IN QUESTION OF AN INDIVIDUAL WHO OR ENTITY THAT IS NOT LICENSED, REGISTERED, PERMITTED, OR CERTIFIED PURSUANT TO THIS ARTICLE 170 AND TO ENFORCE COMPLIANCE WITH THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170 WHENEVER IT APPEARS TO THE DIRECTOR UPON SUFFICIENT EVIDENCE SATISFACTORY TO THE DIRECTOR THAT AN INDIVIDUAL OR ENTITY HAS BEEN OR IS COMMITTING AN ACT PROHIBITED BY THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170, AND THE ACT:

(A) THREATENS PUBLIC HEALTH OR SAFETY; OR

(B) CONSTITUTES AN UNLAWFUL ACT FOR WHICH THE INDIVIDUAL OR

ENTITY DOES NOT HOLD THE REQUIRED LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE PURSUANT TO THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170;

(i) TO MAINTAIN AND UPDATE AN ONLINE LIST THAT IS ACCESSIBLE TO THE PUBLIC OF LICENSEES, REGISTRANTS, PERMITTEES, AND CERTIFICATE HOLDERS THAT INCLUDES WHETHER THE LICENSEE, REGISTRANT, PERMITTEE, OR CERTIFICATE HOLDER HAS HAD ITS LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE LIMITED, SUSPENDED, OR REVOKED IN ACCORDANCE WITH A DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 170;

(j) IN COORDINATION WITH THE STATE LICENSING AUTHORITY PURSUANT TO SECTION 44-50-202 (1)(k), ANNUALLY PUBLISH A PUBLICLY AVAILABLE REPORT CONCERNING THE IMPLEMENTATION AND ADMINISTRATION OF THIS ARTICLE 170 AND ARTICLE 50 OF TITLE 44. THE REPORT MUST USE RELEVANT DATA, AS DETERMINED BY THE DIRECTOR AND THE STATE LICENSING AUTHORITY, AND MUST NOT DISCLOSE THE IDENTITY OF ANY PARTICIPANT OR INCLUDE ANY INFORMATION THAT COULD DISCLOSE THE IDENTITY OF A PARTICIPANT.

(k) PERFORM OTHER FUNCTIONS AND DUTIES NECESSARY TO ADMINISTER THIS ARTICLE 170.

(2) THE DIRECTOR SHALL CONSULT THE BOARD WHEN CONSIDERING AND PROMULGATING RULES PURSUANT TO THIS ARTICLE 170.

(3) THE DIVISION HAS AUTHORITY TO COLLECT AVAILABLE AND RELEVANT DATA NECESSARY TO PERFORM FUNCTIONS AND DUTIES NECESSARY TO ADMINISTER THIS ARTICLE 170.

(4) THE DIRECTOR OR A DIVISION EMPLOYEE WITH REGULATORY OVERSIGHT RESPONSIBILITIES FOR LICENSEES, PERMITTEES, REGISTRANTS, OR CERTIFICATE HOLDERS PURSUANT TO THIS ARTICLE 170 SHALL NOT WORK FOR, REPRESENT, PROVIDE CONSULTING SERVICES TO, OR OTHERWISE DERIVE PECUNIARY GAIN FROM A LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER THAT IS REGULATED PURSUANT TO THIS ARTICLE 170 OR ANY OTHER BUSINESS ESTABLISHED FOR THE PRIMARY PURPOSE OF PROVIDING SERVICES TO THE NATURAL MEDICINE INDUSTRY FOR A PERIOD OF SIX MONTHS AFTER THE EMPLOYEE'S LAST DAY OF EMPLOYMENT WITH THE DIVISION.

SECTION 5. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-106 as follows:

12-170-106. Board - creation - appointment - duties - report.

(1) THERE IS CREATED WITHIN THE DIVISION A NATURAL MEDICINE ADVISORY BOARD, WHICH CONSISTS OF FIFTEEN MEMBERS, TO ADVISE THE DIVISION AND THE STATE LICENSING AUTHORITY CONCERNING THE IMPLEMENTATION OF THIS ARTICLE 170 AND ARTICLE 50 OF TITLE 44.

(2) THE GOVERNOR SHALL APPOINT INITIAL BOARD MEMBERS ON OR BEFORE JANUARY 31, 2023, WITH CONSENT OF THE SENATE. THE MEMBERS MUST INCLUDE:

(a) SEVEN MEMBERS WITH SIGNIFICANT EXPERTISE AND EXPERIENCE IN ONE OR MORE OF THE FOLLOWING AREAS: NATURAL MEDICINE THERAPY, MEDICINE, AND RESEARCH; MYCOLOGY AND NATURAL MEDICINE CULTIVATION; LICENSEE QUALIFICATIONS; EMERGENCY MEDICAL SERVICES AND SERVICES PROVIDED BY FIRST RESPONDERS; MENTAL AND BEHAVIORAL HEALTH CARE; HEALTH-CARE INSURANCE AND HEALTH-CARE POLICY; AND PUBLIC HEALTH, DRUG POLICY, AND HARM REDUCTION; AND

(b) EIGHT MEMBERS WITH SIGNIFICANT EXPERTISE AND EXPERIENCE IN ONE OR MORE OF THE FOLLOWING AREAS: RELIGIOUS USE OF NATURAL MEDICINES; ISSUES CONFRONTING VETERANS; TRADITIONAL TRIBAL OR INDIGENOUS USE OF NATURAL MEDICINES; LEVELS AND DISPARITIES IN ACCESS TO HEALTH-CARE SERVICES AMONG DIFFERENT COMMUNITIES; AND PAST CRIMINAL JUSTICE REFORM EFFORTS IN COLORADO. AT LEAST ONE OF THE EIGHT MEMBERS MUST HAVE EXPERTISE OR EXPERIENCE IN TRADITIONAL, TRIBAL, OR INDIGENOUS USE OF NATURAL MEDICINES.

(3) THE BOARD INCLUDES THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SERVING AS A NON-VOTING MEMBER.

(4) (a) FOR THE INITIAL BOARD, SEVEN OF THE MEMBERS ARE APPOINTED TO A TERM OF TWO YEARS AND EIGHT MEMBERS ARE APPOINTED TO A TERM OF FOUR YEARS AS DESIGNATED IN THE GOVERNOR'S APPOINTMENT.

(b) AT THE EXPIRATION OF THE TERMS OF THE MEMBERS OF THE

INITIAL BOARD PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE GOVERNOR SHALL APPOINT MEMBERS TO THE BOARD, WITHOUT CONSENT OF THE SENATE. EACH MEMBER APPOINTED BY THE GOVERNOR IS APPOINTED TO A TERM OF FOUR YEARS.

(c) EXCEPT FOR THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, MEMBERS OF THE BOARD MAY SERVE UP TO TWO CONSECUTIVE TERMS. MEMBERS ARE SUBJECT TO REMOVAL FOR MISCONDUCT, INCOMPETENCE, NEGLECT OF DUTY, OR UNPROFESSIONAL CONDUCT.

(5) THE BOARD SHALL MAKE RECOMMENDATIONS TO THE DIRECTOR AND STATE LICENSING AUTHORITY RELATED TO, BUT NOT LIMITED TO, THE FOLLOWING AREAS:

(a) ACCURATE PUBLIC HEALTH APPROACHES REGARDING USE, BENEFITS, HARMS, AND RISK REDUCTION FOR NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT AND THE CONTENT AND SCOPE OF EDUCATIONAL CAMPAIGNS RELATED TO NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT;

(b) RESEARCH RELATED TO THE EFFICACY AND REGULATION OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT, INCLUDING RECOMMENDATIONS RELATED TO PRODUCT SAFETY, HARM REDUCTION, AND CULTURAL RESPONSIBILITY;

(c) THE PROPER CONTENT OF TRAINING PROGRAMS, EDUCATIONAL AND EXPERIENTIAL REQUIREMENTS, AND QUALIFICATIONS FOR FACILITATORS. WHEN CONSIDERING RECOMMENDATIONS MADE PURSUANT TO THIS SUBSECTION (5)(c), THE BOARD MAY CONSIDER:

(I) TIERED FACILITATOR LICENSING, FOR THE PURPOSE OF REQUIRING VARYING LEVELS OF EDUCATION AND TRAINING DEPENDENT UPON THE TYPE OF PARTICIPANT THAT THE FACILITATOR WILL BE PROVIDING SERVICES TO AND THE TYPE OF SERVICES THE FACILITATOR WILL BE PROVIDING;

(II) LIMITED WAIVERS OF EDUCATION AND TRAINING REQUIREMENTS BASED UPON THE APPLICANT'S PRIOR EXPERIENCE, TRAINING, OR SKILLS, INCLUDING BUT NOT LIMITED TO NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT; AND

(III) THE REMOVAL OF UNREASONABLE FINANCIAL OR LOGISTICAL BARRIERS THAT MAKE OBTAINING A FACILITATOR LICENSE COMMERCIALY UNREASONABLE FOR INDIVIDUALS, INCLUDING LOW-INCOME INDIVIDUALS.

(d) AFFORDABLE, EQUITABLE, ETHICAL, AND CULTURALLY RESPONSIBLE ACCESS TO NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT AND REQUIREMENTS TO ENSURE THIS ARTICLE 170 IS EQUITABLE AND INCLUSIVE. IN PERFORMING THIS REQUIREMENT, THE BOARD MAY CONSIDER MAKING RECOMMENDATIONS ON WAYS TO REDUCE THE COSTS OF LICENSURE FOR LOW-INCOME INDIVIDUALS, FOR PROVIDING INCENTIVES FOR THE PROVISION OF NATURAL MEDICINE SERVICES AT A REDUCED COST TO INDIVIDUALS WITH LOW INCOME, AND PROVIDING INCENTIVES FOR THE PROVISION OF NATURAL MEDICINE SERVICES IN GEOGRAPHIC AND CULTURALLY DIVERSE REGIONS OF THE STATE.

(e) APPROPRIATE REGULATORY CONSIDERATIONS FOR EACH TYPE OF NATURAL MEDICINE, AND THE PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION;

(f) THE ADDITION OF OTHER TYPES OF NATURAL MEDICINE TO THIS ARTICLE 170 AND ARTICLE 50 OF TITLE 44 PURSUANT TO SECTION 12-170-104 (12)(b)(I), (12)(b)(II), OR (12)(b)(III) BASED ON AVAILABLE MEDICAL, PSYCHOLOGICAL, AND SCIENTIFIC STUDIES, RESEARCH, AND OTHER INFORMATION RELATED TO THE SAFETY AND EFFICACY OF EACH NATURAL MEDICINE, AND SHALL PRIORITIZE CONSIDERING THE ADDITION OF IBOGAINE PURSUANT TO SECTION 12-170-104 (12)(b)(II), TO THIS ARTICLE 170, AND ARTICLE 50 OF TITLE 44;

(g) ALL RULES TO BE PROMULGATED BY THE DIRECTOR PURSUANT TO THIS ARTICLE 170, AND THE STATE LICENSING AUTHORITY PURSUANT TO ARTICLE 50 OF TITLE 44; AND

(h) REQUIREMENTS FOR ACCURATE AND COMPLETE DATA COLLECTION, REPORTING, AND PUBLICATION OF INFORMATION RELATED TO THE IMPLEMENTATION OF THIS ARTICLE 170.

(6) THE BOARD SHALL, ON AN ONGOING BASIS, REVIEW AND EVALUATE EXISTING AND CURRENT RESEARCH, STUDIES, AND REAL-WORLD DATA RELATED TO NATURAL MEDICINE AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND OTHER RELEVANT STATE AGENCIES AS TO

WHETHER NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, NATURAL MEDICINE SERVICES, AND ASSOCIATED SERVICES SHOULD BE COVERED UNDER HEALTH FIRST COLORADO OR OTHER INSURANCE PROGRAMS AS A COST-EFFECTIVE INTERVENTION FOR VARIOUS MENTAL HEALTH CONDITIONS, INCLUDING, BUT NOT LIMITED TO, END-OF-LIFE DISTRESS, SUBSTANCE USE DISORDER, ALCOHOL USE DISORDER, DEPRESSIVE DISORDERS, NEUROLOGICAL DISORDERS, CLUSTER HEADACHES, AND POST-TRAUMATIC STRESS DISORDER.

(7) THE BOARD SHALL, ON AN ONGOING BASIS, REVIEW AND EVALUATE SUSTAINABILITY ISSUES RELATED TO NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT AND THE IMPACT ON TRIBAL AND INDIGENOUS CULTURES AND DOCUMENT EXISTING RECIPROCITY EFFORTS AND CONTINUING SUPPORT MEASURES THAT ARE NEEDED.

(8) THE BOARD SHALL PUBLISH AN ANNUAL REPORT DESCRIBING ITS ACTIVITIES, INCLUDING THE RECOMMENDATIONS AND ADVICE PROVIDED TO THE DIRECTOR, THE STATE LICENSING AUTHORITY, AND THE GENERAL ASSEMBLY.

(9) THE DIVISION SHALL PROVIDE REASONABLE REQUESTED TECHNICAL, LOGISTICAL, AND OTHER SUPPORT TO THE BOARD TO ASSIST THE BOARD WITH ITS DUTIES AND OBLIGATIONS.

SECTION 6. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 12-170-107 as follows:

12-170-107. Federally recognized American tribes and Indigenous community working group - creation - duties. (1) THE DIRECTOR SHALL ESTABLISH THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS COMMUNITY WORKING GROUP FOR THE PURPOSE OF ENGAGING AND CREATING A DIALOGUE TO IDENTIFY ISSUES RELATED TO THE COMMERCIALIZATION OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES FOR TRIBAL AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS. THE COMMUNITY WORKING GROUP SHALL STUDY THE FOLLOWING:

(a) AVOIDING THE MISAPPROPRIATION AND EXPLOITATION OF THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS;

(b) AVOIDING THE EXCESSIVE COMMERCIALIZATION OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES;

(c) ANY CONSERVATION ISSUES ASSOCIATED WITH THE LEGALIZATION AND REGULATION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, INCLUDING THE POTENTIAL FOR FURTHER DEPLETION OF PEYOTE DUE TO PEYOTE BEING A SOURCE OF Mescaline; AND

(d) BEST PRACTICES AND OPEN COMMUNICATION TO BUILD TRUST AND UNDERSTANDING BETWEEN THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE AND COMMUNITIES, THE BOARD, THE DIVISION, THE STATE LICENSING AUTHORITY, AND LAW ENFORCEMENT AGENCIES, FOR THE PURPOSE OF AVOIDING UNNECESSARY BURDENS AND CRIMINALIZATION OF TRADITIONAL TRIBAL AND INDIGENOUS USES OF NATURAL MEDICINE.

(2) THE WORKING GROUP SHALL ADVISE THE BOARD AND THE DIVISION ON ITS FINDINGS AND RECOMMENDATIONS PURSUANT TO THE SUBJECTS IDENTIFIED IN SUBSECTION (1) OF THIS SECTION.

(3) THE DIRECTOR IS ENCOURAGED TO ENGAGE WITH THE FEDERALLY RECOGNIZED AMERICAN TRIBES AND INDIGENOUS PEOPLE WHO HAVE SIGNIFICANT EXPERIENCE WITH TRADITIONAL USE OF NATURAL MEDICINE AND OTHER PERSONS DEEMED NECESSARY BY THE DIRECTOR FOR THE PURPOSE OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-108 as follows:

12-170-108. License required - unauthorized practice - mandatory disclosure of information - rule. (1) AN INDIVIDUAL SHALL NOT ENGAGE IN FACILITATION, OR REPRESENT TO THE PUBLIC OR IDENTIFY THE INDIVIDUAL'S SELF AS A FACILITATOR, IN THIS STATE UNTIL THE INDIVIDUAL HAS RECEIVED A LICENSE FROM THE DIRECTOR.

(2) A FACILITATOR SHALL CONSPICUOUSLY DISPLAY THE LICENSE ISSUED BY THE DIRECTOR IN THE HEALING CENTER, INCLUDING INFORMATION CONCERNING HOW TO FILE A COMPLAINT AGAINST THE FACILITATOR WITH THE DIRECTOR.

(3) EVERY LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER SHALL PROVIDE THE FOLLOWING INFORMATION IN WRITING TO EACH PARTICIPANT PRIOR TO A PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION:

(a) THE NAME, ADDRESS, AND PHONE NUMBER OF THE LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER;

(b) AN EXPLANATION OF THE REGULATIONS APPLICABLE TO THE LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER PURSUANT TO THIS ARTICLE 170 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 170;

(c) A LISTING OF TRAINING, EDUCATIONAL AND EXPERIENTIAL REQUIREMENTS, AND QUALIFICATIONS THE LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER PURSUANT TO THIS ARTICLE 170 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 170 SATISFIED IN ORDER TO OBTAIN A LICENSE, PERMIT, REGISTRATION, OR CERTIFICATE;

(d) A STATEMENT INDICATING THAT THE LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER IS REGULATED BY THE DIVISION, AND AN ADDRESS AND TELEPHONE NUMBER FOR THE DIVISION; AND

(e) A STATEMENT INDICATING THAT THE PARTICIPANT IS ENTITLED TO RECEIVE INFORMATION ABOUT NATURAL MEDICINE SERVICES, MAY TERMINATE NATURAL MEDICINE SERVICES AT ANY TIME, AND MAY TERMINATE PREVIOUSLY PROVIDED INFORMED CONSENT FOR PHYSICAL CONTACT AT ANY TIME.

(4) NOTHING IN THIS SECTION PROHIBITS AN INDIVIDUAL FROM PERFORMING A BONA FIDE RELIGIOUS, CULTURALLY TRADITIONAL, OR SPIRITUAL CEREMONY, IF THE INDIVIDUAL INFORMS AN INDIVIDUAL ENGAGING IN THE CEREMONY THAT THE INDIVIDUAL IS NOT A LICENSED FACILITATOR, AND THAT THE CEREMONY IS NOT ASSOCIATED WITH COMMERCIAL, BUSINESS, OR FOR-PROFIT ACTIVITY.

SECTION 8. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-109 as follows:

12-170-109. Grounds for discipline. (1) THE DIRECTOR MAY TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404

UPON PROOF THAT THE LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER:

(a) VIOLATED A PROVISION OF THIS ARTICLE 170 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 170;

(b) HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF NOLO CONTENDERE TO A FELONY. IN CONSIDERING THE CONVICTION OF OR THE PLEA TO ANY SUCH CRIME, THE DIRECTOR SHALL BE GOVERNED BY THE PROVISIONS OF SECTIONS 12-20-202 (5) AND 24-5-101.

(c) MADE ANY MISSTATEMENT ON AN APPLICATION FOR A LICENSE, REGISTRATION, OR PERMIT TO PRACTICE PURSUANT TO THIS ARTICLE 170 OR ATTEMPTED TO OBTAIN A LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE TO PRACTICE BY FRAUD, DECEPTION, OR MISREPRESENTATION;

(d) COMMITTED AN ACT OR FAILED TO PERFORM AN ACT NECESSARY TO MEET THE GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF CONDUCT TO PRACTICE A PROFESSION LICENSED PURSUANT TO THIS ARTICLE 170 OR PROMULGATED BY RULE PURSUANT TO 12-170-105 (1)(a)(II)(D), INCLUDING PERFORMING SERVICES OUTSIDE OF THE PERSON'S AREA OF TRAINING, EXPERIENCE, OR COMPETENCE;

(e) EXCESSIVELY OR HABITUALLY USES OR ABUSES ALCOHOL OR CONTROLLED SUBSTANCES;

(f) VIOLATED ANY OF THE PROVISIONS OF THIS ARTICLE 170, AN APPLICABLE PROVISION OF ARTICLE 20 OF THIS TITLE 12, OR ANY VALID ORDER OF THE DIRECTOR;

(g) IS GUILTY OF UNPROFESSIONAL OR DISHONEST CONDUCT;

(h) ADVERTISES BY MEANS OF FALSE OR DECEPTIVE STATEMENT;

(i) FAILS TO DISPLAY THE LICENSE AS PROVIDED IN SECTION 12-170-108 (2);

(j) FAILS TO COMPLY WITH THE RULES PROMULGATED BY THE DIRECTOR PURSUANT TO THIS ARTICLE 170;

(k) IS GUILTY OF WILLFUL MISREPRESENTATION;

(l) FAILS TO DISCLOSE TO THE DIRECTOR WITHIN FORTY-FIVE DAYS A CONVICTION FOR A FELONY OR ANY CRIME THAT IS RELATED TO THE PRACTICE AS A FACILITATOR;

(m) AIDS OR ABETS THE UNLICENSED PRACTICE OF FACILITATION; OR

(n) FAILS TO TIMELY RESPOND TO A COMPLAINT SENT BY THE DIRECTOR PURSUANT TO SECTION 12-170-110.

SECTION 9. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-110 as follows:

12-170-110. Disciplinary proceedings - administrative law judges - judicial review. (1) THE DIRECTOR MAY, THROUGH THE DEPARTMENT, EMPLOY ADMINISTRATIVE LAW JUDGES TO CONDUCT HEARINGS AS PROVIDED BY THIS SECTION OR ON ANY MATTER WITHIN THE DIRECTOR'S JURISDICTION UPON SUCH CONDITIONS AND TERMS AS THE DIRECTOR MAY DETERMINE.

