

Draft Marijuana Legislation Feedback Sessions FAQ

The Office of Marijuana Policy and Department of Excise and Licenses held stakeholder feedback sessions on December 15, 2020, December 17, 2020, January 6, 2021, and January 8, 2021 to gather input on draft legislation that would make changes to the marijuana licensing code and create marijuana delivery, hospitality, and social equity programs. During the Zoom Webinars, attendees submitted questions through Zoom's Q&A feature. Below are answers to the questions that attendees submitted during these sessions. The questions are organized by topic and are not in the order that they were submitted. The answers are based on the first drafts of the ordinances released to the public on December 7, 2020.

Delivery

On delivery, it appears that existing transporters will not be permitted to obtain delivery permits unless they qualify as social equity applicants. Is that accurate?

- Under the current draft proposal, licensed transporters who wish to obtain a delivery permit must qualify as social equity applicants on the date of application if they apply anytime between July 1, 2021 and July 1, 2024 – a period of three (3) years. After July 1, 2024, licensed transporters can obtain a delivery permit regardless of social equity applicant status.

Will there be an application process by which existing transporters can obtain delivery permits if they qualify as social equity applicants?

- Yes.

Are MIPS going to be allowed to partner with transport licenses to deliver their product direct to consumer?

- No. Under state law, deliveries must come from a licensed retail or medical marijuana store. Transporters may not obtain marijuana directly from MIPS or cultivations to deliver to consumers.

Are there plans to ever allow non-store front delivery? Such as deliveries from MIPS or Grows directly to customers or with the help of a transport license holder? If not, is there any reason why not?

- The Department is unable to predict changes to state law. Under state law, deliveries must come from a licensed retail or medical marijuana store. Transporters may not obtain marijuana directly from MIPS or cultivations to deliver to consumers.

Delivery permits for social equity applicants will be for 36 months. Will a participant who gets his/her delivery permit in June 2022 still have 36 months from his/her permit award or the quantity of months will be less?

- Under the current draft proposal, only social equity applicants will be able to obtain a transporter license between July 1, 2021 and July 1, 2027 – a period of six (6) years. Once a license is granted, it is valid for one (1) year and must be renewed annually.
- Additionally, under the current draft proposal, licensed transporters who wish to obtain a delivery permit must qualify as social equity applicants on the date of application if they apply

anytime between July 1, 2021 and July 1, 2024 – a period of three (3) years. Once a permit is granted, it is valid for one (1) year, and must be renewed annually.

- After July 1, 2024, licensed transporters can obtain a delivery permit regardless of social equity applicant status. Once a permit is granted, it is valid for one (1) year, and must be renewed annually.

Is there a place where I could find out more about the acceptance of different jurisdictions towards delivery?

- In order for delivery to occur in a jurisdiction, that jurisdiction must affirmatively opt in to allow marijuana delivery. You can contact each individual jurisdiction in which you are interested in operating to find out whether they have allowed for delivery and what their requirements are or you can contact the state's Marijuana Enforcement Division at [MED Inquiry \(google.com\)](#).

What safe guards will be available or considered for social equity transporters who are new to the industry and would be most at risk with having cash and product on hand?

- Under the current draft proposal, Denver would align with the state's safety and security requirements for transporters, including requirements for those that conduct delivery. This includes requirements for alarm systems, video surveillance, GPS tracking, and inventory limits. Alignment with state requirements minimizes the financial burden on social equity licensees to comply with security requirements, while giving them the flexibility to go above and beyond those requirements as they are able in order to reduce risk.

Will there be any available insurance along with transportation because of aforementioned high risk of having funds and products on hand?

- State rules require that delivery vehicles be insured. Obtaining insurance for a delivery vehicle is the responsibility of each individual business.

Would a social equity applicant, applying for a delivery permit, also be able to apply for a retail license and conduct deliveries as a transporter for that retail facility?

- Under the draft proposal, a social equity applicant could apply for a retail store license in addition to a transporter license with a delivery permit. That licensee could then utilize the transporter license to conduct deliveries on behalf of the licensed retail store.

With all the regulations on tracking for deliveries has a phone app been created to help in the regulations and reporting?

- The state's Marijuana Enforcement Division requires the GPS tracking of delivery vehicles and usage of the inventory tracking system, METRC, that tracks marijuana until the point of sale. For more information, please contact the Marijuana Enforcement Division at [MED Inquiry \(google.com\)](#).