(2) A PROCEEDING FOR DISCIPLINE OF A LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER MUST BE COMMENCED WHEN THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE, PERMITTEE, REGISTRANT, OR CERTIFICATE HOLDER HAS COMMITTED ACTS THAT MAY VIOLATE THE PROVISIONS OF THIS ARTICLE 170 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 170. THE GROUNDS MAY BE ESTABLISHED BY AN INVESTIGATION BEGUN BY THE DIRECTOR ON THE DIRECTOR'S OWN MOTION OR BY AN INVESTIGATION PURSUANT TO A WRITTEN COMPLAINT. SECTION 12-20-403 AND ARTICLE 4 OF TITLE 24 GOVERN PROCEEDINGS BROUGHT PURSUANT TO THIS SECTION.

(3) ANY HEARING ON THE REVOCATION OR SUSPENSION OF A LICENSE, PERMIT, REGISTRATION, OR CERTIFICATE, OR ON THE DENIAL OF AN APPLICATION FOR A NEW LICENSE, PERMIT, REGISTRATION, OR CERTIFICATE, OR FOR RENEWAL OF A PREVIOUSLY ISSUED LICENSE, PERMIT, REGISTRATION, OR CERTIFICATE MUST BE CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE.

(4) FINAL ACTION BY THE DIRECTOR MAY BE JUDICIALLY REVIEWED PURSUANT TO SECTION 12-20-408.

SECTION 10. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 12-170-111 as follows:

12-170-111. Fees - cash fund - created. (1) BASED UPON THE APPROPRIATION MADE AND SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, THE DIRECTOR SHALL ESTABLISH AND ADJUST FEES THAT THE DIRECTOR IS AUTHORIZED BY LAW TO COLLECT SO THAT THE REVENUE GENERATED FROM THE FEES APPROXIMATES ITS DIRECT AND INDIRECT COSTS; EXCEPT THAT FEES MUST NOT EXCEED THE AMOUNT NECESSARY TO ADMINISTER THIS ARTICLE 170.

(2) THE NATURAL MEDICINE FACILITATOR CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF FEES CREDITED TO THE FUND PURSUANT TO THIS ARTICLE 170 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(4) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR THE ADMINISTRATION OF THIS ARTICLE 170.

SECTION 11. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 12-170-112 as follows:

12-170-112. Local jurisdiction. (1) A LOCAL JURISDICTION SHALL NOT PROHIBIT A FACILITATOR FROM PROVIDING NATURAL MEDICINE SERVICES WITHIN ITS BOUNDARIES IF THE INDIVIDUAL IS A LICENSED FACILITATOR PURSUANT TO THIS ARTICLE 170.

(2) A LOCAL JURISDICTION SHALL NOT ADOPT ORDINANCES OR REGULATIONS THAT ARE UNREASONABLE OR IN CONFLICT WITH THIS ARTICLE 170.

SECTION 12. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 12-170-113 as follows:

12-170-113. Protections. (1) SUBJECT TO THE LIMITATIONS IN THIS

ARTICLE 170 AND ARTICLE 50 OF TITLE 44, BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

(a) ACTIONS AND CONDUCT PERMITTED PURSUANT TO A LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE 170, OR BY THOSE WHO ALLOW PROPERTY TO BE USED PURSUANT TO A LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE 170, ARE LAWFUL AND ARE NOT AN OFFENSE UNDER STATE LAW, OR THE LAWS OF ANY LOCAL JURISDICTION WITHIN THIS STATE; ARE NOT SUBJECT TO A CIVIL FINE, PENALTY, OR SANCTION; ARE NOT A BASIS FOR DETENTION, SEARCH, OR ARREST; AND ARE NOT A BASIS TO DENY ANY RIGHT OR PRIVILEGE, OR TO SEIZE OR FORFEIT ASSETS UNDER STATE LAW OR THE LAWS OF ANY LOCAL JURISDICTION WITHIN THIS STATE.

(b) A CONTRACT IS NOT UNENFORCEABLE ON THE BASIS THAT NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AS ALLOWED PURSUANT TO THIS ARTICLE 170, IS PROHIBITED BY FEDERAL LAW;

(c) MENTAL HEALTH CARE, SUBSTANCE USE DISORDER INTERVENTION SERVICES, OR BEHAVIORAL HEALTH SERVICES OTHERWISE COVERED PURSUANT TO THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, MUST NOT BE DENIED ON THE BASIS THAT THEY ARE COVERED IN CONJUNCTION WITH NATURAL MEDICINE SERVICES, OR THAT NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT ARE PROHIBITED BY FEDERAL LAW. INSURANCE OR AN INSURANCE PROVIDER IS NOT REQUIRED TO COVER THE COST OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT.

(d) NOTHING IN THIS SECTION MAY BE CONSTRUED OR INTERPRETED TO PREVENT THE DIRECTOR FROM ENFORCING RULES PROMULGATED BY THE DIRECTOR AGAINST A LICENSEE, REGISTRANT, PERMITTEE, OR CERTIFICATE HOLDER OR LIMIT A STATE OR LOCAL LAW ENFORCEMENT AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A LICENSEE, REGISTRANT, PERMITTEE, OR CERTIFICATE HOLDER.

(2) A PROFESSIONAL OR OCCUPATIONAL LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE HOLDER IS NOT SUBJECT TO PROFESSIONAL DISCIPLINE OR LOSS OF A PROFESSIONAL OR OCCUPATIONAL LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE FOR PROVIDING ADVICE OR

SERVICES ARISING OUT OF OR RELATED TO A NATURAL MEDICINE LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE ISSUED PURSUANT TO THIS ARTICLE 170 OR ARTICLE 50 OF TITLE 44 OR APPLICATION FOR LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE ISSUED PURSUANT TO THIS ARTICLE 170 OR ARTICLE 50 OF TITLE 44 ON THE BASIS THAT NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT ARE PROHIBITED BY FEDERAL LAW, OR FOR PERSONAL USE OF NATURAL MEDICINE OR NATURAL MEDICINE ALLOWED PURSUANT TO THIS ARTICLE 170. THIS ARTICLE 170 DOES NOT AUTHORIZE AN INDIVIDUAL TO ENGAGE IN CONDUCT THAT IN THE COURSE OF PRACTICING UNDER THE INDIVIDUAL'S LICENSE, REGISTRATION, PERMIT, OR CERTIFICATE WOULD VIOLATE STANDARDS OF CARE OR SCOPE OF PRACTICE OF THE INDIVIDUAL'S PROFESSION OR OCCUPATION AS REQUIRED BY ANY PROVISION OF LAW OR RULE.

SECTION 13. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-114 as follows:

12-170-114. Liberal construction. THIS ARTICLE 170 MUST BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSE.

SECTION 14. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-170-115 as follows:

12-170-115. Preemption. A LOCAL JURISDICTION SHALL NOT ADOPT, ENACT, OR ENFORCE ANY ORDINANCE, RULE, OR RESOLUTION THAT IS OTHERWISE IN CONFLICT WITH THE PROVISIONS OF THIS ARTICLE 170.

SECTION 15. In Colorado Revised Statutes, **add** 12-170-116 as follows:

12-170-116. Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS ARTICLE 170 ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHEN OTHERWISE INDICATED, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION PROVISIONS, AND OTHER STATE AND LOCAL PROVISIONS. IF ANY PROVISION OF THIS ARTICLE 170 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE 170 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE 170

ARE SEVERABLE.

SECTION 16. In Colorado Revised Statutes, **add** 12-170-117 as follows:

12-170-117. Repeal of article - review of functions. THIS ARTICLE 170 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032. BEFORE THE REPEAL, THIS ARTICLE 170 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 17. In Colorado Revised Statutes, 12-20-407, **amend** (1)(a)(V)(V) and (1)(a)(V)(W); and **add** (1)(a)(V)(X) as follows:

12-20-407. Unauthorized practice of profession or occupation - penalties - exclusions. (1) (a) A person commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501 if the person:

(V) Practices or offers or attempts to practice any of the following professions or occupations without an active license, certification, or registration issued under the part or article of this title 12 governing the particular profession or occupation:

(V) Respiratory therapy, as regulated under article 300 of this title 12; ~~or~~

(W) Veterinary medicine or as a veterinary technician, as regulated under article 315 of this title 12; OR

(X) FACILITATING NATURAL MEDICINE SERVICES, AS REGULATED UNDER ARTICLE 170 OF THIS TITLE 12.

SECTION 18. In Colorado Revised Statutes, 24-1-117, **amend** (4)(a)(X) and (4)(a)(XI); and **add** (4)(a)(XII) as follows:

24-1-117. Department of revenue - creation. (4) (a) The department of revenue consists of the following divisions:

(X) The auto industry division, created in section 44-20-105. The division is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of

revenue; and

(XI) The state licensing authority created in section 44-10-201; AND

(XII) THE NATURAL MEDICINE DIVISION, CREATED IN SECTION 44-50-201, WHICH IS A **TYPE 2** ENTITY, AS DEFINED IN SECTION 24-1-105.

SECTION 19. In Colorado Revised Statutes, 24-34-104, **add** (33)(a)(VII) and (33)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (33) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2032:

(VII) THE "NATURAL MEDICINE HEALTH ACT OF 2022", ARTICLE 170 OF TITLE 12;

(VIII) THE "COLORADO NATURAL MEDICINE CODE", ARTICLE 50 OF TITLE 44.

SECTION 20. In Colorado Revised Statutes, **add** 25-1.5-120 as follows:

25-1.5-120. Natural medicine testing and standards - rules.

(1) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN COORDINATION WITH THE DEPARTMENT OF REVENUE, TO ENSURE CONSISTENCY BETWEEN RULES, SHALL PROMULGATE RULES CONCERNING TESTING STANDARDS AND CERTIFICATION REQUIREMENTS OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT REGULATED BY THE DEPARTMENT OF REVENUE PURSUANT TO ARTICLE 50 OF TITLE 44.

(2) AT A MINIMUM, THE RULES MUST:

(a) ESTABLISH NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT TESTING STANDARDS AND CERTIFICATION REQUIREMENTS;

(b) ESTABLISH A NATURAL MEDICINE INDEPENDENT TESTING AND CERTIFICATION PROGRAM FOR LICENSEES PURSUANT TO ARTICLE 50 OF TITLE 44, WITHIN AN IMPLEMENTATION TIME FRAME ESTABLISHED BY THE

DEPARTMENT OF REVENUE, REQUIRING LICENSEES TO TEST NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT TO ENSURE, AT A MINIMUM, THAT PRODUCTS TRANSFERRED FOR HUMAN CONSUMPTION BY NATURAL PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 50 OF TITLE 44 DO NOT CONTAIN CONTAMINANTS THAT ARE INJURIOUS TO HEALTH AND TO ENSURE CORRECT LABELING;

(c) ESTABLISH PROCEDURES THAT ENSURE NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT ARE QUARANTINED AND NOTIFICATION PROCEDURES IF TEST RESULTS INDICATE THE PRESENCE OF QUANTITIES OF ANY SUBSTANCE DETERMINED TO BE INJURIOUS TO HEALTH;

(d) ENSURE THAT TESTING VERIFIES CONCENTRATION REPRESENTATIONS AND HOMOGENEITY FOR CORRECT LABELING;

(e) ESTABLISH AN ACCEPTABLE VARIANCE FOR CONCENTRATION REPRESENTATIONS AND PROCEDURES TO ADDRESS CONCENTRATION MISREPRESENTATIONS; AND

(f) ESTABLISH THE PROTOCOLS AND FREQUENCY OF NATURAL MEDICINE TESTING BY LICENSEES.

SECTION 21. In Colorado Revised Statutes, **add** article 50 to title 44 as follows:

ARTICLE 50
Natural Medicine

PART 1
COLORADO NATURAL MEDICINE CODE

44-50-101. Short title. THE SHORT TITLE OF THIS ARTICLE 50 IS THE "COLORADO NATURAL MEDICINE CODE".

44-50-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE PEOPLE OF COLORADO APPROVED STATUTORY MEASURES THAT, IN PART, INTENDED TO ENSURE THAT PEOPLE IN COLORADO HAVE ACCESS TO REGULATED NATURAL MEDICINE AND REGULATED NATURAL

MEDICINE PRODUCT;

(b) THE DEPARTMENT IS UNIQUELY SUITED TO REGULATE THE CULTIVATION, MANUFACTURING, TESTING, STORING, DISTRIBUTION, TRANSPORTATION, TRANSFERRING, AND DISPENSATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT BECAUSE OF ITS EXPERIENCE AND EXISTING RESOURCES IN REGULATING ALCOHOL, TOBACCO, AND MARIJUANA; AND

(c) IT IS NECESSARY TO ENTRUST THE REGULATION OF THE CULTIVATION, MANUFACTURING, TESTING, STORING, DISTRIBUTION, TRANSPORTATION, TRANSFERRING, AND DISPENSATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT TO THE DEPARTMENT IN ORDER TO IMPLEMENT THE REGULATORY MEASURES IN A MANNER THAT HONORS THE INTENT OF THE PEOPLE, PROMOTES PUBLIC TRUST, SUPPORTS THE INTEGRITY AND SUSTAINABILITY OF THE REGULATORY MEASURES, AND ENSURES REGULATORY EFFICIENCY.

(2) THE GENERAL ASSEMBLY DECLARES THAT THIS ARTICLE 50 IS DEEMED AN EXERCISE OF THE POLICE POWERS OF THE STATE FOR THE PROTECTION OF THE ECONOMIC AND SOCIAL WELFARE AND THE HEALTH, PEACE, AND MORALS OF THE PEOPLE OF THIS STATE.

(3) THE GENERAL ASSEMBLY DECLARES THAT IT IS UNLAWFUL UNDER STATE LAW TO CULTIVATE, MANUFACTURE, TEST, STORE, DISTRIBUTE, TRANSPORT, TRANSFER, AND DISPENSE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, EXCEPT IN COMPLIANCE WITH THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS IN THIS ARTICLE 50; RULES PROMULGATED PURSUANT TO THIS ARTICLE 50; ARTICLE 170 OF TITLE 12; RULES PROMULGATED PURSUANT TO ARTICLE 170 OF TITLE 12; ARTICLE 1.5 OF TITLE 25; RULES PROMULGATED PURSUANT TO ARTICLE 1.5 OF TITLE 25; TITLE 16; AND TITLE 18.

44-50-103. Definitions. AS USED IN THIS ARTICLE 50, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTRATION SESSION" MEANS A SESSION CONDUCTED AT A HEALING CENTER, OR OTHER LOCATION IF PERMITTED BY THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50, DURING WHICH A PARTICIPANT CONSUMES AND EXPERIENCES THE EFFECTS OF NATURAL

MEDICINE UNDER THE SUPERVISION OF A FACILITATOR.

(2) "BOARD" MEANS THE STATE NATURAL MEDICINE ADVISORY BOARD CREATED IN SECTION 12-170-106.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS OR THE DIRECTOR'S DESIGNEE.

(4) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND OCCUPATIONS CREATED IN THE DEPARTMENT PURSUANT TO SECTION 12-20-103.

(5) "FACILITATOR" MEANS A NATURAL PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER, HAS THE NECESSARY QUALIFICATIONS, TRAINING, EXPERIENCE, AND KNOWLEDGE TO PERFORM AND SUPERVISE NATURAL MEDICINE SERVICES FOR A PARTICIPANT, AND IS LICENSED BY THE DIRECTOR TO ENGAGE IN THE PRACTICE OF FACILITATION.

(6) "HEALING CENTER" MEANS A FACILITY WHERE AN ENTITY IS LICENSED BY THE STATE LICENSING AUTHORITY THAT PERMITS A FACILITATOR TO PROVIDE AND SUPERVISE NATURAL MEDICINE SERVICES FOR A PARTICIPANT.

(7) "HEALTH-CARE FACILITY" MEANS AN ENTITY THAT IS LICENSED, CERTIFIED, OR OTHERWISE PERMITTED BY LAW TO ADMINISTER MEDICAL TREATMENT IN THIS STATE, INCLUDING A HOSPITAL, HOSPICE FACILITY, COMMUNITY MENTAL HEALTH CENTER, FEDERALLY QUALIFIED HEALTH CENTER, RURAL HEALTH CLINIC, ORGANIZATION PROVIDING A PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY, LONG-TERM CARE FACILITY, CONTINUING CARE RETIREMENT COMMUNITY, OR OTHER TYPE OF ENTITY WHERE HEALTH CARE IS PROVIDED.

(8) "INTEGRATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND FACILITATOR THAT OCCURS AFTER THE COMPLETION OF AN ADMINISTRATION SESSION.

(9) "LICENSE" MEANS TO GRANT A LICENSE, PERMIT, OR REGISTRATION PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

(10) "LICENSED PREMISES" MEANS THE PREMISES SPECIFIED IN AN APPLICATION FOR A LICENSE PURSUANT TO THIS ARTICLE 50 THAT THE LICENSEE OWNS OR IS IN POSSESSION OF AND WITHIN WHICH THE LICENSEE IS AUTHORIZED TO CULTIVATE, MANUFACTURE, TEST, STORE, DISTRIBUTE, TRANSPORT, TRANSFER, OR DISPENSE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IN ACCORDANCE WITH THIS ARTICLE 50.

(11) "LICENSEE" MEANS A PERSON LICENSED, REGISTERED, OR PERMITTED PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

(12) "LOCAL JURISDICTION" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(13)(a) "NATURAL MEDICINE" MEANS THE FOLLOWING SUBSTANCES:

(I) PSILOCYBIN; OR

(II) PSILOCYN.

(b) IN ADDITION TO THE SUBSTANCES LISTED IN SUBSECTION (13)(a) OF THIS SECTION, "NATURAL MEDICINE" INCLUDES:

(I) DIMETHYLTRYPTAMINE, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY FOR INCLUSION ON OR AFTER JUNE 1, 2026;

(II) IBOGAINE, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY FOR INCLUSION; OR

(III) Mescaline, IF RECOMMENDED BY THE BOARD AND APPROVED BY THE DIRECTOR AND THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY FOR INCLUSION ON OR AFTER JUNE 1, 2026.

(c) "NATURAL MEDICINE" DOES NOT MEAN A SYNTHETIC OR SYNTHETIC ANALOG OF THE SUBSTANCES LISTED IN SUBSECTIONS (13)(a) AND (13)(b) OF THIS SECTION, INCLUDING A DERIVATIVE OF A NATURALLY OCCURRING COMPOUND OF NATURAL MEDICINE THAT IS PRODUCED USING CHEMICAL SYNTHESIS, CHEMICAL MODIFICATION, OR CHEMICAL

CONVERSION.

(d) NOTWITHSTANDING SUBSECTION (13)(b)(III) OF THIS SECTION, "Mescaline" DOES NOT INCLUDE PEYOTE, MEANING ALL PARTS OF THE PLANT CLASSIFIED BOTANICALLY AS *LOPHOPHORA WILLIAMSII* LEMAIRE, WHETHER GROWING OR NOT; ITS SEEDS; ANY EXTRACT FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT; OR ITS SEEDS OR EXTRACTS.

(14) "NATURAL MEDICINE BUSINESS" MEANS ANY OF THE FOLLOWING ENTITIES LICENSED PURSUANT TO THIS ARTICLE 50: A NATURAL MEDICINE HEALING CENTER, A NATURAL MEDICINE CULTIVATION FACILITY, A NATURAL MEDICINE PRODUCTS MANUFACTURER, OR A NATURAL MEDICINE TESTING FACILITY, OR ANOTHER LICENSED ENTITY CREATED BY THE STATE LICENSING AUTHORITY.

(15) "NATURAL MEDICINE PRODUCT" MEANS A PRODUCT INFUSED WITH NATURAL MEDICINE THAT IS INTENDED FOR CONSUMPTION.

(16) "NATURAL MEDICINE SERVICES" MEANS A PREPARATION SESSION, ADMINISTRATION SESSION, AND INTEGRATION SESSION PROVIDED PURSUANT TO ARTICLE 170 OF TITLE 12.

(17) "PARTICIPANT" MEANS A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AND WHO RECEIVES NATURAL MEDICINE SERVICES PERFORMED BY AND UNDER THE SUPERVISION OF A FACILITATOR.

(18) "PERSON" MEANS A NATURAL PERSON OR AN ENTITY.

(19) "PREPARATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND FACILITATOR THAT OCCURS BEFORE THE START OF AN ADMINISTRATION SESSION. "PREPARATION SESSION" DOES NOT MEAN AN INITIAL CONSULTATION OR AN INQUIRY RESPONSE ABOUT NATURAL MEDICINE SERVICES.

(20) "PRINCIPLE FILE" MEANS A FILE THAT IS ESTABLISHED BY THE STATE LICENSING AUTHORITY AND CONTAINS LICENSING AND BACKGROUND INFORMATION FOR AN APPLICANT SEEKING LICENSES PURSUANT TO THIS ARTICLE 50.

(21) "REGULATED NATURAL MEDICINE" MEANS NATURAL MEDICINE THAT IS CULTIVATED, MANUFACTURED, TESTED, STORED, DISTRIBUTED, TRANSPORTED, TRANSFERRED, OR DISPENSED PURSUANT TO THIS ARTICLE 50.

(22) "REGULATED NATURAL MEDICINE PRODUCT" MEANS NATURAL MEDICINE PRODUCT THAT IS CULTIVATED, MANUFACTURED, TESTED, STORED, DISTRIBUTED, TRANSPORTED, TRANSFERRED, OR DISPENSED PURSUANT TO THIS ARTICLE 50.

(23) "REMUNERATION" MEANS ANYTHING OF VALUE, INCLUDING MONEY, REAL PROPERTY, TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, CONTRACT RIGHT, CHOSE IN ACTION, SERVICE, AND ANY RIGHT OF USE OR EMPLOYMENT OR PROMISE OR AGREEMENT CONNECTED THEREWITH, BUSINESS PROMOTION, OR COMMERCIAL ACTIVITY.

(24) "STATE LICENSING AUTHORITY" MEANS THE AUTHORITY CREATED FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORTATION, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT IN THIS STATE PURSUANT TO SECTION 44-50-201.

(25) "TRANSFER" MEANS TO GRANT, CONVEY, HAND OVER, ASSIGN, SELL, EXCHANGE, DONATE, OR BARTER, IN ANY MANNER AND BY ANY MEANS, WITH OR WITHOUT REMUNERATION.

44-50-104. Applicability. (1) ALL BUSINESSES, FOR THE PURPOSE OF CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT, AS DEFINED IN THIS ARTICLE 50, ARE SUBJECT TO THE TERMS AND CONDITIONS OF THIS ARTICLE 50 AND RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

(2) A PERSON APPLYING FOR LICENSURE PURSUANT TO THIS ARTICLE 50 MUST COMPLETE FORMS AS PROVIDED BY THE STATE LICENSING AUTHORITY AND MUST PAY THE APPLICATION FEE AND THE LICENSING FEE, WHICH MUST BE CREDITED TO THE REGULATED NATURAL MEDICINE DIVISION CASH FUND ESTABLISHED PURSUANT TO SECTION 44-50-601. THE STATE LICENSING AUTHORITY SHALL PRIORITIZE REVIEWING APPLICATIONS FROM APPLICANTS WHO HAVE ESTABLISHED RESIDENCY IN COLORADO.

(3) THIS ARTICLE 50 SETS FORTH THE EXCLUSIVE MEANS THAT CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT MAY OCCUR IN THIS STATE.

(4) (a) NOTHING IN THIS ARTICLE 50 IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF OR IMPAIRMENT FROM NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF OR IMPAIRMENT FROM NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT BY EMPLOYEES IN THE WORKPLACE.

(b) NOTHING IN THIS ARTICLE 50 PROHIBITS A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION, OR ANY OTHER ENTITY THAT OCCUPIES, OWNS, OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT ON OR IN THAT PROPERTY.

(5) (a) A LOCAL JURISDICTION MAY ENACT ORDINANCES OR REGULATIONS GOVERNING THE TIME, PLACE, AND MANNER OF THE OPERATION OF LICENSES ISSUED PURSUANT TO THIS ARTICLE 50 WITHIN ITS BOUNDARIES.

(b) A LOCAL JURISDICTION MAY NOT PROHIBIT THE ESTABLISHMENT OR OPERATION OF LICENSES PURSUANT TO THIS ARTICLE 50 WITHIN ITS BOUNDARIES.

(c) A LOCAL JURISDICTION MAY NOT PROHIBIT THE TRANSPORTATION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT WITHIN ITS BOUNDARIES ON PUBLIC ROADS BY A PERSON LICENSED TO EXERCISE SUCH PRIVILEGES PURSUANT TO THIS ARTICLE 50.

(d) A LOCAL JURISDICTION MAY NOT ADOPT ORDINANCES OR REGULATIONS THAT ARE UNREASONABLE OR CONFLICT WITH THIS ARTICLE 50.

PART 2
STATE LICENSING AUTHORITY

44-50-201. State licensing authority - creation. (1) FOR THE PURPOSE OF REGULATING AND LICENSING THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT BY AND BETWEEN NATURAL MEDICINE LICENSEES IN THIS STATE, THERE IS CREATED THE STATE LICENSING AUTHORITY, WHICH IS THE EXECUTIVE DIRECTOR, OR THE DIRECTOR OF THE NATURAL MEDICINE DIVISION IF DESIGNATED BY THE EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE STATE LICENSING AUTHORITY AND MAY EMPLOY, PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, SUCH OFFICERS AND EMPLOYEES AS DETERMINED TO BE NECESSARY. THE OFFICERS AND EMPLOYEES ARE A PART OF THE DEPARTMENT.

(3) THE EXECUTIVE DIRECTOR OF THE STATE LICENSING AUTHORITY OR A STATE LICENSING AUTHORITY EMPLOYEE WITH REGULATORY OVERSIGHT RESPONSIBILITIES FOR THE NATURAL MEDICINE LICENSEES THAT ARE LICENSED BY THE STATE LICENSING AUTHORITY SHALL NOT WORK FOR, REPRESENT, PROVIDE CONSULTING SERVICES TO, OR OTHERWISE DERIVE PECUNIARY GAIN FROM A NATURAL MEDICINE LICENSEE THAT IS LICENSED BY THE STATE LICENSING AUTHORITY OR ANY OTHER BUSINESS ESTABLISHED FOR THE PRIMARY PURPOSE OF PROVIDING SERVICES TO THE NATURAL MEDICINE INDUSTRY FOR A PERIOD OF SIX MONTHS AFTER THE EMPLOYEE'S LAST DAY OF EMPLOYMENT WITH THE STATE LICENSING AUTHORITY.

44-50-202. Powers and duties of state licensing authority - report. (1) THE STATE LICENSING AUTHORITY SHALL:

(a) BEGINNING ON OR BEFORE DECEMBER 31, 2024, GRANT OR REFUSE STATE LICENSES FOR THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT; SUSPEND, FINE, RESTRICT, OR REVOKE SUCH LICENSES, WHETHER ACTIVE, EXPIRED, OR SURRENDERED, UPON A VIOLATION OF THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50; AND IMPOSE ANY PENALTY AUTHORIZED BY THIS ARTICLE 50 OR A RULE PROMULGATED

PURSUANT TO THIS ARTICLE 50. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION OR PERMIT PURSUANT TO THIS ARTICLE 50 AS IT MAY WITH RESPECT TO A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE 50.

(b) PROMULGATE RULES FOR THE PROPER REGULATION AND CONTROL OF THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT AND FOR THE ENFORCEMENT OF THIS ARTICLE 50 AND PROMULGATE AMENDED RULES AND SUCH SPECIAL RULINGS AND FINDINGS AS NECESSARY;

(c) CONDUCT INVESTIGATIONS AND HEARINGS, GATHER EVIDENCE, AND PURSUE DISCIPLINARY ACTIONS WITH RESPECT TO LICENSES WHEN THE STATE LICENSING AUTHORITY HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON OR ENTITY IS VIOLATING THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50;

(d) (I) PETITION A DISTRICT COURT FOR AN INVESTIGATIVE SUBPOENA APPLICABLE TO A PERSON WHO IS NOT LICENSED PURSUANT TO THIS ARTICLE 50 TO OBTAIN DOCUMENTS OR INFORMATION NECESSARY TO ENFORCE A PROVISION OF THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50 AFTER REASONABLE EFFORTS HAVE BEEN MADE TO OBTAIN REQUESTED DOCUMENTS OR INFORMATION WITHOUT A SUBPOENA;

(II) APPLY TO ANY COURT OF COMPETENT JURISDICTION TO TEMPORARILY RESTRAIN OR PRELIMINARILY OR PERMANENTLY ENJOIN THE ACT IN QUESTION OF A PERSON WHO IS NOT LICENSED PURSUANT TO THIS ARTICLE 50 AND TO ENFORCE COMPLIANCE WITH THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50 WHENEVER IT APPEARS TO THE DIRECTOR OF THE NATURAL MEDICINE DIVISION UPON SUFFICIENT EVIDENCE SATISFACTORY TO THE DIRECTOR OF THE NATURAL MEDICINE DIVISION THAT A PERSON HAS BEEN OR IS COMMITTING AN ACT PROHIBITED BY THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50, AND THE ACT:

(A) THREATENS PUBLIC HEALTH OR SAFETY; OR

(B) CONSTITUTES AN UNLAWFUL ACT FOR WHICH THE PERSON DOES NOT HOLD THE REQUIRED LICENSE PURSUANT TO THIS ARTICLE 50;

(e) HEAR AND DETERMINE AT A PUBLIC HEARING ANY CONTESTED STATE LICENSE DENIAL AND ANY COMPLAINTS AGAINST A LICENSEE, AND ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF ANY HEARING SO HELD, ALL IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24. THE STATE LICENSING AUTHORITY MAY, IN ITS DISCRETION, DELEGATE TO THE DEPARTMENT'S HEARING OFFICERS THE AUTHORITY TO CONDUCT LICENSING, DISCIPLINARY, AND RULE-MAKING HEARINGS PURSUANT TO SECTION 24-4-105. WHEN CONDUCTING THE HEARINGS, THE HEARING OFFICERS ARE EMPLOYEES OF THE STATE LICENSING AUTHORITY UNDER THE DIRECTION AND SUPERVISION OF THE EXECUTIVE DIRECTOR AND THE STATE LICENSING AUTHORITY.

(f) DEVELOP FORMS, LICENSES, IDENTIFICATION CARDS, AND APPLICATIONS AS NECESSARY OR CONVENIENT IN THE DISCRETION OF THE STATE LICENSING AUTHORITY FOR THE ADMINISTRATION OF THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50;

(g) IN COORDINATION WITH THE DIVISION OF PROFESSIONS AND OCCUPATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 12-170-105 (1)(j), ANNUALLY PUBLISH A PUBLICLY AVAILABLE REPORT CONCERNING THE IMPLEMENTATION AND ADMINISTRATION OF THIS ARTICLE 50 AND ARTICLE 170 OF TITLE 12. THE REPORT MUST USE RELEVANT DATA, AS DETERMINED BY THE STATE LICENSING AUTHORITY AND THE DIRECTOR, AND MUST NOT DISCLOSE THE IDENTITY OF ANY PARTICIPANT OR INCLUDE ANY INFORMATION THAT COULD DISCLOSE THE IDENTITY OF A PARTICIPANT.

(h) DEVELOP AND PROMOTE ACCURATE PUBLIC EDUCATION CAMPAIGNS RELATED TO THE USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, INCLUDING PUBLIC SERVICE ANNOUNCEMENTS, EDUCATIONAL MATERIALS, AND APPROPRIATE CRISIS RESPONSE MATERIALS, AND DEVELOP AND PROMOTE TRAINING MATERIALS FOR FIRST RESPONDERS AND MULTI-RESPONDERS, INCLUDING LAW ENFORCEMENT, EMERGENCY MEDICAL PROVIDERS, SOCIAL SERVICES PROVIDERS, AND FIRE FIGHTERS.

(2) NOTHING IN THIS ARTICLE 50 DELEGATES TO THE STATE

LICENSING AUTHORITY THE POWER TO FIX PRICES FOR REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT.

(3) NOTHING IN THIS ARTICLE 50 LIMITS A LAW ENFORCEMENT AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A NATURAL MEDICINE LICENSEE. A LAW ENFORCEMENT AGENCY HAS THE AUTHORITY TO RUN A COLORADO CRIME INFORMATION CENTER CRIMINAL HISTORY RECORD CHECK OF A LICENSEE OR EMPLOYEE OF A LICENSEE DURING AN INVESTIGATION OF UNLAWFUL ACTIVITY RELATED TO NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT.

(4) THE STATE LICENSING AUTHORITY SHALL COORDINATE WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CONCERNING THE ESTABLISHMENT OF STANDARDS FOR LICENSING LABORATORIES PURSUANT TO THE REQUIREMENTS OUTLINED IN SECTION 25-1.5-120 FOR REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT.

(5) THE STATE LICENSING AUTHORITY SHALL, WHEN FINANCIALLY FEASIBLE, ESTABLISH PROCEDURES, POLICIES, AND PROGRAMS TO ENSURE THIS ARTICLE 50 AND RULES PROMULGATED PURSUANT TO THIS ARTICLE 50 ARE EQUITABLE AND INCLUSIVE, PROMOTE THE LICENSING, REGISTRATION, AND PERMITTING OF, AND PROVISION OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT TO, PERSONS FROM COMMUNITIES THAT HAVE BEEN DISPROPORTIONATELY HARMED BY HIGH RATES OF ARREST FOR CONTROLLED SUBSTANCES, PERSONS WHO FACE BARRIERS TO HEALTH-CARE ACCESS, PERSONS WHO HAVE TRADITIONAL, TRIBAL, OR INDIGENOUS HISTORY WITH NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, OR TO PERSONS WHO ARE VETERANS. THE STATE LICENSING AUTHORITY MAY CONSULT THE BOARD WHEN CONSIDERING PROCEDURES, POLICIES, AND PROGRAMS PURSUANT TO THIS SUBSECTION (5).

(6) THE STATE LICENSING AUTHORITY HAS AUTHORITY TO COLLECT AVAILABLE AND RELEVANT DATA NECESSARY TO PERFORM FUNCTIONS AND DUTIES NECESSARY TO ADMINISTER THIS ARTICLE 50.

(7) THE STATE LICENSING AUTHORITY, IN COORDINATION WITH OTHER RELEVANT AGENCIES, SHALL REQUEST AVAILABLE AND RELEVANT DATA CONCERNING LAW ENFORCEMENT INCIDENCES, ADVERSE HEALTH EVENTS, IMPACTS TO HEALTH CARE SYSTEMS, CONSUMER PROTECTION

CLAIMS, AND BEHAVIORAL HEALTH IMPACTS RELATED TO NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE BUSINESSES. THE STATE LICENSING AUTHORITY SHALL INCLUDE THE AVAILABLE AND RELEVANT DATA IN THE REPORT REQUIRED PURSUANT TO SUBSECTION (1)(g) OF THIS SECTION.

(8) THE STATE LICENSING AUTHORITY SHALL PERFORM OTHER FUNCTIONS AND DUTIES NECESSARY TO ADMINISTER THIS ARTICLE 50.

44-50-203. State licensing authority - rules - legislative declaration. (1) **Mandatory rule-making.** RULES PROMULGATED PURSUANT TO SECTION 44-50-202 (1)(b) MUST INCLUDE THE FOLLOWING SUBJECTS:

(a) PROCEDURES AND REQUIREMENTS CONSISTENT WITH THIS ARTICLE 50 FOR THE ISSUANCE, DENIAL, RENEWAL, REINSTATEMENT, MODIFICATION, SUSPENSION, AND REVOCATION OF LICENSES;

(b) OVERSIGHT REQUIREMENTS FOR LICENSEES;

(c) A SCHEDULE OF APPLICATION, LICENSING, AND RENEWAL FEES FOR LICENSES;

(d) QUALIFICATIONS AND ELIGIBILITY REQUIREMENTS FOR LICENSURE PURSUANT TO THIS ARTICLE 50, INCLUDING CONTINUING ELIGIBILITY EXPECTATIONS, INCLUDING TIMELY PAYING TAXES OWED TO THE DEPARTMENT OF REVENUE, TIMELY FILING TAX RETURNS, AND TIMELY CURING ANY TAX DEFICIENCIES, AND AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO HAVE ACCESS TO LICENSING INFORMATION TO ENSURE TAX PAYMENT FOR THE EFFECTIVE ADMINISTRATION OF THIS ARTICLE 50;

(e) PERMISSIBLE AND PROHIBITED FINANCIAL INTERESTS IN A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50 OR A LICENSE ISSUED PURSUANT TO ARTICLE 170 OF TITLE 12; EXCEPT THAT A PERSON MAY NOT HAVE A FINANCIAL INTEREST IN MORE THAN FIVE NATURAL MEDICINE BUSINESS LICENSES;

(f) (I) ESTABLISHMENT OF A NATURAL MEDICINE INDEPENDENT TESTING AND CERTIFICATION PROGRAM FOR LICENSEES WITHIN AN IMPLEMENTATION TIME FRAME ESTABLISHED BY THE DIVISION, REQUIRING

LICENSEES TO TEST REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT TO ENSURE, AT A MINIMUM, THAT REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT TRANSFERRED FOR HUMAN CONSUMPTION BY PERSONS LICENSED PURSUANT TO THIS ARTICLE 50 DO NOT CONTAIN CONTAMINANTS THAT ARE INJURIOUS TO HEALTH AND TO ENSURE CORRECT LABELING, AS WELL AS:

(A) CERTIFICATION REQUIREMENTS FOR LABORATORIES THAT TEST REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT, AND REQUIREMENTS THAT THE TEST RESULTS PRODUCED BY A LABORATORY MUST NOT BE USED UNLESS THE LABORATORY IS CERTIFIED;

(B) TESTING PROCEDURES AND FREQUENCY OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT BY LICENSEES;

(C) WHETHER TO ALLOW FOR ANY NATURAL PERSON TO REQUEST AND UTILIZE TESTING SERVICES OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT IF THE NATURAL PERSON IS TWENTY-ONE YEARS OF AGE OR OLDER;

(D) DEFINITIONS, PERMISSIONS, AND PROHIBITIONS CONCERNING CONFLICTS OF INTEREST RELATED TO, AND ECONOMIC INTERESTS FOR, PERSONS WHO OWN OR ARE ASSOCIATED WITH A NATURAL MEDICINE TESTING LICENSE AND OTHER LICENSES; AND

(E) PROCEDURES AND REQUIREMENTS NECESSARY TO FACILITATE THE COORDINATION OF DUTIES WITH RESPECT TO THE NATURAL MEDICINE TESTING AND CERTIFICATION PROGRAM WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(II) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES PURSUANT TO THIS SUBSECTION (1)(f) IN COORDINATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO ENSURE CONSISTENCY BETWEEN RULES.

(g) THE REGULATION OF A LICENSED PREMISES, INCLUDING RULES THAT ALLOW A NATURAL MEDICINE HEALING CENTER LICENSEE'S LICENSED PREMISES TO BE CO-LOCATED WITH ANOTHER NATURAL MEDICINE HEALING CENTER LICENSEE'S LICENSED PREMISES OR A HEALTH-CARE FACILITY;

(h) REQUIREMENTS FOR THE TRANSPORTATION OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT, INCLUDING:

(I) SECURITY REQUIREMENTS;

(II) TRANSPORTATION VEHICLE REQUIREMENTS, INCLUDING REQUIREMENTS FOR SURVEILLANCE;

(III) LIMITS ON THE AMOUNT OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT THAT MAY BE CARRIED IN A TRANSPORTATION VEHICLE;

(IV) RECORD-KEEPING REQUIREMENTS; AND

(V) TRANSPORTATION MANIFEST REQUIREMENTS;

(i) LIMITS ON THE AMOUNT OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT THAT IS ALLOWED FOR PRODUCTION BY A NATURAL MEDICINE CULTIVATION FACILITY LICENSE OR NATURAL MEDICINE PRODUCT MANUFACTURER LICENSE BASED ON A METRIC OR SET OF METRICS. WHEN CONSIDERING ANY LIMITATIONS, THE STATE LICENSING AUTHORITY SHALL CONSIDER THE TOTAL CURRENT AND ANTICIPATED DEMAND FOR REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT IN COLORADO AND ATTEMPT TO MINIMIZE THE MARKET FOR UNLAWFUL NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT.

(j) RECORDS TO BE KEPT BY LICENSEES AND THE REQUIRED AVAILABILITY OF THE RECORDS FOR INSPECTION BY THE STATE LICENSING AUTHORITY;

(k) REQUIREMENTS TO PREVENT THE TRANSFER OR DIVERSION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;

(l) PERMITTED AND PROHIBITED TRANSFERS OF REGULATED NATURAL MEDICINE AND REGULATED NATURAL MEDICINE PRODUCT BETWEEN LICENSEES;

(m) STANDARDS FOR ADVERTISING AND MARKETING A LICENSEE'S SERVICES, INCLUDING: AVOIDING THE MISAPPROPRIATION AND EXPLOITATION OF THE FEDERALLY RECOGNIZED AMERICAN TRIBES, AS DEFINED IN SECTION 12-170-104 (7), AND INDIGENOUS PEOPLE, COMMUNITIES, CULTURES, AND RELIGIONS; AVOIDING THE EXCESSIVE COMMERCIALIZATION OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES; PROHIBITING ADVERTISING AND MARKETING OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, AND NATURAL MEDICINE SERVICES DIRECTED TO INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE; AND OTHER PARAMETERS DETERMINED NECESSARY BY THE STATE LICENSING AUTHORITY.

(n) THE STANDARDS FOR QUALIFICATION AS A LICENSEE, INCLUDING ENVIRONMENTAL, SOCIAL, AND GOVERNANCE CRITERIA DIRECTED TO THE FINDINGS AND DECLARATIONS SET FORTH IN SECTION 12-170-102.