How will you prevent the black market delivery to youth?

- Marijuana delivery businesses operating without a license are and will remain illegal.
- Transferring marijuana to underage persons is grounds for license suspension, revocation, and other license sanctions.

- Under state law and the current draft ordinance, deliveries are prohibited at schools and campuses of institutions of higher learning, among other places. Pursuant to state law, licensees and their employees must complete Responsible Vendor Training, which includes education on how to verify IDs and identify fraudulent IDs.
- The current draft proposal would require delivery drivers to use an electronic ID scanner to verify the customer's identification.

What is an ID scanner and does it protect against fake IDs?

- An ID scanner is a portable electronic device that scans an ID and alerts the user if the ID is underage or expired.

How would you know whether or not delivery has occurred same day? What if they order and deliver at 1130P and next am at 8AM?

- A delivery completed at 11:30 p.m. and another completed at 8:00 a.m. the next day would not be on the same day. A delivery purchase could be made on two consecutive days just as an in-store purchase could be made on two consecutive days.
- [MED rule 3-615\(G\)\(8\)\(d\)](#) - "A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or Private Residence where the Licensee knows or reasonably should know that the consumer or Private Residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence."
- [MED rule 3-615\(F\)\(2\)\(b\)](#) - "For a Medical Marijuana Store or Retail Marijuana Store that utilizes an online platform provider, the Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that Private Residence through the online platform provider that same business day."

How will the delivery driver know if another delivery had occurred if there are multiple drivers?

- [MED rule 3-615\(G\)\(8\)\(d\)](#) - "A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or Private Residence where the Licensee knows or reasonably should know that the consumer or Private Residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence."
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Please address delivery time lines regardless of the time finally adopted. When does the time begin / end for delivery?

- Under the draft proposal, delivery permits would be available after July 1, 2021.

Can marijuana be delivered to parolee rental homes?

- Pursuant to state law, yes, as long as it is a private residence and the recipient is over 21.

Hospitality

Can "tastings" be offered as part of the hospitality experience in conjunction with sales limits at hospitality locations?

- Pursuant to state law, any licensed hospitality business may not give away free marijuana to a consumer for any reason, including free tastings. A retail marijuana hospitality and sales business may sell marijuana to consumers in accordance with the following sales limits: no more than two grams of retail marijuana flower, no more than one-half gram of retail marijuana concentrate, and retail marijuana products containing no more than 20 mg of THC.

Can you please explain the "odor control plan" in more detail? A lesson learned from when indoor cigarette smoking was allowed is that ventilation systems are proven ineffective in mitigating secondhand smoke exposure and health risks. Requiring ventilation systems as a part of "odor control" seems to send the message that establishments having ventilation would help mitigate risk when there is no evidence of efficacy. Is the proposed "odor control plan" evidence based?

- Under the current draft proposal, marijuana smoking indoors and outdoors must occur in compliance with an Odor Control Plan filed pursuant to [section 4-10 of the Denver Revised Municipal Code](#) and approved by the Department of Public Health and Environment.
- Please refer to the Board of Public Health and Environment's [Rules and Regulations Governing Nuisance Odors](#) and the Department's [Odor webpage](#) for more details about what an Odor Control Plan must contain.

If a dispensary and consumption facility are adjacent, can you have a limited access or emergency access door between the two facilities?

- A retail marijuana hospitality and sales business may not share the same location as a medical or retail marijuana store license. A marijuana hospitality business may not share the same licenses premises as a medical or retail marijuana store. Hospitality business and consumption facilities at the same location must maintain a separate ingress and egress to each licensed premises.

Under these new rules, would a space licensed to operate as a cafe/bagel shop be able to hold any kind of events license in order to hold ticketed private consumption events in that same space after the cafe closes for the day on a regular basis?

- Under the current draft proposal, a licensed retail food establishment can locate at the same premises as a licensed marijuana hospitality business or hospitality and sales business. Please refer to Marijuana Enforcement Division [rules](#), specifically rule 6-915, for detailed requirements for hospitality businesses located on the premises of a retail food establishment. Note that a marijuana hospitality business cannot be located on a licensed premises that serves or sells alcohol, including liquor-licensed retail food establishments.
- In addition, any business allowing marijuana consumption on its premises must be licensed as a marijuana hospitality establishment.