(2) **Permissive rule-making.** RULES PROMULGATED PURSUANT TO SECTION 44-50-202 (1)(b) MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING SUBJECTS:

(a) ESTABLISHMENT OF LICENSES, AND THE PRIVILEGES AND RESTRICTIONS PURSUANT TO SUCH LICENSES, DETERMINED NECESSARY BY THE STATE LICENSING AUTHORITY TO IMPLEMENT OR ADMINISTER THIS ARTICLE 50;

(b) ESTABLISHMENT OF A PRINCIPLE FILE PROCESS AND REQUIREMENTS FOR AN APPLICANT SEEKING TO EXERCISE THE PRIVILEGES OF A LICENSE TYPE IN MULTIPLE LOCATIONS OR SEEKING TO EXERCISE THE PRIVILEGES OF MULTIPLE LICENSE TYPES;

(c) REQUIREMENTS FOR ISSUANCE OF CO-LOCATION PERMITS TO A LICENSEE AUTHORIZING CO-LOCATION WITH ANOTHER LICENSED PREMISES;

(d) REQUIREMENTS AND RESTRICTIONS ON DIFFERENT TYPES OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT;

(e) PACKAGING AND LABELING REQUIREMENTS FOR REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT, INCLUDING:

(I) WARNING LABELS;

(II) INDIVIDUAL SERVING AND PER-PACKAGE SERVING AMOUNTS;
AND

(III) CONCENTRATION OF THE REGULATED NATURAL MEDICINE OR
REGULATED NATURAL MEDICINE PRODUCT;

(f) SECURITY REQUIREMENTS FOR LICENSED PREMISES, INCLUDING
LIGHTING, PHYSICAL SECURITY, VIDEO, AND ALARM REQUIREMENTS, AND
OTHER MINIMUM PROCEDURES FOR INTERNAL CONTROL AS DEEMED
NECESSARY BY THE STATE LICENSING AUTHORITY TO PROPERLY ADMINISTER
AND ENFORCE THE PROVISIONS OF THIS ARTICLE 50, INCLUDING REPORTING
REQUIREMENTS FOR CHANGES, ALTERATIONS, MODIFICATIONS TO THE
PREMISES, OR ACTIVITIES OR INCIDENTS ON THE PREMISES;

(g) HEALTH AND SAFETY REGULATIONS AND STANDARDS;

(h) SANITARY REQUIREMENTS;

(i) WASTE, DISPOSAL, AND DESTRUCTION REQUIREMENTS OF
REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE
PRODUCT, INCLUDING RECORD-KEEPING REQUIREMENTS;

(j) STORAGE AND TRANSPORTATION OF REGULATED NATURAL
MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT;

(k) REQUIREMENTS OF LICENSEES TO TRACK AND MANAGE
INVENTORY;

(l) COMPLIANCE WITH, ENFORCEMENT OF, OR VIOLATION OF ANY
PROVISION OF THIS ARTICLE 50, ARTICLE 18 OF TITLE 18, OR ANY RULE
PROMULGATED PURSUANT TO THIS ARTICLE 50, INCLUDING PROCEDURES AND
GROUNDS FOR DENYING, SUSPENDING, FINING, MODIFYING, RESTRICTING, OR
REVOKING A STATE LICENSE ISSUED PURSUANT TO THIS ARTICLE 50 OR ANY
RULE PROMULGATED PURSUANT TO THIS ARTICLE 50;

(m) ESTABLISHING A SCHEDULE OF PENALTIES FOR ALLEGED
VIOLATIONS OF STATUTES AND RULES;

(n) SPECIFICATIONS OF DUTIES OF OFFICERS AND EMPLOYEES OF THE STATE LICENSING AUTHORITY;

(o) GUIDANCE FOR LAW ENFORCEMENT OFFICERS;

(p) REQUIREMENTS FOR INSPECTIONS, INVESTIGATIONS, SEARCHES, SEIZURES, FORFEITURES, EMBARGO, QUARANTINE, RECALLS, AND SUCH ADDITIONAL ACTIVITIES AS MAY BECOME NECESSARY;

(q) PROHIBITION OF MISREPRESENTATION AND UNFAIR PRACTICES;
AND

(r) SUCH OTHER MATTERS AS ARE NECESSARY FOR THE FAIR, IMPARTIAL, STRINGENT, AND COMPREHENSIVE ADMINISTRATION OF THIS ARTICLE 50.

(3) THE STATE LICENSING AUTHORITY SHALL CONSULT THE BOARD WHEN CONSIDERING AND PROMULGATING RULES PURSUANT TO THIS SECTION.

(4)(a) THE STATE LICENSING AUTHORITY MAY, BY RULE, ESTABLISH PROCEDURES FOR THE CONDITIONAL ISSUANCE OF AN EMPLOYEE LICENSE IDENTIFICATION CARD AT THE TIME OF APPLICATION.

(b)(I) THE STATE LICENSING AUTHORITY SHALL BASE ITS ISSUANCE OF AN EMPLOYEE LICENSE IDENTIFICATION CARD PURSUANT TO THIS SUBSECTION (4) ON THE RESULTS OF AN INITIAL INVESTIGATION THAT DEMONSTRATES THE APPLICANT IS QUALIFIED TO HOLD A LICENSE. THE EMPLOYEE LICENSE APPLICATION FOR WHICH AN EMPLOYEE LICENSE IDENTIFICATION CARD WAS ISSUED PURSUANT TO THIS SUBSECTION (4) REMAINS SUBJECT TO DENIAL PENDING THE COMPLETE RESULTS OF THE APPLICANT'S INITIAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(II) RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THAT DEMONSTRATE THAT AN APPLICANT POSSESSING AN EMPLOYEE LICENSE IDENTIFICATION CARD PURSUANT TO THIS SUBSECTION (4) IS NOT QUALIFIED TO HOLD A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50 ARE GROUNDS FOR DENIAL OF THE EMPLOYEE LICENSE APPLICATION. IF THE EMPLOYEE LICENSE APPLICATION IS DENIED, THE APPLICANT SHALL RETURN

THE EMPLOYEE LICENSE IDENTIFICATION CARD TO THE STATE LICENSING AUTHORITY WITHIN A TIME PERIOD THAT THE STATE LICENSING AUTHORITY ESTABLISHES BY RULE.

(III) THE STATE LICENSING AUTHORITY SHALL REQUIRE THE APPLICANT TO HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY OR A THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION. IF AN APPROVED THIRD PARTY TAKES THE APPLICANT'S FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING THE COLORADO BUREAU OF INVESTIGATION'S APPROVED LIFESCAN EQUIPMENT. A THIRD PARTY SHALL NOT KEEP THE APPLICANT INFORMATION FOR MORE THAN THIRTY DAYS UNLESS REQUESTED BY THE APPLICANT. THE STATE LICENSING AUTHORITY SHALL SEND THE APPLICANT'S FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF FINGERPRINT PROCESSING BY UTILIZING THE FILES AND RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION.

44-50-204. Confidentiality. (1) THE STATE LICENSING AUTHORITY SHALL MAINTAIN THE CONFIDENTIALITY OF:

(a) REPORTS OR OTHER INFORMATION OBTAINED FROM A LICENSEE OR A LICENSE APPLICANT CONTAINING ANY INDIVIDUALIZED DATA, INFORMATION, OR RECORDS RELATED TO THE APPLICANT; LICENSEE; LICENSEE'S OPERATION, INCLUDING SALES INFORMATION, LEASES, BUSINESS ORGANIZATION RECORDS, FINANCIAL RECORDS, TAX RETURNS, CREDIT REPORTS, CULTIVATION INFORMATION, TESTING RESULTS, AND SECURITY INFORMATION AND PLANS; ANY PARTICIPANT INFORMATION; OR ANY OTHER RECORDS THAT ARE EXEMPT FROM PUBLIC INSPECTION PURSUANT TO STATE LAW. SUCH REPORTS OR OTHER INFORMATION MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50 FOR INVESTIGATION OR ENFORCEMENT OF ANY INTERNATIONAL, FEDERAL, STATE, OR LOCAL SECURITIES LAW OR REGULATION, OR FOR ANY OTHER STATE OR LOCAL LAW ENFORCEMENT PURPOSE. ANY INFORMATION RELEASED RELATED TO A PARTICIPANT MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY THIS ARTICLE 50, AS A PART OF AN ACTIVE INVESTIGATION, AS A PART OF A PROCEEDING AUTHORIZED BY THIS ARTICLE 50, OR FOR ANY STATE OR LOCAL LAW ENFORCEMENT PURPOSE INVOLVING EVIDENCE OF SALES TRANSACTIONS IN VIOLATION OF THIS ARTICLE 50 OR EVIDENCE OF CRIMINAL ACTIVITY. THE INFORMATION OR

RECORDS RELATED TO A PARTICIPANT CONSTITUTE MEDICAL DATA AS DESCRIBED BY SECTION 24-72-204 (3)(a)(I), AND THE INFORMATION OR RECORDS MAY ONLY BE DISCLOSED TO THOSE PERSONS DIRECTLY INVOLVED WITH AN ACTIVE INVESTIGATION OR PROCEEDING.

(b) INVESTIGATIVE RECORDS AND DOCUMENTS RELATED TO ONGOING INVESTIGATIONS. THOSE RECORDS AND DOCUMENTS MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY THIS ARTICLE 50 OR RULES PROMULGATED BY THIS ARTICLE 50, OR FOR ANY OTHER STATE OR LOCAL LAW ENFORCEMENT PURPOSE.

(c) COMPUTER SYSTEMS MAINTAINED BY THE STATE LICENSING AUTHORITY AND THE VENDORS WITH WHICH THE STATE LICENSING AUTHORITY HAS CONTRACTED.

(2) THE STATE LICENSING AUTHORITY SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION:

(a) DOCUMENTS RELATED TO FINAL AGENCY ACTIONS AND ORDERS;

(b) RECORDS RELATED TO TESTING ON AN AGGREGATED AND DE-IDENTIFIED BASIS;

(c) DEMOGRAPHIC INFORMATION RELATED TO APPLICANTS AND LICENSEES AVAILABLE ON AN AGGREGATED AND DE-IDENTIFIED BASIS; AND

(d) ENFORCEMENT FORMS AND COMPLIANCE CHECKLISTS.

PART 3 LICENSE TYPES

44-50-301. Classes of licenses. (1) FOR THE PURPOSE OF REGULATING THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSPORT, TRANSFER, AND DISPENSATION OF REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT, THE STATE LICENSING AUTHORITY IN ITS DISCRETION, UPON APPLICATION IN THE PRESCRIBED FORM, MAY ISSUE AND GRANT TO THE APPLICANT A LICENSE FROM ANY OF THE CLASSES LISTED IN SUBSECTION (2) OF THIS SECTION, SUBJECT TO THE PROVISIONS AND RESTRICTIONS PROVIDED BY THIS ARTICLE 50 OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE 50.

(2)(a) THE FOLLOWING ARE NATURAL MEDICINE BUSINESS LICENSES:

(I) NATURAL MEDICINE HEALING CENTER LICENSE;

(II) NATURAL MEDICINE CULTIVATION FACILITY LICENSE;

(III) NATURAL MEDICINE PRODUCT MANUFACTURER LICENSE;

(IV) NATURAL MEDICINE TESTING FACILITY LICENSE; AND

(V) ANY NATURAL MEDICINE BUSINESS LICENSE DETERMINED NECESSARY BY THE STATE LICENSING AUTHORITY.

(b) THE FOLLOWING ARE NATURAL MEDICINE LICENSES OR REGISTRATIONS: OCCUPATIONAL LICENSES AND REGISTRATIONS FOR OWNERS, MANAGERS, OPERATORS, EMPLOYEES, CONTRACTORS, AND OTHER SUPPORT STAFF EMPLOYED BY, WORKING IN, OR HAVING ACCESS TO RESTRICTED AREAS OF THE LICENSED PREMISES, AS DETERMINED BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION OR PERMIT PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50 AS IT MAY, WITH RESPECT TO A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50 IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

(3) A STATE CHARTERED BANK OR A CREDIT UNION MAY LOAN MONEY TO ANY PERSON LICENSED PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50 FOR THE OPERATION OF A LICENSED NATURAL MEDICINE BUSINESS.

(4) A PERSON MAY NOT OPERATE A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50 AT THE SAME LOCATION AS A LICENSE OR PERMIT ISSUED PURSUANT TO ARTICLE 3, 4, 5, OR 10 OF THIS TITLE 44.

44-50-302. Restrictions for applications for new licenses. (1) THE STATE LICENSING AUTHORITY SHALL NOT RECEIVE OR ACT UPON AN APPLICATION FOR THE ISSUANCE OF A NATURAL MEDICINE BUSINESS LICENSE PURSUANT TO THIS ARTICLE 50:

(a) IF THE APPLICATION FOR A LICENSE CONCERNS A PARTICULAR LOCATION THAT IS THE SAME AS OR WITHIN ONE THOUSAND FEET OF A LOCATION FOR WHICH, WITHIN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, THE STATE LICENSING AUTHORITY DENIED AN APPLICATION FOR THE SAME CLASS OF LICENSE DUE TO THE NATURE OF THE USE OR OTHER CONCERN RELATED TO THE LOCATION;

(b) UNTIL IT IS ESTABLISHED THAT THE APPLICANT IS, OR WILL BE, ENTITLED TO POSSESSION OF THE PREMISES FOR WHICH APPLICATION IS MADE UNDER A LEASE, RENTAL AGREEMENT, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES OR BY VIRTUE OF OWNERSHIP OF THE PREMISES;

(c) FOR A LOCATION IN AN AREA WHERE THE CULTIVATION, MANUFACTURING, TESTING, STORAGE, DISTRIBUTION, TRANSFER, AND DISPENSATION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT AS CONTEMPLATED IS NOT PERMITTED UNDER THE APPLICABLE ZONING LAWS OF THE LOCAL JURISDICTION;

(d) (I) IF THE BUILDING WHERE NATURAL MEDICINE SERVICES ARE PROVIDED IS WITHIN ONE THOUSAND FEET OF A CHILD CARE CENTER; PRESCHOOL; ELEMENTARY, MIDDLE, JUNIOR, OR HIGH SCHOOL; OR A RESIDENTIAL CHILD CARE FACILITY. THE PROVISIONS OF THIS SECTION DO NOT AFFECT THE RENEWAL OR REISSUANCE OF A LICENSE ONCE GRANTED OR APPLY TO LICENSED PREMISES LOCATED OR TO BE LOCATED ON LAND OWNED BY A MUNICIPALITY, NOR DO THE PROVISIONS OF THIS SECTION APPLY TO AN EXISTING LICENSED PREMISES ON LAND OWNED BY THE STATE OR APPLY TO A LICENSE IN EFFECT AND ACTIVELY DOING BUSINESS BEFORE THE SCHOOL OR FACILITY WAS CONSTRUCTED. THE GOVERNING BODY OF A MUNICIPALITY, BY ORDINANCE; AND THE GOVERNING BODY OF A COUNTY, BY RESOLUTION, MAY VARY THE DISTANCE RESTRICTIONS IMPOSED BY THIS SUBSECTION (1)(d)(I) FOR A LICENSE OR MAY ELIMINATE ONE OR MORE TYPES OF SCHOOLS OR FACILITIES FROM THE APPLICATION OF A DISTANCE RESTRICTION ESTABLISHED BY OR PURSUANT TO THIS SUBSECTION (1)(d)(I).

(II) THE DISTANCES REFERRED TO IN THIS SUBSECTION (1)(d) MUST BE COMPUTED BY DIRECT MEASUREMENT FROM THE NEAREST PROPERTY LINE OF THE LAND USED FOR A SCHOOL OR FACILITY TO THE NEAREST PORTION OF THE BUILDING IN WHICH NATURAL MEDICINE SERVICES ARE PROVIDED, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

(III) THE STATE LICENSING AUTHORITY SHALL CONSIDER THE EVIDENCE AND MAKE A SPECIFIC FINDING OF FACT AS TO WHETHER THE BUILDING IN WHICH THE NATURAL MEDICINE BUSINESS IS LOCATED IS WITHIN ANY DISTANCE RESTRICTIONS ESTABLISHED BY OR PURSUANT TO THIS SUBSECTION (1)(d).

(2) THE STATE LICENSING AUTHORITY SHALL NOT APPROVE AN APPLICATION FOR THE ISSUANCE OF A NATURAL MEDICINE BUSINESS LICENSE PURSUANT TO THIS ARTICLE 50 UNTIL THE STATE LICENSING AUTHORITY ESTABLISHES THAT THE APPLICANT IS, OR WILL BE, ENTITLED TO POSSESSION OF THE PREMISES FOR WHICH APPLICATION IS MADE UNDER A LEASE, RENTAL AGREEMENT, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES OR BY VIRTUE OF OWNERSHIP OF THE PREMISES.

PART 4

NATURAL MEDICINE LICENSE TYPES

44-50-401. Natural medicine healing center license - rules. (1) A NATURAL MEDICINE HEALING CENTER LICENSE MAY BE ISSUED ONLY TO A PERSON THAT EMPLOYS OR CONTRACTS WITH A FACILITATOR WHO PROVIDES NATURAL MEDICINE SERVICES PURSUANT TO THE TERMS AND CONDITIONS OF ARTICLE 170 OF TITLE 12.

(2) A NATURAL MEDICINE HEALING CENTER LICENSEE MAY TRANSFER REGULATED NATURAL MEDICINE OR REGULATED NATURAL MEDICINE PRODUCT TO ANOTHER NATURAL MEDICINE HEALING CENTER LICENSEE PURSUANT TO RULES PROMULGATED BY THE STATE LICENSING AUTHORITY.

(3) PRIOR TO INITIATING NATURAL MEDICINE SERVICES, THE FACILITATOR OF THE NATURAL MEDICINE HEALING CENTER LICENSEE SHALL VERIFY THAT THE PARTICIPANT IS TWENTY-ONE YEARS OF AGE OR OLDER.

(4) A NATURAL MEDICINE HEALING CENTER LICENSEE SHALL COMPLY WITH ALL PROVISIONS OF ARTICLE 34 OF TITLE 24, AS THE PROVISIONS RELATE TO PERSONS WITH DISABILITIES.

(5)(a) EXCEPT AS PROVIDED IN SUBSECTION (5)(b) OF THIS SECTION, A NATURAL MEDICINE HEALING CENTER LICENSEE SHALL NOT TRANSFER, INDIVIDUALLY OR IN ANY COMBINATION, MORE THAN AN AMOUNT PROMULGATED BY RULE OF NATURAL MEDICINE AND NATURAL MEDICINE

PRODUCT TO A PARTICIPANT IN A SINGLE ADMINISTRATION SESSION.

(b) THE STATE LICENSING AUTHORITY MAY PROMULGATE RULES TO ESTABLISH CERTAIN EXEMPTIONS TO THE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT LIMITATION AND MAY ESTABLISH RECORD-KEEPING REQUIREMENTS FOR NATURAL MEDICINE HEALING CENTER LICENSEES PURSUANT TO ANY EXEMPTION TO THE ADMINISTRATION LIMITATION.

44-50-402. Natural medicine cultivation facility license. (1) A NATURAL MEDICINE CULTIVATION FACILITY LICENSE MAY BE ISSUED ONLY TO A PERSON WHO CULTIVATES REGULATED NATURAL MEDICINE FOR TRANSFER AND DISTRIBUTION TO NATURAL MEDICINE HEALING CENTER LICENSEES, NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEES, OR OTHER NATURAL MEDICINE CULTIVATION FACILITY LICENSEES.

(2) NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT MUST NOT BE CONSUMED ON THE NATURAL MEDICINE CULTIVATION FACILITY LICENSEE'S LICENSED PREMISES, UNLESS THE LICENSED PREMISES IS CO-LOCATED WITH A NATURAL MEDICINE HEALING CENTER LICENSEE'S LICENSED PREMISES.

44-50-403. Natural medicine product manufacturer license. (1) (a) A NATURAL MEDICINE PRODUCT MANUFACTURER LICENSE MAY BE ISSUED TO A PERSON WHO MANUFACTURES REGULATED NATURAL MEDICINE PRODUCT PURSUANT TO THE TERMS AND CONDITIONS OF THIS ARTICLE 50 AND RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

(b) A NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEE MAY CULTIVATE ITS OWN REGULATED NATURAL MEDICINE PURSUANT TO A NATURAL MEDICINE CULTIVATION FACILITY LICENSEE.

(c) A NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEE SHALL NOT:

(I) ADD ANY REGULATED NATURAL MEDICINE TO A FOOD PRODUCT IF THE MANUFACTURER OF THE FOOD PRODUCT HOLDS A TRADEMARK TO THE FOOD PRODUCT'S NAME; EXCEPT THAT A NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEE MAY USE A TRADEMARKED FOOD PRODUCT IF THE MANUFACTURER USES THE PRODUCT AS A COMPONENT OR AS PART OF A RECIPE AND IF THE NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEE

DOES NOT STATE OR ADVERTISE TO THE CONSUMER THAT THE FINAL NATURAL MEDICINE PRODUCT CONTAINS A TRADEMARKED FOOD PRODUCT;

(II) INTENTIONALLY OR KNOWINGLY LABEL OR PACKAGE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IN A MANNER THAT WOULD CAUSE A REASONABLE CONSUMER CONFUSION AS TO WHETHER THE NATURAL MEDICINE PRODUCT WAS A TRADEMARKED FOOD PRODUCT; OR

(III) LABEL OR PACKAGE A PRODUCT IN A MANNER THAT VIOLATES ANY FEDERAL TRADEMARK LAW OR REGULATION.

(2) NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT MUST NOT BE CONSUMED ON A NATURAL MEDICINE PRODUCT MANUFACTURER LICENSEE'S LICENSED PREMISES, UNLESS THE LICENSED PREMISES IS CO-LOCATED WITH A NATURAL MEDICINE HEALING CENTER LICENSEE'S LICENSED PREMISES.

44-50-404. Natural medicine testing facility license - rules.

(1) (a) A NATURAL MEDICINE TESTING FACILITY LICENSE MAY BE ISSUED TO A PERSON WHO PERFORMS TESTING AND RESEARCH ON NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT.

(b) THE TESTING OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT, AND THE ASSOCIATED STANDARDS, IS A MATTER OF STATEWIDE CONCERN.

(2) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES RELATED TO ACCEPTABLE TESTING AND RESEARCH PRACTICES, INCLUDING BUT NOT LIMITED TO TESTING, STANDARDS, QUALITY CONTROL ANALYSIS, EQUIPMENT CERTIFICATION AND CALIBRATION, IDENTIFICATION OF CHEMICALS AND OTHER SUBSTANCES USED IN BONA FIDE RESEARCH METHODS, AND WHETHER TO ALLOW A NATURAL PERSON TO REQUEST AND UTILIZE TESTING SERVICES OF NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT IF THE NATURAL PERSON IS TWENTY-ONE YEARS OF AGE OR OLDER.

(3) A PERSON WHO HAS AN INTEREST IN A NATURAL MEDICINE TESTING FACILITY LICENSE SHALL NOT HAVE ANY INTEREST IN A LICENSED NATURAL MEDICINE HEALING CENTER, A LICENSED NATURAL MEDICINE CULTIVATION FACILITY, A LICENSED NATURAL MEDICINE PRODUCT MANUFACTURER, OR A NATURAL MEDICINE LICENSE ISSUED BY THE STATE

LICENSING AUTHORITY PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50.

PART 5

UNLAWFUL ACTS

44-50-501. Unlawful acts. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 50, IT IS UNLAWFUL FOR A LICENSEE TO:

(a) KNOWINGLY TRANSFER NATURAL MEDICINE OR A NATURAL MEDICINE PRODUCT TO A PERSON UNDER TWENTY-ONE YEARS OF AGE; OR

(b) KNOWINGLY ADULTERATE OR ALTER, OR ATTEMPT TO ADULTERATE OR ALTER, ANY SAMPLE OF REGULATED NATURAL MEDICINE OR A NATURAL MEDICINE PRODUCT FOR THE PURPOSE OF CIRCUMVENTING TESTING REQUIREMENTS.

PART 6

FEES

44-50-601. Regulated natural medicine cash fund - created - rules. (1) (a) ALL MONEY COLLECTED BY THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50 MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE REGULATED NATURAL MEDICINE DIVISION CASH FUND, WHICH IS HEREBY CREATED. THE REGULATED NATURAL MEDICINE DIVISION CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTS OF:

(I) THE MONEY COLLECTED BY THE STATE LICENSING AUTHORITY;
AND

(II) ANY ADDITIONAL GENERAL FUND MONEY APPROPRIATED TO THE FUND THAT IS NECESSARY FOR THE OPERATION OF THE STATE LICENSING AUTHORITY.

(b) MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE 50.

(c) ANY MONEY IN THE FUND NOT EXPENDED FOR THE PURPOSES OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(2) THE EXECUTIVE DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF ONE OR MORE OF THE FEES IF NECESSARY PURSUANT TO SECTION 24-75-402 (3) TO REDUCE THE UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF ONE OR MORE OF THE FEES IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND ARE SUFFICIENTLY REDUCED, THE EXECUTIVE DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF ONE OR MORE OF THE FEES AS PROVIDED IN SECTION 24-75-402 (4).

(3)(a) THE STATE LICENSING AUTHORITY SHALL ESTABLISH FEES FOR PROCESSING THE APPLICATIONS OR LICENSES PURSUANT TO SECTION 44-50-301.

(b) THE AMOUNTS OF SUCH FEES, WHEN ADDED TO THE OTHER FEES TRANSFERRED TO THE FUND PURSUANT TO THIS SECTION, MUST REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 50 SO THAT THE FEES AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-402 (3).

(c) THE STATE LICENSING AUTHORITY MAY CHARGE APPLICANTS LICENSED PURSUANT TO THIS ARTICLE 50 A FEE FOR THE COST OF EACH FINGERPRINT ANALYSIS AND BACKGROUND INVESTIGATION UNDERTAKEN TO QUALIFY NEW OFFICERS, DIRECTORS, MANAGERS, OR EMPLOYEES.

(d) AT LEAST ANNUALLY, THE STATE LICENSING AUTHORITY SHALL REVIEW THE AMOUNTS OF THE FEES AND, IF NECESSARY, ADJUST THE AMOUNTS TO REFLECT THE DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY.

(e) THE FEES ESTABLISHED AND COLLECTED PURSUANT TO THIS SECTION MUST NOT EXCEED THE AMOUNT NECESSARY TO ADMINISTER THIS ARTICLE 50.

(4) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE STATE LICENSING AUTHORITY SHALL ESTABLISH A BASIC FEE THAT SHALL BE PAID AT THE TIME OF SERVICE OF ANY SUBPOENA UPON THE STATE LICENSING AUTHORITY, PLUS A FEE FOR MEALS AND A FEE FOR MILEAGE AT THE RATE PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104 FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE STATE LICENSING AUTHORITY FOR EACH DAY OF ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

(5) THE SUBPOENA FEE ESTABLISHED PURSUANT TO SUBSECTION (4) OF THIS SECTION DOES NOT APPLY TO ANY FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY.

44-50-602. Fees - allocation. (1) EXCEPT AS OTHERWISE PROVIDED, ALL FEES AND FINES PROVIDED FOR BY THIS ARTICLE 50 SHALL BE PAID TO THE STATE LICENSING AUTHORITY, WHICH SHALL TRANSMIT THE FEES TO THE STATE TREASURER. THE STATE TREASURER SHALL CREDIT THE FEES TO THE REGULATED NATURAL MEDICINE DIVISION CASH FUND CREATED IN SECTION 44-50-601.

(2) THE EXPENDITURES OF THE STATE LICENSING AUTHORITY ARE PAID OUT OF APPROPRIATIONS FROM THE REGULATED NATURAL MEDICINE DIVISION CASH FUND CREATED IN SECTION 44-50-601.

PART 7

DISCIPLINARY ACTIONS

44-50-701. Suspension - revocation - fines. (1) IN ADDITION TO ANY OTHER SANCTIONS PRESCRIBED BY THIS ARTICLE 50 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 50, THE STATE LICENSING AUTHORITY HAS THE POWER, ON ITS OWN MOTION OR ON COMPLAINT, AFTER INVESTIGATION AND OPPORTUNITY FOR A PUBLIC HEARING AT WHICH THE

LICENSEE MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD, TO FINE A LICENSEE OR TO SUSPEND OR REVOKE A LICENSE ISSUED BY THE AUTHORITY FOR A VIOLATION BY THE LICENSEE OR BY ANY OF THE AGENTS OR EMPLOYEES OF THE LICENSEE OF THE PROVISIONS OF THIS ARTICLE 50, OR ANY OF THE RULES PROMULGATED PURSUANT TO THIS ARTICLE 50, OR OF ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY HAS THE POWER TO ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF A HEARING THAT THE STATE LICENSING AUTHORITY IS AUTHORIZED TO CONDUCT.

(2) THE STATE LICENSING AUTHORITY SHALL PROVIDE NOTICE OF SUSPENSION, REVOCATION, FINE, OR OTHER SANCTION, AS WELL AS THE REQUIRED NOTICE OF THE HEARING PURSUANT TO SUBSECTION (1) OF THIS SECTION, BY MAILING THE SAME IN WRITING TO THE LICENSEE AT THE ADDRESS CONTAINED IN THE LICENSE AND, IF DIFFERENT, AT THE LAST ADDRESS FURNISHED TO THE AUTHORITY BY THE LICENSEE. EXCEPT IN THE CASE OF A SUMMARY SUSPENSION, A SUSPENSION MAY NOT EXCEED SIX MONTHS. IF A LICENSE IS SUSPENDED OR REVOKED, A PART OF THE FEES PAID FOR THE LICENSE ARE NOT RETURNED TO THE LICENSEE. ANY LICENSE, REGISTRATION, OR PERMIT MAY BE SUMMARILY SUSPENDED BY THE STATE LICENSING AUTHORITY WITHOUT NOTICE PENDING ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING PURSUANT TO THE TERMS OF SECTION 24-4-104 (4). NOTHING IN THIS SECTION PREVENTS THE SUMMARY SUSPENSION OF A LICENSE PURSUANT TO SECTION 24-4-104 (4).

PART 8 JUDICIAL REVIEW

44-50-801. Judicial review. DECISIONS BY THE STATE LICENSING AUTHORITY ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106.

PART 9 PROTECTIONS, CONSTRUCTION, PREEMPTION, AND SEVERABILITY

44-50-901. Protections. (1) SUBJECT TO THE LIMITATIONS IN THIS ARTICLE 50 AND ARTICLE 170 OF TITLE 12, BUT NOTWITHSTANDING ANY

OTHER PROVISION OF LAW:

(a) ACTIONS AND CONDUCT PERMITTED PURSUANT TO A LICENSE, REGISTRATION, OR PERMIT ISSUED BY THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE 50, OR BY THOSE WHO ALLOW PROPERTY TO BE USED PURSUANT TO A LICENSE ISSUED PURSUANT TO THIS ARTICLE 50, ARE LAWFUL AND ARE NOT AN OFFENSE UNDER STATE LAW OR THE LAWS OF ANY LOCAL JURISDICTION WITHIN THE STATE; ARE NOT SUBJECT TO A CIVIL FINE, PENALTY, OR SANCTION; ARE NOT A BASIS FOR DETENTION, SEARCH, OR ARREST; ARE NOT A BASIS TO DENY ANY RIGHT OR PRIVILEGE; AND ARE NOT A BASIS TO SEIZE OR FORFEIT ASSETS UNDER STATE LAW OR THE LAWS OF ANY LOCAL JURISDICTION WITHIN THIS STATE;

(b) A CONTRACT IS NOT UNENFORCEABLE ON THE BASIS THAT NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AS ALLOWED PURSUANT TO THIS ARTICLE 50, IS PROHIBITED BY FEDERAL LAW;

(c) A LICENSEE, REGISTRANT, OR PERMITTEE PURSUANT TO THIS ARTICLE 50 IS NOT SUBJECT TO DISCIPLINE OR LOSS OF A PROFESSIONAL LICENSE OR CERTIFICATION FOR PROVIDING ADVICE OR SERVICES ARISING OUT OF OR RELATED TO NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, APPLICATIONS FOR LICENSES ON THE BASIS THAT NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IS PROHIBITED BY FEDERAL LAW, OR FOR PERSONAL USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT AS ALLOWED PURSUANT TO THIS ARTICLE 50. THIS SUBSECTION (1)(c) DOES NOT PERMIT A LICENSEE, REGISTRANT, OR PERMITTEE TO ENGAGE IN MALPRACTICE.

(d) MENTAL HEALTH CARE, SUBSTANCE USE DISORDER INTERVENTION, OR BEHAVIORAL HEALTH SERVICES OTHERWISE COVERED UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, MUST NOT BE DENIED ON THE BASIS THAT THEY ARE COVERED IN CONJUNCTION WITH NATURAL MEDICINE SERVICES, OR THAT NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IS PROHIBITED BY FEDERAL LAW. INSURANCE OR AN INSURANCE PROVIDER IS NOT REQUIRED TO COVER THE COST OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT.

(e) NOTHING IN THIS SECTION MAY BE CONSTRUED OR INTERPRETED TO PREVENT THE DIRECTOR OF THE NATURAL MEDICINE DIVISION FROM ENFORCING ITS RULES AGAINST A LICENSEE OR TO LIMIT A STATE OR LOCAL

LAW ENFORCEMENT AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A LICENSEE.

44-50-902. Liberal construction. THIS ARTICLE 50 MUST BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSE.

44-50-903. Preemption. A LOCAL JURISDICTION SHALL NOT ADOPT, ENACT, OR ENFORCE ANY ORDINANCE, RULE, OR RESOLUTION THAT ARE OTHERWISE IN CONFLICT WITH THE PROVISIONS OF THIS ARTICLE 50.

44-50-904. Severability. IF ANY PROVISION OF THIS ARTICLE 50 IS FOUND BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, THE REMAINING PROVISIONS OF THIS ARTICLE 50 ARE VALID, UNLESS IT APPEARS TO THE COURT THAT THE VALID PROVISIONS OF THE STATUTE ARE SO ESSENTIALLY AND INSEPARABLY CONNECTED WITH, AND SO DEPENDENT UPON, THE VOID PROVISION THAT IT CANNOT BE PRESUMED THAT THE GENERAL ASSEMBLY WOULD HAVE ENACTED THE VALID PROVISIONS WITHOUT THE VOID ONE; OR UNLESS THE COURT DETERMINES THAT THE VALID PROVISIONS, STANDING ALONE, ARE INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE INTENT.

PART 10 SUNSET REVIEW - ARTICLE REPEAL

44-50-1001. Sunset review - repeal of article. (1) THIS ARTICLE 50 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032.

(2) PRIOR TO THE REPEAL OF THIS ARTICLE 50, THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONDUCT A SUNSET REVIEW AS DESCRIBED IN SECTION 24-34-104 (5).

SECTION 22. In Colorado Revised Statutes, 16-13-303, **amend** (9) as follows:

16-13-303. Class 1 public nuisance. (9) ~~A person acting in compliance with the "Natural Medicine Health Act of 2022", article 170 of title 12 does not violate this section~~ IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON IS ACTING IN COMPLIANCE WITH SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44.

SECTION 23. In Colorado Revised Statutes, 16-13-304, **amend** (2) as follows:

16-13-304. Class 2 public nuisance. (2) ~~A person acting in compliance with the "Natural Medicine Health Act of 2022", article 170 of title 12 does not violate this section~~ IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON IS ACTING IN COMPLIANCE WITH SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44.

SECTION 24. In Colorado Revised Statutes, 18-18-403.5, **amend** (1) as follows:

18-18-403.5. Unlawful possession of a controlled substance - notice to revisor of statutes - repeal. (1) Except as authorized by part 1 or 3 of article 280 of title 12, part 2 of article 80 of title 27, section 18-1-711, section 18-18-428 (1)(b), part 2 or 3 of this article 18, ~~or the "Natural Medicine Health Act of 2022", article 170 of title 12~~ SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, it is unlawful for a person knowingly to possess a controlled substance.

SECTION 25. In Colorado Revised Statutes, 18-18-404, **amend** (1)(a) as follows:

18-18-404. Unlawful use of a controlled substance. (1)(a) Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate in sections 18-18-406 and 18-18-406.5, ~~or by the "Natural Medicine Health Act of 2022", article 170 of title 12~~ OR FOR NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IN SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs, commits a level 2 drug misdemeanor.

SECTION 26. In Colorado Revised Statutes, 18-18-405, **amend** (1)(a) as follows:

18-18-405. Unlawful distribution, manufacturing, dispensing, or sale. (1) (a) Except as authorized by part 1 of article 280 of title 12, part 2 of article 80 of title 27, part 2 or 3 of this article 18, ~~or by the "Natural~~

~~Medicine Health Act of 2022", article 170 of title 12~~ SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, it is unlawful for any person knowingly to manufacture, dispense, sell, or distribute, or to possess with intent to manufacture, dispense, sell, or distribute, a controlled substance; or induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute, a controlled substance; or possess one or more chemicals or supplies or equipment with intent to manufacture a controlled substance.

SECTION 27. In Colorado Revised Statutes, **amend** 18-18-410 as follows:

18-18-410. Declaration of class 1 public nuisance. Except as permitted by the ~~"Natural Medicine Health Act of 2022", article 170 of title 12~~ AUTHORIZED BY SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, any store, shop, warehouse, dwelling house, building, vehicle, boat, or aircraft or any place whatsoever ~~which~~ THAT is frequented by controlled substance addicts for the unlawful use of controlled substances or which is used for the unlawful storage, manufacture, sale, or distribution of controlled substances is declared to be a class 1 public nuisance and subject to the provisions of section 16-13-303. ~~C.R.S.~~ Any real or personal property ~~which~~ THAT is seized or confiscated as a result of an action to abate a public nuisance shall be disposed of pursuant to part 7 of article 13 of title 16. ~~C.R.S.~~

SECTION 28. In Colorado Revised Statutes, 18-18-411, **repeal** (5); and **add** (3.5) as follows:

18-18-411. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances. (3.5) IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON IS ACTING IN COMPLIANCE WITH SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44.

(5) ~~A person acting in compliance with the "Natural Medicine Health Act of 2022", article 170 of title 12 does not violate this section.~~

SECTION 29. In Colorado Revised Statutes, 18-18-412.7, **repeal** (3); and **add** (1.5) as follows:

18-18-412.7. Sale or distribution of materials to manufacture controlled substances. (1.5) IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON IS ACTING IN COMPLIANCE WITH SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44.

(3) ~~A person acting in compliance with the "Natural Medicine Health Act of 2022", article 170 of title 12 does not violate this section.~~

SECTION 30. In Colorado Revised Statutes, 18-18-430.5, **amend** (1)(c) as follows:

18-18-430.5. Drug paraphernalia - exemption. (1) A person is exempt from sections 18-18-425 to 18-18-430 if the person is:

(c) Using equipment, products, or materials in compliance with ~~the "Natural Medicine Health Act of 2022", article 170 of title 12~~ SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44. The manufacture, possession, and distribution of such equipment, products, or materials ~~shall be~~ IS authorized within the meaning of 21 U.S.C. 863 sec. (f).

SECTION 31. In Colorado Revised Statutes, **add** 18-18-434 as follows:

18-18-434. Offenses relating to natural medicine and natural medicine product - definitions. (1) A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE WHO KNOWINGLY POSSESSES OR CONSUMES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT COMMITS A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF, **IS SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS OR NOT MORE THAN FOUR HOURS OF SUBSTANCE USE EDUCATION OR COUNSELING**; EXCEPT THAT A SECOND OR SUBSEQUENT CONVICTION FOR A VIOLATION OF THIS SUBSECTION (1) IS SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, NOT MORE THAN FOUR HOURS OF SUBSTANCE USE EDUCATION OR COUNSELING, AND NOT MORE THAN TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE.

(2) **A PERSON WHO OPENLY AND PUBLICLY DISPLAYS OR CONSUMES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT COMMITS A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF, IS SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS AND NOT MORE THAN**

TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE.

(3)(a) A PERSON WHO KNOWINGLY CULTIVATES NATURAL MEDICINE THAT CUMULATIVELY EXCEEDS AN AREA OF MORE THAN TWELVE FEET WIDE BY TWELVE FEET LONG IN ONE OR MORE CULTIVATION AREAS ON THE PRIVATE PROPERTY, OR KNOWINGLY ALLOWS SUCH CULTIVATION ON PRIVATE PROPERTY THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS, COMMITS A DRUG PETTY OFFENSE, AND UPON CONVICTION THEREOF, IS SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS.

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS SECTION, A PERSON WHO KNOWINGLY CULTIVATES NATURAL MEDICINE ON THE PRIVATE PROPERTY OUTSIDE OF AN ENCLOSED AND LOCKED SPACE, OR KNOWINGLY ALLOWS SUCH CULTIVATION ON THE PRIVATE PROPERTY OUTSIDE OF AN ENCLOSED AND LOCKED SPACE, THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS, COMMITS A DRUG PETTY OFFENSE, AND UPON CONVICTION THEREOF, IS SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS.

(II) IT IS NOT A VIOLATION OF THIS SUBSECTION (3)(b) IF THE PERSON WHO IS CULTIVATING NATURAL MEDICINE IS TWENTY-ONE YEARS OF AGE OR OLDER, IF THE CULTIVATION AREA IS LOCATED IN A DWELLING ON THE PRIVATE PROPERTY, AND:

(A) IF A PERSON UNDER TWENTY-ONE YEARS OF AGE LIVES AT THE DWELLING, THE CULTIVATION AREA ITSELF IS ENCLOSED AND LOCKED; OR

(B) IF NO PERSON UNDER TWENTY-ONE YEARS OF AGE LIVES AT THE DWELLING, THE EXTERNAL LOCKS ON THE DWELLING CONSTITUTE AN ENCLOSED AND LOCKED SPACE, BUT IF A PERSON UNDER TWENTY-ONE YEARS OF AGE ENTERS THE DWELLING, THE PERSON CULTIVATING THE NATURAL MEDICINE SHALL ENSURE THAT ACCESS TO THE CULTIVATION AREA IS REASONABLY RESTRICTED FOR THE DURATION OF THE PERSON UNDER TWENTY-ONE YEARS OF AGE'S PRESENCE IN THE PRIVATE PROPERTY.

(c) IT IS NOT A VIOLATION OF SUBSECTION (3)(a) OF THIS SECTION IF A COUNTY, MUNICIPALITY, OR CITY AND COUNTY LAW EXPRESSLY PERMITS THE CULTIVATION OF NATURAL MEDICINE THAT CUMULATIVELY EXCEEDS AN AREA OF MORE THAN TWELVE FEET WIDE BY TWELVE FEET LONG IN ONE OR MORE CULTIVATION AREAS ON THE PRIVATE PROPERTY AND THE PERSON

CULTIVATES THE NATURAL MEDICINE IN AN ENCLOSED AND LOCKED SPACE WITHIN THE LIMIT SET BY THE COUNTY, MUNICIPALITY, OR CITY AND COUNTY WHERE THE NATURAL MEDICINE IS LOCATED.