The marijuana consumption section again raises questions about 1000ft buffer zones that hampered this bill. It seems like the restrictions still exist? Can you guys expound on why this wasn't taken to account with hospitality?

- Numerous public health, youth-serving, and community organizations expressed strong support for the proximity restrictions set in rule for Designated Consumption Areas. These organizations included the American Academy of Pediatrics, Children’s Hospital of Colorado, Colorado Children’s Campaign, Illuminate Colorado, The Kempe Foundation, Smart Colorado, Denver Partnership for Youth Success, Denver Public Schools, Denver Public Health, Denver Partnership for Youth Success, Denver After-School Alliance, Rise Above CO, Boys & Girls Clubs of Metro Denver, Mothers Against Drunk Driving of Colorado, Confluence Ministries, Colorado Restaurant Association, and Protect Denver’s Atmosphere. Additionally, Denver’s Department of Public Health and Environment, Department of Human Services, Office of Children’s Affairs, and Department of Public Safety expressed support for the proximity restrictions. [View the letters of support from these organizations.](#)
- During the stakeholder process in developing the draft hospitality ordinance, the Department received similar feedback from public health and youth-serving stakeholders that reducing proximity restrictions could have negative impacts on youth.
- Research on marijuana, alcohol, and tobacco supports the need for density and proximity restrictions. This research includes:
 - [Pedersen et al, 2021: Examining Associations Between Licensed and Unlicensed Outlet Density and Cannabis Outcomes From Preopening to Postopening of Recreational Cannabis Outlets](#)
 - [Shih et al, 2019: Associations between young adult marijuana outcomes and availability of medical marijuana dispensaries and storefront signage](#)
 - [Finan et al, 2018: Tobacco outlet density and adolescents’ cigarette smoking: a meta-analysis](#)
 - [Gwon et al, 2017: Density and proximity of licensed tobacco retailers and adolescent smoking](#)
 - [Freisthler and Gruenewald, 2014: Examining the relationship between the physical availability of medical marijuana and marijuana use across fifty California cities](#)
 - [Chen, Grube, and Gruenewald, 2010: Community alcohol outlet density and underage drinking](#)
 - [Popova et al, 2009: Hours and days of sale and density of alcohol outlets: impacts on alcohol consumption and damage: a systematic review](#)
- Since this is a new license type, the impact of hospitality on youth marijuana use and youth perceptions of marijuana is unknown. It is important to exercise an abundance of caution as we implement social consumption more broadly in Denver.

Will the airport be able to add a public consumption area?

- No. Possession, consumption, use, distribution, and transfer of marijuana are prohibited at Denver International Airport.

Mobile hospitality operations will have smokers onboard. How will drivers be protected from impact of the smoke?

- MED rules require that drivers of mobile hospitality businesses be protected from smoke in the consumption area of the vehicle.
 - [MED rule 6-940\(B\)](#) - “The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.”
 - [MED rule 6-940\(E\)](#) requires a mobile hospitality business to have “proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver’s area of the Licensed Premises.”

Social Equity

Are expunged offenses eligible for the equity program? Does the location of the county of the offense need to be Denver County?

- For questions about eligibility under the state’s criteria for social equity licensees, please contact the Colorado Marijuana Enforcement Division (MED): [MED Inquiry Form](#).

Are there protections built in for "actual" social equity applicants so they do not get taken advantage of by bigger companies that would "front" a social equity applicant in order to gain more licenses?

- In alignment with state law, a social equity applicant, alone or together with other social equity applicants, must own at least 51% of the marijuana license. This threshold gives social equity applicants the ability to raise capital by transferring equity ownership of up to 49% of the license to investors who are not social equity applicants. The Colorado Marijuana Enforcement Division reviews the ownership structure of a business and the suitability of its controlling beneficial owners for licensure before issuing a license. Additionally, state rules have extensive disclosure requirements for accelerator partnerships.
- Social equity applicants are encouraged to consult with legal counsel before entering into any agreements with other individuals or companies. Denver is exploring ways to help social equity applicants access low-cost legal services and intends to partner with local law firms and associations to offer educational opportunities about starting a marijuana business.
- We remain open to suggestions for additional language that may help protect social equity applicants. Suggestions may be submitted using the [Written Comment Template](#) on our website.

Are there any plans for financial backing and/or tax breaks to support accelerator licensure?