(4) (a) IT IS UNLAWFUL FOR A PERSON WHO IS NOT LICENSED PURSUANT TO ARTICLE 50 OF TITLE 44 TO KNOWINGLY MANUFACTURE NATURAL MEDICINE PRODUCT USING AN INHERENTLY HAZARDOUS SUBSTANCE.

(b) IT IS UNLAWFUL FOR A PERSON WHO IS NOT LICENSED PURSUANT TO ARTICLE 50 OF TITLE 44 WHO OWNS, MANAGES, OPERATES, OR OTHERWISE CONTROLS THE USE OF A PROPERTY TO KNOWINGLY ALLOW NATURAL MEDICINE PRODUCT TO BE MANUFACTURED ON THE PREMISES USING AN INHERENTLY HAZARDOUS SUBSTANCE.

(c) A PERSON WHO VIOLATES THIS SUBSECTION (4) COMMITS A LEVEL 2 DRUG FELONY.

(5) (a) UNLESS EXPRESSLY LIMITED BY THIS SECTION, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, A PERSON WHO FOR THE PURPOSE OF PERSONAL USE AND WITHOUT REMUNERATION, POSSESSES, CONSUMES, SHARES, CULTIVATES, OR MANUFACTURES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, DOES NOT VIOLATE STATE LAW, OR COUNTY, MUNICIPALITY, OR CITY AND COUNTY ORDINANCE, RULE, OR RESOLUTION.

(b) UNLESS EXPRESSLY LIMITED BY THIS SECTION, A PERSON WHO PERFORMS TESTING ON NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AND POSSESSES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IN CONJUNCTION THEREWITH, FOR ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER WHO SUBMITS FOR TESTING NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT INTENDED FOR PERSONAL USE, DOES NOT VIOLATE STATE LAW, OR COUNTY, MUNICIPALITY, OR CITY AND COUNTY ORDINANCE, RULE, OR RESOLUTION, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, IF:

(I) THE PERSON PERFORMING THE TESTING PROVIDES WRITTEN NOTICE TO THE PERSON SUBMITTING FOR TESTING NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT INTENDED FOR PERSONAL USE, THAT THE PERSON IS NOT LICENSED BY THE STATE TO CONDUCT TESTING; AND

(II) THE PERSON WHO SUBMITS FOR TESTING NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT PROVIDES A SIGNED STATEMENT THAT THE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IS INTENDED FOR PERSONAL USE ONLY.

(c) NOTHING IN THIS SECTION PERMITS A PERSON TO:

(I) DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO DISPENSE, SELL, OR DISTRIBUTE, NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT TO A PERSON UNDER TWENTY-ONE YEARS OF AGE;

(II) DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO DISPENSE, SELL, OR DISTRIBUTE, NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT FOR REMUNERATION, EXCEPT AS PROVIDED BY ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44;

(III) MANUFACTURE, CULTIVATE, POSSESS, CONSUME, USE, DISPENSE, OR DISTRIBUTE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, OR POSSESS WITH INTENT TO MANUFACTURE, CULTIVATE, POSSESS, CONSUME, USE, DISPENSE, OR DISTRIBUTE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT FOR A PURPOSE OTHER THAN PERSONAL USE OR AS PROVIDED BY ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44;

(IV) DISPENSE, DISTRIBUTE, OR POSSESS WITH INTENT TO DISPENSE OR DISTRIBUTE, NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT AS A PART OF A BUSINESS PROMOTION OR COMMERCIAL ACTIVITY, EXCEPT AS PROVIDED BY ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44; OR

(V) DISPENSE, SELL, OR DISTRIBUTE, OR POSSESS WITH INTENT TO DISPENSE, SELL, OR DISTRIBUTE, IBOGAIN OR NATURAL MEDICINE PRODUCT THAT CONTAINS IBOGAIN TO ANOTHER PERSON, EXCEPT AS PROVIDED BY ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44.

(d) A PEACE OFFICER SHALL NOT ARREST A PERSON, AND A DISTRICT ATTORNEY SHALL NOT CHARGE OR PROSECUTE A PERSON FOR A CRIMINAL OFFENSE INVOLVING NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT PURSUANT TO THIS PART 4, EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION.

(e) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE

CONTRARY, A PEACE OFFICER MAY ARREST A PERSON, OR A DISTRICT ATTORNEY MAY CHARGE OR PROSECUTE A PERSON FOR A CRIMINAL OFFENSE THAT IS NOT EXPRESSLY LAWFUL PURSUANT TO THIS SECTION OR ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44.

(6) NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN ACTION THAT IS LAWFUL PURSUANT TO THIS SECTION, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, INDIVIDUALLY OR IN COMBINATION WITH ANOTHER ACTION THAT IS LAWFUL PURSUANT TO THIS SECTION, MUST NOT 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.

(7) (a) EXCEPT AS PROVIDED IN SUBSECTION (7)(b) OF THIS SECTION, AN ACTION THAT IS LAWFUL PURSUANT TO THIS SECTION, INDIVIDUALLY OR IN COMBINATION WITH ANOTHER ACTION THAT IS LAWFUL PURSUANT TO THIS SECTION, MUST NOT SOLELY BE USED AS A FACTOR IN A PROBABLE CAUSE DETERMINATION OF ANY CRIMINAL OFFENSE.

(b) AN ACTION THAT IS LAWFUL PURSUANT TO THIS SECTION MAY BE USED AS A FACTOR IN A PROBABLE CAUSE DETERMINATION OF ANY CRIMINAL OFFENSE IF THE ORIGINAL STOP OR SEARCH WAS LAWFUL AND OTHER FACTORS ARE PRESENT TO SUPPORT A PROBABLE CAUSE DETERMINATION OF ANY CRIMINAL OFFENSE.

(8) THE FACT THAT A PERSON IS ENTITLED TO CONSUME NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT UNDER THE LAWS OF THIS STATE DOES NOT CONSTITUTE A DEFENSE AGAINST ANY CHARGE FOR VIOLATION OF AN OFFENSE RELATED TO THE OPERATION OF A VEHICLE, AIRCRAFT, BOAT, MACHINERY, OR OTHER DEVICE.

(9) A COUNTY, MUNICIPALITY, OR CITY AND COUNTY SHALL NOT ADOPT, ENACT, OR ENFORCE ANY ORDINANCE, RULE, OR RESOLUTION IMPOSING ANY GREATER CRIMINAL OR CIVIL PENALTY THAN PROVIDED BY THIS SECTION OR THAT IS OTHERWISE IN CONFLICT WITH THIS SECTION.

(10) NOTHING IN THIS SECTION PROHIBITS A PERSON OR ANY ENTITY WHO OCCUPIES, OWNS, OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE CULTIVATION OR MANUFACTURE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT ON OR IN THAT PROPERTY.

(11) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE OFFENSES PROVIDED FOR IN THIS SECTION DO NOT APPLY TO A PERSON POSSESSING, DISPLAYING, CULTIVATING, PURCHASING, OR SELLING A LIVING PLANT FOR ORNAMENTAL PURPOSES ONLY THAT WAS COMMONLY AND LAWFULLY SOLD PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. FOR PURPOSES OF THIS SECTION, A "LIVING PLANT" DOES NOT INCLUDE MUSHROOMS OR OTHER FUNGAL MATTER.

(12) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "INHERENTLY HAZARDOUS SUBSTANCE" MEANS ANY LIQUID CHEMICAL, COMPRESSED GAS, OR COMMERCIAL PRODUCT THAT HAS A FLASH POINT AT OR LOWER THAN THIRTY-EIGHT DEGREES CELSIUS OR ONE HUNDRED DEGREES FAHRENHEIT, INCLUDING BUTANE, PROPANE, AND DIETHYL ETHER, AND EXCLUDING ALL FORMS OF ALCOHOL AND ETHANOL.

(b) (I) "NATURAL MEDICINE" MEANS THE FOLLOWING SUBSTANCES:

(A) DIMETHYLTRYPTAMINE;

(B) Mescaline;

(C) IBOGAINE;

(D) PSILOCYBIN; OR

(E) PSILOCYN.

(II) "NATURAL MEDICINE" DOES NOT MEAN A SYNTHETIC OR SYNTHETIC ANALOG OF THE SUBSTANCES LISTED IN THIS SUBSECTION (12)(b), INCLUDING A DERIVATIVE OF A NATURALLY OCCURRING COMPOUND OF NATURAL MEDICINE THAT IS PRODUCED USING CHEMICAL SYNTHESIS, CHEMICAL MODIFICATION, OR CHEMICAL CONVERSION.

(III) NOTWITHSTANDING SUBSECTION (12)(b)(I) OF THIS SECTION, "Mescaline" DOES NOT INCLUDE PEYOTE, MEANING ALL PARTS OF THE PLANT CLASSIFIED BOTANICALLY AS *LOPHOPHORA WILLIAMSII* LEMAIRE, WHETHER GROWING OR NOT; ITS SEEDS; ANY EXTRACT FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT; OR ITS SEEDS OR EXTRACTS.

(c) "NATURAL MEDICINE PRODUCT" MEANS A PRODUCT INFUSED WITH NATURAL MEDICINE THAT IS INTENDED FOR CONSUMPTION.

(d) "PERSONAL USE" MEANS THE CONSUMPTION OR USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT; OR THE AMOUNT OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT A PERSON MAY LAWFULLY POSSESS, CULTIVATE, OR MANUFACTURE THAT IS NECESSARY TO SHARE WITH ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER WITHIN THE CONTEXT OF COUNSELING, SPIRITUAL GUIDANCE, BENEFICIAL COMMUNITY-BASED USE AND HEALING, SUPPORTED USE, OR RELATED SERVICES. "PERSONAL USE" DOES NOT MEAN THE SALE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT FOR REMUNERATION; THE POSSESSION, CULTIVATION, OR MANUFACTURE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT WITH INTENT TO SELL THE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT FOR REMUNERATION; OR THE POSSESSION, CULTIVATION, MANUFACTURE, OR DISTRIBUTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT FOR BUSINESS OR COMMERCIAL PURPOSES, EXCEPT AS PROVIDED BY ARTICLE 170 OF TITLE 12 AND ARTICLE 50 OF TITLE 44. NOTHING IN THIS SECTION PRECLUDES REMUNERATION FOR BONA FIDE HARM REDUCTION SERVICES OR BONA FIDE SUPPORT SERVICES USED CONCURRENTLY WITH THE SHARING OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, PROVIDED THAT THERE IS NO ADVERTISEMENT RELATED TO THE SHARING OF NATURAL MEDICINE, NATURAL MEDICINE PRODUCT, OR THE SERVICES PROVIDED, AND PROVIDED THAT THE INDIVIDUAL PROVIDING THE SERVICES INFORMS AN INDIVIDUAL ENGAGING IN THE SERVICES THAT THE INDIVIDUAL IS NOT A LICENSED FACILITATOR PURSUANT TO ARTICLE 170 OF TITLE 12.

(e) "PRIVATE PROPERTY" MEANS A DWELLING, ITS CURTILAGE, AND A STRUCTURE WITHIN THE CURTILAGE THAT IS BEING USED BY A NATURAL PERSON OR NATURAL PERSONS FOR HABITATION AND THAT IS NOT OPEN TO THE PUBLIC.

(f) "REMUNERATION" MEANS ANYTHING OF VALUE, INCLUDING MONEY, REAL PROPERTY, TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, CONTRACT RIGHT, CHOSE IN ACTION, SERVICE, ANY RIGHT OF USE OR EMPLOYMENT OR PROMISE OR AGREEMENT CONNECTED THEREWITH, BUSINESS PROMOTION, OR COMMERCIAL ACTIVITY.

SECTION 32. In Colorado Revised Statutes, **add** 10-16-162 as follows:

10-16-162. Prohibition on discrimination for coverage based solely on natural medicine consumption - definitions. (1) A CARRIER THAT OFFERS, ISSUES, OR RENEWS A HEALTH BENEFIT PLAN SHALL NOT, SOLELY ON THE BASIS OF A PERSON'S CONSUMPTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT:

(a) DECLINE OR LIMIT COVERAGE OF A PERSON; OR

(b) PENALIZE A COVERED PERSON OR REDUCE OR LIMIT COVERAGE FOR A PERSON.

(2) A CARRIER THAT OFFERS, ISSUES, OR RENEWS A HEALTH BENEFIT PLAN THAT PROVIDES COVERAGE FOR ANATOMICAL GIFTS, ORGAN TRANSPLANTS, OR RELATED TREATMENTS OR SERVICES SHALL NOT, SOLELY ON THE BASIS OF A COVERED PERSON'S CONSUMPTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT:

(a) DENY COVERAGE TO A COVERED PERSON FOR AN ORGAN TRANSPLANT OR RELATED TREATMENT OR SERVICES;

(b) DECLINE OR LIMIT COVERAGE OF A COVERED PERSON SOLELY FOR THE PURPOSE OF AVOIDING THE REQUIREMENTS OF THIS SECTION; OR

(c) PENALIZE A COVERED PERSON OR REDUCE OR LIMIT COVERAGE FOR A COVERED PERSON FOR HEALTH-CARE SERVICES RELATED TO ORGAN TRANSPLANTATION, AS DETERMINED IN CONSULTATION WITH THE ATTENDING PHYSICIAN AND THE COVERED PERSON OR THE COVERED PERSON'S REPRESENTATIVE.

(3) THIS SECTION DOES NOT REQUIRE A HEALTH BENEFIT PLAN TO PROVIDE COVERAGE FOR THE DONATION OF AN ANATOMICAL GIFT, AN ORGAN

TRANSPLANT, OR RELATED TREATMENT OR SERVICES.

(4) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ANATOMICAL GIFT" MEANS THE DONATION OF PART OF A HUMAN BODY FOR THE PURPOSE OF TRANSPLANTATION TO ANOTHER PERSON.

(b) (I) "NATURAL MEDICINE" MEANS THE FOLLOWING SUBSTANCES:

(A) DIMETHYLTRYPTAMINE;

(B) Mescaline;

(C) IBOGAINE;

(D) PSILOCYBIN; OR

(E) PSILOCYN.

(II) "NATURAL MEDICINE" DOES NOT MEAN A SYNTHETIC OR SYNTHETIC ANALOG OF THE SUBSTANCES LISTED IN THIS SUBSECTION (4)(b), INCLUDING A DERIVATIVE OF A NATURALLY OCCURRING COMPOUND OF NATURAL MEDICINE THAT IS PRODUCED USING CHEMICAL SYNTHESIS, CHEMICAL MODIFICATION, OR CHEMICAL CONVERSION.

(c) "NATURAL MEDICINE PRODUCT" MEANS A PRODUCT INFUSED WITH NATURAL MEDICINE THAT IS INTENDED FOR CONSUMPTION.

SECTION 33. In Colorado Revised Statutes, 17-2-102, **add** (8.5)(d) as follows:

17-2-102. Division of adult parole - general powers, duties, and functions - definition. (8.5)(d) THIS SUBSECTION (8.5) DOES NOT APPLY TO A PAROLEE WHO POSSESSES OR USES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT AS AUTHORIZED PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44.

SECTION 34. In Colorado Revised Statutes, 17-2-201, **add** (5.3) as follows:

17-2-201. State board of parole - duties - definitions.
(5.3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE POSSESSION OR USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AS AUTHORIZED PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, MUST NOT BE CONSIDERED AN OFFENSE SUCH THAT ITS POSSESSION OR USE CONSTITUTES A VIOLATION OF CONDITIONS OF PAROLE.

SECTION 35. In Colorado Revised Statutes, 18-1.3-204, **amend** (2)(a)(VIII) introductory portion; and **add** (1)(c) as follows:

18-1.3-204. Conditions of probation - interstate compact probation transfer cash fund - creation. (1) (c) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a) OF THIS SECTION, THE POSSESSION OR USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AS AUTHORIZED PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, MUST NOT BE CONSIDERED ANOTHER OFFENSE SUCH THAT ITS USE CONSTITUTES A VIOLATION OF THE TERMS OF PROBATION.

(2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

(VIII) Refrain from excessive use of alcohol or any unlawful use of controlled substances, as defined in section 18-18-102 (5), or of any other dangerous or abusable drug without a prescription; except that the court shall not, as a condition of probation, PROHIBIT THE POSSESSION OR USE OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT, AS AUTHORIZED PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44. FURTHERMORE, THE COURT SHALL NOT, AS A CONDITION OF PROBATION, prohibit the possession or use of medical marijuana, as authorized pursuant to section 14 of article XVIII of the state constitution, unless:

SECTION 36. In Colorado Revised Statutes, 19-2.5-103, **amend** (1)(a)(I) and (5) as follows:

19-2.5-103. Jurisdiction. (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings:

(a) Concerning any juvenile ten years of age or older who has

violated:

(I) Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or rules; the offense specified in section 18-13-122, concerning the illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person; the offenses specified in section 18-18-406 (5)(b)(I) and (5)(b)(II), concerning marijuana and marijuana concentrate; THE OFFENSES SPECIFIED IN SECTION 18-18-434 CONCERNING NATURAL MEDICINE AND NATURAL MEDICINE PRODUCT; and the civil infraction in section 18-7-109 (3), concerning exchange of a private image by a juvenile;

(5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, 18-18-406 (5)(b)(I) and (5)(b)(II), 18-18-428, 18-18-429, 18-18-430, ~~18-18-434~~, or 42-4-1301; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction terminates.

SECTION 37. In Colorado Revised Statutes, 19-3-103, **add** (4) as follows:

19-3-103. Child not neglected - when. (4) (a) A PERSON WHO PERFORMS OR HAS PERFORMED AN ACTION THAT IS LAWFUL PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44 DOES NOT CONSTITUTE CHILD ABUSE OR NEGLECT BY A PARENT OR LEGAL GUARDIAN FOR PURPOSES OF THIS ARTICLE 3, UNLESS IT THREATENS THE HEALTH OR WELFARE OF A CHILD.

(b) THE COURT SHALL NOT RESTRICT OR PROHIBIT FAMILY TIME, OR DETERMINE THAT FAMILY TIME IS NOT IN THE CHILD'S BEST INTERESTS, BASED SOLELY ON THE FACT THAT A PERSON PERFORMS OR HAS PERFORMED AN ACTION THAT IS LAWFUL PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44, UNLESS THE COURT FINDS THAT THE CHILD'S SAFETY OR MENTAL, EMOTIONAL, OR PHYSICAL HEALTH IS AT RISK AS A RESULT OF THE FAMILY TIME.

SECTION 38. In Colorado Revised Statutes, 24-72-706, **amend**

(1)(h); and **add** (1)(f.5) as follows:

24-72-706. Sealing of criminal conviction and criminal justice records - processing fee. (1) Sealing of conviction records.

(f.5) (I) NOTWITHSTANDING ANY PROVISION OF THIS PART 7 TO THE CONTRARY, A MOTION FILED FOR THE SEALING OF CONVICTION RECORDS FOR AN OFFENSE THAT WAS UNLAWFUL AT THE TIME OF CONVICTION, BUT IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434, MAY BE FILED AT ANY TIME. THE COURT SHALL ORDER THE RECORDS SEALED UNLESS THE DISTRICT ATTORNEY OBJECTS PURSUANT TO SUBSECTION (1)(f.5)(II) OF THIS SECTION.

(II) IF A MOTION IS FILED FOR THE SEALING OF AN OFFENSE DESCRIBED IN THIS SUBSECTION (1)(f.5), THE DEFENDANT SHALL PROVIDE NOTICE OF THE MOTION TO THE DISTRICT ATTORNEY, WHO MAY OBJECT. THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE MOTION BASED ON WHETHER THE UNDERLYING CONVICTION FOR AN OFFENSE IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434. THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT AND PROVIDE NOTICE TO THE COURT WITHIN FORTY-TWO DAYS OF RECEIPT OF THE MOTION. IF THE DISTRICT ATTORNEY OBJECTS TO THE MOTION, THE COURT SHALL SET THE MATTER FOR HEARING AND THE BURDEN IS ON THE DEFENDANT TO SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT THE UNDERLYING FACTUAL BASIS OF THE CONVICTION SOUGHT TO BE SEALED IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434.

(III) (A) A DEFENDANT WHO FILES A MOTION PURSUANT TO THIS SUBSECTION (1)(f.5) MUST NOT BE CHARGED FEES OR COSTS.

(B) NOTWITHSTANDING SUBSECTION (1)(c) OF THIS SECTION, A DEFENDANT WHO FILES A MOTION PURSUANT TO THIS SUBSECTION (1)(f.5) IS NOT REQUIRED TO SUBMIT A VERIFIED COPY OF THE DEFENDANT'S CRIMINAL HISTORY WITH A FILED MOTION.

(C) SECTION 24-72-703 (2)(a)(V) DOES NOT APPLY TO CONVICTION RECORDS SEALED PURSUANT TO THIS SUBSECTION (1)(f.5).

(h) A defendant who files a motion to seal criminal justice records pursuant to this section shall pay a processing fee of sixty-five dollars to cover the actual costs related to the sealing of the criminal justice records.