- The current draft proposal does not include financial incentives for accelerator-endorsed licensees to host accelerator licensees. However, this doesn’t prevent private investors from offering such financial incentives for entering into this type of arrangement.
- In addition, under the current draft proposal, social equity applicants would be eligible for a 50% reduction in license fees for stores, cultivation facilities, transporters, manufacturers, testing facilities, and medical research & development licenses.
- We remain committed to working on additional city-led opportunities for social equity applicants to access the capitol and resources necessary, as well as allowing the existing industry the flexibility to innovate and pioneer their own programs.

Will the loan or grant that you described be in place prior to the allowance of these applications being put in?

- The Department is working with other city agencies to explore the creation of a grant program to assist social equity applicants with access to capital. The timing of this program is uncertain as it will require identifying a source of funding as well as implementing a system for administering the program. To stay up to date on the status of any such grant program, be sure to subscribe to our [Marijuana Industry Bulletin](#).

Would the social equity exclusivity apply to Transfers of Location as well, or only to newly-issued licenses?

- Under the draft proposal, any marijuana licensee with a licensed premises, regardless of social equity status, is eligible to transfer location of their business subject to the location, proximity, and zoning regulations for that license type.

So if a person owns 51% of a marijuana business, they qualify as a social equity applicant?

- Please refer to [MED rule](#) sections 1-115 and 2-220. In alignment with state rules, the criteria for qualifying as a social equity applicant are:
 - The applicant is a Colorado resident, and
 - The applicant has not been the beneficial owner of a license subject to administrative action issued by the State Licensing Authority or the Department of Excise and Licenses (local requirement) resulting in the revocation of a marijuana license, and
 - The applicant demonstrates at least one of the following:
 - The applicant has resided for at least fifteen years between 1980 and 2010 in a census tract designated by the office of economic development and international trade (OEDIT) as an opportunity zone or a census tract designated as a Disproportionate Impacted Area by the State Licensing Authority. “Disproportionate Impacted Area” means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:
 - the percent of residents in the census tract receiving public assistance;
 - the percent of residents in the census tract falling below the federal poverty level;
 - the percent of residents in the census tract failing to graduate from High School; and
 - the percent of residents in the census tract who are unemployed.
 - The applicant or the applicant’s parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation;
 - The applicant’s household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the applicant’s household.
 - A social equity applicant, alone or together with other social equity applicants, must own at least 51% of the license.

The following individuals volunteered their contact information for potential social equity applicants who are interested in learning more about getting involved in the marijuana industry:

- Truman Bradley, Marijuana Industry Group: 303.588.2297, Truman@MarijuanaIndustryGroup.org
- Sarah Woodson, The Color of Cannabis: sarah@thecolorofcannabisco.org
- Amanda Shifrin: amanda@lovaco.com
- Joey Pena, Cannabis Process Navigator, Denver Excise and Licenses: Joey.Pena@denvergov.org
- Ean Seeb, Governor's Special Advisor on Cannabis: ean.seeb@state.co.us

Can you go into the process in how Denver will designate or certify a social equity candidate and business?

- Under the draft proposal, which aligns with the state's criteria for social equity applicants created in House Bill 20-1424 and MED rules, Denver will rely on the State Licensing Authority to determine whether a person qualifies as a social equity applicant. However, as with applicants for any type of license, Denver will conduct its own investigation of the applicant's background and the applicant is subject to Denver's criteria for licensing.

Just to clarify: ONLY social equity applicants will be able to get a marijuana license for 6+ years? Nobody else?

- The current draft proposal includes that for 6 years (from July 1, 2021 until July 1, 2027) only social equity applicants would be able to get a medical or retail transporter license, a hospitality license, a retail store license, a retail cultivation license, or a retail or medical manufacturer license. New medical stores and medical cultivation licenses will continue to have a moratorium.

Omnibus

What specifically is changing about the proximity setbacks?