The defendant shall pay to the Colorado bureau of investigation any costs related to the sealing of the defendant's criminal justice records in the custody of the bureau. The court shall waive the processing fee upon a determination that:

(I) The defendant is indigent; ~~or~~

(II) The defendant's records should have been automatically sealed pursuant to section 13-3-117, 24-72-704, or 24-72-705; OR

(III) THE DEFENDANT FILED A MOTION TO SEAL PURSUANT TO SUBSECTION (1)(f.5) OF THIS SECTION.

SECTION 39. In Colorado Revised Statutes, **add** 24-76.5-104 as follows:

24-76.5-104. Natural medicine consumption consideration prohibited - exception. CONSIDERATION OF WHETHER A PERSON PERFORMS OR HAS PERFORMED AN ACTION THAT IS LAWFUL PURSUANT TO SECTION 18-18-434, ARTICLE 170 OF TITLE 12, OR ARTICLE 50 OF TITLE 44 IS NOT A REQUIREMENT FOR ELIGIBILITY FOR A PUBLIC ASSISTANCE PROGRAM, UNLESS CONSIDERATION IS REQUIRED PURSUANT TO FEDERAL LAW.

SECTION 40. In Colorado Revised Statutes, **add** 25-56-104.5 as follows:

25-56-104.5. Prohibition on discrimination for organ transplants based solely on natural medicine consumption - applicability. (1) THIS ARTICLE 56 APPLIES TO ALL STAGES OF THE ORGAN TRANSPLANT PROCESS.

(2) A COVERED ENTITY SHALL NOT, SOLELY ON THE BASIS OF A PERSON'S CONSUMPTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT:

(a) CONSIDER THE INDIVIDUAL INELIGIBLE TO RECEIVE AN ANATOMICAL GIFT OR ORGAN TRANSPLANT;

(b) DENY MEDICAL SERVICES OR OTHER SERVICES RELATED TO ORGAN TRANSPLANTATION, INCLUDING DIAGNOSTIC SERVICES, EVALUATION, SURGERY, COUNSELING, AND POST-OPERATIVE TREATMENT AND SERVICES;

(c) REFUSE TO REFER THE INDIVIDUAL TO A TRANSPLANT CENTER OR OTHER RELATED SPECIALIST FOR THE PURPOSE OF BEING EVALUATED FOR OR RECEIVING AN ORGAN TRANSPLANT;

(d) REFUSE TO PLACE A QUALIFIED RECIPIENT ON AN ORGAN TRANSPLANT WAITING LIST; OR

(e) PLACE A QUALIFIED RECIPIENT ON AN ORGAN TRANSPLANT WAITING LIST AT A LOWER PRIORITY POSITION THAN THE POSITION AT WHICH THE PERSON WOULD HAVE BEEN PLACED IF THE PERSON DID NOT CONSUME NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT.

(3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A COVERED ENTITY MAY TAKE A PERSON'S CONSUMPTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT INTO ACCOUNT WHEN MAKING TREATMENT OR COVERAGE RECOMMENDATIONS OR DECISIONS, SOLELY TO THE EXTENT THAT THE NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT CONSUMPTION HAS BEEN FOUND BY A PHYSICIAN OR SURGEON, FOLLOWING AN INDIVIDUALIZED EVALUATION OF THE PERSON, TO BE MEDICALLY SIGNIFICANT TO THE PROVISION OF THE ANATOMICAL GIFT OR ORGAN TRANSPLANT.

(4) A COVERED ENTITY SHALL:

(a) MAKE REASONABLE MODIFICATIONS TO ITS POLICIES, PRACTICES, AND PROCEDURES TO ALLOW A PERSON WHO CONSUMES NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT ACCESS TO TRANSPLANTATION-RELATED SERVICES, INCLUDING DIAGNOSTIC SERVICES, SURGERY, COVERAGE, POST-OPERATIVE TREATMENT, AND COUNSELING, UNLESS THE COVERED ENTITY DEMONSTRATES THAT MAKING SUCH MODIFICATIONS WOULD FUNDAMENTALLY ALTER THE NATURE OF THE SERVICES PROVIDED; AND

(b) TAKE REASONABLE AND NECESSARY STEPS TO ENSURE THAT A PERSON'S CONSUMPTION OF NATURAL MEDICINE OR NATURAL MEDICINE PRODUCT IS NOT THE REASON THE PERSON IS DENIED MEDICAL SERVICES OR OTHER SERVICES RELATED TO ORGAN TRANSPLANTATION, INCLUDING DIAGNOSTIC SERVICES, SURGERY, POST-OPERATIVE TREATMENT, OR COUNSELING, DUE TO THE ABSENCE OF AUXILIARY AIDS OR SERVICES, UNLESS THE COVERED ENTITY DEMONSTRATES THAT TAKING SUCH STEPS WOULD FUNDAMENTALLY ALTER THE NATURE OF THE MEDICAL SERVICES OR

OTHER SERVICES RELATED TO ORGAN TRANSPLANTATION OR WOULD RESULT IN AN UNDUE BURDEN FOR THE COVERED ENTITY.

(5) NOTHING IN THIS ARTICLE 56 REQUIRES A COVERED ENTITY TO MAKE A REFERRAL OR RECOMMENDATION FOR OR PERFORM A MEDICALLY INAPPROPRIATE ORGAN TRANSPLANT.

SECTION 41. In Colorado Revised Statutes, 35-36-102, **amend** (14)(b) as follows:

35-36-102. Rules - definitions. As used in this article 36, unless the context otherwise requires:

(14) (b) "Farm products" does not include poultry and poultry products, timber products, nursery stock, commodities, ~~or~~ marijuana, OR NATURAL MEDICINE AS DEFINED IN SECTION 12-170-104 (12).

SECTION 42. In Colorado Revised Statutes, 39-22-104, **add** (4)(r.5) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - legislative declaration - definitions - repeal. (4) There shall be subtracted from federal taxable income:

(r.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, IF A TAXPAYER IS LICENSED PURSUANT TO THE "COLORADO NATURAL MEDICINE CODE", ARTICLE 50 OF TITLE 44, AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE INTERNAL REVENUE CODE BECAUSE NATURAL MEDICINE IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW;

SECTION 43. In Colorado Revised Statutes, 39-22-304, **add** (3)(m.5) as follows:

39-22-304. Net income of corporation - legislative declaration - definitions - repeal. (3) There shall be subtracted from federal taxable income:

(m.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY

1, 2024, IF A TAXPAYER IS LICENSED PURSUANT TO THE "COLORADO NATURAL MEDICINE CODE", ARTICLE 50 OF TITLE 44, AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE INTERNAL REVENUE CODE BECAUSE NATURAL MEDICINE IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW;

SECTION 44. Appropriation. (1) For the 2023-24 state fiscal year, \$733,658 General Fund is appropriated to the department of revenue. To implement this act, the department may use this appropriation as follows:

(a) \$536,826 for use by the natural medicine division for the enforcement and regulation of natural medicines, which amount is based on an assumption that the department will require an additional 4.7 FTE;

(b) \$6,500 for tax administration IT system (GenTax) support; and

(c) \$190,332 for the purchase of legal services.

(2) For the 2023-24 state fiscal year, \$190,332 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 1.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of revenue.

(3) For the 2023-24 state fiscal year, \$101,150 is appropriated to the department of law. This appropriation is from the legal services cash fund created in section 24-31-108 (4), C.R.S., from revenue received from the department of regulatory agencies that is continuously appropriated to the department of regulatory agencies from the regulated natural medicine access program fund created in section 12-170-106 (1), C.R.S. The appropriation to the department of law is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

(4) For the 2023-24 state fiscal year, \$838,402 General Fund is appropriated to the department of public health and environment for use by the division of disease control and public health response. This

appropriation is based on an assumption that division will require an additional 4.1 FTE. To implement this act, the division may use this appropriation for the natural medicine program related to laboratory services.

SECTION 45. Effective date. This act takes effect July 1, 2023, and applies to offenses committed on or after July 1, 2023.

SECTION 46. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Steve Fenberg
PRESIDENT OF
THE SENATE



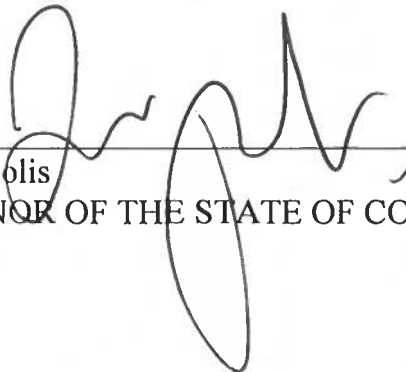
Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



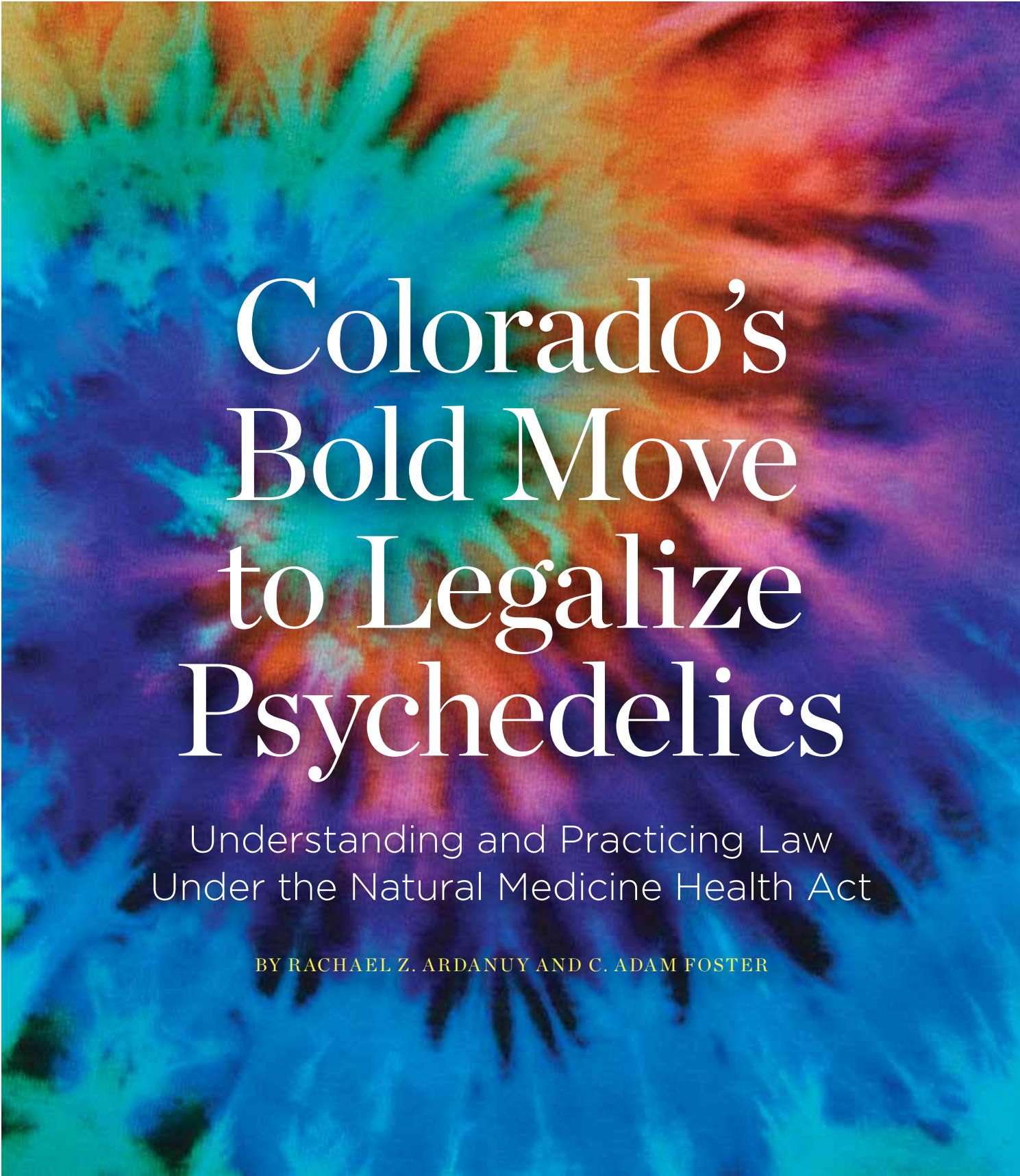
Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED Tuesday May 23rd 2023 at 3:30 PM
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO



Colorado's Bold Move to Legalize Psychedelics

Understanding and Practicing Law
Under the Natural Medicine Health Act

BY RACHAEL Z. ARDANUY AND C. ADAM FOSTER

This article summarizes key provisions of the Natural Medicine Health Act and explains how natural medicine services will be regulated in Colorado.

Psychedelics¹ are a class of drugs that trigger changes in perception and altered states of consciousness. In November 2020, Oregon voters passed ballot measure 109, the Oregon Psilocybin Services Act (Oregon PSA),² which was the first state law to create a state-legal, regulated market for psychedelic psilocybin products. Colorado voters followed suit in November 2022 by approving Proposition 122, the Colorado Natural Medicine Health Act of 2022 (NMHA). The NMHA contains two important prongs. First, it defines certain psychedelics, including psilocybin mushrooms, as decriminalized “natural medicine” that is legal to cultivate and possess in personal quantities but not to produce at commercial scale or to sell or exchange for any other type of valuable consideration. Second, the NMHA creates a relatively narrow and tightly regulated therapeutic path for adults to legally purchase psilocybin³ products and consume them at a licensed healing center under the supervision of a licensed facilitator. As of the date of this article, Colorado and Oregon are the only two US states that have legalized psychedelics at the state level, but other states appear likely to pass similar provisions.⁴

Archeological evidence indicates that people have been using psilocybin mushrooms for spiritual purposes for thousands of years.⁵ And most psychedelics have relatively few side effects and a comparatively low potential for abuse.⁶ Yet most psychedelics are illegal to possess or use for medical or recreational purposes in the United States under the Controlled Substances Act (CSA), 21 USC §§ 801 et seq., and analogous state law provisions. Many well-known psychedelics, including psilocybin mushrooms, are classified as schedule I controlled substances under the CSA. This means that, as far as federal law is concerned, these drugs “have no currently

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accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.”⁷ But like marijuana,⁸ another scheduled drug under the CSA,⁹ new research is demonstrating that many psychedelics likely have far greater

medicinal value, and far lower risks to health and safety, than the current classification of these substances would indicate.¹⁰

This article briefly describes key provisions of federal law governing psychedelics, provides a high-level overview of the NMHA, and highlights key areas of law affected by the NMHA. It also offers practical tips for Colorado attorneys and flags some key implementation and business planning considerations for natural medicine services.

Current US Federal Law and the Pharmaceutical Model

Existing US federal law permits research involving schedule I drugs under certain narrowly defined circumstances. The Food, Drug, and Cosmetics Act (FD&C Act), 21 USC §§ 301 et seq., gives the US Food and Drug Administration (FDA) the authority to oversee the safety and approval of new drugs in general. Additionally, researchers working with schedule I controlled substances must be licensed by the US Drug Enforcement Agency (DEA) and follow rigorous security protocols.¹¹ Thus, although it is possible to legally perform research on schedule I controlled substances under federal law, the process is expensive and time consuming.

For example, in 2018, COMPASS Pathways plc (Compass) received Breakthrough Therapy designation from the FDA¹² to research the use of a proprietary crystalline psilocybin formulation as a potential treatment for treatment resistant depression. Importantly, Compass acknowledges that for a product containing psilocybin or psilocyn to be legally marketed in the US, either those substances would have to be removed from schedule I and placed under a less restrictive schedule under the CSA, or its psilocybin-containing pharmaceutical drugs would have to be specifically scheduled by the DEA to fall somewhere under schedules II through IV.¹³

The FD&C Act contains no exemption for state laws that purport to legalize or decriminalize drugs that the FDA has not recognized as safe or otherwise approved for human use. Similarly, neither the NMHA nor the Oregon PSA comply with the CSA because both decriminalize under state law a schedule I controlled substance—psilocyn—and offer a legal path to access it under state law. This creates significant regulatory uncertainty because the federal government’s tolerance of state-legal activities that violate federal law is dependent on the law enforcement priorities articulated by the current presidential administration and attorney general.

State laws legalizing marijuana provide a useful analogy. Although marijuana is currently a schedule I controlled substance under the CSA, 38 US states have now authorized its medical use, and 24 states have authorized its recreational use by adults aged 21 or older. Thus, there is precedent for the widespread legalization and use of a schedule I controlled substance under state law despite its continued illegality under federal law. That said, there are significant differences between psilocybin and marijuana in terms of the drug’s effects and how people use it, the public’s perception of it, and the number of states where the substance is legal. Although psilocybin may very well follow a similar path to widespread public acceptance and legalization at the state level, this is far from inevitable.

NMHA Overview

During the 2023 legislative session, the Colorado General Assembly enacted Senate Bill 290, which amended and clarified key provisions of the citizen-enacted NMHA. This section provides an overview of the NMHA, as amended by SB 290. The NMHA makes an important distinction between the personal use of natural medicine, which was broadly decriminalized in November 2022, and the regulated, therapeutic use of natural medicine, which is legalized under certain narrow circumstances.

Personal Use

The NMHA broadly decriminalizes the cultivation, possession, consumption, and sharing

NMHA: KEY DICHOTOMIES

The NMHA sets forth two key dichotomies: (1) between unregulated decriminalized natural medicine and licensed natural medicine products and services; and (2) allocation of regulatory authority between DORA and DOR in the context of state-licensed natural medicine products and services. Tables 1 and 2 expand on these points.

of natural medicine in quantities appropriate for “personal use” for adults aged 21 and older, so long as no money or other consideration is involved. Notably, the definition of “personal use” permits sharing within the context of counseling, spiritual guidance, beneficial community-based use and healing, supported use, or related services, and does not prohibit receiving remuneration only for such related services, provided that certain notice is provided and no advertising is made regarding the natural medicine offered.¹⁴ In contrast, money—or any other valuable consideration—can only change hands in connection with the therapeutic use of natural medicine at a state-licensed healing center¹⁵ under the supervision of a licensed facilitator.

Legislative Declaration

The NMHA’s legislative declaration opens by stating that Colorado voters “find and declare that”:

Colorado’s current approach to mental health has failed to fulfill its promise. Coloradans deserve more tools to address mental health issues, including approaches such as natural medicines that are grounded in treatment, recovery, health, and wellness rather than criminalization, stigma, suffering, and punishment.¹⁶

The declaration expands on these concepts by finding that:

An extensive and growing body of research is advancing to support the efficacy of natural

medicines combined with psychotherapy as treatment for depression, anxiety, substance use disorders, end-of-life distress, and other conditions.¹⁷

Thus, Colorado voters concluded that Colorado should reduce its focus on punishing those who suffer from mental health disorders and instead permit the use of natural medicine with a focus on education and harm reduction. In SB 290, the General Assembly supplemented these findings by adding that care must be taken to protect the indigenous use of natural medicine and prevent the further exploitation or appropriation of indigenous practices by unscrupulous actors.¹⁸ The General Assembly also found that natural medicine’s “potential must be appropriately balanced with the health and safety risks that it could pose to consumers.”¹⁹

Definitions

The definitions section²⁰ is a good jumping off point for describing the NMHA’s overall regulatory structure. Importantly, SB 290 amended the NMHA by limiting the current definition of “natural medicine” in the context of licensed natural medicine services to psilocybin and psilocyn only. Dimethyltryptamine (DMT) and mescaline²¹ are eligible to be added to the definition of legal natural medicine if recommended by the new state natural medicine advisory board (board) and approved by the director and the executive director of the state licensing authority for inclusion on or after June 1, 2026. There is no time limitation on when the board may add ibogaine to the definition of natural medicine.²²

Note that psilocybin, ibogaine, DMT, and mescaline are all currently included under the definition of decriminalized natural medicine under CRS § 12-170-104(12). The definition of natural medicine excludes synthetic forms or synthetic analogs of these substances in both the NMHA’s decriminalization provisions and its natural medicine services provisions.

Licensed Natural Medicine Services

Natural medicine services are defined as “a preparation session, administration session, and integration session” provided in compliance with the NMHA.²³ Thus, a “participant”²⁴ will

“

Before the participant consumes natural medicine, the participant and facilitator must meet for a ‘preparation session.’ The preparation session will include a screening component to determine whether the participant is an appropriate candidate to consume natural medicine and, if so, to educate the participant on what to expect and what to do if they experience health problems or psychological distress during the administration session.

”

engage in three distinct, statutorily defined sessions with a facilitator. Before the participant consumes natural medicine, the participant and facilitator must meet for a “preparation session.”²⁵ The preparation session will include a screening component to determine whether the participant is an appropriate candidate to consume natural medicine and, if so, to educate the participant on what to expect and what to do if they experience health problems or psychological distress during the administration session.²⁶ During the “administration session” the participant will consume the natural medicine under the facilitator’s supervision at a licensed healing center.²⁷ The last of the three sessions is the “integration session,” during which the facilitator and participant meet to discuss the participant’s experience.²⁸

Natural medicine services can be provided at either a “healing center”²⁹ licensed by the state specifically for provision of natural medicine services, or a “health-care facility,” such as a hospital, doctor’s office, or long-term care facility that is licensed or otherwise permitted by

law to offer medical treatment.³⁰ In other words, natural medicine services may be lawfully provided at either a healing center under the supervision of a licensed facilitator, or at a healthcare facility under the supervision of a medical doctor or other qualified health professional.³¹

Dual Regulatory Structure

Proposition 122 initially placed licensing of both facilitators and healing centers under the purview of the Colorado Department of Regulatory Agencies (DORA). Although DORA has deep experience managing professional licensing programs, it lacks institutional experience regulating the manufacture or sale of products. SB 290 addressed this issue by moving authority to regulate and tax healing centers and natural medicine products to the Colorado Department of Revenue (DOR) Natural Medicine Division.