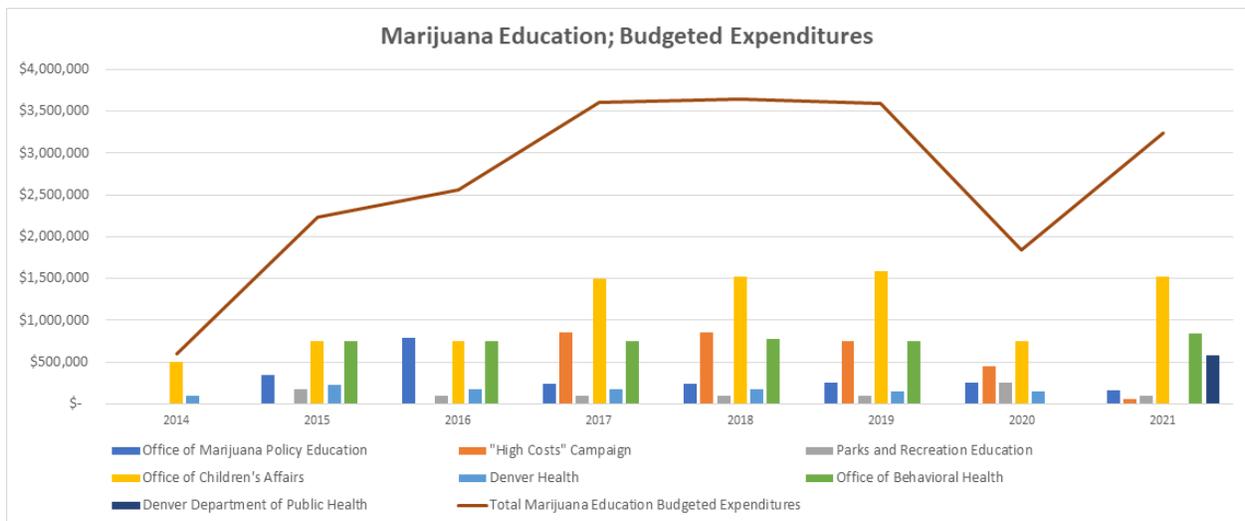
- Proximity restrictions for retail and medical stores, cultivations, and manufacturers of infused products will remain the same under the draft proposal as they are currently. Hospitality businesses will be required to locate at least 1,000 feet from any school, childcare facility, outdoor pool, recreation center, drug or alcohol treatment facility, and any other licensed hospitality business, similar to the proximity restrictions for designated cannabis consumption areas currently in effect.
- The draft proposal would change the method for measuring the distance from a marijuana establishment to a recreation center, outdoor pool, or drug or alcohol treatment. Currently, this distance is measured from the business to the nearest *property line of the land* used for the recreation center, pool, or drug or alcohol treatment facility. To better capture the intent of the rule and equitably apply it to all Denver neighborhoods, we are proposing to measure the distance from the business to the nearest *external portion of the building* used for the recreation center or drug or alcohol treatment facility and to *the fence or barrier* of the outdoor pool.

Would it be acceptable to make the sales floor into a de facto vault that can be secured when the store is not in operation?

- No. Under the draft proposal, the secure safe must be in a limited access area.

Can you please update what the current budget changes are for youth prevention at the same time the city is expanding marijuana policy?

- The Department of Excise and Licenses administers the [High Costs Campaign](#), which educates youth about underage marijuana use using unique and engaging tactics to provide Denver teens with the information they need to make the responsible decision not to use underage. The budget for this campaign was reduced from \$750,000 in 2019 to \$450,000 in 2020 and is being reduced to \$50,000 in 2021. However, several other city agencies have youth marijuana use prevention initiatives whose funding has been restored for 2021 (see chart below).



How will EXL specifically measure and evaluate the success/failure of its new cannabis ordinance?

Would the city post the reporting measures publicly in advance and be open to feedback?

- **Tracking Data:** By offering licensing opportunities exclusively to equity applicants, the Department can easily track the number of applicants helped by the program. The Department will be tracking other key information as the program is implemented.
- **Reports to City Council:** The omnibus bill requires the Department to report to City Council on the delivery program prior to the sunset. Public discussion about the data that is available will inform policy decisions on the length and features of the equity program.
- **Social Impact Plans:** The omnibus bill requires certain applicants to submit social impact plans detailing the licensee's goals for community outreach, diversity and inclusion, and environmental sustainability. Requiring these plans to be public, and requiring licensees to report on their yearly progress, will make this information more available to the public to inform public hearings and public discourse.

Do other EXL license types require sustainability as well as social impact plans? If so, which ones?

- A social impact plan is currently a requirement of the marijuana research and development license. The social impact plan is intended to give marijuana businesses an opportunity to demonstrate to the community their efforts to promote sustainability, diversity and inclusion, and community engagement. The Department requires social impact plans to be made publicly available to increase accountability for representations made in the plans and to give individuals the opportunity to learn more about the licensees in their community. The Department will provide a template to help guide licensees in creating a social impact plan. Completion of the template will satisfy the social impact plan requirement.

Would the City of Denver be willing to dedicate its legislative resources at the capitol to help us get those MJ tax revenues during the 2021 legislative session?

- The Department cannot formally comment on legislation that has not yet been introduced. Once legislation is introduced, it is reviewed by all affected agencies to determine if the City will support and/or dedicate lobbying resources to the legislation.

We are getting mixed messages here. We can't put our brands into the public, though the state loosened that restriction, and the city could reduce the setbacks, but refuses to. What is the strategy?

- As discussed on slide 19 of the [presentation](#), the draft proposal would maintain Denver's current regulations on outdoor advertising, as well as density and proximity restrictions for marijuana businesses. These are all important measures intended to limit youth exposure to marijuana and are supported by our partners in public health and youth advocacy.
- Note several exceptions to the prohibition on advertising in section 6-224 of the draft omnibus bill, including a new exception that would allow for marijuana businesses to display their brands on apparel, consumer goods, or paraphernalia. The prohibition on advertising shall not apply to:
 - Any fixed sign located on the same zone lot as a medical or retail marijuana business which exists solely for the purpose of identifying the location of the business and which otherwise complies with the Denver Zoning Code and any other applicable city laws and regulations;
 - Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city;
 - Advertising which is purely incidental to sponsorship of a charitable event by a medical or retail marijuana business;
 - Apparel, consumer goods, or paraphernalia containing only a marijuana business's name, logo, or distinct design features.

Is youth protection advertising the same with liquor? Is the burden the same with both industries? Also, what is the thinking of the proximity restrictions? Is this again cohesive with the regulations on liquor licensed establishments?

- Youth protections in alcohol regulations are set by [state](#) law; local jurisdictions do not enjoy the same discretion to adopt local youth protections in state liquor laws as we are granted by state marijuana laws.
- Due to the public health data that our partners have shared, coupled with the discrepancy in federal regulations and public health data for alcohol and marijuana, we see a need for strong

youth protections in the marijuana industry at this time that may not exist for liquor-licensed establishments.

- Denver remains data-driven in its approach to protecting youth and encouraging healthy attitudes about marijuana legalization, and encourages stakeholders to submit research and studies in this new and developing field.

How would removing the location/density cap address outside investor ownership? A location/density cap protects from inequities and protects public health. Why remove this when density is linked to higher youth use rates? There are 78 neighborhoods in Denver. Why only protect 5?

- The cap on cultivation and store locations never prevented ownership by investors from outside the city or state. However, replacing the cap with exclusive access to store and cultivation locations for social equity applicants will mean that new store and cultivation locations will be majority-owned by social equity applicants, who are required to be Colorado residents.
- Density of sales outlets is an environmental risk factor for youth use. However, the cap is not an effective safeguard against density, as it does not prevent stores from clustering together. To protect against density, the current draft proposal would maintain the 1,000 foot distance restriction between stores, and would add a 1,000 foot distance restriction between hospitality businesses, some of which can conduct limited sales. Additionally, the current draft proposal would maintain the moratorium on new store and cultivation locations in the top five neighborhoods with the most store and cultivation locations to protect against undue density in these neighborhoods.

Are the 5 top saturated neighborhoods also those who are called low income with BIPOC populations and if yes, that is a contradiction to this bill write up as I read it - what am I missing?

- Under the current draft proposal, the top five neighborhoods of undue concentration of store locations are the five statistical neighborhoods with the most store locations. The top five neighborhoods of undue concentration of cultivation locations are the five statistical neighborhoods with the most cultivation locations. These neighborhoods would be identified within 90 days of adoption of the omnibus ordinance and annually thereafter

Are the licenses still going to be handed out via social equity lottery like previously proposed for hospitality and delivery?

- Under the current draft proposal, there would not be a lottery system for distributing licenses.
- Under the current draft proposal, for six years, only social equity applicants will be able to apply for hospitality, retail and medical transporter, retail and medical manufacturing, retail store, and retail cultivation licenses, and for three years, only social equity applicant-owned transporter businesses will be able to conduct deliveries.