CRS § 12-170-105 delegates various powers to the director of DORA’s division of professions and occupations (the division), including

requirements for the safe provision of natural medicine services and natural medicine products. These administrative rules will cover a wide variety of topics including, at a minimum:

- “parameters for a preparation session, an administration session, and an integration session”;
- warnings or disclaimers and educational materials that must be provided to a participant prior to an administration session;
- requirements for participant consent forms;
- requirements for facilitator supervision of individual and group administration sessions;
- facilitator licensing requirements;
- natural medicine dosage limits;
- rules governing remuneration for natural medicine products and services;
- rules governing permitted ownership and financial interests in healing centers; and
- marketing and advertising standards and recordkeeping requirements.³²

The division must begin accepting new license applications on or before December 31, 2024, and will initially prioritize applications submitted by Colorado residents.³³ The NMHA also mandates that, where financially feasible, administrative rules should minimize barriers to “persons from communities that have been disproportionately harmed by high rates of arrest for controlled substances, persons who face barriers to health-care access, persons who have traditional, tribal, or Indigenous history with natural medicine” and veterans who wish to become licensed as facilitators, operate a licensed healing center, or access natural medicine as a participant.³⁴

The Board

The NMHA created a 15-member advisory board appointed by the governor to advise the division on implementation of the NMHA and rulemaking.³⁵ The statute also provides that certain members of the board must possess training and experience in various areas of medical, scientific, and cultural competency.³⁶ In addition to the topics for administrative rulemaking outlined above, the board is tasked

with advising the division and the state licensing authority on issues related to public health and public education regarding natural medicine. Additionally, the board will, on an ongoing basis, review pertinent studies and evidence to provide recommendations regarding whether natural medicine services “should be covered under health first Colorado or other insurance programs as a cost-effective intervention for various mental health conditions, including, but not limited to, end-of-life distress, substance use disorder, alcohol use disorder, depressive disorders, neurological disorders, cluster headaches, and posttraumatic stress disorder.”³⁷

Social Equity

The NMHA focuses on social equity and sustainability concerns in a way that is relatively new for a Colorado statute but may be a harbinger of concepts that will be included in future legislation covering a variety of subjects. In the context of the NMHA, the board is tasked with evaluating the sustainability of Colorado’s natural medicine program and its impact on indigenous practitioners and cultures.³⁸ It is also required to make recommendations regarding removing barriers to licensure for low-income individuals and “[a]ffordable, equitable, ethical, and culturally responsible access to natural medicine” and to ensure that implementation and administration of the NMHA is “equitable and inclusive.”³⁹

Indigenous Rights

The NMHA is unique among Colorado business and occupational licensing statutes in terms of its focus on protecting and promoting the rights of both federally registered American Indian tribes and indigenous practitioners more generally.⁴⁰ CRS § 12-170-107 orders the division director to establish a working group to coordinate with tribes and indigenous people and study issues related to the commercialization of natural medicine, including avoiding the commercialization and misappropriation of indigenous culture and preventing overharvesting of the endangered peyote cactus, which some native people regard as a religious sacrament. The working group will also examine best practices for coordinating

TABLE 1. DECRIMINALIZATION PRONG VERSUS LICENSING PRONG	
DECRIMINALIZED PERSONAL USE	LICENSED USE
includes psilocybin/psilocyn, ibogaine, DMT, and mescaline (but not from a peyote cactus)	includes only psilocybin and psilocyn
Decriminalized natural medicine* may be produced, consumed, and gifted in personal use amounts, but no exchange of money or other valuable consideration is allowed.	Payment for licensed natural medicine* products and licensed facilitator services is permitted.
Unlicensed: Adults aged 21 and older have fairly broad rights to produce and use natural medicine in personal quantities as long as money does not change hands and there is no public consumption.	Licensed: Use and supply chain is strictly regulated by DORA and DOR.
exemption from criminal prosecution; essentially no economic or contract rights	statutory right to engage in licensed professions; enforceable business contracts
Unregulated: There is no government oversight of production or distribution. Laboratories can test personal use natural medicine, but no testing is required.	Tightly regulated: Licensed psilocybin products are tested** for contaminants and potency; the supply chain is closely monitored; products must be administered by licensed facilitators; and participants cannot take licensed products home.
CRS § 18-18-434	CRS §§ 12-170-101 et seq. (DORA); CRS §§ 44-50-101 et seq. (DOR)

* Natural medicine must be derived from a plant or fungus; chemical synthesis is not permitted.
** CDPHE coordinates with DOR to establish testing standards under CRS § 25-1.5-120.

and fostering communication between those state agencies that regulate natural medicine and tribes and other indigenous stakeholders and communities.⁴¹

Personal Use Protections

The legalized personal use of natural medicine will affect various areas of law, including criminal defense and law enforcement, real estate, family law, and municipal law. In the context of criminal defense and law enforcement, personal use of natural medicine under CRS

§ 18-18-434 cannot alone be the basis for detention, search, or arrest; cannot be the basis to support a probable cause determination of criminal activity;⁴² and cannot be the basis for a child abuse or neglect finding (absent independent findings including all relevant factors).⁴³ Natural medicine is not subject to seizure and cannot be harmed or destroyed by law enforcement. While possession of natural medicine is generally legal in Colorado, some new criminal violations have been established, including the petty drug offenses for minors

under 21 possessing or consuming natural medicines,⁴⁴ open and public consumption,⁴⁵ violations related to personal cultivation of natural medicines,⁴⁶ and unlicensed manufacturing and sales.⁴⁷

In the context of real estate, property owners are allowed to regulate and prohibit the cultivation or manufacture of natural medicine⁴⁸ but not the possession of natural medicine. In the context of family law, the courts shall not restrict or prohibit family time or determine that family time with a family member who is acting lawfully with respect to use or possession of natural medicine is not in the best interests of the child unless the court finds that the child's safety or mental, emotional, or physical health is at risk as a result of the family time.⁴⁹

In contrast to the decriminalized personal use of natural medicine in the absence of any exchange of valuable consideration, natural medicine can only be provided in exchange for remuneration⁵⁰ in connection with statutorily defined "natural medicine services." Two state agencies are involved with the oversight of therapeutic use of natural medicine at licensed healing centers. DORA is responsible for regulating and licensing facilitators (individuals aged 21 or older who possess the requisite skill, training, and experience and have been licensed by the director of the division).⁵¹ The DOR Natural Medicine Division is responsible for licensing and regulating healing centers and facilities that commercially produce, manufacture, and test natural medicine and natural medicine products that are administered by facilitators.⁵²

Limits on Local Regulation of Healing Centers

Municipalities may not ban or completely prohibit the establishment or operation of licensed healing centers or licensed healthcare facilities from providing natural medicine.⁵³ Nor may localities ban transportation of natural medicine through their boundaries on public roads by licensees, or adopt ordinances or regulations that are "unreasonable or in conflict with" the NMHA. This means that local governments are limited to reasonably regulating the time, place, and manner of operation of health centers.

TABLE 2. REGULATORY AUTHORITY OF DOR VERSUS DORA

DEPARTMENT OF REVENUE (DOR)	DEPARTMENT OF REGULATORY AGENCIES (DORA)
CRS §§ 44-50-101 et seq.	CRS §§ 12-170-101 et seq.
new Natural Medicine Division	new Office of Natural Medicine within the Division of Professions and Occupations
licenses healing centers and production facilities	oversees training program and professional (facilitator) licensing
oversight of natural medicine products (likely similar to "seed to sale" oversight and monitoring of licensed marijuana supply chain)	parallels with licensing for other health professionals; training exemptions for traditional and indigenous practitioners with requisite experience
regulates natural medicine product advertising	regulates facilitator/services advertising (including setting standards to avoid exploitation of indigenous cultures)

Thus, municipalities that intend to impose reasonable regulations on the location and operating hours for healing centers will need to enact pertinent local regulations, including updating zoning codes.

Importantly, the NMHA does not require local licensing of healing centers. This is an important contrast with Colorado's regulatory scheme for medical and retail marijuana, which requires operators to obtain a local marijuana business license and also grants municipalities the authority to enact an outright ban on marijuana businesses.⁵⁴ Many municipalities have begun exploring how they will manage healing centers, including whether they will require any permitting or licensing, while weighing the authority granted and limitations cast upon municipalities by the NMHA.

Time and Place Regulations

CRS § 12-170-112 mandates that "[a] local jurisdiction shall not prohibit" a state-licensed facilitator "from providing natural medicine services within its boundaries."⁵⁵ Additionally, CRS § 12-170-116 clarifies that, except where otherwise specified within the NMHA itself, the

NMHA supersedes any conflicting provision of state or local law.

CRS § 44-50-104(5) sets out very similar limits on municipalities' authority to restrict the operation of healing centers and state-licensed businesses that cultivate, manufacture, test, store, or distribute natural medicine. Specifically, although the "local jurisdiction may enact ordinances or regulations governing the time, place and manner"⁵⁶ in which natural medicine businesses can operate, it "may not prohibit" operation of natural medicine businesses⁵⁷ or adopt local ordinances that are unreasonable or conflict with state law regarding licensing and operation of natural medicine businesses.⁵⁸

Thus, it is not within municipalities' purview to enact any local law whose purpose or effect is to unreasonably restrict the operation of healing centers or access to natural medicine. As part of the 2024 rulemaking process, the DOR Natural Medicine Division is adopting extensive administrative regulations governing the licensing and operation of various types of natural medicine businesses that will have a significant practical impact on where and how natural medicine businesses can operate.

KEY BUSINESS PLANNING CONSIDERATIONS FOR NATURAL MEDICINE SERVICES

- **The size of the market for licensed services is unknown.** It is not clear how many adults will want to use a licensed psilocybin product at a licensed healing center under the supervision of a facilitator. This is particularly true since the personal cultivation and use of psilocybin mushrooms has been decriminalized in Colorado. But novice users or adults seeking a therapeutic experience will be willing to pay to use a tested, regulated product in a safe environment under the supervision of a licensed facilitator.
- **Pricing for licensed services is uncertain.** Pricing will depend on various factors, including how many facilitators and healing centers are licensed. The rulemaking process is ongoing as of the date of this article, and rules governing facilitator training, and production facility and healing center licensing will affect cost. It is also unclear whether other states will adopt similar statutes, which would presumably decrease the number of participants traveling to Colorado from out of state for natural medicine services.
- **Federal enforcement priorities could change.** As of the date of this article, the Biden administration has not indicated that it considers licensed natural medicine services to be a key law enforcement priority, but concerns regarding implementation or a different presidential administration could lead to enhanced scrutiny and enforcement from federal law enforcement authorities.

DORA is adopting similar regulations governing natural medicine facilitators.

The main practical questions that local governments must consider are where to allow various types of natural medicine businesses to operate and whether to restrict operating hours for natural medicine businesses or facilitators. Zoning provisions seeking to relegate natural medicine businesses or healing centers to areas where operations are impractical would likely violate the NMHA, as would restrictions on operating hours that make it impractical for facilitators to offer the full range of services that the NMHA and its implementing regulations authorize. In this regard it may be useful to look at ordinances governing analogous uses, such as operation of medical offices or counseling centers in the case of facilitators, or light manufacturing facilities in the case of businesses that manufacture, test, or distribute natural medicine products. Appellate holdings balancing time and place restrictions in the

context of various types of protected speech may also offer some guidance.⁵⁹

Facilitators or natural medicine business owners seeking to challenge the overall reasonableness of local ordinances restricting natural medicine activities may seek de novo district court review of the local ordinance by filing a declaratory judgment action. Specifically, Colorado Rule of Civil Procedure 57(b) permits a person “whose rights, status, or other

legal relations are affected by a . . . municipal ordinance” to ask the district court to enter a declaratory judgment regarding the construction or validity of the local ordinance. CRCP 57 review will generally only be appropriate if the local ordinance conflicts with state law or unreasonably restricts natural medicine activities on its face.

In contrast, facilitators or business owners alleging that local officials have applied a facially valid local ordinance in an unreasonable manner will generally be obliged to seek district court review under CRCP 106(a)(4), which provides the normal means to challenge local officials’ quasi-judicial acts. CRCP 106(a)(4) grants significant deference to local officials and requires a showing that the official or agency acted in an arbitrary or capricious matter for the district court to reverse their decision.

Conclusion

In recent years, Colorado has been an innovative laboratory of democracy in terms of drug policy. Colorado law now allows adults aged 21 and older to explore new cognitive vistas through the use and administration of psychedelics for healing, spiritual, and recreational purposes. The NMHA both decriminalized the personal use of natural medicine without remuneration and created an entirely new sphere of business activity where licensed facilitators can charge a fee to administer regulated natural medicine products to clients during facilitation sessions. Colorado indigenous natural medicine practitioners, lawyers, and entrepreneurs will continue to shape this movement and its enacting laws and regulations. 



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NOTES

1. Many advocates prefer the term “entheogen” to refer to this class of substances. An entheogen is a substance—typically of plant origin—that is ingested to achieve an altered state of consciousness for religious or spiritual purposes.

2. The full text of the Act and updates regarding its implementation are available at <https://www.oregon.gov/oha/ph/preventionwellness/pages/oregon-psilocybin-services.aspx>.

3. The NMHA regulates both psilocybin and psilocyn. See, e.g., CRS § 12-170-104(12)(a). After ingestion, the body converts psilocybin to psychoactive psilocyn. As used in this article, the term “psilocybin” includes psilocyn.

4. Clark, “Move Over Cannabis, the Movement to Legalize Psychedelic Mushrooms Is Ready to Share the Spotlight,” *Natl. L. Rev.* (May 11, 2023), <https://www.natlawreview.com/article/move-over-cannabis-movement-to-legalize-psychedelic-mushrooms-ready-to-share>.

5. Samorini, “The Oldest Archeological Data Evidencing the Relationship of *Homo Sapiens* With Psychoactive Plants: A Worldwide Overview,” 3 *J. of Psychedelic Stud.* 63 (June 1, 2019).

6. Nutt et al., “Drug Harms in the UK: A Multicriteria Decision Analysis,” 376 *Lancet* 1558–65 (Nov. 6, 2010). Out of the 20 substances the authors analyzed, psychedelic mushrooms scored the lowest for individual and societal harm.

7. DEA Controlled Substance Schedules, <https://www.deadiversion.usdoj.gov/schedules/schedules.html>.

8. The correct scientific name for the plant is “cannabis,” but Colorado state and US federal law use “marijuana” to refer to psychoactive cannabis. The 2018 Farm Bill legalized hemp, a non-psychoactive form of the cannabis plant with less than 0.3% THC on a dry weight basis.

9. On April 30, 2024, the Associated Press first reported that the DEA will propose to reclassify cannabis to schedule III from its current schedule I classification. Miller et al., “US Poised to Ease Restrictions on Marijuana in Historic Shift, but It’ll Remain Controlled Substance,” AP (Apr. 30, 2024), <https://apnews.com/article/marijuana-biden-dea-criminal-justice-pot-f833a8dae6ceb31a8658a5d65832a3b8>.

10. See, e.g., Abbas et al. (Oregon Psilocybin Evidence Review Writing Group), *Oregon Psilocybin Advisory Board Rapid Evidence Review and Recommendations* (July 30, 2021) (compiling key medical and scientific studies and publications regarding psilocybin), <https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Documents/Oregon%20Psilocybin%20Advisory%20Board%20Rapid%20Evidence%20Review.pdf>.

11. The DEA’s Diversion Control Division website sets out requirements for obtaining licenses to perform research on controlled substances and associated safety and security protocols. <https://www.deadiversion.usdoj.gov/drugreg/registration.html>.

12. According to the FDA, “Breakthrough

Therapy designation is a process designed to expedite the development and review of drugs that are intended to treat a serious condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over available therapy on a clinically significant endpoint(s).” <https://www.fda.gov/patients/fast-track-breakthrough-therapy-accelerated-approval-priority-review/breakthrough-therapy>.

13. At page 21 of its September 21, 2020, prospectus filed with the US Securities Exchange Commission, Compass asserts: “Scheduling determinations by the DEA are dependent on FDA approval of a substance or a specific formulation of a substance. Therefore, while psilocybin and psilocyn are Schedule I controlled substances, products approved by the FDA for medical use in the United States that contain psilocybin or psilocyn should be placed in Schedules II–V, since approval by the FDA satisfies the ‘accepted medical use’ requirement.” https://www.sec.gov/Archives/edgar/data/1816590/000162828020013779/compass424b4.htm#icfe282745ece49ac803f1aee527e8fa0_89.

14. CRS § 18-18-434(12)(d).

15. Final DORA regulations may also permit facilitators to administer natural medicine to certain participants at the participant’s home, but as of the date of this article DORA has not promulgated final regulations for facilitators.

16. CRS § 12-170-102(1)(a).

17. CRS § 12-170-102(1)(c).

18. CRS § 12-170-102(2)(a)–(c).

19. CRS § 12-170-102(2)(d).

20. CRS § 12-170-104.

21. The definition of “mescaline” specifically excludes *Lophophora williamsii*—the peyote cactus—because peyote is used by some Native American practitioners as a religious sacrament and the proponents of the NMHA were worried about the overharvesting of naturally-occurring peyote.

22. Ibogaine is psychoactive indole alkaloid derived from a perennial shrub native to north Africa.

23. CRS § 12-170-104(14).

24. CRS § 12-170-104(15).

25. CRS § 12-170-104(16).

26. CRS § 12-170-105 sets out basic parameters for the preparation session, administration session, and integration session. As of the date of this article, DORA is finalizing administrative rules that will provide detailed guidance for facilitators and participants regarding the conduct of these sessions.

27. CRS § 12-170-104(1).

28. CRS § 12-170-104(10).

29. CRS § 12-170-104(8).

30. CRS § 12-170-104(9).

31. The board will adopt administrative regulations setting forth specific qualifications.

32. Current administrative rules and rulemaking updates can be found on DORA’s natural medicine website, <https://dpo.colorado.gov/NaturalMedicine>, and also on the DOR Natural

Medicine Division website, <https://dnm.colorado.gov>.

33. CRS § 12-170-105(1)(b).

34. CRS § 12-170-105(1)(d).

35. CRS § 12-170-106.

36. CRS § 12-170-106(2).

37. CRS § 12-170-106(6).

38. CRS § 12-170-106(7).

39. CRS § 12-170-106(5)(d).

40. CRS § 12-170-107. Under the NMHA, “‘Federally recognized American tribe’ has the same meaning as ‘Indian Tribe’ as defined by the federal ‘Federally Recognized Indian Tribe List Act of 1994,’ as amended.” CRS § 12-170-104(7).

41. CRS § 12-170-107(1)(d).

42. CRS § 18-18-434(7)(a).

43. CRS § 19-3-103(4).

44. CRS § 18-18-434(1).

45. CRS § 18-18-434(2).

46. CRS § 18-18-434(3).

47. CRS § 18-18-434(4).

48. CRS § 18-18-434(10).

49. CRS § 19-3-103(4)(b).

50. CRS § 12-170-104(19) defines “remuneration” to effectively include any type of valuable consideration.

51. CRS § 12-170-104(6).

52. CRS § 44-50-201.

53. CRS § 44-50-104(5).

54. CRS § 44-10-301.

55. CRS § 44-50-104(5) further clarifies that the NMHA preempts conflicting local ordinances regarding the activities of natural medicine facilitators.

56. CRS § 44-50-104(5)(a).

57. CRS § 44-50-104(5)(b).

58. CRS § 44-50-104(5)(d).

59. *Cf. Reed v. Town of Gilbert*, 576 U.S. 155 (2015) (municipal sign regulations); Tisdale, “Regulating Sexually Oriented Businesses in Small Towns: Practical Tips and Preventive Medicine,” 29 *Colo. Law.* 85 (Oct. 2000).

TOWN OF BERTHOUD, COLORADO

**NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code**

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Planning Commission on April 10, 2025 at 7 p.m. and the Town Board on both April 22, 2025 and May 13, 2025 at 6:30 p.m. All public hearings will be to consider amendments to Chapter 30 inclusive of adding Section 14 of the Berthoud Municipal Code, specifically adding Regulations for Natural Medicine Healing Centers and other Natural Medicine Businesses. The public hearings will be held at Town Hall 807 Mountain Avenue in Berthoud 80513.

Given and posted on this ____ day of March, 2025.

Published: Loveland Reporter Herald March 21, 2025-2105066

Prairie Mountain Media, LLC

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State of Colorado**

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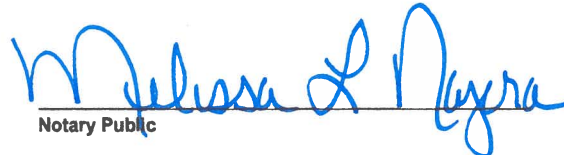
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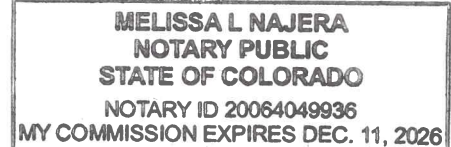

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